Michigan 2020:
Election Administration in the Coronavirus Pandemic

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Abstract:

Election officials maintain that the administration of the November 2020 general election in Michigan was "the smoothest it has ever been." The state reached record levels in overall and absentee turnout, rejected record low rates of absentee ballots, and counted most of its ballots earlier than expected. Moreover, fears of voter intimidation, grounded in Michigan's recent history of right-wing militia violence, did not materialize. In the words of Secretary of State Jocelyn Benson, "polling locations were islands of calm." Despite these successes, controversy about the fairness of the election abounded. Even before the election, partisans warned of pervasive mail ballot fraud. These charges gained greater ammunition after Election Day, as President Donald Trump's Election Night lead faded with the counting of absentee ballots (a phenomenon known as the "red mirage" followed by a "blue shift"). Despite ten failed lawsuits and days of politicized legislative hearings, though, no reliable evidence of substantial fraud emerged. Nevertheless, the post-election environment spawned conspiracy theories that persisted well past the certification of the vote. As a result, despite the well-run election, confidence in the election system, especially among Michigan Republicans, eroded significantly.

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I.   Introduction

Despite the coronavirus pandemic, the challenge of counting mail ballots in a short time frame, and fears of potential violence at the polls, Michigan's election officials, by most measures, conducted a successful 2020 general election. Both overall voter turnout and the number of mail votes reached historic highs for the state. Michigan had a head start in addressing concerns surrounding the coronavirus pandemic, as it had expanded mail voting access to all registered voters in a 2018 ballot initiative that eliminated the need for voters to provide an "excuse" to vote by mail. As a result, state voters entered the 2020 election season with full and easy access to mail voting, newly enshrined in the state constitution.

Additionally, two new sets of rules in 2020 reduced the rejection of mail-in ballots for signature reasons. In early 2020, Michigan Secretary of State Jocelyn Benson issued new signature verification guidance and, in October, the Michigan legislature passed Senate Bill 0757 into law. The new law required election officials to notify voters who submitted defective ballots and provide them with an opportunity to cure those defects. Consequently, even with the massive increase in voter turnout and mail voting, the rejection rate of mail-in ballots was lower in November 2020 than it was in both the 2016 general election and the 2018 midterm election, according to U.S. Election Administration and Voter Surveys (EAVS). Further, despite fears of voter intimidation and election-related violence—fears that arose from pre-election incidents involving violent right-wing militias and a state court order overruling a ban on guns in polling locations—there was not a single report of intimidation or violence at Michigan polling places on Election Day. And despite Secretary Benson's prediction that it would take several days for the state to report election results, votes were counted quickly enough that the press was able to call the state for Joe Biden at 6 p.m. Wednesday night, the day after Election Day.

Although the election was well-executed, a cloud of conspiracy theories and unsubstantiated claims of voter fraud and electoral misconduct hung over the election. This misinformation sowed doubt among some voters about the legitimacy of the results. Claims of election fraud gained traction as the political phenomenon dubbed a "red mirage" played out—a phenomenon in which incumbent Republican President Donald J. Trump appeared to be winning by a significant margin on election night because in-person votes were tabulated and reported before mail-in votes. That "red" margin evaporated as election officials began tabulating mail-in votes, which were cast predominantly by Democrats. Election fraud conspiracy theories began to circulate on election night and were buoyed by the many post-election lawsuits which parroted these theories, as well as by state legislative hearings that dragged on until December 2. These lawsuits and hearings cast sufficient doubt that Detroit's Wayne County election board initially refused to certify the election results, and many thought

the State Board of County Canvassers would do the same. Despite these bumps in the road, all lawsuits alleging election fraud failed and the statewide election results were certified on November 23.

II.   Election Results and Turnout

Although Michigan has been traditionally known as part of the so-called "blue wall," a set of reliably Democratic leaning midwestern states, the state flipped in 2016 and voted for Republican President Donald Trump. In November 2020, however, the state returned to blue for the presidential race and elected Democrat Joe Biden. Biden beat Trump by 2.8 percentage points, or 154,188 total votes.[1] Turnout reached record highs, with over 5.5 million votes cast, representing 68% of registered voters. This was up from the 2016 general election in which nearly 4.9 million votes were cast, representing 65% of registered voters. Of the 5.5 million votes cast in November 2020, almost 3.3 million were early or mail ballots, representing nearly 60% of all votes cast and 94% of all mail ballots requested. This was a 154% increase from the number of mail-in and early votes cast in 2016.

Michigan held two primaries. The presidential primary was held March 10, just one day before the World Health Organization declared the coronavirus outbreak to be a global pandemic. In that primary, 2.3 million Michiganders voted, of whom almost 900,000 (or 39%) voted by mail, up from about 485,000 (or 21%) in 2016.

In the August 2020 primary, more than 2.5 million Michiganders voted, of whom 1.6 million—almost two-thirds—voted by mail. Despite the absence of statewide competitive elections, such as for president, this was a record turnout for an August primary and a 79% increase from the total number of votes cast in the August primary in 2016 (in which 1.4 million votes were cast). The 1.6 million mail ballots cast in the August 2020 primary also surpassed Michigan's prior record of 1.3 million mail ballots cast in a single election, which was set in the 2016 presidential election.

III.   Background

Partisan division between Michigan's executive and legislative branches made it difficult for the state government to reach bipartisan consensus on how to address election challenges before

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[1] The results of other contests are detailed here.

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the November general election. Democrats controlled the executive branch and Republicans controlled the legislature. The two repeatedly clashed over election reforms, as well as the scope of the governor's executive power to address election issues in the pandemic. Additionally, Michigan's most populous county, Wayne County, was experiencing a deep racial divide. The county, which includes the state's most populous city, Detroit, was 78% African American, while surrounding areas were 55% white and 39% African American. Detroit has been called "a boogeyman" for Republicans, who often frame their political appeals to voters as the suburbs versus Detroit or as the west side of the state (which is 79% white and 14% African American) versus Detroit. This division, combined with Wayne County's tendency to release its vote count last, created suspicions among some in the state about the fairness of its elections even before Election Day. In a survey conducted the September before the general election, 38% of voters rated their confidence level that the election would be conducted fairly at or below five, on a scale of 1 to 10. The state has also had a history of right-wing militia violence, but in 2020, it culminated in a conspiracy to kidnap Governor Gretchen Whitmer in October and overthrow the Michigan government. The FBI foiled the plot.

In the August primary, a record 1.6 million Michigan voters cast a mail ballot, representing 64% of the just over 2.5 million ballots cast. That was up from the March presidential primary, when 38% votes were cast vote-by-mail ballots, and up from the 2016 general election, when 26% voted by mail. This surge supported expectations that record-breaking numbers of voters would likely vote by mail in November—expectations that arose from a combination of concerns about the coronavirus pandemic and a 2018 state constitutional amendment that had implemented no-excuse absentee voting in the state.

In preparation for the expected increase in mail voting, Secretary of State Benson and Michigan town clerks renewed calls for an extension of the time period prior to Election Day that election officials would be permitted to process mail ballots—an extension they had sought since August 2019. Michigan state law at that time prohibited election officials from processing or counting mail ballots prior to 7 a.m. on Election Day and also required poll workers, who often start work at 6 a.m., to stay until all ballots were counted. Election officials feared that, because of the surge in mail ballots anticipated for November, it could take many days after Election Day to process and count the mail votes. The processing and counting of mail ballots in Michigan is a time-consuming process, requiring election workers to open the ballot envelope, remove the ballot from its secrecy sleeve, put the sleeve in a box, inspect the ballot for any errors, back-fold the creases, make sure the ballot number on the stub matches the number on the envelope, put the ballots in stacks of 10, and then feed them into tabulation machines.

The Michigan legislature, controlled by the Republican Party, took small steps to ease the challenge of counting mail ballots quickly after Election Day. In October, the legislature passed a

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new law, Senate Bill 757, that allowed election officials in jurisdictions with at least 25,000 people to process (but not count) mail ballots for 10 hours the day before Election Day, just a day earlier than previously allowed. "Processing" ballots entailed removing them from their outer envelopes and verifying the signatures but not removing the ballots from their inner envelopes (sleeves). Additionally, the bill allowed for absentee ballot counters to work in shifts to address the potential fatigue of election workers who might otherwise be counting for days with no sleep.

Secretary Benson called the law a "step in the right direction" but noted "it does not go far enough." Some other states, such as Florida, Arizona and California, allowed for the processing of mail ballots weeks prior to Election Day. Other Michigan bills sought to extend the pre-processing period up to seven extra days before Election Day, or even to allow early counting. But these were not passed by Republican leadership, who said early counting would create a "dangerous precedent" and increase the possibility of voter fraud and count leaks. Secretary Benson predicted that the state would not be able to tabulate all the votes until the Friday after the election.

Michigan relied on both public and private funding to conduct its election. The state received $11.2 million in federal funding from the Help America Vote Act (HAVA), through the Coronavirus Aid, Relief, and Economic Security (CARES Act). The new federal funding was approved to ensure the health and safety of voters and election workers during the coronavirus pandemic. The state used the funds to work with local jurisdictions to hold the August and November federal elections by mail to the greatest extent possible. Additionally, Michigan contributed a 20% matching grant to the federal funds, enabling the state and localities to spend $2 million to purchase equipment for counting absentee ballots.

The nonpartisan Center for Tech and Civic Life issued grants to 500 cities, counties, and townships in Michigan to help fund election administration costs associated with adapting to the pandemic, including new ballot drop boxes, envelopes, postage, and vote tabulators. Detroit received $7.2 million; Ann Arbor received $417,000; Flint received $475,625; Pontiac received $405,564; and Muskegon received $433,580. The funding was part of a national effort by the non-profit group to supplement local election funds with private funds to help election officials address challenges of adapting elections to the pandemic, challenges which in many cases were exacerbated by funding shortfalls. The grants were designed to enable local election officials to provide safe and secure voting conditions during the pandemic. Most of the funds were used to purchase personal protective equipment for voters and election workers, to recruit and train additional staff, to provide improved security, to establish in-person polling places, to process mail-in ballots, and to ensure emergency preparedness.

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IV.   Mail-In Voting

By most measures, mail voting in Michigan was a rousing success. Record numbers of Michigan voters cast mail ballots (including through early voting) in the November general election. The 3.3 million mail ballots cast constituted 94% of all mail ballots requested and about 60% of all votes cast. This was a 154% increase in the number of mail ballots over the 1.3 million mail ballots cast in 2016. And earlier in 2020, 64% of the 2.5 million voters cast mail ballots in the August primary, significantly higher than the 26% of voters who cast a mail ballot in 2016. Despite this surge in mail and early voting, there were no reports of supply or ballot shortages, ballot rejections rates were relatively low, and ballots were counted faster than expected.

A. Mail-in Voting Laws and Policies

The infrastructure and election rules adopted before the November election prepared the state well for managing the surge of mail and early voting during the autumn resurgence of the pandemic in the state. Several key changes and policies helped the state handle the explosion in the number of mail ballots requested and cast in the November general election.

The first and likely most significant factor was the successful passage of a November 2018 ballot measure, Proposal 3. The ballot measure enshrined in the state constitution the right of all registered voters to request a mail ballot without having to provide a reason. Prior to the ballot measure, voters were permitted to vote by mail only if they were 60 years old or older, unable to vote without someone's help, in jail awaiting trial, a poll worker working at a different precinct than their own on Election Day, were planning to be out of town, or unable to vote on Election Day because of a religious obligation. Proposal 3 also created a constitutional right for voters to register to vote by mail up to 15 days prior to the election, compared with the prior 30-day pre-election deadline. In practice, registered voters in 2020 could request to have an absentee ballot mailed to them until the Friday before the election. Because this expanded access to mail balloting was already established, Michigan was largely able to avoid lawsuits seen in so many other states that sought to expand eligibility to mail voting during the pandemic.

Proposal 3 also made it substantially easier for Michigan voters to register to vote generally. It provided for automatic voter registration when eligible residents sought a driver's license or state ID card. It moved the general voter registration deadline from 30 days before Election Day to just 14 days before, so voters with state-issued identification could register through October 19 in 2020, including via online registration. And it allowed for voter registration at the voter's town clerk office even after October 19, including same-day voter registration all the way

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through 8 p.m. on Election Day. The increase in overall turnout in November 2020, facilitated by these changes, also contributed to the increased turnout in mail voting.

Mail voting was also made easier by Secretary Benson who, in May 2020, sent absentee ballot applications to all registered voters in the state. She used funding provided by the federal government through the CARES Act and stated that her goal was to prevent the spread of the coronavirus, ensuring "no Michigander has to choose between their health and their right to vote." The move was controversial. Two Republican candidates for the state House filed a lawsuit, alleging the secretary of state did not have the authority to distribute absentee ballot applications. President Trump also criticized the policy. However, a Michigan state court held that the secretary had "clear and broad" authority to conduct such policies. The state appeals court went even further, calling Secretary Benson's authority to mail absentee ballot applications to voters part of her "inherent authority."

Finally, there were fewer potential barriers to casting a mail ballot in Michigan, compared with some other states. For example, Michigan did not require a witness signature or a copy of an ID with mail ballots. Voters could also submit mail ballots in a number of ways, including by voting early in person, or by mail, directly to the town clerk's office, or to that clerk's drop box. Clerk drop boxes were most often located outside their offices but, in some larger counties, such as Wayne County, there were many drop box locations. Perhaps because of the largely decentralized nature of Michigan's election procedures, the state did not experience significant controversy over the location of drop boxes, such as was seen in Texas.
Collectively, these changes and policies made it easier for Michigan residents to register to vote and to vote by mail in November 2020, minimizing the risk of exposure to the coronavirus and contributing to the record-levels of mail voting in the state in 2020.

B. Signature Verification and Rejection Rates of Mail-in Ballots

Mail ballots can be rejected for a variety of reasons that are less likely to be an issue when voting in person (such as forgetting to sign a ballot envelope, having a signature that does not match the one on file with election officials, and having the ballot arrive late). Some election watchers worried that the rejection rate of mail ballots could decide the outcome of the Michigan general election. Secretary Benson predicted that the number of rejected ballots in November could be double the number rejected in the August primary (10,694 votes)—which would mean more than 20,000 rejected ballots. In 2016, Trump had won Michigan by a margin of only 10,704 votes.

As it turns out, rejection rates in November 2020 were record-breakingly low in Michigan. Of the 3.3 million mail-in ballots cast, 0.46% (or 15,302 votes) were rejected in the 2020 general election. By comparison, 0.49% had been rejected in the 2016 general election, 0.7% were rejected in the August 2020 primary, and 0.6% were rejected in the 2018 midterms. In absolute terms, however, due to the increase in mail voting, about 2.5 times as many ballots were rejected in November 2020 as compared with the approximately 6,000 rejected in November 2016. Of the 15,302 ballots rejected in November 2020, the five most common reasons for rejected ballots were: the voter moved to a different jurisdiction after voting absentee but before Election Day (4,090); the voter died before Election Day (3,469); the mail ballot arrived late (3,328); the mail ballot envelope was missing the voter's signature (1,852); and, the voter's signature did not match the signature on file with election officials (1,400).

Two factors likely contributed to the lower rejection rate for mail ballots in November 2020. First, in response to a federal lawsuit filed in late 2019, Secretary Benson issued new signature verification guidance in April 2020, for the primary, and reissued the guidance in October 2020, for the general election. The new guidance created a uniform statewide standard that made it harder for election officials to reject mail ballots for signature matching issues. In *Priorities USA v. Benson,* plaintiffs alleged, among other things, that Michigan (1) lacked any statewide uniform standards for reviewing signatures, resulting in counties using diverging criteria to verify signatures, and (2) election officials lacked sufficient training and skills to reliably compare signatures. Secretary Benson's new guidance for signature verification addressed these allegations. This guidance instructed election officials statewide to presume that the intended voter signed their ballot unless there were "multiple, significant, and obvious differences" between signatures. It further specified that "[s]light dissimilarities [in a voter's signature] should be resolved in favor of the voter whenever possible" and that the presence of "any redeeming qualities," such as "distinctive flourishes" and "more matching features than non-matching features," should render the signature valid. Additionally, Secretary Benson agreed to include the new signature verification standards in formal training provided by the Michigan Board of Elections for newly elected or appointed election officials. During the coronavirus pandemic, training was remotely conducted using the virtual Elections eLearning platform. Despite the new guidance, the rejection rate actually *increased* in the August 2020 primary—some political observers have suggested there may not have been enough time for the new guidelines to have been fully disseminated and implemented by that time.

Secretary Benson's 2020 signature verification guidance has not endured. After the 2020 election, a court of claims ruled on March 9, 2021, that the signature verification guidance issued on October 6, 2020, was invalid. The court said the guidance constituted a "rule" as

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defined by the Administrative Procedures Act (APA) but that the secretary of state had issued it without following the formal rule-making procedures required by the APA.

A second policy that may have contributed to a lower overall rejection rate in the 2020 general election was a new "notice and cure" bill (Senate Bill 0757) signed by Governor Whitmer into law on October 7, 2020. The new law required that election officials, "as soon as practicable, but in no event later than 48 hours after determining the signatures do not agree sufficiently or that the signature is missing, or by 8 p.m. on the day before Election Day, whichever occurs first, notify the elector of the rejection by mail, telephone, or electronic mail." Once a voter was notified, the new law permitted the voter to "cure" any signature defects any time before the close of the polls on Election Day. If a voter's ballot envelope was missing a signature, the voter was permitted to sign the unsigned ballot envelope in person at the clerk's office until the polls closed. If the ballot was rejected for signature mismatch, there was no official "cure" process specified in law, but the voter could submit a written request to spoil their original ballot and receive a replacement. Voters could request and receive a new ballot by mail until 5 p.m. on October 30, 2020, and in person at the clerk's office until 4 p.m. on November 2, 2020.

While no direct data is publicly available on the success of the notice and cure period, the fact that over 77,000 ballots were spoiled and only 15,302 were rejected, provided some preliminary evidence in favor of the law's effectiveness. Ballots could be spoiled for a number of reasons, including printing errors, a voter deciding to change their vote, an absentee voter being notified of a signature defect on the ballot envelope and wanting to cure the error, or a voter who has not yet received their absentee ballot going to the clerk's office to ask for a new one in person. While these categories do not perfectly overlap, the high spoliation rate and comparatively low rejection rate may indicate that the notice and cure period had some effect in lowering the overall number of ballots ultimately rejected for missing or mismatched signatures.

C. Late Ballots and Related Litigation

The high number of ballots rejected for late arrival in the August 2020 primary—6,405 or about 60% of all rejected ballots—combined with concerns that operational changes at the United States Postal Service (USPS) would slow mail delivery, generated substantial focus on the receipt deadline for mail ballots for the November general election. Michigan state law required that completed mail ballots be *received* by election officials by Election Day, not just *postmarked* by Election Day, in order to be counted. In light of the high volume of expected mail ballots, voting rights advocates feared a large number of mail ballots in November would be rejected for lateness.

In two unsuccessful lawsuits, plaintiffs tried to obtain an extension to the Election Day receipt deadline. First, in *League of Women Voters of Michigan v. Benson*, plaintiffs unsuccessfully petitioned a three-judge panel of the Michigan Court of Appeals (which has original jurisdiction under state law) to order the secretary of state to accept ballots *postmarked* by Election Day, asserting that the Election Day receipt deadline violates the state's constitutional right to vote by absentee ballot without stating a reason. The appeals court disagreed, and the Michigan Supreme Court denied plaintiffs leave to appeal. Then, in *Michigan Alliance for Retired Americans v. Benson*, plaintiffs initially succeeded when, on September 18, a Michigan state court granted their request to enjoin enforcement of Michigan's Election Day ballot receipt deadline. The court held that, "as applied to plaintiffs under the facts and evidence presented…the ballot receipt deadline violates plaintiffs' constitutional rights" under Article II, Section 4 of the Michigan Constitution. It ruled that an "absent voter ballot that is postmarked by no later than November 2, 2020, and received within 14 days after the election, is eligible to be counted."

On October 16, however, well after mail voting materials and instructions had been printed and mailed to voters, a different three-judge panel of the state appeals court reversed that ruling, holding that, under *League of Women Voters of Michigan v. Benson*, it was constitutional to require ballots to be received by the close of polls on Election Day in order to be counted. This late reversal required election officials and voting rights advocates to scramble to publicize the new rules, so voters would not rely on earlier-published voter information indicating the later deadline.

In the end, operational slowdowns of the USPS prior to the election did not result in as many late-arriving ballots as some had feared and expected. But the USPS changes and delays did prompt at least three lawsuits involving Michigan. Over the summer, the Michigan attorney general joined other states in a federal lawsuit against the USPS, alleging that the operational changes violated the Postal Reorganization Act and the U.S. Constitution. The weekend before Election Day, a federal court ordered the USPS to accelerate election mail delivery in Detroit and in Lakeland, Wisconsin. And finally, on Election Day itself, in response to data showing that the USPS was in possession of 300,000 ballots nationwide that had been scanned into the USPS's processing system but not delivered to their elections office destinations, a number of nonprofits, including Vote Forward, filed a lawsuit seeking an injunction that would require USPS inspectors to scour facilities across the country, including Detroit facilities, for undelivered ballots. The court granted the injunction for various USPS facilities in Detroit. But the USPS failed to comply with the judge's order and said that compliance would have interrupted Election Day processes and was not feasible given the small number of inspectors at each facility.

While some were alarmed at the USPS's failure to comply, in the end, only 3,328 ballots were ultimately rejected statewide in Michigan for arriving late—about half the number (6,405 ballots) rejected for lateness in the August 2020 primary. Perhaps the publicity around the USPS mail delays and the educational campaigns conducted by the secretary of state's office, its voter education partners and more than 100 nonprofit organizations, discussed below, successfully encouraged voters to either mail their ballots early or drop them off in person or at ballot drop boxes.

D. Accessibility of Mail-In Ballots

In response to a lawsuit, *Powell v. Benson,* Michigan entered into a consent decree to implement a Remote Accessible Vote-By-Mail (RAVBM) system to enable voters with disabilities that make it hard or impossible to read or use printed ballots (such as perceptual, physical, or visual disabilities) to vote absentee in the November general election. This system allowed such voters to be sent electronic ballots. The consent decree also provided for training of town clerks to familiarize them with the RAVBM system and required Secretary Benson's office to provide plaintiffs with a report on the effectiveness of the program within 90 days of Election Day.

V.   In-Person Voting

Despite the coronavirus pandemic, approximately 2.24 million Michigan voters cast their ballots in person, representing more than 40% of all votes. This percentage was down from 74% who voted in person in the 2016 presidential election. The state faced the challenge of administering in-person voting during the pandemic, a challenge particularly daunting in light of Michigan's highly decentralized election system. Elections in Michigan were administered by 83 county clerks, 280 city clerks, and 1,240 township clerks, making it the most decentralized elections system in the nation, according to Michigan's secretary of state.

Despite the challenges, reports indicated that in-person voting in the general election went smoothly, by most measures. In contrast to the August primary, during which multiple polling locations in Detroit and Flint opened late when some poll workers failed to show up, likely for fear of exposure to the coronavirus , there were no reports of problems and delays due to poll worker shortages in November. Additionally, there were no reports of shortages of sanitizer or other cleaning materials. And to the surprise of many, there were no reports of voter intimidation at the polls on Election Day. About 24,000 citizens in the state registered to vote and then voted on Election Day. On November 4, Secretary Benson delivered an address in which she characterized in-person voting as "exceptionally smooth" and said "polling locations

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were islands of calm." State election officials seemed to agree that Election Day was "the smoothest it had ever been."

There were reports of long lines in a few counties on Election Day. One polling place in Detroit was reported to have had a line of about 70 people before its doors were opened. In Williamstown, voters reported waiting two hours at the end of the day. Some Dearborn residents reported waiting in line for two hours. And in Paw Paw Township, there was still a line outside the polling place at 10 p.m. These instances appear to be exceptions.
In general, the high percentage of mail-in and early voting via absentee ballot this year helped to spread out the voting and reduce crowds at polling places on Election Day, as planned. Voters could vote early in-person at their local clerk's office starting on September 24, 2020. This was the state's first general election in which voters could vote early with an absentee ballot without needing an excuse.

Many other factors, resulting from the planning and hard work of local election officials and poll workers, contributed to the safe and successful execution of in-person voting on Election Day. Important factors included successful poll worker recruitment initiatives, adequate safety precautions at the polls, private election funding, and private-public partnerships. In response to the August primary's poll worker shortages, state and local election officials, as well as civic organizations, mobilized to recruit and train poll workers for the general election. Secretary Benson rolled out Democracy MVP, a poll worker recruitment program, aimed at recruiting young people in particular, as they were less likely to develop complications from exposure to the coronavirus. Over 30,000 poll workers signed up through this program. Outside groups, such as Power the Polls, in partnership with the League of Conservation Voters, recruited tens of thousands of potential poll workers through coalitions with businesses, social media platforms, and local stakeholders. Detroit alone trained and hired almost 10,000 poll workers, aided in part by the $7.2 million in grants from the Center for Tech and Civic Life that enabled the city to increase poll worker pay from $175 per day to $500 per day. Secretary Benson lined up a small army of 1,500 poll workers in reserve to be ready if any issues were to arise on Election Day, but no poll worker shortages were reported.

Secretary Benson rolled out a comprehensive online training program for poll workers to supplement decentralized training provided by town clerks. This instruction covered a range of topics, from COVID-19 safety to assisting voters and the rules governing the conduct of official poll challengers. Poll worker training was particularly important for November, in light of the high number of first-time poll workers who lacked experience handling various voting complexities.

In an effort to keep polling places safe during the pandemic, voters who had COVID-19 symptoms but had not voted by Election Day were allowed to obtain "emergency absentee ballots" in order to avoid exposing others. Additionally, on Election Day, persons with physical disabilities not otherwise accommodated and those experiencing COVID-19 symptoms were permitted to vote curbside (i.e., from their cars). Poll workers in Detroit were required to submit a negative coronavirus test before reporting to work.

Masks at polling places were "strongly encouraged" but not required. Governor Whitmer signed an executive order on July 17, 2020, that mandated the wearing of masks in indoor public spaces generally but exempted individuals "at a polling place for purposes of voting in an election." The governor reportedly exempted voting from the mask requirement because of the "constitutional questions" involved in barring a qualified resident from casting a ballot. The executive order did, however, "strongly encourage" voters to wear masks while voting. Moreover, on October 2, 2020, the Michigan Supreme Court ruled that Governor Whitmer did not have authority to issue pandemic-related executive orders that were in effect past April 30, 2020—the date past which the Michigan legislature denied extending emergency and disaster declarations.

Despite the lack of a mask requirement, there were no reports of Michigan voters refusing to wear masks at the polls on Election Day. There was an incident during the vote-counting process, in which two poll challengers refused to wear masks properly at Detroit's TCF Center during the absentee vote counting process. They were ejected from the building. For the November 2020 general election, pursuant to an October 9, 2020, Emergency Order of Michigan Department of Health and Human Services, all election challengers and poll watchers were required to wear a face covering over their nose and mouth when in a polling location.

Local election officials took measures to address pandemic-related health risks for in-person voters and poll workers at polling locations. Safety precautions included using stickers six feet apart to enforce social distancing, making hand sanitizer available at entrances, providing masks to voters who had none, sanitizing pens and surfaces after each use, requiring poll workers to wear masks, and, in some jurisdictions, placing plastic barriers between poll workers and voters. Poll workers in Detroit were required to be tested before working and were encouraged to stay home if they had any symptoms of illness.

All the health precautions do not seem to have slowed in-person voting significantly on Election Day. In-person voting was conducted efficiently, with only a couple of counties experiencing lines in which some voters had to wait an hour or two to vote. In Detroit, new poll workers were paired with experienced poll workers on Election Day to help ensure efficiency.

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The city also set up 23 satellite voting centers, many in large rec centers not being used during the pandemic, that allowed for additional space, for both Election Day and for early voting seven days a week. During early voting or on Election Day, voters could drop off their ballots at any of these voting centers or any of the 30 drop boxes Detroit placed around the city. Michigan's decentralized election system itself may have contributed to the efficiency of in-person voting in the 2020 general election, as the system allowed town clerks to tailor the location and procedures of polling places to the unique needs of their own counties.

Additionally, voter education initiatives conducted both by the secretary of state's office and various nonprofits helped to educate voters and turn out the vote. For example, Secretary Benson rolled out a collegiate and a high school "Voting Challenge." The collegiate challenge gave three categories of awards to four-year and two-year educational institutions based on the turnout and registration rates of their students. Schools that participated in the high school challenge similarly received awards and recognition on the secretary of state's website. Due to these initiatives, as well as increased political engagement among youth, turnout of voters aged 18 to 29-years-old significantly increased. Data indicated that 9.4% of all early votes in the November general election were cast by voters younger than 29, as compared to only 2.5% in 2016.

Michigan nonprofits ran voter education and get-out-the-vote programs. Detroit Bus Company, a private charter bus service, transported voters to the polls using a fleet of 50 cars. A group called Defend the Black Vote held tele-town halls and sent over one million texts with a focus on increasing turnout among Black men between the ages of 18 and 35. Michigan's ACLU partnered with a coalition of about 100 groups called MichiganVoting.org and spent $4.5 million on an "Election Protection Plan" that included voter education, poll worker recruitment, and engagement with 1,500 city clerks. The Trump campaign opened a Black Voices for Trump field office on Detroit's west side, and the Biden campaign partnered with community groups in Detroit, such as the Michigan Black Caucus, Fannie Lou Hamer Political Action Committee, and East Side Community Slate, in an effort to reach people who did not vote in 2016. All these programs, especially those targeted at groups with historically low turnout, likely helped to educate voters and contribute to the record turnout Michigan saw in the November general election.

Even Michigan's sports teams got involved in voter education and the facilitation of in-person voting. The National Basketball Association's Detroit Pistons worked with Secretary Benson on joint voter outreach and education programs and the use on Election Day of its Henry Ford Detroit Pistons Performance Center as a satellite voting center, where voters could register and vote on site. The secretary voted in that Center herself. Additionally, the program encouraged and provided paid time off to Piston employees to volunteer as poll workers in the August and

November elections. It is reported that the program was deemed so effective that the partnership is likely to continue in future elections.

Secretary Benson also partnered with the National Football League's Detroit Lions to use Ford Field on election night as a location to which election workers delivered ballots and equipment after precincts closed. The Field hosted eight of the city's 12 receiving boards (independent boards established to ensure the secure transmission of election results and ballots cast in person at election precincts). This initiative also paid Lions' staff to serve as Election Day poll workers and featured the team in a series of public service announcements (PSAs). The PSAs covered a wide range of topics, including how to apply to vote by mail and how to properly fill out and return ballots. Prominent athletes and coaches provided individual testimonies of why voting mattered to them:
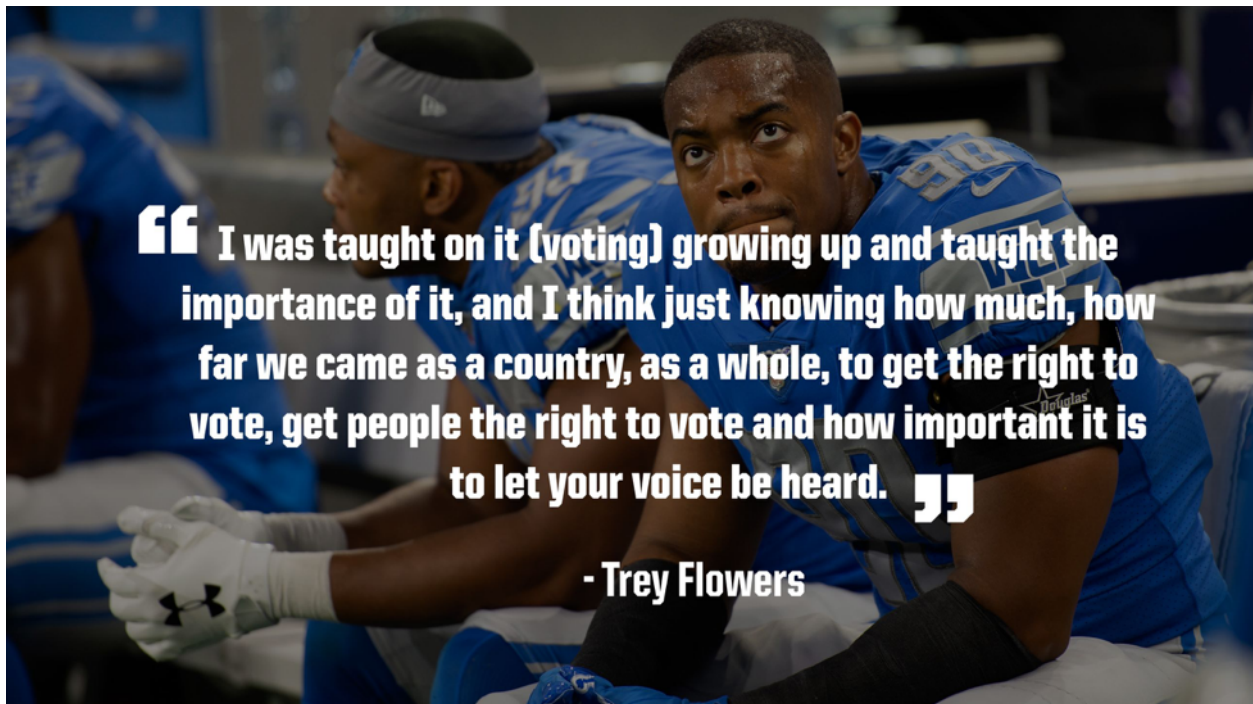
Source: Detroit Lions

VI.   Intimidation and Disinformation

In the period leading up to the election, some stakeholders worried about the possibility of intimidation or violence against voters, both at the polls and at home. Anti-government militia groups in Michigan repeatedly carried guns in public spaces and threatened violence. For

example, in April, these groups brought semi-automatic weapons into the Michigan State House to protest the state's stay-at-home orders around the pandemic. And in October, the FBI thwarted a plot by a Michigan right-wing militia group to kidnap Governor Whitmer and overthrow the Michigan government. Partisan division in the state grew even more intense as the election drew near, fueled by President Trump's claims that Democrats were planning to "steal" the election and calls for his supporters "to go into the polls and watch very carefully."

Michigan law makes it a felony to "influence, deter, or interrupt" a voter in the process of voting by means of "bribery, menace, or other corrupt means." The law itself does not further specify what behavior is prohibited. The secretary of state's official guidance for poll watchers and election challengers for the November general election also did not specifically define the concept. The guidance outlined the *permitted* conduct of poll watchers and challengers. But other than to prohibit direct threats or violence by poll watchers and election challengers at polling locations, the guidance did not delineate what conduct might constitute voter intimidation. It also did not outline unacceptable intimidation by persons other than poll challengers.

In an effort to thwart the potential for violence and intimidation at the polls, Secretary Benson issued a directive in mid-October, banning the open carrying of guns in or within 100 feet of polling places, clerk's offices, and other locations where absentee ballots are counted. But a Michigan Court of Claims judge blocked the directive on the grounds that the secretary failed to comply with the procedural requirements of the state's Administrative Procedure Act (MCL §24.243) when adopting the rule.

Despite the atmosphere of fear stoked by these events and others, there were no documented cases of voter intimidation at polling locations. During the post-election counting process, two poll challengers—one wearing a Halloween mask meant to be frightening and the other refusing to wear her face mask properly to cover her nose and mouth—were escorted out of the TCF center after using racist language.

Across the state, however, many voters were targeted with robocalls and robotexts, spreading disinformation. One such text urged voters to "stay home and stay safe" instead of voting on Election Day. Another series of robocalls, which specifically targeted voters in the city of Flint, instructed potential voters to wait until the day after the election to vote in order to avoid long lines. State officials quickly responded to correct the misinformation in these calls. In addition to opening an investigation, they reiterated the need for in-person voters to cast their ballots on November 3. Because the robocalls were sent nationwide, he FBI also opened investigations, but no culprit was immediately found. According to the Washington Post, the country's top telecom carriers believed the calls were foreign in origin.

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A different series of robocalls sought to deter mail voting and falsely claimed that personal information submitted in applications for mail ballots could be used to execute outstanding arrest warrants and to collect unpaid debts. These robocalls, which began around August 26, reached at least 12,000 voters in urban areas, including predominantly Black Detroit. The effort was traced to two out-of-state Republican political operatives, a conservative social media personality and a conservative lobbyist. Both had previously attempted to smear rivals of President Trump through fabricated sexual assault allegations. Governor Whitmer spoke out and warned that voter intimidation "will not be tolerated." And Michigan Attorney General Dana Nessel swiftly and publicly prosecuted both of the alleged perpetrators for the crime.

On Election Day, Michigan Attorney General Nessel warned local voters about a text that inaccurately told voters that, due to a "typographical error," people who were intending to vote for Joe Biden must, instead, select President Trump, and vice versa. The text attributed the information to the "Federal Berue [sic] of Investigation." While disinformation abounded, there were no news reports of violence or intimidation at the polls on Election Day.

VII.   Post-Election Day

Election officials, including Michigan's secretary of state, did not expect to have a full enough accounting of the state vote to enable the press to call the presidential race in Michigan until the Friday after the general election. But the tabulation of votes went more quickly than expected and, though vote counts in some counties were still unreported, the Associated Press called the election for Joe Biden on Wednesday, November 4, at 6 p.m. The extra day to pre-process absentee ballots and the ability for vote counters to work in shifts, both approved in the new October law, helped to speed up the count.

While the tabulation process was largely smooth, there were a few minor hiccups. These included a computer glitch in Oakland County and a human failure to update software in Antrim County, both of which impacted initial vote counts but were quickly discovered and fixed. Michigan's State Board of County Canvassers certified the state's election results in all 83 of its counties on November 23.

No statewide recount was required under state law because Biden's margin over Trump exceeded 2,000 votes. Under Michigan state law, only elections with a margin of fewer than 2,000 votes trigger an automatic recount. Michigan law, §168.879, also allowed the Trump campaign to petition for a recount within 48 hours of certification. To do so, he would have had

to sign and swear that he had "a good-faith belief that but for fraud or mistake, [he] would have had a reasonable chance of winning the election." Although the Trump campaign requested recounts in other states, such as Georgia and Wisconsin, it did not make such a request in Michigan. Perhaps this was because the margin by which President Trump lost in Michigan (154,188 votes) was substantially wider than it was in Georgia and Wisconsin. Or perhaps it related to Trump's meeting with Michigan Republican lawmakers on November 21, two days before the state certified the election. At that meeting, lawmakers reportedly told Trump that they had "not yet been made aware of any information that would change the outcome of the election in Michigan."

But the Trump campaign pursued other legal avenues in an effort to change Michigan election results. Republican poll challengers, the Trump campaign, and its allies filed at least 10 lawsuits after Election Day, seeking to delay or halt the tabulation of the votes or the certification of the election.[2] Additionally, some Republican poll challengers and elected officials, and President Trump himself, made numerous claims of voter fraud, improper election conduct, and rigged elections. The Republican-controlled Michigan legislature held days of hearings, allowing witnesses to testify that voter fraud occurred, with little rebuttal. During the hearings, President Trump continued to claim: "We won Michigan by a lot!"

As a result of the repeated public claims of voter fraud—in Michigan and other states—three in four Republicans surveyed between November 12 and November 16 reported that they lacked confidence that the November election was conducted fairly. Claims of fraud and a "steal" of the election sparked significant anger and led to threats of violence against many state election officials, including Michigan's secretary of state. While Michigan's election infrastructure and administration proved to be robust, repeated baseless claims of fraud, misinformation, and conspiracy theories muddied the waters and undermined the perceived legitimacy of the election in the minds of many voters.

A. Post-Election Litigation

In the days and weeks immediately following the election, at least 10 lawsuits challenging the election results or election procedures were filed in Michigan state and federal courts. None was successful.

The first three lawsuits, filed in state courts between November 2 and November 4, alleged election irregularities and outright fraud and generally sought to halt the count of absentee

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[2] For more information on Michigan's laws governing counting the vote, including the tabulation, certification, and reporting of vote count numbers, see Section VII (B) of Michigan: 2020 Election Policies & Practices.

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ballots until more Republican election challengers and poll observers were allowed to watch the tabulation of votes. Michigan law allowed each party to have only one appointed election challenger at a time observe the conduct of the "absent voter counting board," which tallied absentee votes on Election Day. If a challenger believed an absentee ballot was submitted by a person unqualified to vote in the precinct, the challenger could challenge that ballot. (Election Officials' Manual).

In *Polasek v. Benson*, plaintiffs challenged Oakland County's rule that only one challenger per party was permitted to observe the absent voter counting board. The judge ruled that the defendants did not have the power under Michigan law to allow plaintiffs the up-to-10 challengers they requested. In *Donald J. Trump for President v. Benson*, the Trump reelection campaign asked the court to halt Michigan's ballot count until Secretary Benson allowed its election inspector to be present at the absentee ballot boards and until its challengers could review video surveillance footage of ballot drop boxes (which they alleged would show a car passenger dropping off more ballots than there were people in the car). The judge dismissed the case, stating that "the essence of the count is completed" and the "relief request is completely unavailable" because local election officials, not the secretary of state, managed election inspectors. The appeals court upheld the dismissal holding that, once the state certifies the vote, as Michigan had by the time of the appeal, Michigan law required fraud claims first be addressed through the request of a recount, and no such recount has been requested here. The Michigan Supreme Court denied review. In *Stoddard v. City Election Commission*, plaintiffs alleged that vote counting centers in Detroit did not have one inspector from each political party present and asked the court to halt the counting of absentee ballots in Detroit until observers from both parties were present. The judge denied the motion, noting that plaintiffs failed to state a cause of action, based their allegations on "mere speculation" rather than evidence, and had alternative remedies available, such as a recount.

Four lawsuits filed between November 9 and November 16, in both state and federal courts, alleged fraud as the basis for requesting injunctions to halt certification of Michigan's election results. One was denied and three were voluntarily dismissed by the plaintiffs within a few days of filing. In *Constantino v. Detroit,* several Wayne County voters alleged a laundry list of electoral misconduct by Detroit election officials and requested an audit, an order to stop the counting of votes, and an injunction to halt certification of the vote. The state circuit court denied all requests, finding that the affidavits supplied by plaintiffs were "rife" with generalization, speculation, hearsay, and a lack of evidentiary basis. In *Donald J. Trump for President, Inc. v. Benson*, the Trump campaign alleged in a federal district court that Wayne County and Secretary Benson violated the Michigan Election Code by purportedly not permitting challengers to observe the conduct of the election and the processing of ballots and by pre-dating ballots that were not eligible to be counted. Plaintiffs voluntarily dismissed the case eight days later. In *Bally*

v. Whitmer, plaintiffs alleged in federal district court that a certified poll watcher was excluded from observing canvassing and made claims of fraud, citing the complaints in *Constantino v. Detroit* and *Donald J. Trump for President Inc. v. Benson*. Plaintiffs voluntarily dismissed the case within five days. In *Johnson v. Benson*, plaintiffs alleged that the secretary of state's mailing to voters of absentee applications resulted in Democratic Party inspectors filling out "thousands" of ballots in violation of state law. Plaintiff requested an injunction barring election certification and voluntarily dismissed the case three days later.

After the election results were certified, two lawsuits were filed that asked the courts to de-certify the election results or to re-certify the results in favor of Trump. In *Johnson v. Benson*, filed November 26 directly in the Michigan Supreme Court, members of Black Voices for Trump alleged that state officials failed to allow meaningful poll observation, that they instructed election workers to count invalid ballots, and that they unlawfully permitted counties to accept private grants from Facebook founder and billionaire Mark Zuckerberg to help fund election expenses. The case was dismissed by the Michigan Supreme Court for lack of jurisdiction and because the injunction request was moot. In *King v. Whitmer*, filed in federal district court, six Michigan voters alleged that Republican poll observers were denied access and that election workers forged and altered ballots and counted defective ballots. They alleged violations of both state law and the Elections and Electors Clauses of the U.S. Constitution. The federal district court dismissed the case on a variety of grounds, including the *Pullman* abstention, state sovereign immunity, and mootness. Plaintiffs filed a petition for a writ of certiorari with the U.S. Supreme Court which, on February 22, the high court denied.

Finally, in *Leaf v. Whitmer*, filed December 6, plaintiffs claimed that the Michigan Board of Elections routine order to delete certain election records was intended to destroy evidence of voter fraud. The lawsuit was thrown out on various procedural grounds, including a failure to submit a proper complaint and a failure to comply with basic notice requirements.

For a more detailed summary of each of the Michigan lawsuits filed post-Election Day see the Stanford-MIT Healthy Elections Project report Post-Election Litigation Analysis and Summaries.

B. Conspiracy Theories

Conspiracy theories swirled in Michigan on and after Election Day, causing what some called "political chaos." Some of these claims were either fueled or amplified by the post-Election Day litigation described above. Some were fueled by Michigan's "red mirage," the false impression that Trump was winning the election because he was ahead on election night. This resulted from the fact that Republicans (the so-called "red" votes) were more likely to vote in person on Election Day, and in-person votes were counted first. In the days after Election Day, election

officials began counting mail ballots, and those were cast predominantly by Democrats. The initial Republican lead slowly evaporated and eventually shifted to Biden, by bigger and bigger margins. Trump himself had contributed to this phenomenon by repeatedly criticizing the use of mail voting throughout the election season, contributing to the partisan differences in voting methods. Nonetheless, he seized on the phenomenon to bolster his claims that, "We won Michigan by a lot!" and that the Democrats stole the election through voter fraud.

Most of the conspiracy theories were easily and quickly debunked. For example, claims of ballot stuffing in Flint relied on a video which turned out to be of a Russian polling place. Claims that a "mysterious wagon" filled with Democratic ballots was sneaked into Detroit's TCF Center were discredited when the wagon turned out to contain a reporter's camera equipment. Two conspiracy theories in particular, however, gained considerable traction.

The first widespread conspiracy theory contended that computer glitches in Antrim and Oakland counties swung the vote counts in those counties for Biden pursuant to a plot between the Democratic Party and Dominion Voting Systems, a company which manufactures voting machines. While computer glitches did occur in both Antrim and Oakland counties, both were quickly identified and rectified, and the source of each glitch was readily ascertained. In Antrim County, which did use Dominion voting machines, the glitch was caused by a failure to update the voting machine software. Though the tabulation of votes in each county precinct was correct, as verified by a hand count, the glitch caused the individual precinct vote tallies to be added together incorrectly, so the unofficial vote total for the county was off by a few thousand votes until the error was quickly discovered and fixed. In Oakland, a software glitch caused some votes to be counted twice. However, the issue was fixed within a day of being identified. Moreover, Oakland's voting machines were not made by Dominion, so its glitch could not be attributed to Dominion.

The second prevalent conspiracy theory professed that Republican election challengers were unfairly barred from observing absentee ballot processing and counting in Detroit in Wayne County. This claim was parroted in several of the election lawsuits and amplified by Trump himself on Twitter. Some election challengers were prevented from entering Detroit's TCF center, but this was because the number of challengers already there observing the process had reached the limit allowed under state law. In fact, over 100 Republican challengers were allowed to observe the ballot processing and counting in the TCF center.

C. Legislative Hearings

Conspiracy theories, misinformation, and disinformation were also amplified in Michigan state legislative hearings held on December 1 and 2. Just eight days after certification of the state vote, the Michigan legislature held hearings to allow witnesses to testify to alleged voter fraud, largely focused on vote counting at the TCF Center in Detroit. The hearings were unorthodox by most legislative hearing standards. Neither the witnesses nor President Trump's personal attorney, Rudy Giulani, were required to testify under oath. No cross examination of the witnesses was allowed, so the witness claims went largely unchallenged. One lawmaker faced death threats after questioning witnesses. The hearings gave a largely uncontested microphone to many of the same claims of voter fraud that did not hold up in lawsuit after lawsuit. In fact, many of the affidavits submitted in advance of the hearings were the very same affidavits that courts had concluded were not credible. For example, witnesses claimed that voter turnout in some districts was over 100% of registered voters, that late ballots were "back-dated" by election officials so they could be counted, and that thousands of ballots were counted twice. This testimony was dramatic and colorful and, because it was also televised to a wide audience, some clips from the broadcast went viral.

Ultimately, the hearings were widely viewed as presenting little definitive evidence of fraud, and the Michigan legislature did not take any action based on them. However, the nationwide audience reached with television and viral video clips likely contributed to the mistrust many Republicans harbored that the November election was not conducted fairly.

VIII.   Conclusion

Michigan election officials and poll workers conducted a safe, secure, and accessible general election in November 2020, amid the coronavirus pandemic. A record number of Michiganders voted. The state's adoption of no-excuse mail voting enabled a record number of Michiganders to vote by mail ballot, and the state well accommodated the surge in demand. For those who decided to vote in person, polling places were adequately staffed and took numerous precautions to protect voter health. Michigan's election infrastructure faced only minor hiccups: a couple of long voter lines, two quickly rectified voting machine glitches on Election Day, and a series of robocalls and robotexts that spread false information, largely corrected by state officials. In the words of Secretary of State Benson, the election went "incredibly smoothly." Even the counting of ballots, which was expected to take up to three days after Election Day, was sufficiently far along by 6 p.m. the day after Election Day for the press to call the election (though there were still votes to be reported).

Unfortunately, the flood of post-election lawsuits filed in Michigan and the related conspiracy theories, amplified in the state legislative hearings, helped undermine the confidence of some voters that the election was conducted fairly. Buoyed by the "red mirage" of President Trump's potential victory on election night, the lawsuits perpetuated and lent credibility to conspiracy theories of voter fraud and created anger directed at election officials. The courts quickly dismissed all of the post-election lawsuits brought before them. Nonetheless, it is likely to take time and a concerted, collaborative effort from both parties in Michigan's legislature to combat the rampant misinformation disseminated about the election. Secretary Benson notes on the official secretary of state website that "[l]eaders can work together, across the aisle, to heal the damage that has been done, by unequivocally stating the truth to their colleagues and constituents—that the 2020 election was secure and fair, and the results are an accurate reflection of the will of the voters." Given Michigan's highly partisan landscape, it is unclear whether and when any such collaboration will occur or whether the Republican-controlled legislature will take steps to restore confidence in the state's electoral system.