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TESTIMONY FOR AUGUST 9TH HEARING ON VOTING EXPERIENCES

The science is clear. The question remains - why do so many legislators ignore it?

My name is Julie Weiner. I live in Yonkers, NY. I am an election-integrity activist, a member of Citizens for Voting Integrity New York, a Democratic Party district leader and chair of the Election Integrity Committee of NYCD16-Indivisible. I speak today for myself.

I urge you to consider revising NYS law to ensure accountability for election officials to prevent them from exercising undue influence over legislative decisions.

To that end, I will describe events I found shocking when I attended two Westchester County Board of Elections meetings last year at which Westchester election commissioners asked county legislators to approve upwards of \$6 million for the purchase of additional hybrid voting machines beyond the forty already in use for Early Voting since 2019.

There is an inherent conflict of interest when election commissioners also head their political parties. This situation is ripe for abuse. Commissioners in this position can threaten elected officials with repercussions, or take revenge on them for opposing their positions. It appears I witnessed just that when the commissioners succeeded in persuading legislators to reverse their original decision to deny the request.

The science is clear. Legislators had before these meetings been repeatedly informed of computer- and election-security researchers' findings. Two facts are undisputed: (1) No computer anywhere in the world is immune to hacking. Supply chain, trusted-source hacks have infected closely guarded, high-security computers unconnected to the internet. Even the computers of Homeland Security, the agency that oversees cybersecurity for U.S. elections, fell victim to the SolarWinds hacks.

Fact (2). Voting machines are computers. Hacking is an ever-present possibility. Hybrid voting machines that combine ballot-marking devices with scanners, as you know, having voted to ban them, offer hackers the ability undetectably to change votes on cast ballots, invalidating audits and preventing correction of election outcome errors. A recent peer-reviewed paper published in *Election Law Journal* is titled, "Ballot-marking devices cannot ensure the will of the voters."

Yet Westchester election commissioners both shockingly claimed at the June 1, 2020, Budget and Appropriations Committee meeting that the machines they wanted "can't be hacked" and

that the State Board of Elections (SBOE) had "confirmed that they are not hackable." In fact, SBOE's technical consultant had in its pre-certification report acknowledged both the possibility of hacking the Dominion ICE and the severity of the potential consequences, and had recommended preventive actions the Westchester Board of Elections has so far, to my knowledge, failed to implement.

Legislators had all this information, plus a list of federal bills attempting to ban such hybrids, supported unanimously by Senate Democrats.

So I was surprised that even some Democratic legislators, at meetings of the Westchester County Budget & Appropriations Committee on June 1 and Committee of the Whole on July 29, 2020, appeared to be planning to ignore all warnings that purchasing these devices would be contrary to the scientific consensus, contrary to constituents' interest in secure elections counted accurately, and even, potentially, contrary to their own interests, depending on the political goals of some future hacker.

I found myself wondering, why? How could these highly competent legislators, known for doing their homework, consider rejecting the scientific consensus? The meetings I attended persuaded me that legislators were experiencing intense pressure in the form of not-very-subtle strong-arming and implicit threats to their re-election if they failed to approve the voting machines the commissioners wanted.

District 7 County Legislator Catherine Parker was an early opponent of the Board of Elections' proposed Dominion ICE purchase. She had repeatedly requested but somehow (it was never clear who at the BoE had made the decision) been denied an Early Voting site in Mamaroneck in her district. Smaller communities, such as Dobbs Ferry, had been granted Early Voting sites.

At the June 29th meeting, the June 3rd Primary disaster was reviewed. Scores if not hundreds of voters in District 7 – Legislator Parker's district -- had been disenfranchised by broken voting machines unrepaired for hours and lines out the door lasting until after 1:00 am. Commissioner Reginald Lafayette, after boasting of sending representatives from the Board of Elections "hourly" to all 62 polling places, then claimed to have been unaware of any voting problems in Mamaroneck until 4:00 pm.

No legislator inquired why the commissioner's roving election personnel had not informed him of the problem. Instead, he got away with blaming the Mamaroneck disaster on voting-machine opponent Catherine Parker for not phoning him when she first saw the long lines. This exchange, blaming the victim, blatantly displayed the commissioner's power to denigrate an outspoken opponent while deflecting blame for having withheld resources such as an Early Voting site - and working voting machines - from that legislator's constituents.

Commissioner Lafayette ended the meeting with an apparently random, irrelevant reference to losing elections. No overt threat to unseat legislators who dared to vote against commissioners'

requests was spoken. But his last comment of the day was, "We can't make everyone happy. When you win, you are happy. When you lose, you are just a little bit unhappy for that day."

Even had Commissioner Lafayette not offhandedly ended his remarks by describing how electeds might feel should they lose their elections, everyone there was well aware that he and Commissioners Colety, like many election commissioners around the state, were the chairs of their respective county political parties. As such, they could greatly influence who gets party support in future elections. And as election commissioners, they had just demonstrated their ability to get away with "not knowing" when voters in a particular legislator's district were being denied the right to vote - as well as the fact that legislators need the support of their local Board of Elections if they want to remain in office.

Five days later, the Westchester County Board of Legislators voted 6-5 to buy the commissioners their voting machines.

Here is a link to the letter sent by Citizens for Voting Integrity New York to the governor asking him to hold Westchester election commissioners accountable for abuse of power and for pressuring legislators to reverse their prior decision and purchase voting machines contrary to the public interest.

<https://drive.google.com/file/d/1kPjEiKC605WLbHDlx8bhG9uGggCzqLGM/view?usp=sharing>

I hope the Senate Elections Committee can find a way to increase the accountability of election officials and to reduce their power to influence legislative decisions.

We need elections administered by professionals trained in computer science and other relevant disciplines, selected on merit through civil-service-type mechanisms. Meanwhile, proposed legislation S3309 (2019-20) and A6893 (2021-22) would at least prohibit election commissioners from chairing political parties, and A4254 would prevent commissioners and deputy commissioners from holding elective office.

Of course we must acknowledge that the politics of asking legislators to reform local election boards is highly problematic. That makes legislative action to upgrade applicable standards and directly protect the integrity of our elections all the more crucial. The Senate Elections Committee must make it a priority not only to pass measures like the hybrid ban (S309A/A1115A) and automatic public availability of ballot images (S286A/A6589), but also to work with Assembly leadership to ensure their actual enactment.

Thank you for your attention to and consideration of these issues.

Sincerely,

Julie Weiner, MS
Yonkers, NY

