

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

MICHELE WHITE,

Plaintiff,

v.

JASON S. MIYARES; JOSHUA N. LIEF;
MARK P. DE ALMEIDA; AND HOWARD
MULHOLLAND,

Defendants.

Case No. _____

Jury Demanded

COMPLAINT

Plaintiff Michele White, through her attorneys, brings this civil rights action against Defendants Jason S. Miyares, Joshua N. Lief, Mark P. de Almeida, and Howard Mulholland, and alleges as follows:

PRELIMINARY STATEMENT

1. State and local election officials bear critical responsibility for administering elections and safeguarding the right to vote in the United States.

2. In 2020, faced with the unprecedented challenges of the COVID-19 pandemic, election officials conducted what a bipartisan commission of experts and election officials from federal, state, local and tribal governments unequivocally declared the “most secure election in American history,” with the highest voter turnout in over 100 years.¹ Their brave and faithful service to American democracy should be applauded.

¹ Press Release, Cybersecurity & Infrastructure Security Agency, Joint Statement from Elections Infrastructure Government Coordination Council & the Election Infrastructure Sector Coordinating Executive Committees (Nov. 12, 2020), <https://www.cisa.gov/news-events/news/joint-statement-elections-infrastructure-government-coordinating-council-election>.

3. Instead, the aftermath of the 2020 election exposed these officials to unprecedented hostility. Tensions arising from the results of that election—including efforts to overturn the election—contributed to a dangerous climate in which election officials have been scapegoated, abused and threatened.

4. A false narrative of widespread election fraud both fuels and is fueled by this charged environment. Despite multiple reports confirming there is no evidence of election fraud affecting the outcome of 2020 election, political extremists have both used this false narrative to attack the integrity of election workers and used attacks on election workers to validate their false narrative.

5. Virginia has not been immune from these national dynamics. As the Republican candidate for Attorney General in 2021, Defendant Jason Miyares campaigned on promises to investigate so-called threats to election integrity and fight “election fraud,” echoing more explicit calls from political extremists who baselessly call into question the integrity and validity of the 2020 election. Once in office, Defendant Miyares and his collaborator Defendant Joshua Lief worked closely with groups aligned with the “Stop the Steal” movement to launch an “Election Integrity Unit,” which was heralded by political extremists as a means to find validation for their false claim that election fraud had resulted in a “stolen” 2020 election.

6. To provide that validation and to justify the existence of this Election Integrity Unit, Defendants Miyares and Lief had to show prosecutions for election fraud. The Election Integrity Unit, however, did not have evidence of election fraud sufficient to sustain any prosecution. Nor was it staffed or trained by Defendants Miyares and Lief to understand the work of election administration and ensure election workers were protected from baseless accusations of fraud. In early 2022, Defendants Miyares and Lief tasked two Financial Investigators—Defendants Mark

P. Almeida and Howard Mulholland—with finding election fraud in Prince William County, even though they knew that both were ill-prepared to understand electoral systems and highly unexperienced with Virginia election laws and practice. That lack of preparation was irrelevant, because the purpose of the investigation was not to uncover the truth but to set in motion a prosecution that would provide an opportunity for the public launch of their Election Integrity Unit.

7. Michele White, a distinguished election official in Virginia with nearly twenty years of service, became the innocent victim of this unjust campaign. As the General Registrar of Prince William County during the 2020 election, Ms. White successfully dedicated herself to conducting a fair and accurate election. In late 2022, almost two years after the 2020 election, she was blindsided by criminal charges that carried penalties of up to 21 years in prison. But Ms. White had committed no crime.

8. The criminal charges against Ms. White rested entirely on Defendants de Almeida and Mulholland’s knowingly false and misleading statements. Their investigation cut corners and ignored evidence in a manner inconsistent with an intent to arrive at the truth. Their factual conclusions rested on blatant falsehoods, misrepresented aspects of Virginia’s electoral system, and omitted key facts, even though they knew the information they omitted was material. That misconduct formed the basis of prosecutors’ decision to charge Ms. White and of a grand jury’s decision to indict her on two felony counts and one misdemeanor charge: making a false material statement or entry required by law (Va. Code Ann. § 24.2-1016), corrupt conduct as an elected official (Va. Code Ann. § 24.2-1001.B), and willful neglect of duties (Va. Code Ann. § 24.2-1001.A).

9. The investigation of Ms. White centered on alleged discrepancies between, on the one hand, numbers recorded by election officials based on primary voting sources and, on the other

hand, the results ultimately reported by the Prince William County Electoral Board to the Virginia State Electoral Board via an intermediary database and software system called the Virginia Election and Registration Information System (“VERIS”). Although minor errors in VERIS are not uncommon and are routinely addressed during the course of the election certification process, one particular set of errors, not remotely dispositive of any election result, apparently survived the 2020 election certification process. There are several reasons why Defendants lacked probable cause to charge Ms. White in connection with those alleged errors, but the most fundamental reason is that Defendants de Almeida and Mulholland knew Ms. White did not create them. Nonetheless, they told prosecutors and the grand jury otherwise.

10. Aware that the allegations relating to alleged errors in VERIS that launched their sham investigation were baseless, Defendants also falsely and maliciously accused Ms. White of deliberately abandoning past protocols for handling absentee ballots so that such ballots could not be processed in time. In doing so, Defendants de Almeida and Mulholland lied about the protocols they knew she had implemented, misrepresented evidence, and deliberately obscured last-minute mandatory legislative changes and state guidance made in the lead-up to the 2020 Election, including changes made in response to the ongoing COVID-19 pandemic, to mischaracterize her actions as conflicting with duties created by state law. In fact, Defendants never had any evidence that any ballots went uncounted in Prince William County, let alone that Ms. White had the intent to cause such an outcome.

11. Defendants timed the prosecution of Ms. White precisely to legitimize the public launch of Defendant Miyares’s Election Integrity Unit. Both the launch of the Unit and Ms. White’s prosecution were celebrated by those associated with the “Stop the Steal” movement as a

validation of their message and were used as a pretext to further demonize hard-working election workers around the country.

12. Defendants, knowing the charges against Ms. White would not hold up in court, withheld key evidence for more than a year in order to forestall the collapse of their Election Integrity Unit's only active election fraud prosecution. Until the very end, the Office of the Attorney General continued to fabricate false charges and pressure Ms. White into pleading guilty when they knew she was innocent.

13. Eventually, following significant pressure from the local criminal court, they dropped all charges, but the damage had already been done. Ms. White's career was irrevocably harmed, her reputation has been tarnished, and she has suffered significant emotional and physical distress. In this action, she seeks accountability for Defendants' weaponization of the legal system to harm her and to contribute to a climate of fear that continues to affect her fellow election workers. The U.S. Constitution and Virginia law prohibit Defendants from treating Ms. White as they did—as a pawn in their scheme to erode trust in American democracy, which she dedicated her life to serving.

THE PARTIES

14. Plaintiff Michele White is a long-time resident of Prince William County, Virginia. She served as General Registrar for Prince William County from February 2015 until April 2021. She was the General Registrar for the 2020 General and Special Election (the "2020 Election").

15. Defendant Jason S. Miyares has been the Attorney General of Virginia since January 2022. Defendant Miyares is sued individually for his actions undertaken while in the scope and course of his employment as the Attorney General of Virginia and while acting under color of state law.

16. Defendant Joshua N. Lief was a Senior Assistant Attorney General of Virginia until May 2023. Defendant Lief is sued individually for his actions undertaken while in the scope and course of his employment as a Senior Assistant Attorney General and while acting under color of state law.

17. Defendant Mark P. de Almeida is a Senior Financial Investigator for the Office of the Attorney General (“OAG”). Defendant de Almeida is sued individually for his actions undertaken while in the scope and course of his employment by the OAG and while acting under color of state law.

18. Defendant Howard Mulholland (with Investigator de Almeida the “Defendant Investigators”) is a Senior Financial Investigator for OAG. Defendant Mulholland is sued individually for his actions undertaken while in the scope and course of his employment by the OAG and while acting under color of state law.

JURISDICTION AND VENUE

19. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1343(a)(3)-(4), 1367, 2201, and 2202.

20. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because all defendants reside in Virginia, including several in this district.

FACTUAL ALLEGATIONS

I. THE 2020 ELECTION IN PRINCE WILLIAM COUNTY IS DILIGENTLY AND LAWFULLY CONDUCTED UNDER CHALLENGING CONDITIONS

A. Prince William County’s 2020 Election Personnel

21. Prince William County, like every independent city and county in Virginia, has a general registrar and a three-member local electoral board. These four individuals work together

to administer elections in Prince William County, in conjunction with any assistant registrars or other election workers hired or appointed to support election administration.

22. In the 2020 Election, the Prince William County Electoral Board included Robin P. Williams, Jane Reynolds, and Keith Scarborough.

23. The statutory duties of the Prince William County Electoral Board include the preparation of ballots, the administration of absentee ballots, the conduct of the election, and ascertaining and certifying the results of the election.² While local electoral boards may delegate some of their statutory duties to the general registrar, core supervisory functions—including the certification of the final election results for the county—cannot be delegated.³

24. The general registrar's statutory duties include maintaining accurate voter registration records and overseeing voter registration, making sure polling places are created and staffed, and election security.⁴

25. In the 2020 Election, Ms. White served as the Prince William County General Registrar.

26. Ms. White became the Prince William County General Registrar in 2015 after serving as the General Registrar of Culpeper County for eleven years. She had worked five presidential elections as a general registrar. Ms. White was a career public servant, having worked in voter registration and local government administration for 17 years prior to the 2020 Election.

27. Ms. White was widely respected for her competence. Her 2020 performance review, signed by the Prince William County Electoral Board, acknowledged that she was “one of

² Va. Code Ann. § 24.2-109(B) (2020) (effective July 1, 2020). In this complaint, citations to the Virginia Code include reference to their effective date in order to indicate the version in effect during the 2020 Election. Many of these provisions have since been further amended.

³ Va. Code Ann. § 24.2-109 (2020) (effective July 1, 2020).

⁴ Va. Code Ann. § 24.2-114 (2020) (effective July 1, 2020).

the more experienced and knowledgeable registrars with her opinions sought out by the State Department of Elections.” Her good work had not “gone unnoticed outside the election community,” including with other county officials.

28. Ms. White was further known for her fairness and impartiality, as her 2020 review stated that she “demonstrate[d] dedicat[ion] and zeal in her desire to ensure fair and impartial elections.”

29. Ms. White was specifically recognized for her knowledge of Virginia election law, which her 2020 performance review praised as “outstanding.”

30. At the height of the 2020 Election, Ms. White had close to 20 full-time staff—primarily assistant registrars—and oversaw more than 200 part-time volunteers and election officers. In part because of COVID-19-related social distancing requirements, staff were divided across several physical locations, each of which focused on different tasks. Those locations included a Main Office, overseen by one of the Deputy General Registrars, where absentee ballot applications were processed and voting packets prepared and sent to absentee voters, and which also served as an early voting site; a Call Center, overseen by Ms. White, where a larger staff of election workers handled the unusually high volume of calls from voters seeking information and assurance about the recent legislative changes and voting during the pandemic; a Warehouse, where voting machines were tested and securely stored; and a special precinct known as the Central Absentee Precinct (“CAP Precinct”), overseen by a senior Assistant Registrar, where elections officers (one from each major political party) opened returned absentee ballots and began the process of counting them, even before Election Day (as described in further detail below).

31. The work of the Prince William County Electoral Board, Ms. White and her staff was governed by Title 24.2 of the Code of Virginia on Elections—as well as a set of laws passed

in August and September 2020 especially for the 2020 Election that were never fully codified into the Virginia Code—and guidance created by the three-member Virginia State Board of Elections (“State Board of Elections”) through the Virginia Department of Elections (“ELECT”), which directed, supervised, and coordinated the work of all county and city electoral boards, general registrars, and elections officers in Virginia.

B. Virginia Lawmakers and Election Officials Institute New Procedures to Tackle the Unprecedented Challenges of Pre-Processing Absentee Ballots in the 2020 Election

32. The 2020 Election was unique in many respects, most notably for occurring during a global pandemic. The Virginia legislature instituted many new laws and procedures, particularly with regard to absentee voting, to ensure voters could cast their ballots safely. Many of these changes occurred in August and September 2020, only a few short months before Election Day.

33. In June of 2020, the state passed a law providing that all Virginia voters eligible to vote could do so by absentee ballot, without needing to provide a reason or excuse.⁵ As a result of this change and the desire of many voters to avoid crowded polling places during the ongoing pandemic, Prince William County experienced an avalanche of absentee ballot application requests. As early as August 22, 2020, the county had already processed 50% more requests for absentee ballots than it had for the entire 2016 election.

34. Unsurprisingly in light of the record number of applications, Prince William County processed a record number of absentee ballots for the 2020 Election. By October 27, 2020, Prince William County had received 47,381 absentee ballots. In total by the end of the 2020 Election, Prince William County successfully processed 227,397 ballots, around 25% of which were

⁵ Va. Code Ann. § 24.2-700 (2020) (effective July 1, 2020) (“Any registered voter may vote by absentee ballot in accordance with the provisions of this chapter in any election in which he is qualified to vote.”).

absentee ballots. For comparison, in 2016, Prince William County processed 196,538 ballots, fewer than 10% of which were absentee ballots.

35. In addition to expanding access to absentee ballots, in September 2020—only two months before Election Day—Virginia passed a law imposing additional, last-minute changes to voting procedures that were unique to the 2020 Election. Specifically, the legislature (1) provided that absentee voters could drop off their ballots at any of several official drop-off locations, without expressly limiting them to locations in their county or city;⁶ and (2) required checking any absentee ballots returned prior to October 31, 2020 for curable defects to the voter affirmations appended to the same, and, if a curable error was found, notifying the voter of the error within three days of finding it, with instructions for curing.⁷

36. The burdens of processing additional absentee ballot applications and returned absentee ballots, ensuring out-of-jurisdiction ballots were returned to the proper jurisdiction, and

⁶ S.B. 5120, 2020 Leg., 1st Spec. Sess. (Va. 2020) (“Notwithstanding any other provision of law, for the general election and special elections to be held on November 3, 2020, mailed absentee ballots shall be returned (i) by mail to the office of the general registrar, (ii) by the voter in person to the general registrar, (iii) to a drop-off location, or (iv) by commercial delivery service.”). This law became effective upon its passage on September 4, 2020. *Id.*; Va. Code Ann. § 1-214(B) (2005). *See also* Va. Code Ann. § 24.2-707(B) (2021) (effective July 1, 2021) (codifying substance of above language).

⁷ S.B. 5120, 2020 Leg., 1st Spec. Sess. (Va. 2020) (“For the general election and special elections to be held November 3, 2020, upon receipt of an absentee ballot returned before October 31, 2020, each general registrar shall examine the ballot envelopes to verify completion of the required voter affirmation If the general registrar finds during the examination of a returned absentee ballot envelope that the required voter affirmation was not correctly or completely filled out or that a procedure required by § 24.2–707 of the Code of Virginia was not properly followed, and such error or failure shall render the ballot void by law, the general registrar shall, within three days of such finding, notify the voter of the error or failure. . . . Such notice shall be made by phone, email, or in writing and shall provide information to the voter as to how to correct the issue so his ballot may be counted. The voter shall be entitled to make such necessary corrections before noon on the third day after the election, and his ballot shall then be counted pursuant to the procedures set forth in § 24.2–709.1 of the Code of Virginia if he is found to be entitled to vote.”). Because these provisions were unique to the 2020 Election, they appear never to have been codified into Virginia law.

implementing the mandated cure procedures required new processes and training, as well as additional staffing, in the short weeks leading up to Election Day, placing great strain on general registrars and their staff all across the state of Virginia. Ms. White worked closely with the Prince William County Electoral Board and other state and local officials to ensure those requirements were met, and closely followed all ELECT guidance issued in the lead up to the election.

37. Exercising discretion afforded to it by state law,⁸ Prince William County established the CAP Precinct to process absentee ballots in a central location, instead of undertaking to return those ballots to be tallied in the home precincts of each absentee voter. The CAP Precinct was both a defined precinct from which voter information would be reported to calculate the final results of the election in Prince William County and a physical location where returned absentee ballots were processed and ultimately counted.

38. State law gave Ms. White discretion to *either* (a) count returned absentee ballots on Election Day, following a set of procedures⁹ that did not map efficiently onto the unique

⁸ Va. Code Ann. § 24.2-712(A) (2017) (effective July 1, 2017) (“Notwithstanding any other provision of law, the governing body of each county or city may establish one or more central absentee voter precincts in the courthouse or other public buildings for the purpose of receiving, counting, and recording absentee ballots cast in the county or city.”).

⁹ Va. Code Ann. § 24.2-709 (2020) (effective July 1, 2020) (“The registrar receiving the ballot shall (i) seal the ballot in an envelope with the statement or declaration of the voter, or both, attached to the outside and (ii) mark on each envelope the date, time, and manner of delivery.”); *and* Va. Code Ann. § 24.2-710 (2020) (effective July 1, 2020) (“On receipt of an absentee ballot, the electoral board or general registrar shall mark the date of receipt in the appropriate column opposite the name and address of the voter on the absentee voter applicant list maintained in the general registrar’s office. A board member or registrar shall deposit the return envelope and the unopened ballot envelope in an appropriate container provided for the purpose, in which they shall remain until the day of the election, unless the registrar opts to open sealed ballot envelopes in order to expedite the counting of absentee ballots in accordance with § 24.2-709.1.”); Va. Code Ann. § 24.2-711 (2017) (effective July 1, 2017) (providing that that election officers shall record that absentee voters returned their vote in pollbooks prior to election day and providing a process for hand-counting absentee ballots, which may occur only after the polls close on election day) *and* Va. Code Ann. § 24.2-712(D) (2017) (effective July 1, 2017) (“Absentee ballots may be

requirements created by state law for the 2020 Election and would have resulted in a mountain of absentee ballots to process on Election Day, threatening delays in the process of certifying final election results; *or* (b) institute what state law referred to as an “alternative procedure” to begin processing and scanning absentee ballots into voting machines in advance of Election Day.¹⁰

39. State guidance issued by ELECT for the 2020 Election expressly encouraged localities to utilize the alternative procedure and authorized general registrars to develop their own additional procedures to efficiently and securely handle what they understood would be an unprecedented number of returned absentee ballots.

40. Ms. White exercised her discretion to adopt the alternative procedure. She developed her plans for handling returned absentee ballots in accordance with ELECT guidance and obtained approval for them from the Prince William County Election Board.

41. Neither state law nor ELECT guidance set a date by which localities should begin the process of counting returned absentee ballots for the 2020 Election, if they elected to use the alternative procedure. Recognizing the need to get ahead of the anticipated high volume, Ms.

processed as required by § 24.2-711 by the officers of election at the central absentee voter precinct prior to the closing of the polls. In the case of machine-readable ballots. In the case of punch card or mark sense ballots to be inserted in electronic counting equipment, the ballot container may be opened and the absentee ballots may be inserted in the counting equipment prior to the closing of the polls in accordance with procedures prescribed by the Department of Elections , including procedures to preserve ballot secrecy, but no ballot count totals by the machine shall be initiated prior to the closing of the polls.”).

¹⁰ Va. Code Ann. § 24.2-709.1 (2013) (effective July 1, 2013) (entitled “Alternative procedures for counting absentee ballots”) (“Each general registrar shall take one or more of the following measures as needed to expedite counting absentee ballots returned by mail before election day: (i) examine the ballot envelopes to verify completion of the required voter affirmation; (ii) mark the pollbook, or the absentee voter applicant list if the pollbook is not available, that the voter has voted; or (iii) open the sealed ballot envelopes and insert the ballots in optical scan counting equipment or other secure ballot container without initiating any ballot count totals. If the general registrar proceeds to open sealed ballot envelopes as provided in clause (iii), at least two officers of election, one representing each political party, shall be present during all hours when a general registrar uses the expedited procedures authorized in this section.”).

White exercised her discretion to begin pre-processing in Prince William County as soon as possible given external constraints such as budget and staffing, on or about October 15, 2020.

42. As absentee ballots were returned, a team of election workers operating under Ms. White's direct supervision at the Call Center scanned the voter ID code on each sealed ballot envelope, creating a "Voter Credit" entry in the state's VERIS system that would promptly update each precinct's electronic pollbook. Those electronic pollbooks served to record the appearance of a voter to cast a valid vote, just as paper pollbooks traditionally do at polling places, ensuring that voters could not vote in person after sending in an absentee ballot. This process was critical to avoid election fraud, as some voters, perhaps fearing a vote by mail would not be counted, both mailed in absentee ballots and attempted to vote in person during the early voting period.

43. Each day—within 24 hours of receipt—scanned absentee ballots for Prince William County were transported to the CAP Precinct. There, election officers representing both political parties, whose presence was required by law before ballots could be opened, opened the outer envelope to examine the voter affirmation to ensure there were no errors, such as affirmations with no voter signature or an address that did not match that listed in the pollbook. If there were no errors, the election officers would open the ballots and scan them into the voting machines so that the votes could be counted.

44. If a voter affirmation contained a curable error, and it arrived before October 31, 2020—the date set by state law for the end of the mandatory cure process¹¹—Ms. White's staff would contact voters via email within three days of discovering such error and later, if necessary, follow up by phone. Ms. White and her staff identified and contacted many hundreds of voters whose returned absentee ballots required curing before they could be counted. If a ballot was not

¹¹ S.B. 5120, 2020 Leg., 1st Spec. Sess. (Va. 2020), *supra* note 7.

or could not be cured,¹² it would be stored by Ms. White’s staff according to state procedures for handling spoiled ballots.

45. Ms. White also delivered out-of-jurisdiction ballots to their correct location on an ongoing basis to ensure their timely arrival to guarantee timely delivery no later than the Friday after the election—the last day absentee ballots could be counted by law.¹³ Ms. White did so by instructing a member of her staff to drive some out-of-jurisdiction ballots directly to the correct locality and by arranging for overnight delivery of the other ballots via USPS.

C. The Process for Counting Votes in the 2020 Election in Prince William County

46. Election Day 2020 occurred on Tuesday, November 3, 2020. On that day, any in-person voter in Prince William County filled out a ballot and scanned it into the voting machine at their precinct. As required by state law, the election workers reporting to Ms. White and the bipartisan election officers at the CAP Precinct likewise continued processing absentee ballots that had been returned prior to Election Day, but were not yet counted, as well as those returned on Election Day.

47. As the polls closed at 7:00 pm, Virginia’s election-night process for collecting the unofficial results from each precinct got underway. As part of this process, the elections officers from each precinct collected the “Voting Machine Printouts” that each voting machine

¹² During any election, some returned absentee ballots cannot be cured due to fatal defects. For example, even though they were applied for, mail carriers may return unopened ballots as undeliverable to the address provided and returned to the election office without having been received by any voter. Another example is so-called “naked ballots,” which cannot be counted because they are returned without the voter envelope and thus without any name or voter ID number, providing no information to identify the voter. Ballots like these were declared spoiled in accordance with Virginia law.

¹³ Va. Code Ann. § 24.2-709(B) (2020) (effective July 1, 2020) (“[A]ny absentee ballot (i) returned to the general registrar after the closing of the polls on election day but before noon on the third day after the election and (ii) postmarked on or before the date of the election shall be counted pursuant to the procedures set forth in this chapter if the voter is found entitled to vote.”).

generated—showing the voting data for ballots scanned into that machine. The elections officers for each precinct then completed the “Statement of Results” (“SOR”) form—a form prescribed by the state and used in each precinct in Virginia—based on those Voting Machine Printouts, attached the Voting Machine Printouts to the same, and signed the completed SOR form to verify the agreed-upon results for their precinct.¹⁴

48. As part of this process, the election officers for each precinct also compared the total number of votes recorded on each machine with the total number of voters who voted in that precinct, as recorded in the electronic pollbook, to ensure they matched.¹⁵

49. Following completion of the SOR forms, elections officers entered the unofficial results in a shared spreadsheet used by Ms. White and her staff to upload the same into VERIS, the intermediary database and software system used by state and county election officials to collect unofficial election results from each precinct prior to the final certification of the election.

50. By the morning of November 4, 2020, major news outlets had called the State of Virginia for Joseph R. Biden by a significant margin. However, the official results of the 2020 Election in Virginia had not yet been certified.

51. Because one of the new state laws passed prior to the election required returned absentee ballots be counted and added to official vote counts if they were received by noon on Friday after the 2020 Election, the CAP Precinct of Prince William County continued to process returned absentee ballots beyond Election Day.¹⁶

¹⁴ Va. Code Ann. §§ 24.2-654 (2014) (effective Apr. 4, 2014), 655 (2015) (effective July 1, 2015), 657 (2016) (effective July 1, 2020).

¹⁵ Va. Code Ann. § 24.2-657 (2016) (effective July 1, 2020).

¹⁶ Va. Code Ann. § 709(C) (2020) (effective July 1, 2020) (“[A]ny absentee ballot (i) received after the close of the polls on any election day, (ii) received before 5:00 p.m. on the second business day before the State Board meets to ascertain the results of the election pursuant to this title, (iii)

D. The Election Certification Process Begins in Prince William County and Concerns About Errors Favoring Joseph R. Biden Reach the State Republican Party

52. On November 4, 2020, the “canvassing” process began—meaning reviewing, confirming and certifying local election results. As part of this process, the Voting Machine Printouts and SOR forms completed by the election officers in each precinct were made available to the Prince William County Electoral Board, whose legal duty it was to ensure accurate final results of the election in the county.¹⁷

53. Virginia state law anticipates that, in the normal course of any canvassing process, local electoral boards may discover and address discrepancies in vote counts.¹⁸ In prior elections, the Prince William County Electoral Board members carried out their duties by personally comparing the SOR forms, Voting Machine Printouts, and the spreadsheets from election night to the numbers in VERIS prior to certifying the results.

54. This was not done in 2020. Nor did the Prince William County Electoral Board otherwise ensure that the VERIS data used to complete official statements certifying the election results were cross-checked with precinct-level voting records to ensure accuracy.

requested on or before but not sent by the deadline for making absentee ballots available under § 24.2–612, and (iv) cast by a covered voter, as defined in § 24.2–452, shall be counted pursuant to the procedures set forth in this chapter if the voter is found entitled to vote.”); S.B. 5120, 2020 Leg., 1st Spec. Sess. (Va. 2020) (“The voter shall be entitled to make such necessary corrections before noon on the third day after the election, and his ballot shall then be counted pursuant to the procedures set forth in § 24.2–709.1 of the Code of Virginia if he is found to be entitled to vote.”).

¹⁷ Va. Code Ann. § 24.2-671 (2018) (effective Mar. 28, 2018); *see also* Va. Code Ann. § 24.2-671 (2018) (effective Mar. 28, 2018); Va. Code Ann. § 24.2-675 (2018) (effective July 1, 2018).

¹⁸ Va. Code Ann. § 24.2-671 (2018) (effective Mar. 28, 2018) (providing that a record of “any changes made by the local electoral board to the unofficial results ascertained by the officers of election or any subsequent change to the official abstract of votes made by the local election board shall be forwarded to the State Board of Elections and the explanation of such change shall be posted on the State Board website”).

55. However, some error-correction in Prince William County occurred in response to specific external inquiries.

56. For example, on November 4, 2020, ELECT's Commissioner, Chris Piper, contacted Ms. White explaining he had received an inquiry from an unknown source questioning whether Prince William County's vote counts for the presidential election in Congressional District 1 were accurate. The query related to results displayed on the State's informal election night results webpage, which drew its data from VERIS. Ms. White assured him that Prince William County election staff were looking into it.

57. As one of the largest counties in Virginia, Prince William County spans three different federal congressional districts (CD1, CD10, and CD11). Five precincts in Prince William County are so called "split precincts"—local precincts that do not perfectly overlap with the federal congressional districts drawn by the state legislature, such that voters who live in the same local precinct may vote in different federal election districts, and thus may have different candidates on their ballot for federal congressional races. The CAP Precinct is also a split precinct, since it collects absentee ballots from all over the county, spanning all three federal congressional districts.

58. In the 2020 Election, Prince William County had more split precincts than almost any other locality in Virginia.

59. ELECT recommended, that, when entering data into VERIS, each county disaggregate the results for the presidential race in split precincts by congressional district, rather than reporting gross numbers for each precinct. The state's public-facing, unofficial election results website also presented information in this way. The reason for this is unclear; reporting voting data by congressional district in a split precinct is only necessary to determine the results for the congressional races; it is not necessary for the presidential race, where only the total number of voters

who voted for each candidate matters. Accomplishing this required Ms. White and her staff to disaggregate split precinct voting data by congressional district themselves and manually enter it into VERIS, leaving room for human error.

60. This issue with entering data from split precincts was widely understood across Virginia's electoral system, including by the Prince William County and State Electoral Boards. Because of this issue, routine manual changes to VERIS data were not unusual in Prince William County or across the state, nor were they unique to the 2020 Election.

61. Realizing that the November 4, 2020 inquiry communicated by Mr. Piper may relate to a split precinct reporting issue, on November 5, 2020, Ms. White directed Assistant Registrar Sean Mulligan to manually update voting data in VERIS so that the distribution of total votes across the congressional districts would be accurate.

62. According to information later presented by Ms. White's successor as general registrar, Mr. Mulligan's data entry on November 5 introduced some *de minimis* errors (not exceeding 51 votes in any precinct, and most involving a dozen or fewer votes' variance from the Voting Machine Tapes), which errors marginally favored Biden.

63. On the same day that Ms. White and her staff began addressing this issue, the Prince William County Electoral Board received a second inquiry expressing concerns that the unofficial votes publicly reported for Biden in Congressional District 1 seemed inflated. Following receipt of that inquiry, Robin Williams, the sole Republican member of the Prince William County Electoral Board, subsequently informed Tim Parrish, the Chair of the Prince William County Republican Party, of those concerns.

64. Throughout the canvassing process, other election officials made additional manual changes to the voting data in VERIS. For example, on November 7, 2020, the Assistant Registrar

overseeing the CAP Precinct, Colleen Rummell, and another employee made changes that—according to information later presented by Ms. White’s successor as general registrar—caused VERIS to reflect an overcount of votes for Trump (+2,400) and an undercount of votes for Biden (-1,600) in the CAP Precinct. These changes caused VERIS to differ from the Voting Machine Printouts by significant (though not dispositive) rounded-number increments (*i.e.*, several hundred at time)—far larger than the smaller errors allegedly introduced by Mr. Mulligan on November 5.

65. Ms. White did not make those changes to the CAP Precinct data on November 7, 2020, nor did she direct Ms. Rummel or any staff member to enter those values. She was unaware that they introduced any errors when inputting this data.

66. On November 10, 2020, Prince William County completed its canvass process and on November 11, 2020, the Prince William County Electoral Board approved and signed the certified record of the results—the so-called “Abstract of Votes”—for the 2020 Election in Prince William County and submitted it to ELECT, representing the county’s official certification of its 2020 election results.¹⁹

E. The State of Virginia Corrects Routine Errors in Prince William County’s Certified 2020 Election Results

67. Following certification, ELECT, acting on statutory authority delegated by the State Board of Elections,²⁰ further examined Prince William County’s Abstract of Votes for errors.

68. On November 12, 2020, ELECT identified some errors, primarily related to Prince William County’s entry of voter turnout. Errors in voter turnout usually reflect a mismatch between the number of votes counted in a precinct and the Voter Credits reflecting the total number of voters who appear in the electronic pollbook for that precinct. Such errors may indicate that votes

¹⁹ Va. Code Ann. § 24.2-675 (2018) (effective July 1, 2018).

²⁰ Va. Code Ann. §§ 24.2-677 (1993) (effective Dec. 1, 1993), 679 (2015) (effective July 1, 2015).

that should have been counted were not, or that invalid votes were recorded in final voting data. ELECT issued a standard request that the Prince William County Electoral Board correct those errors.

69. The next day, Assistant Registrar Sean Mulligan responded to ELECT and explained that the issues identified were the result of human error in how the votes cast for certain constitutional amendment questions were recorded and they had been corrected.

70. Upon information and belief, neither ELECT nor the State Board of Elections referred these issues to OAG for investigation.

71. On November 18, 2020, the State Board of Elections certified the statewide results of the November 3, 2020 General and Special Elections, thereby announcing the final election results for the State of Virginia.²¹

72. Joseph R. Biden won the State of Virginia by 451,138 votes.

73. This margin is well beyond the 1% threshold for a recount provided for under state law.²²

F. After Certifying the Election, the State of Virginia Identifies and Prince William County Corrects Additional Minor Errors in Certified Voting Data

74. At some point after the election was certified in Virginia, an unknown individual again brought to ELECT's attention concerns relating to voter data from split precincts.

75. As a result, on November 20, 2020, after comparing the results reported on the unofficial election night results webpage and the voter information in Prince William County's Abstract of Votes related to two constitutional amendment questions on the 2020 ballot, ELECT identified that, in two split precincts, the total vote tally for the entire precinct had been entered

²¹ See Va. Code Ann. § 24.2-679 (2015) (effective July 1, 2015).

²² See Va. Code Ann. § 24.2-800 (2020) (effective July 1, 2020).

into the line for just one of the congressional districts in the precinct, with the other congressional district in the precinct showing no results. In addition, one non-split precinct had no results entered for one of the constitutional amendment questions.

76. After being informed of these errors, Ms. White followed ELECT's instructions by correcting the errors in VERIS and arranging for revised corrected Abstracts of Votes for the constitutional amendments to be sent to the Prince William County Electoral Board for approval and signature, which were then re-submitted to the State Board of Elections.

77. On December 7, 2020, following standard procedure, the State Board of Elections met and recertified the corrected abstracts from Prince William County, as well as corrected abstracts of at least one other locality.

78. While correcting these errors changed the vote totals for the constitutional amendment questions and how those totals were distributed among congressional districts, it did not change the outcome of the election as certified on November 18, 2020.

79. Upon information and belief, neither ELECT nor the State Board of Elections referred these issues to OAG for investigation.

II. DEFENDANTS MIYARES AND LIEF CREATE A SHAM ELECTION INTEGRITY UNIT

A. The 2020 Election and the False Narrative of Widespread Election Fraud

80. As early as November 3, 2020—when votes across the country and in Virginia were still being counted—former President Donald Trump falsely claimed that he won the 2020 Presidential Election. He and his allies and associates repeated that lie in hundreds of public statements, calling the election “rigged,” claiming that it was “stolen,” and blaming widespread election fraud, including in Virginia.

81. At a press conference on November 10, 2020, for instance, Rudy Giuliani and members of the Trump legal team discussed claims of election fraud and the legal action they were taking. Giuliani stated “we have a significant number of allegations in the state of Virginia. I don’t know yet whether the number in Virginia will reach a number that can turn the election.”²³

82. In the weeks after Election Day, protest and rallies styled as “Stop the Steal” events occurred around the country, culminating in one of the darkest days of American democracy—the storming of the U.S. Capitol on January 6, 2021.

83. Both then and now, there was no evidence of widespread election fraud. Indeed, there is not and never has been any evidence that election fraud had any effect on the outcome of the 2020 Presidential Election.

84. Perhaps because of this lack of evidence—but, at a minimum, in spite of it—Donald Trump and people associated with the “Stop the Steal” movement placed significant pressure on federal and state officials and political allies across the country to support their false narrative of widespread election fraud.

85. In late November 2020, for instance, Donald Trump called Arizona Governor Doug Ducey and demanded evidence of election fraud. When Mr. Ducey refused, Donald Trump publicly attacked him (as well as Georgia Governor Kemp) on Twitter, re-tweeting posts such as, “Watching the Arizona hearings and then watching Gov. Ducey sign those papers, why bother voting for Republicans if what you get is Ducey and Kemp” or “Why is Ducey still pretending he’s a member of the Republican party after he just certified fraudulent election results in Arizona that

²³ *Rudy Giuliani Trump Campaign Press Conference Transcript November 19: Election Fraud Claims* 32:37, rev.com (Nov. 19, 2020), <https://www.rev.com/blog/transcripts/rudy-giuliani-trump-campaign-press-conference-transcript-november-19-election-fraud-claims>.

disenfranchised millions of Republicans?”²⁴ Shortly thereafter, Donald Trump also tried to elicit election fraud evidence from the Arizona speaker of the House, stating “well, you know, we’re all kind of Republicans and we need to be working together.”²⁵

86. In December 2020, Donald Trump pressured his Acting Attorney General to falsely declare the election “illegal” and “corrupt,” even though the Justice Department had not found any evidence supporting that claim.²⁶

87. These are just a few of many such examples of similar actions that have been made public thus far.

88. A critical component of the “Stop the Steal” campaign involved launching election fraud units in prosecutors’ offices around the country to fuel a perception that election fraud was widespread and required significant attention. In the wake of the 2020 Election, such units were launched or expanded in at least six states, largely led by actors allied with or sympathetic to the “Stop the Steal” movement.

89. In November 2021, Florida became one of the first states to announce the intention to form such a unit, passing a bill establishing the unit in early 2022. In April 2022, Georgia created its own election crimes unit within the state’s bureau of investigation. Neither unit announced a

²⁴ Gov’t’s Mot. for Immunity Determinations at 18, *United States v. Trump*, No. 1:23-cr-00257 (D.D.C. Oct. 2, 2024), [usa-v-trump-unsealed-govt-immunity-motion-1022024.pdf](https://documentcloud.org/usa-v-trump-unsealed-govt-immunity-motion-1022024.pdf) (documentcloud.org).

²⁵ *Id.*

²⁶ Jeremy Herb, *Trump to DOJ Last December: “Just Say That the Election was Corrupt + Leave the Rest to Me”*, CNN POLITICS (July 31, 2021), <https://www.cnn.com/2021/07/30/politics/trump-election-justice/index.html>; *READ: Notes from December 2020 Phone Call Between Trump and Justice Department Officials*, CNN POLITICS (July 30, 2021), <https://www.cnn.com/2021/07/30/politics/read-doj-trump-notes/index.html> (publishing notes from a December 2020 call where the acting Attorney General told Trump that “much of the info you’re getting is false,” yet Trump requested him to “[j]ust say that the election was corrupt + leave the rest to me and the R. Congressmen”).

single prosecution for months after their formation, drawing criticism that the units were unnecessary and fueling allegations that they were performative rather than substantive.²⁷

90. Despite expending considerable resources, none of those election integrity units have produced evidence of widespread election fraud related to the 2020 Election.

B. Defendant Miyares is Elected on a Promise to Target Election Fraud and Immediately Takes Steps to Target Virginia Election Workers

91. Defendant Jason Miyares was nominated as the Republican candidate for Attorney General of Virginia in May 2021. He won that election in Virginia's statewide election on November 3, 2021—the very same day Florida announced its intention to launch an election integrity unit—and entered office in January 2022.

92. Chris LaCivita, one of Donald Trump's most prominent senior advisors and co-campaign manager, worked on Defendant Miyares's campaign. Although Defendant Miyares has acknowledged the outcome of the 2020 presidential election, during his campaign, he pledged to investigate election fraud and cast doubt on the integrity of the 2020 Election, including on the debate stage.²⁸

²⁷ Gary Fields, Anthony Izaguirre & Sudhin Thanawala, *New State Voter Fraud Units Finding Few Cases in Florida, Elsewhere After Midterms*, WUSF (Nov. 26, 2022), <https://www.wusf.org/politics-issues/2022-11-26/new-state-voter-fraud-units-finding-few-cases-in-florida-elsewhere-after-midterms> (as of December 2022, Georgia had announced just one investigation); Ashley Lopez, *20 Were Charged for Voter Fraud in Florida. Advocates Say a Broken System is to Blame*, NPR (Aug. 27, 2022), <https://www.npr.org/2022/08/27/1119750187/florida-voter-fraud-charges-desantis-felon-rights> (first arrests in Florida occurred in August 2022); Ashley Lopez, *Encore: Prosecution Against 20 People in Florida for Voter Fraud Hits Roadblocks*, NPR (Dec. 28, 2022), <https://www.npr.org/2022/12/28/1145854103/encore-prosecution-against-20-people-in-florida-for-voter-fraud-hits-roadblocks> (court records show that 20 people arrested by Florida Unit were able to register to vote despite prior felony convictions, leading them to believe they could legally cast ballots).

²⁸ See e.g., Brad Kutner, *Virginia Attorney General and GOP Challenger Square Off in First Debate*, COURTHOUSE NEWS (June 15, 2021), <https://www.courthousenews.com/virginia-attorney-general-and-gop-challenger-square-off-in-first-debate/> (Miyares stated that “the 2020

93. On his first day in office in January 2022, Defendant Miyares immediately fired almost 30 experienced attorneys and OAG staff.²⁹ He replaced some of them with individuals aligned with his political agenda, including the agenda to perpetuate a narrative of widespread election fraud in the 2020 Election. Talking points from Defendant Miyares’s office at this time, circulated internally and to a handful of Republican advocacy groups and state legislators, touted this personnel upheaval as a win for people who “have expressed doubt about the integrity of our election systems and even the result of some elections.”

94. One of Defendant Miyares’s new hires was Defendant Lief. According to the same talking points, Lief was tasked with leading OAG’s efforts to “uphold the law and hold election officials accountable.”

95. Another new hire was Monique Miles, a top deputy brought in to oversee election issues. Ms. Miles quickly left the OAG, on February 10, 2022, after more than a dozen of her

election left voters with more questions than answers” and confirmed he supported rolling back recent reforms to voter ID laws that had expanded access to voting).

²⁹ Editorial, *Opinion: Virginia’s “Election Integrity Unit” Achieves the Opposite of its Stated Purpose*, WASH. POST (Sept. 13, 2022), <https://www.washingtonpost.com/opinions/2022/09/13/virginia-election-integrity-unit-big-lie/>; Patrick Wilson, *Miyares Fires 30 in AG’s Office, Including Lawyer Investigating Dangerous Conditions at Richmond Apartments*, RICHMOND TIMES-DISPATCH (Jan. 14, 2024), [https://richmond.com/news/state-and-regional/partisan-debate-erupts-in-va-senate-over-miyares-firing-of-30-in-ags-office/article_49f4ffd3-3653-5340-95c4-aa3c76c862b4.html#:~:text=Partisan%20debate%20unfolded%20Tuesday%20in%20the](https://richmond.com/news/state-and-regional/miyares-fires-30-in-ags-office-including-lawyer-investigating-dangerous-conditions-at-richmond-apartments/article_280125a7-9dda-58db-a0e0-667758fafd0f.html#:~:text=Attorney%20General-elect%20Jason%20Miyares; Patrick Wilson, Partisan Debate Erupts in Va. Senate Over Miyares’ Firing of 30 in AG’s Office</i>, RICHMOND TIMES-DISPATCH (Jan. 18, 2022), <a href=).

social media posts espousing unfounded conspiracy theories about voter fraud and election interference—including praising the rioters at the U.S. Capitol on January 6, 2021—became public.³⁰

96. Soon after taking office, Defendant Miyares also fired the general counsel of the University of Virginia, who was on leave to work as an investigator for the United States House Committee to Investigate the January 6th Attack on the United States Capitol. The move was heavily criticized as unprecedented, as attorneys general had generally not treated such state university positions as political, leaving hiring decisions to each school’s board of visitors and president.³¹

97. Defendant Miyares’s focus on politicized issues of election fraud came at the expense of OAG’s core public safety mission. Just months after firing 30 people and reallocating other attorneys to focus on non-existent election fraud issues, Defendant Miyares lobbied the General Assembly—unsuccessfully—for \$2.6 million in additional funding to hire over 20 more attorneys to handle what he described as a “staggering volume” of criminal appeals.³²

98. From their positions in OAG, Defendants Miyares and Lief maintained close ties to leaders of the “Stop the Steal” movement and responded to their calls to validate false narratives of widespread election fraud. For example, Virginia State Senator Amanda Chase—who had been censured by the Virginia Senate for repeating baseless 2020 election conspiracy theories and

³⁰ Justin Jouvenal, *Deputy Va. Attorney General Resigns After Revelation of Facebook Posts Praising Jan. 6 Rioters, Claiming Trump Won Election*, WASH. POST (Feb. 10, 2022), <https://www.washingtonpost.com/dc-md-va/2022/02/10/facebook-jan-6-virginia-attorney-general-miles/>.

³¹ Peter Weber, *Virginia’s New GOP Attorney General Fires University of Virginia Counsel Working for Jan. 6 Committee*, THE WEEK (Jan. 24, 2022), <https://theweek.com/politics/1009301/virginias-new-gop-attorney-general-fires-university-of-virginia-counsel-working>.

³² Steve Descano, *Jason Miyares’s “Election Integrity Unit” is a Sham*, WASH. POST (Oct. 5, 2022), <https://www.washingtonpost.com/opinions/2022/10/05/virginia-miyares-election-integrity-unit-sham/>.

expressing support for rioters who stormed the U.S. Capitol in January 2021, and who claimed without evidence that the Democratic party had a plan to “cheat” in the November 2021 Virginia statewide election—stated in February 2022 that she had met and would continue to meet with Defendant Miyares and he was “very interested” in her claims of fraud in the 2020 Election.³³ Senator Chase later stated publicly that “the creation of the Election Integrity Unit” as well as an “investigation” were “the results of that February meeting.”³⁴

99. Similarly, Defendant Lief met on several occasions with Bill Hawkins, the State Director from Virginians for America First, in the months following Miyares’s election and Lief’s hiring. Virginians for America First is a pro-Trump group founded by Leon Benjamin, a Richmond-area pastor and former congressional candidate who invoked Satan and “spiritual war” when he spoke at a “Stop the Steal” rally outside the Virginia Department of Elections in November 2020.³⁵ The group commonly engages in “Stop the Steal” rhetoric and has received significant

³³ Graham Moomaw & Ned Oliver, *Censured Virginia Senator Says AG’s Office Took Her Election Fraud Claims “Very Seriously”*, VA. MERCURY (Feb., 23, 2022), <https://virginiamercury.com/2022/02/23/censured-virginia-senator-says-ags-office-took-her-election-fraud-claims-very-seriously/>; Dean Mirshashi, *Sen. Chase Says AG’s Office Expressed Interest in Report on Election Fraud Claims*, ABC 8 NEWS (Feb. 24, 2022), <https://www.wric.com/news/politics/sen-chase-says-ags-office-expressed-interest-in-report-on-election-fraud-claims/>; Press Release, Democratic Party of Virginia, Attorney General Jason Miyares Hired Big Lie and Insurrectionist Sympathizer, Fired a January 6th Investigator—Now He’s Meeting With Virginia’s Top Election Integrity Conspiracy Theorist (Feb. 23, 2022), <https://vademocrats.org/news/attorney-general-jason-miyares-hired-big-lie-and-insurrectionist-sympathizer-fired-a-january-6th-investigator-now-hes-meeting-with-virginias-top-election-integrity-conspirac/>.

³⁴ Eric Burk, *Miyares Turns Up the Heat on Election Integrity Enforcement*, THE REPUBLICAN STANDARD (Sept. 10, 2022), <https://therepublicanstandard.com/featured/miyares-turns-up-the-heat-on-election-integrity-enforcement/ericburk/2022/09/>.

³⁵ Leon Benjamin, FACEBOOK (Nov. 7, 2020), <https://www.facebook.com/LeonBenjaminVA4/videos/363243014988276>.

funding from The America Project (which spent \$7.4 million in 2021, mostly advancing false claims about the 2020 elections).³⁶

100. Upon information and belief, during such meetings Defendant Lief kept Mr. Hawkins and others associated with Virginians for America First updated about progress in pursuing evidence of election fraud.

101. Amid escalating rhetoric about election fraud and rising hostility toward election workers in Virginia and around the nation, Chris Piper, the former Commissioner of ELECT, emailed Defendant Lief in early 2022 seeking assurances that OAG would protect Virginia’s election workers and election officials from bogus accusations of election fraud. But OAG declined to provide such assurances.

C. Defendants Miyares and Lief Initiate the Creation of an Election Integrity Unit

102. Defendants Miyares and Lief moved forward with plans to create an Election Integrity Unit that would target precisely the election workers Mr. Piper had asked them to defend, falling in line with other states’ contemporaneous announcement of similar units.

103. Defendants Miyares and Lief did not institute any reporting structure or approval process for opening and conducting investigations in the Election Integrity Unit, nor did they provide any guidelines, procedures, training materials, or other similar documents to govern the

³⁶ Michael Beckel, *Document Obtained by Issue One Reveals New Financial Information About Nonprofit Peddling Election Conspiracies*, ISSUE ONE (Mar. 10, 2023), <https://issueone.org/articles/document-reveals-new-financial-information-about-nonprofit-peddling-election-conspiracies/> (citing The America Project’s 2021 tax returns, showing \$250,000 given to Virginians for America First in “Grants and Other Assistance”).

Election Integrity Unit's operations, including regarding any of the Virginia election statutes the Unit was tasked with enforcing.³⁷

104. Most or all staff assigned to the Election Integrity Unit had no prior experience in Virginia election law, election administration, or election-related crimes.

105. Defendants Miyares and Lief did not develop, administer or require any training in election law, election administration or election-related crimes for attorneys or investigators assigned to the Election Integrity Unit.

106. The Defendant Investigators who were tasked with the investigation of Ms. White did not have any background in or experience with Virginia election law, election administration, or election-related crimes. As Senior Financial Investigators, their background was primarily in Medicaid fraud and other white-collar crimes. Accordingly, Defendant de Almeida told Ms. White that his knowledge of how voting machines work was "just very rudimentary."

107. The absence of any meaningful training, supervision or structure exposed the Election Integrity's true purpose: not to meaningfully protect American democratic processes through rigorous and fair investigations, but to superficially bolster the false narrative of widespread election fraud, undermine trust in the electoral system, and deliver on campaign promises to political extremists.

108. Despite the rhetoric and campaign promises, however, Defendants Miyares and Lief had no credible evidence of election fraud relating to the 2020 Election in Virginia, and thus could not initiate any legitimate prosecutions, leaving them unable to launch the Election Integrity

³⁷ Information about the formation and establishment of OAG's Election Integrity Unit is available because the Virginia Chapter of NAACP sought and obtained records under the Virginia Freedom of Information Act relating to (i) the establishment of the Unit, its organization, mission, staffing, activities, and financial expenditures; and (ii) records regarding the number of instances of voter fraud, or "election cheating" as the Attorney General has claimed, in Virginia since 2008.

Unit without risking accusations that it was unnecessary or performative—accusations that had dogged other states’ units.

III. THE CREATION OF THE ELECTION INTEGRITY UNIT RESULTS IN THE MALICIOUS PROSECUTION OF MS. WHITE

A. Prince William County Bows to Political Pressure to Search for Evidence of Election Fraud

109. In early 2022, the successor to Ms. White as Prince William County General Registrar, Eric Olsen, conducted an unusual “audit” of the county’s 2020 Election results.

110. Mr. Olsen has never offered a credible or consistent explanation for why he conducted this audit, nearly 18 months after the 2020 Election, and focusing on the very issue of split-precinct data that had been flagged to the head of the state’s Republican party as a source of errors that may have favored Joseph R. Biden. Some media reports suggested it may have been in response to a “public records request”³⁸ and others reported that Mr. Olsen claimed that he was just “going through some documents in the office and [] saw some matters that needed to be reported.”³⁹ Contradicting this, Olsen told Defendant Investigators that the audit was suggested by members of his staff. In yet another formulation, Defendant Investigators told prosecutors that Olsen told them the need for an audit was brought to his attention by public sources.

111. Mr. Olsen stated that his audit identified discrepancies between the data in VERIS and the data from the Voting Machine Printouts and SOR forms signed by precinct-level election officials, indicating errors in the VERIS data. The bulk of these alleged errors arose in data from the CAP Precinct. Specifically, according to Mr. Olsen’s audit, there were 2,400 overcounted

³⁸ Kira Lerner, *This County Undercounted 4,000 Biden Votes in 2020. Now the Head of Elections is Looking to Win Back Trust*, THE GUARDIAN (May 15, 2024), <https://www.theguardian.com/us-news/article/2024/may/15/virginia-eric-olsen-election-offices-voter-trust>.

³⁹ Justin Jouvenal & Antonio Olivo, *Former Prince William Election Registrar Indicted on Corruption Charges*, WASH. POST (Sept. 8, 2022), <https://www.washingtonpost.com/dc-md-va/2022/09/07/prince-william-election-registrar-indicted/>.

Trump votes and 1,600 undercounted Biden votes in the CAP Precinct data in VERIS, errors introduced by changes made to the VERIS data on November 7, 2020. Mr. Olsen's audit also identified alleged *de minimis* errors (not exceeding 51 votes in any precinct, and most involving a dozen or fewer votes) resulting from changes to VERIS data for a few other non-CAP split precincts made on November 5, 2020, which errors marginally favored Biden. Finally, according to Mr. Olsen, a small handful of non-split precincts' results entered into VERIS on election night also had similarly *de minimis* errors as compared to those precincts' Voting Machine Printouts.

112. Although the errors resulting from the November 7, 2020 changes were of an order of magnitude greater than the *de minimis* errors resulting from changes on other dates, none of the alleged discrepancies Mr. Olsen discovered were dispositive—that is, sufficient to change the outcome of any aspect of the 2020 election or to cause Virginia to exceed the threshold for a recount under state law. The net result of the alleged errors Mr. Olsen identified was an undercount for the entire county of 1,648 votes for Joseph R. Biden and an overcount for former Donald J. Trump of 2,327 votes, in a state that Biden had already won by a margin of several hundreds of thousands of votes.

113. Mr. Olsen stated that the changes did not appear to him to be intentional.

B. Defendants Maliciously Seize Upon Insignificant Alleged Errors in Data Entry to Open a Sham Investigation into Prince William County's Election Results

114. Determined to find a case with which to launch their Election Integrity Unit and contribute to the false narrative of widespread election fraud, Defendants seized upon Mr. Olsen's audit to fabricate a prosecution of election fraud that they could present to the public.

115. Defendant Lief attended a closed meeting of the State Board of Elections on April 13, 2022. Immediately after that April 13 meeting, instead of merely seeking a correction of these errors as the State Board of Elections had done with previous errors discovered before and after

the final certification of the 2020 Election, an OAG investigation into election fraud during the 2020 Election in Prince William County was initiated, based solely on Mr. Olsen's audit.

116. Defendant Lief directed and supervised Defendants de Almeida and Mulholland, two Senior Financial Investigators, in conducting the investigation. Defendant Investigators forwarded evidence from witnesses directly to Defendant Lief as it was gathered, indicating Defendant Lief's direct and unusual involvement in the investigatory process.

117. Defendants' decision to launch a criminal investigation focused on erroneous data entry by local election officials was unusual, to say the least. As alleged above, errors indistinguishable in nature from those identified by Mr. Olsen had been identified both before and after the final certification of the 2020 Election, and yet no election official had referred such matters to OAG for investigation. Nor, upon information and belief, had OAG opened any investigation into such errors.

118. The only thing that meaningfully distinguished the errors Mr. Olsen identified from those other errors was that the latter were discovered after the election of Defendant Miyares and the establishment of an Election Integrity Unit that required the generation of prosecutions for election crimes for its legitimacy.

119. Moreover, the use of the three specific criminal laws at issue to target the work of election officials was unprecedented in Virginia's history. Upon information and belief, there has never been a criminal prosecution in Virginia for the crimes Ms. White was charged with stemming from discrepancies in data entry by election officials or any of the other acts Defendants alleged that Ms. White committed. That is, no person similarly situated to Ms. White has ever been prosecuted by OAG for crimes like those Defendants alleged she had committed.

C. Defendant Investigators Make False and Misleading Statements, and Omit Material Information, to Indicate Ms. White’s Guilt of Election Crimes

120. The malicious prosecution of Ms. White resulted directly from the misconduct of Defendant Investigators de Almeida and Investigator Mulholland, who knowingly provided false and misleading information and omitted material information to prosecutors, thereby initiating a malicious prosecution of Ms. White that culminated in a grand jury being misled by the Defendants into indicting Ms. White.

1. Defendant Investigators Falsely and Maliciously Accuse Ms. White of Causing Erroneous Data to be Entered into VERIS

121. Defendants’ primary allegation, that Ms. White falsely and intentionally introduced changes to the CAP Precinct voter data in VERIS, was not true and Defendant Investigators knew it was not true.

122. Defendant Investigators knew that the changes to VERIS data that resulted in 97% of the alleged errors reported by Mr. Olsen were made to the CAP Precinct data on November 7, 2020, between 12:35 p.m. and 2:48 p.m., under the login for Assistant General Registrar Sean Mulligan (the “November 7 CAP Changes”). Defendant Investigators reported that Ms. White asked or instructed Sean Mulligan to input the November 7 CAP Changes into VERIS. Specifically, Defendant Investigators stated that Mr. Mulligan had “confirmed” during the investigation that Ms. White directed him to make the November 7 CAP Changes.

123. This was false. Mr. Mulligan did not tell Defendant Investigators that Ms. White had instructed him to make the November 7 CAP Changes.

124. Moreover, Colleen Rummel, the Assistant Registrar of Prince William County CAP Precinct during the 2020 Election, told Defendant Investigators that she, with another staff member’s assistance, had made changes specifically to the CAP Precinct data in VERIS during the canvassing process.

125. Ms. White also told Defendant Investigators that she had not instructed Mr. Mulligan to change any data on November 7, 2020, and that prior to Defendant Investigators' telling her, she had been unaware of the errors made on that date.

126. Thus, Defendant Investigators had no evidence to suggest that Ms. White caused, or was otherwise responsible for, the alleged errors introduced by the November 7 CAP Changes.

127. On the contrary, Defendant Investigators had evidence that exonerated Ms. White and did not provide this information to prosecutors when presenting the conclusions of their investigation.

128. Misrepresenting Ms. White's involvement with the November 7 CAP Changes was crucial to establishing some credible basis for charging election fraud—especially felony election fraud—because, in contrast to the minor errors relating to other instances of manual data entry that Ms. White was involved with, the November 7 CAP Changes could not be so easily dismissed as inadvertent transcription or mathematical errors.

2. Defendant Investigators Falsely and Maliciously Misrepresent VERIS as Final Election Data

129. Defendant Investigators misrepresented that the data recorded in VERIS are the “official counts” underlying the certification of the election by the local boards of election. This factual misrepresentation was essential to establishing probable cause for the top felony charge of making a false material statement or entry required by law (Va. Code Ann. § 24.2-1016), because that charge requires any false material statement be made on a “statement, form or report” required by Virginia Code Title 24.2, which governs election administration.

130. Defendant Investigators' representation was false. As Defendant Investigators knew, VERIS is not mentioned anywhere in Title 24.2, but rather is an intermediary tool to gather election results from the counties and report them to the State Board of Elections to facilitate the

preparation of various statements, forms and reports required by law. It is one of several sources of redundant data, along with Voting Machine Printouts, that are used to cross-verify the accuracy of vote counts. Only after these sources are reconciled do county election boards, and later the State Election Board, certify the results of any election as a matter of law in other official statements and forms.

131. For this reason, entries in VERIS are not a “statement, form, or report required by [Virginia Code Title 24.2].” Va. Code Ann. § 24.2-1016. Thus, inaccurate information in VERIS could not, as a matter of law, be the basis for charging any individual with willfully making a false material statement or entry under Va. Code Ann. § 24.2-1016.

132. Defendant Investigators were aware of the nature and role of the VERIS database. Nonetheless, they misrepresented it as the final and official statement of election results.

3. Defendant Investigators Falsely and Maliciously State that Ms. White Prevented the Verification of Voting Data in VERIS

133. Defendant Investigators falsely reported that Ms. White prevented a review of the VERIS data for Prince William County so that incorrect vote totals were certified to the State as correct.

134. Defendant Investigators knew that validating and certifying the election results in Prince William County, including by cross-checking information in VERIS with precinct-level election data, was the responsibility of the three members of the Prince William County Election Board.

135. Mr. Olsen, Defendant Investigators’ primary source of evidence about the VERIS-related charges, reported that he believed the failure to correct the discrepancies he identified prior to the certification of the election were the result of a failure by the Prince William Electoral Board.

136. Robin Williams, the Republican member of the Prince William County Electoral Board during the 2020 Election and the only member of the Board interviewed during the investigation, told Defendant Investigators that if the vote counts in VERIS did not match the precinct-level election data, then it was “our error” (meaning, the Prince William County Election Board’s error) not to have verified the numbers themselves prior to reporting them on official election forms. Williams also told Defendant Investigators that, in past elections, Prince William County Electoral Board members compared the Voting Machine Printouts, the SOR forms, and the election night spreadsheets to the numbers in VERIS, but did not do so in 2020.

137. Mr. Williams also told Defendant Investigators that if there were any discrepancies between the VERIS numbers and the Voting Machine Tapes, it would likely be because someone attempted to correctly split out the numbers by congressional district but got it wrong.

138. Defendant Investigators misleadingly omitted this information. Instead, Defendant Investigators inexplicably made Ms. White the target of their investigation, misleading prosecutors into believing that she controlled the final certification of election results in Prince William County.

4. Defendant Investigators Falsely and Maliciously Accuse Ms. White of Criminally Mishandling Absentee Ballots

139. Perhaps recognizing that their allegations about the VERIS data would not be sufficient to sustain any criminal prosecution for the felony charges linked to those allegations, Defendant Investigators made a series of false and misleading statements designed to establish probable cause of another crime—namely, that Ms. White intentionally omitted to perform a known duty in her role as General Registrar.

140. *First*, Defendant Investigators falsely and maliciously stated that Ms. White unlawfully instructed election workers not to record the date on which absentee ballots were returned in

order to disguise her failure to timely process them. In fact, Defendant Investigators knew that the process of scanning returned absentee ballots into VERIS upon receipt created a record of the date on which the ballot had been received in the electronic pollbook. Defendants did not provide this information to prosecutors.

141. Moreover, Defendant Investigators misled prosecutors into believing that date-stamping the outer envelopes of returned absentee ballots was a duty required by state law by omitting to mention that Ms. White had implemented the “alternative procedure” for processing returned absentee ballots, which does not require date-stamping. Defendant Investigators further omitted to mention that ELECT guidance in place for the 2020 Election recommended that if there was a “High volume of ballots,” as there unquestionably was during the relevant time period, general registrars should forgo marking the outer envelopes of returned ballots.

142. *Second*, Defendant Investigators falsely and maliciously stated that Ms. White’s decision to divide responsibilities for handling returned absentee ballots between the Call Center and the CAP Precinct prevented or delayed review of voter affirmations for errors, resulting in a failure to perform her duty under state law to allow voters to cure such errors.

143. In fact, Defendant Investigators knew that returned absentee ballots were successfully pre-processed in the lead-up to Election Day in accordance with the law. Defendant Investigators misleadingly told prosecutors that Ms. White’s staff *at the Call Center* failed to check voter affirmations for curability, and that when they did, they failed to contact voters whose affirmations were curable. Defendant Investigators omitted that staff *at the CAP Precinct* carried out these tasks, after receiving returned absentee ballots within 24 hours of their arrival at the Call Center, and thus it was not the responsibility of workers at the Call Center to examine voter affirmations or contact voters with curable ballots.

144. *Third*, Defendant Investigators falsely and maliciously stated that Ms. White unlawfully instructed election workers to delete the “Voter Credit” from VERIS’s electronic pollbook for absentee voters with curable ballots in order to disguise her failure to comply with cure procedures. Defendant Investigators misled prosecutors into believing this was a failure to perform a known duty by omitting to mention that “Voter Credit” was once again applied *after* a valid voter affirmation had been received or cured; a procedure that makes sense because, in the event the voter failed to cure and no ballot was cast, VERIS would otherwise reflect a discrepancy between its recorded turnout numbers and the number of votes actually counted. Defendant Investigators further omitted to mention that ELECT guidance in place for the 2020 Election stated that “For ballots with errors, each office should set uniform internal procedures to ensure that voters *only receive Voter Credit if their ballot is eligible to be counted.*”

145. *Fourth*, Defendant Investigators falsely and maliciously stated that Ms. White failed to perform her duty to return out-of-jurisdiction absentee ballots to their proper jurisdiction. Defendant Investigators misleadingly represented that the Manassas City General Registrar had once chased Ms. White for ballots that had not immediately been couriered to Manassas, but they omitted the part of her testimony confirming that Prince William County ultimately delivered those ballots.

146. Defendant Investigators, in fact, had no evidence whatsoever that any out-of-jurisdiction ballot was not timely returned to the correct county or city, or that any curable ballot went uncounted in Prince William County or in any other county in the 2020 Election as a result of Ms. White’s actions or omissions. To disguise this fact, Defendant Investigators misleadingly presented photographs showing a rack of small trays in Ms. White’s office containing what appear to be ballots, falsely claiming the photographs were taken between November 6, 2020 and mid-

December 2020 and misleadingly suggesting that they depicted valid, timely, unprocessed absentee ballots, including out-of-jurisdiction ballots, that Ms. White had mishandled.

147. In fact, Defendant Investigators had no evidence that the photographs depicted what they reported. The individuals who provided those photographs to Defendant Investigators did not say the ballots depicted in those photographs were in fact valid unprocessed absentee ballots and could not identify what the ballots were. Nor were they aware of when they had been received.

148. Defendant Investigators further knew, but omitted to mention, that Mike Mallon, the Chief Deputy Registrar of Prince William County, who was responsible for closing out the Call Center where these photographs were allegedly taken after the election, had told them that he would have known if there had been a large number of unprocessed absentee ballots remaining at the Call Center after the election had been certified, and there was not.

149. Defendant Investigators further misled prosecutors into believing that these ballots could only be valid unprocessed ballots by omitting to mention that the CAP Precinct continued to process returned absentee ballots beyond Election Day and that absentee ballots continued to arrive at the General Registrar's office by mail weeks after Election Day. If such ballots contained errors and arrived after the statutory deadline for the mandatory cure procedure, or arrived after the deadline to be counted, they would be set aside and eventually returned to the clerk. Virginia law did not specify any date certain by which any such later-received absentee ballots must be received by the clerk, such that it would not have been unusual for them to be retained in the General Registrar's office for some time after the election.⁴⁰ Defendant Investigators misleadingly omitted to mention any of these facts about the election process in Prince William County.

⁴⁰ Va. Code Ann. § 24.2-710 (2020) (effective July 1, 2020).

D. Defendants Mislead a Grand Jury to Indict Ms. White

150. On or about September 7, 2022, based on the above-alleged falsehoods and misrepresentations made by Defendant Investigators, Defendant Lief presented the indictment of Ms. White to the grand jury. Defendant de Almeida was the sole witness.

151. Specifically, the charges Defendants presented to the grand jury were as follows:

- **False material statement or entry required by law (Va. Code Ann. § 24.2-1016):** “Any willfully false material statement or entry made by any person in any statement, form, or report required by this title shall constitute the crime of election fraud and be punishable as a Class 5 felony. Any preprinted statement, form, or report shall include a statement of such unlawful conduct and the penalty provided in this section.”
- **Corrupt conduct as an elected official (Va. Code Ann. § 24.2-1001.B):** “If any officer of election, member of an electoral board, or other person on whom any duty is enjoined by law relative to any election, “is guilty of any corrupt conduct in the execution of his duty, he shall be guilty of a Class 5 felony.”
- **Willful neglect of duties (Va. Code Ann. § 24.2-1001.A):** “If any officer of election, member of an electoral board, or other person on whom any duty is enjoined by law relative to any election, is guilty of willful neglect of his duty, he shall be guilty of a Class 1 misdemeanor.”

152. The indictment was sparse and conclusory, setting forth the elements of each alleged crime and stating that Ms. White had made the false and material statement “between November 3, 2020 and November 10, 2020”; and that she had engaged in corrupt conduct and willful neglect of her duties as an election officer “between August 1, 2020 and December 31, 2020.”

153. Based on those date ranges, it is clear that Defendants represented that the alleged errors in VERIS were the “false and material statement” underlying the first felony charge and the “corrupt conduct” underlying the second felony charge, and the alleged mishandling of absentee ballots was the “willful neglect of duties” underlying the misdemeanor charge.

154. The information Defendants presented to the grand jury was false, fabricated, misleading, and politically motivated.

155. All three criminal charges required proof that Ms. White had the *mens rea* required by each statute. Thus, Defendants introduced to the grand jury falsified evidence that Ms. White willfully made a false statement, had the intent to affect the outcome of the election, and intentionally omitted to perform a known duty.

156. Upon information and belief, Defendant Lief's presentation and Defendant de Almeida's testimony to the grand jury repeated the false representations and omitted the same material information alleged above including but not limited to:

- (a) Falsely stating that Ms. White directed Sean Mulligan to place errors into VERIS on November 7, 2020 in order to affect the outcome of the election;
- (b) Falsely stating that entries in VERIS are "final election results" and are, therefore, a "statement" or "entry" within the meaning of Va. Code Ann. § 24.2-1016;
- (c) Falsely stating that Ms. White intentionally prevented the verification of voting data in VERIS;
- (d) Falsely stating that Ms. White instructed election workers not to record the date on which absentee ballots were returned and misleadingly omitting that Ms. White utilized an alternative procedure for processing returned absentee ballots that did not require physical date-stamping;
- (e) Falsely stating that Ms. White prevented or caused the delay of reviewing the voter affirmations appended to returned absentee ballots, preventing such ballots from being cured and/or counted;
- (f) Falsely stating that Ms. White instructed election workers to delete "Voter Credits" in VERIS in order to obscure her failure to timely process and/or count returned absentee ballots;
- (g) Falsely stating that Ms. White failed to return valid out-of-jurisdiction ballots to their proper jurisdiction so that they could be processed and counted.

157. For this reason, the grand jury's indictment of Ms. White for violations of Va. Code Ann. §§ 24.2-1016, 24.2-1001.A and 24.2-1001.B was based entirely on false and misleading information maliciously provided by Defendants.

158. The day after the indictment was handed down, a warrant was issued and executed for Ms. White's arrest without probable cause.

159. The arrest was traumatic and humiliating for Ms. White. She was embarrassed to be accused in front of fellow county officials of failing in their shared duty of public service. Although she knew she was innocent, she felt that she had let down the voters she had sought to protect and support for so many years. As she was waiting to be brought before the judge, she found herself in the exact location where ballots are delivered by the elections officers to be sealed with the clerk of court. She thought about how hard she had worked to protect those ballots, and she wept.

IV. THE PROSECUTION OF MS. WHITE ENABLES DEFENDANTS TO LAUNCH THEIR ELECTION INTEGRITY UNIT

160. With an election fraud prosecution now in hand, immediately following Ms. White's indictment, on September 9, 2022, Defendants Miyares and Lief publicly debuted their Election Integrity Unit.

161. In a press release, Defendant Miyares stated "I pledged during the 2021 campaign to work to increase transparency and strengthen confidence in our state elections. ... The Election Integrity Unit will work to help to restore confidence in our democratic process in the Commonwealth."⁴¹ Defendant Miyares explained that the Election Integrity Unit already had 20 staff prosecuting election law violations. Defendant Lief and Deputy Attorney General Leslie Haley were named as the unit's leaders.

162. Continuing Defendants' pattern of close coordination with proponents of the "Stop the Steal" narrative, Defendant Lief coordinated with Mr. Hawkins, of Virginians for America

⁴¹ Joan Hennessy, *Virginia Becomes Latest GOP-Led State to Launch Election Fraud Unit*, COURTHOUSE NEWS SERVICE (Sept. 23, 2022), <https://www.courthousenews.com/virginia-becomes-latest-gop-led-state-to-launch-election-fraud-unit/>.

First, on a press strategy for the Unit’s public announcement, ensuring that its creation would support the false narrative of widespread election fraud. Defendant Lief shared draft talking points launching the Unit with Mr. Hawkins. Mr. Hawkins stated that the launch of the unit showed that “the AG’s office has heard us and has responded positively by creating such a unit.”

163. Those talking points identified the creation of the Election Integrity Unit and the mass firing of career OAG staff on Defendant Miyares’ first day in office as among the steps that he had taken since entering office in to respond to calls to validate the false narrative of widespread election fraud. The talking points also promised forthcoming announcements about election fraud prosecutions.

164. In fact, the only indictment the Election Integrity Unit had obtained—and, upon information and belief, the only prosecution it was actively pursuing—was the indictment of Ms. White. OAG’s talking points explicitly acknowledged that, just prior to the Election Integrity Unit’s announcement, there was no evidence of election fraud in the state.

165. Nonetheless, after the Election Integrity Unit’s launch, conservative groups—several of whom have made claims the election was stolen—“applaud[ed] Attorney General Miyares and his dedicated team for shining a light on election crimes in Virginia, and for holding accountable officials who threaten our election processes and the confidence of American voters. Make no mistake, one of the biggest problems of the 2020 election was state officials not obeying their own laws.”⁴²

⁴² Press Release, Election Transparency Initiative, ETI Applauds Virginia AG Jason Miyares for Upholding Election Integrity & Rule of Law (Sept. 8, 2022), <https://electiontransparency.org/2022/09/08/eti-applauds-virginia-ag-jason-miyares-for-upholding-election-integrity-rule-of-law/#:~:text=We%20applaud%20Attorney%20General%20Miyares%20and; Press Release, Election Transparency Initiative, Susan B. Anthony List & American Principles Project Launch>

166. Senator Chase—whom Defendant Miyares met with back in February of 2020 regarding her purported evidence of election fraud—praised Defendant Miyares for investigating Ms. White, explaining “this is just the beginning, but the fact that the attorney general would open an entire investigative unit for election integrity is huge.”⁴³

167. As planned, Defendants used Ms. White’s indictment to preempt and respond to criticisms that there was no need for the Election Integrity Unit. In requesting corrections to an editorial criticizing the Election Integrity Unit, Defendant Miyares’ then spokesperson, Victoria LaCivita, who became Trump’s Michigan Communications Director in May 2024 and is the daughter of Trump’s co-campaign manager, said in an email produced in response to the Virginia Chapter of NAACP’s FOIA request that “[i]t is inaccurate to say that there is no voter fraud, as our office announced indictments [sic].”

Multi-Million Election Transparency Initiative (Feb. 23, 2021), <https://electiontransparency.org/2021/02/23/susan-b-anthony-list-american-principles-project-launch-multi-million-election-transparency-initiative/> (announcing Election Transparency Initiative claiming the 2020 election was compromised); David Beasley, *Swoboda: “The Voter Reference Foundation is Grateful for the Leadership Demonstrated by Virginia Attorney General Miyares,”* OLD DOMINION NEWS (Sept. 9, 2022), <https://olddominionnews.com/stories/631431588-swoboda-the-voter-reference-foundation-is-grateful-for-the-leadership-demonstrated-by-virginia-attorney-general-miyares> (“Ken Cuccinelli and Gina Swoboda, leaders of the Election Transparency Initiative and the Voter Reference Foundation, two organizations committed to ensuring election integrity in the United States, are applauding the office of Virginia Attorney General Jason Miyares for prosecuting felony election crimes committed in Prince William County in 2020.”); Caroline Sullivan, *The Republican Party’s Voter Fraud Vigilantes,* DEMOCRACY DOCKET (Aug. 11, 2022), <https://www.democracymarket.com/analysis/the-republican-partys-voter-fraud-vigilantes/> (explaining that the Voter Reference Foundation “is operating in a gray zone of legality in some states and advancing a “Big Lie” agenda”); Burk, *supra* note 34; *see also* Press Release, Republican Party of Virginia, Statement on the Creation of an Election Integrity Unit at the Office of the Attorney General (Sept. 9, 2022), <https://virginia.gop/republican-party-of-virginia-statement-on-the-creation-of-an-election-integrity-unit-at-the-office-of-the-attorney-general/#:~:text=By%20prosecuting%20this%20individual,%20Attorney>.

⁴³ *See supra* note 34.

168. Despite its large staff and significant resources, Defendant Miyares’s office confirmed to the Washington Post that, as of September 2023—more than a year after the public launch on the Election Integrity Unit and 21 months after Miyares took office pledging to crack down on election fraud—Ms. White’s was the *only* prosecution undertaken by the Election Integrity Unit.⁴⁴

169. To this day the Election Integrity Unit has never prosecuted an election official for election fraud other than Ms. White.

V. DEFENDANTS ENGAGE IN FURTHER MISCONDUCT TO PROLONG THEIR MALICIOUS PROCESUTION, DROPPING ALL CHARGES ONLY AFTER SUSTAINED PRESSURE FROM THE COURT AND DEFENSE COUNSEL

170. For more than six months after the indictment, Defendants refused to set out the specific factual allegations against Ms. White, making false promises that they would produce eyewitness testimony to support their allegations that she had committed intentional misconduct, while continuing to issue subpoenas for third-party discovery in the hope of creating a basis for probable cause of some crime.

171. As their inability to sustain the prosecution became more apparent, Defendant Lief resigned from the AG’s office.

172. Following his resignation, OAG prosecutors confessed to the court that their key witness, Mr. Mulligan, would provide testimony directly contrary to the representations Defendants made to the grand jury.

⁴⁴ Justin Jouvenal, *Charges of Corruption, Lying Against Va. Election Official Dropped*, WASH. POST (Dec. 2, 2023), <https://www.washingtonpost.com/dc-md-va/2023/12/02/prince-william-election-felony-charges-dropped/>.

173. As a result, the OAG filed a *nolle prosequi* motion to drop the felony charges of making an official false statement and corrupt conduct. On or about December 1, 2023, the court granted the motion and dismissed both felony charges.

174. Desperate to salvage a conviction and avoid a favorable termination for Ms. White, OAG declined to drop the misdemeanor charge and instead attempted to coerce a guilty plea out of Ms. White to misdemeanor charges, including by demanding that she sign a proffer admitting that she caused incorrect results to be entered in VERIS, caused the final certified results of the election to be inaccurate, and intentionally abdicated known election duties, even though OAG knew at this stage those accusations were false.

175. Remarkably, the proffer included a demand that Ms. White confess to yet another false allegation that, in the lead-up to the 2020 Election, she had failed to conduct mandatory “Logic and Accuracy Testing” (“L&A Testing”) on Prince William County’s voting machines. In fact, Ms. White had conducted such testing, as required by state law, which Defendant Investigators knew from interviewing several witnesses but had failed to tell prosecutors.⁴⁵

176. Ms. White refused to sign the proffer.

177. Only after Ms. White’s defense counsel notified the OAG that he would be filing a motion to disqualify them on the grounds that they had improperly handled the case and were politically motivated did Defendant Miyares and his OAG prosecutors agree to drop the last charge against Ms. White, which they did on or about January 3, 2024.

VI. DEFENDANTS’ MALICIOUS INVESTIGATION AND PROSECUTION OF MS. WHITE CAUSED HER GREAT HARM

178. Defendants continued their baseless investigation and prosecution of Ms. White for more than a year following her arrest and indictment. During that time, Ms. White lived under the

⁴⁵ Va. Code Ann. § 24.2-633 (2016) (effective July 1, 2016).

cloud of prosecution and suffered significant emotional and physical distress and damage to her professional and personal reputation, and past and future professional relationships. The prosecution also severely and negatively impacted her potential income, earnings and future job opportunities.

179. As a person who fell in the gap between qualifying for public defense services and being able to afford the extraordinary costs of private counsel, Ms. White struggled to find defense counsel and attended several initial hearings without representation. She only was able to retain defense counsel in November 2022, almost two months after her arrest, at great expense.

180. Due to Defendants' wrongful acts, Ms. White has suffered lost wages and diminished earning capacity. She has been unable to return to a career in public service.

181. Hampered in finding and retaining job opportunities because of her indictment, Ms. White now works odd jobs, including as a barista.

182. Due to Defendants' wrongful acts, Ms. White has suffered emotional distress, humiliation, fear, discomfort, loss of enjoyment of life, distraction at work, inconvenience and suffering, agony, anxiety, physical and psychic injuries, headaches and nightmares.

CLAIMS FOR RELIEF

Count I - 42 U.S.C. § 1983 Violation of the Fourth and Fourteenth Amendments Malicious Prosecution Against the Defendant Investigators

183. The preceding paragraphs of this Complaint are incorporated as if restated fully herein.

184. Ms. White's indictment and arrest on two felony counts and one misdemeanor charge constituted a seizure for purposes of the Fourth and Fourteenth Amendments.

185. By conducting a baseless and politically motivated investigation of Ms. White, making false and misleading statements, and omitting material information, Defendant Investigators violated Ms. White's rights under the Fourth and Fourteenth Amendments.

186. The prosecutors' decision to prosecute was based on this misconduct.

187. The grand jury indictment of Ms. White was based on this misconduct.

188. Defendant Investigators did not investigate and prosecute Ms. White for the furtherance of justice but for improper political reasons, including to help validate false claims of widespread election fraud and justify the existence of OAG's Election Integrity Unit.

189. Defendant Investigators at all times lacked probable cause.

190. Defendant Investigators' actions were thus motivated by malice, spite, ill-will and wanton disregard for Ms. White's rights.

191. All charges terminated in favor of Ms. White by *nolle prosequi*.

192. Defendant Investigators violated Ms. White's clearly established right to be free from malicious prosecution.

193. Defendant Investigators' misconduct caused and continues to cause Ms. White significant harm.

Count II - 42 U.S.C. § 1983
Violation of the Fourth and Fourteenth Amendments
Malicious Prosecution Against Defendants Miyares and Lief

194. The preceding paragraphs of this Complaint are incorporated as if restated fully herein.

195. The unlawful actions alleged herein were proximately caused by Defendants Miyares and Lief's creation of the Election Integrity Unit in a manner that had the purpose and the effect of depriving an individual or individuals of their constitutional rights in order to support false claims of widespread election fraud in connection with the 2020 Election.

196. Defendant Lief initiated the unlawful criminal investigation of Ms. White.

197. Defendant Lief directly participated in, and directed, the unlawful actions of the Defendant Investigators.

198. Defendants Miyares and Lief knew about, facilitated, approved, condoned and/or ratified the unlawful actions of the Defendant Investigators.

199. Defendants Miyares and Lief acted, or failed to act, with deliberate indifference to violations of Ms. White's constitutional rights committed by the Defendant Investigators.

200. Defendants Miyares and Lief did not engage in the acts alleged herein for the furtherance of justice but for improper political reasons, including to help validate false claims of widespread election fraud and justify the existence of OAG's Election Integrity Unit.

201. Defendants Miyares and Lief at all times lacked probable cause.

202. Defendants Miyares and Lief's actions were thus motivated by malice, spite, ill-will and wanton disregard for Ms. White's rights.

203. All charges terminated in favor of Ms. White by *nolle prosequi*.

204. Defendants Miyares and Lief violated Ms. White's clearly established right to be free from malicious prosecution.

205. Defendants Miyares and Lief's misconduct caused and continues to cause Ms. White significant harm.

Count III
Malicious Prosecution under Virginia Law

206. The preceding paragraphs of this Complaint are incorporated as if restated fully herein.

207. Ms. White's indictment and arrest on two felony counts and one misdemeanor charge constituted a seizure for purposes of the state law.

208. The investigation and prosecution of Ms. White that led to her arrest and indictment was instituted by or with the cooperation of each of the Defendants.

209. By conducting a baseless and politically motivated investigation of Ms. White, making false and misleading statements, and omitting material information, Defendants violated Ms. White's rights under state law.

210. Defendants did not investigate and prosecute Ms. White for the furtherance of justice but for improper political reasons, including to help validate false claims of widespread election fraud and justify the existence of OAG's Election Integrity Unit.

211. Defendants at all times lacked probable cause.

212. Defendants' actions were thus motivated by malice, spite, ill-will and wanton disregard for Ms. White's rights.

213. All charges terminated in favor of Ms. White by *nolle prosequi*.

214. Defendants' misconduct caused and continues to cause Ms. White significant harm.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

First, Ms. White requests a declaration that defendants violated her rights under the Fourth and Fourteenth Amendments and Virginia state law;

Second, Ms. White requests compensatory and punitive damages against each Defendant, including pre- and post-judgment interest;

Third, Ms. White requests reasonable attorney's fees and costs pursuant to 42 U.S.C. § 1988;

Fourth, Ms. White requests such other and further relief as the court deems just and appropriate.

