

GASPER

INVESTIGATIONS

Report of Investigation

Client: Standing Rock Sioux Tribe
Prepared for: Tribal Chairwoman Janet Alkire
Report prepared by Francis W. Gasper, November 2023

Tasking: Investigate the 2021 General Election regarding significant discrepancies between the unofficial results and the official results in the Long Soldier District. The Tribe is requesting a review of the election materials and an investigation to attempt to determine how the discrepancies occurred.

Scope of Investigation:

1. Review of Title XV (15) Election Code.
2. Interview of CAROL STANDING CROW.
3. Interview of STEPHANIE YELLOW HAMMER.
4. Interview of KIM IRONROAD.
5. Review of election challenges filed by STEPHANIE YELLOW HAMMER, KIM IRONROAD, IRA TAKEN ALIVE, ARDYCE TAKEN ALIVE, CHRISTI IRON EYES and HONORATA DEFENDER.
6. Review of YELLOW HAMMER'S black binder containing materials related to the 2021 General Election and the subsequent litigation surrounding the six (6) challenges filed concerning the Chairman's race.
7. Interview of GERALDINE AGARD.
8. Interview of EUNICE GREY BEAR.

9. Interview of SHANNA GAYTON.
10. Attempted interview of BERNICE ELK.
11. Attempted interview of CRYSTAL AGARD.
12. Interview of JOSEPHINE LAUNDRAUX.
13. Interview of LINDSEY TWIN.
14. Interview of JALEN FOOL BEAR.
15. Interview of ANTHONY BOBTAIL DEER Sr.
16. Interview of DENISE GILBERT.
17. Interview of CHARLEE EAGLE PIPE.
18. Interview of MADELINE THOMPSON.
19. Interview of DARREN CARTWRIGHT.
20. Interview of LOREN WHITE TEMPLE.
21. Interview of TONI EAGLEMAN.
22. Interview of KAYLANI NONU.
23. Interview of CYNTHIA AGARD
23. Review of audio recording of the Election Commission 10/20/2021 hearing.
24. Examination of the Long Soldier District ballot box for the 2021 General Election and it contains.
25. Examination of the Running Antelope District ballots and other materials relating to the 2021 General Election.
26. Review of Election Office records relating to the 2021 General Election.

Executive Summary:

1. Many problems and issues were discovered in how the Long Soldier District conducted the 2021 General Election which raise serious concerns as to the integrity of the election results of Long Soldier District.
2. The Long Soldier District election staff for the General Election was controlled by BERNICE ELK and SHANNA GAYTON.
3. BERNICE ELK was uncooperative and provided false information while SHANNA GAYTON provided limited cooperation to this investigation.
4. Long Soldier District failed to follow basic requirements set down by Title XV (15) of the SRST Election Code Title 15 Section 211 (a) 6 to place all legal ballots in sealed envelopes with each judge writing their name across the seal. This failure resulted in the loss of integrity in the canvass of ballots since additional stamped and initial ballots could be place inside the envelope without being detected.
5. Long Soldier District failed to follow basic requirements set down by Title XV (15) of the SRST Election Code Title 15 Section 211 (a) 7 to complete and sign the Return Certification of Judges and Clerks, the Form 11.
6. Long Soldier District failed to follow basic requirements set down by Title XV (15) of the SRST Election Code Title 15 Section 210(e) which required "all spoiled ballots shall be accounted for separately on the tally sheet".
7. The Long Soldier District at the direction of BERNICE ELK stamped and initialized all ballots issued to the District for the Chairman's race making all ballots indistinguishable from ballots issued to registered voters if later marked.
8. There was no way to determine an accurate number of ballots Long Soldier District received for the Chairman's race due to actions of Acting Election Commissioner SHANNA GAYTON.
9. The number of ballots for the Chairman's race recovered in the Long Soldier ballot box does not match numbers of ballots for the other races in Long Soldier District or the number of ballots received by the District according to Election Office documents.
10. The Chairman's race was the only race in the Long Soldier District in which the tally book was signed by only two (2) Long Soldier election officials, BERNICE ELK and LINDSEY TWIN and none of the other Long Soldier election officials.
11. When Running Antelope was assigned to count the Long Soldier's ballots, the ballot box was locked on 09/30/2021. When the box was opened the Chairman's race ballots were counted immediately by at least two (2) Running Antelope election officials and witnessed by others. There was no opportunity for anyone from Running Antelope to add additional ballots.

12. SHANNA GAYTON failed to follow the requirements set down by Title XV (15) of the SRST Election Code Title 15 Section 211 (a) 8. This section requires the key to the ballot box be sealed in an envelope then locked in the ballot box.
13. SHANNA GAYTON failed to follow normal procedures concerning the transportation of the locked District ballot box to the Election Office by two (2) election officials from the district. Thus, GAYTON had the opportunity to open the box once it left the Long Soldier polling place outside the presence of any other election official.
14. The security video for 09/29-09/30/2021 of the Tribal Building was not preserved as requested. Without video, any information concerning possible access to the area where the ballot box has no evidentiary value and was not pursued by this investigation.
15. There was evidence of possible bias relating to BERNICE ELK and SHANNA GAYTON and candidate JANET ALKIRE. However, no evidence was uncovered showing JANET ALKIRE, or anyone associated with her campaign conspired with ELK or GAYTON to change the outcome of the 2021 General Election.
16. Evidence suggests there could be possibly 74 total missing ballots for the Chairman's race in the Long Soldier District. The evidence also shows the total votes initially reported by Long Soldier District for the Chairman's race of 449 was too low. As a result, either:
 - a. The Long Soldier District's count missed 72 votes for JANET ALKIRE
 - or
 - b. Votes for IRA TAKEN ALIVE were put aside by one of the members of Long Soldier election staff during their count and then substituted later by 72 stamped and initialed "spoiled ballots" that were marked for JANET ALKIRE. Both ELK and GAYTON had the access and opportunity to perform this task. No election staff member for Running Antelope had the opportunity to substitute any ballots.

Findings:

1. The Long Soldier District election staff for the General Election was controlled by BERNICE ELK and SHANNA GAYTON due to COVID quarantine of the District's Election Commissioner EURICE GREY BEAR and the inexperience of the three (3) other younger staff members.
2. BERNICE ELK was uncooperative and provided false information while SHANNA GAYTON provided limited cooperation to this investigation. This severely limited this investigation's ability to determine how significant discrepancies between the unofficial results and the official results in the Long Soldier District occurred.

3. The Long Soldier District election staff for the General Election failed to follow basic requirements set down by Title XV (15) of the SRST Election Code Title 15 Section 211 (a) 6 to place all legal ballots in sealed envelopes with each judge writing their name across the seal.

4. The Long Soldier District election staff for the General Election failed to follow basic requirements set down by Title XV (15) of the SRST Election Code Title 15 Section 211 (a) 7 to complete and sign the Return Certification of Judges and Clerks, the Form 11. The Code states "the Election Judges and Clerk shall complete and sign a return and certification specified as Form No. 11".

5. The Long Soldier District election staff for the General Election at the direction of BERNICE ELK and the approval of SHANNA GAYTON stamped and initialized all ballots issued to the District for the Chairman's race. Normal procedure at the polls was for ballots only to be stamped and initiated by election staff when voters appeared at the polling place. While it is general practice to have some extra ballots stamped and initialized before the voters appear, the stamping and initialing of all ballots issued ahead of time was not an accepted practice. Long Soldier District as a result had 211 spoiled ballots and no unused ballots for the Chairman's race. These "spoiled" ballots would be indistinguishable from ballots issued to registered voters if later marked.

6. The Long Soldier District acting Election Commissioner SHANNA GAYTON and Chief Judge BERNICE ELK failed to follow basic requirements set down by Title XV (15) of the SRST Election Code Title 15 Section 210(e) which required "all spoiled ballots shall be accounted for separately on the tally sheet".

7. Ballots for the General Election were distributed to Long Soldier without following the normal procedures of the District's Election Commission counting for the ballots issued, signing and dating the ballot distribution document. The ballot distribution document for Long Soldier District was not signed or dated. In addition, the number of ballots listed for each race was not even close to those listed on the Ballot For Each District document the Election Office prepared when assembling the ballots and election materials for each district. As a result, there was no way to determine an accurate number of ballots Long Soldier District received for the Chairman's race.

8. The number of ballots for the Chairman's race recovered in the Long Soldier ballot box do not match numbers of ballots for the other races in Long Soldier District or the number of ballots received by the District. Long Soldier election officials interviewed claimed they received the same number of ballots for each race.

9. The Chairman race ballots for Long Soldier District were initially counted by BERNICE ELK and LINDSEY TWIN. The Long Soldier tally book for the Chairman's race shows it was signed by ELK and TWIN. All the elections officials for Long Soldier District who were interviewed all stated they were sure there were only 177 votes for JANET ALKIRE when after counting all the ballots for in the Chairman's race. However, the Chairman's race was the only race in which the

tally book was signed by only two (2) Long Soldier election officials, ELK and TWIN and none of the other officials.

10. The Long Soldier District ballots were counted during the official canvass by Running Antelope District election staff on 09/30/2021. When Running Antelope was assigned to count the Long Soldier's ballots, the ballot box was locked. Initially the Chairman's race ballots were counted by DENISE GILBERT and MADELINE THOMPSON. Each time Antelope District counted the Long Soldier's Chairman's race ballots it found JANET ALKIRE with 249 votes, not the 177 reported by Long Soldier District the night before. The Election Commission canvass on 10/03/2021 found similar results.

11. The Long Soldier District Acting Election Commissioner SHANNA GAYTON failed to follow the requirements set down by Title XV (15) of the SRST Election Code Title 15 Section 211 (a) 8. This section requires the key to the ballot box be sealed in an envelope and then placed inside the District's ballot box which would be locked before leaving the polling place.

12. Long Soldier District election staff failed to follow normal procedures concerning the transportation of the locked District ballot box to the Election Office by two (2) election officials from the district.

13. While there were reports of video showing individuals in the vicinity of the locked ballot boxes located inside the Election Office's space, the video was not preserved. Without video, any information concerning possible access to the area where the ballot box has no evidentiary value and was not pursued by this investigation.

14. BERNICE ELK and SHANNA GAYTON appear to have ties to the Lakota People's Law Project which candidate JANET ALKIRE also has been associated with. In addition, there is some evidence that GAYTON showed a preference for JAENT ALKIRE. However, no evidence was uncovered that JANET ALKIRE, or anyone associated with her campaign conspired with ELK or GAYTON to change the outcome of the 2021 General Election.

15. Using the ballot for each district document numbers with the additional 200 ballots delivered on election day, Long Soldier received 800 total ballots for the Chairman's race. Other District's ballot numbers seem to confirm the ballot for each district document was accurate. While 809 ballots for the Vice-Chairman's race were found, only 732 ballots for the Chairman's race were found in the Long Soldier ballot box. Counting the additional six (6) absentee ballots, there should have been at least 806 ballots for the Chairman's race found in the ballot box. The unofficial canvass reported only 449 votes appears way too low when compared with numbers of total voters, 523 as compared with other Districts rate of voting. As a result, either:

- a. The Long Soldier District's count missed 72 votes for JANET ALKIRE
or

b. Votes for IRA TAKEN ALIVE were put aside by one of the members of Long Soldier election staff during their count and then substituted later by 72 stamped and initialed "spoiled ballots" that were marked for JANET ALKIRE. Both ELK and GAYTON had the access and opportunity to perform this task. No election staff member for Running Antelope had the opportunity to substitute any ballots.

16. The many problems and issues found in how the Long Soldier District conducted the 2021 General Election raise serious concerns as to the integrity of the election results of Long Soldier District. This investigation was unable to clearly determine which of these possibilities occurred. The behavior of both ELK and GAYTON during this investigation raises concerns but is not proof in itself of any misdeeds conducted by either individual. Since the only information ELK provided was clearly false, an adverse inference as to her actions during the election should be considered.

Investigative Details:

1. The Long Soldier District election staff for the General Election was controlled by BERNICE ELK and SHANNA GAYTON due to COVID quarantine of the District's Election Commissioner EURICE GREY BEAR and the inexperience of the three (3) other younger staff members.

The Long Soldier District election staff for the 09/29/2021 General Election consisted of SHANNA GAYTON as Acting Election Commissioner, BERNICE ELK, JOSEPHINE LAUNDREAUX, LINDSEY TWINN and JALEN FOOL BEAR. Just a day or so before the election, EUNICE GREY BEAR informed CAROL STANDING CROW she would not be able to work the election due to COVID quarantine. STANDING CROW, the Supervisor of the Election Office, worked with GERALDINE AGARD, the then Tribal Election Coordinator, to find a last-minute replacement for GREY BEAR. GERALDINE AGARD contacted her granddaughter, SHANNA GAYTON and GAYTON agreed to fill-in for GRAY BEAR. GAYTON is GERALDINE AGARD's granddaughter. (See Attachments 2, 3 & 4)

The day of the election the only member of the Long Soldier election staff who had experience working an election was BERNICE ELK. It was the first-time GAYTON, TWIN, LAUNDREAUX and FOOL BEAR had ever worked an election. In addition, due to their last-minute appointments, neither FOOL BEAR nor GAYTON attended any of the election training sessions for poll workers. Since TWIN, LAUNDREAUX and FOOL BEAR were much younger and being their first election, all three (3) deferred to ELK and GAYTON regarding the operation of the Long Soldier District polling site and procedures used for the election. (See Attachments 2, 5, 6, 7, 8, 9 & 10)

2. BERNICE ELK was uncooperative and provided false information while SHANNA GAYTON provided limited cooperation to this investigation. This severely limited this

investigation's ability to determine how significant discrepancies between the unofficial results and the official results in the Long Soldier District occurred.

After several attempts to find and interview BERNICE ELK, PI GASPER located ELK outside the Tribal Building on 10/04/2023. During this brief encounter, ELK stated while she had worked the Primary Election in 2021, she did not work the General Election due to COVID. ELK refused to answer any questions and stated she did not want to speak with the investigator concerning the 2021 General Election. On 09/19/2021, ELK had left a voicemail message with the Election Office in which she stated she had not worked the 2021 General Election due to COVID and understood PI GASPER was looking to speak to ELK concerning this election. (See Attachments 2 & 11).

Clearly ELK provided false information. Sign-in sheets, checks, interviews with fellow Long Soldier District election staff members, staff members of the Election Office all show BERNICE ELK not only worked the 2021 General Election but directed much of the activity that occurred at the Long Soldier District's polling place during the 2021 General Election. ELK accompanied SHANNA GAYTON to the 09/28/2021 Election Commission distribution of election supplies which included the distribution of all the ballots for the General Election. ELK signature appears just below GAYTON's signature on the 09/28/2021 sign-in sheet. This was a very important event since the number of ballots received by Long Soldier District for the Chairman's race is in dispute. The sign-in sheet for the General Election for the staff at the Long Soldier District shows ELK's signature as does the 09/30/2021 Official Canvass sign-in sheet held at the Tribal Building. In addition, PI GASPER has reviewed audio and video showing ELK not only attended the 10/20/2021 Election Commission hearing but also provided testimony as to how Long Soldier District election staff conducted the 09/29/2021 General Election. All the other Long Soldier District election staff cite how they relied on ELK during the election. (See Attachments 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 & 17).

SHANNA GAYTON was located and interviewed outside her residence on 09/18/2023. During this brief interview GAYTON agreed to answer additional questions and provided a telephone number to contact her at. After speaking with other individuals GAYTON was called and refused to answer any additional questions. PI GASPER's attempts to interview GAYTON's sister, CRYSTAL AGARD in October and November of 2023 concerning how the ballot box was brought to the Election Office. After receiving information from several people that CRYSTAL was staying at GAYTON's residence, PI GASPER went to the residence several times. Each time, PI GASPER was told CRYSTAL AGARD was not home. On one of these occasions, GAYTON answered the door after PI GASPER heard GAYTON speaking with another adult female. GAYTON refused to answer questions and claimed CRYSTAL AGARD had left the residence. (See Attachment 5).

The Long Soldier District election staff, CAROL STANDING CROW, GERALDINE AGARD and others provided information showing the key roles both ELK and GAYTON played in the operation of the Long Soldier polling location and the subsequent canvass of the votes cast there. ELK's and GAYTON's lack of cooperation severely limited this investigation's ability to

determine how significant discrepancies between the unofficial results and the official results in the Long Soldier District occurred. (See Attachment 5 & 11).

3. The Long Soldier District election staff for the General Election failed to follow basic requirements set down by Title XV (15) of the SRST Election Code Title 15 Section 211 (a) 6 to place all legal ballots in sealed envelopes with each judge writing their name across the seal.

During PI GASPER review of the Long Soldier ballot box, none of the envelopes inside the ballot box were sealed and had the signatures of any of the Long Soldier District election staff on them. The marked ballots for the Chairman's race were placed in an unsealed envelope. The front of the envelope indicated it was for the Chairman's race and the number of ballots for each candidate "Janet 177 Ira 272" written in pencil with no initials or signatures of any Long Soldier District election staff. The numbers 177 and 272 were crossed on and a written note was placed next to each with 249 written above the 177 and 271 written below the 272. The note has RA next to each number and the date 0/30/21. The RA stood for Running Antelope. Another unsealed and unsigned envelope with "UNUSED BALLOTS" was also found in the ballot box. This envelope appeared to contain the spoiled ballots for the Chairman's race with the numbers 185 and 208 written on it. Next to these numbers were the initials of MADELINE THOMPSON. At least two (2) Running Antelope Election staff members, DENISE GILBERT and MADELINE THOMPSON noted the envelopes containing the Chairman's race ballots were not sealed by Long Soldier District when the ballot box was opened for the official canvass on 09/30/2021. (See Attachments 18, 19 & 20).

Title XV (15) of the SRST Election Code Title 15 Section 211 (a) 6 requires all legal ballots in sealed envelopes with each judge writing their name across the seal. Long Soldier District clearly did not follow this requirement. Without sealing and signing these envelopes prior to placing them in the ballot box, accountability for the ballots was lost. Anyone could have removed spoiled ballots, marked them and placed additional ballots into the envelope. (See Attachment 1 and 18).

4. The Long Soldier District election staff for the General Election failed to follow basic requirements set down by Title XV (15) of the SRST Election Code Section 211 (a) 7 to complete and sign the Return Certification of Judges and Clerks, the Form 11. The Code states "the Election Judges and Clerk shall complete and sign a return and certification specified as Form No. 11".

According to the SRST Election Code Sec 211 (a) 7 the Return and Certification of Election Judges and Clerk must be completed by the District after the canvass and counting is complete. The "Election Judges and Clerk shall complete and sign a return and certification specified as Form No. 11". (See Attachment 1).

The Form 11 which Long Soldier District turned in was unsigned and only had the number seven (7) in pencil on the line showing number of absentee ballots. Even this number was wrong since the Form 10 shows on six (6) absentee ballots applications issued to Long

Soldier District. The incompleteness of the Form 11 submitted resulted in Long Soldier District losing accountability for ballots issued and used. (See Attachment 2 and 21).

5. The Long Soldier District election staff for the General Election at the direction of BERNICE ELK and the approval of SHANNA GAYTON stamped and initiated all ballots issued to the District for the Chairman's race. Normal procedure at the polls was for ballots only to be stamped and initiated by election staff when voters appeared at the polling place. While it is general practice to have some extra ballots stamped and initialized before the voters appear, the stamping and initialing of all ballots issued ahead of time was not an accepted practice. Long Soldier District as a result had 211 spoiled ballots and no unused ballots for the Chairman's race. These "spoiled" ballots would be indistinguishable from ballots issued to registered voters if later marked.

The three (3) younger members of the Long Soldier District's election staff reported they were directed by BERNICE ELK to stamp and initial all the ballots. SHANNA GAYTON approved this direction. CAROL STANDING CROW, MADELINE THOMPSON and others indicted this was not an accepted practice. Normal procedure would be to have a few sets of ballots pre-stamped and ready from voters to arrive. In the case of Running Antelope District the election staff pre-stamped 25 ballots but did not initial any of the ballots until a voter appeared at the polls. (See Attachments 2, 20 & 22).

By stamping and initialing all the ballots in the Chairman's race, Long Soldier District lost accountability for ballots issued and used in the Chairman's race. These "spoiled" ballots would be indistinguishable from ballots issued to registered voters if later marked. When the ballot box was later opened during the canvass portion of the election, ballots for one candidate could have been removed during counting. Later, marked "spoiled ballots" for one candidate could easier be substituted for the same number of ballots for the other candidate.

6. The Long Soldier District acting Election Commissioner SHANNA GAYTON and Chief Judge BERNICE ELK failed to follow basic requirements set down by Title XV (15) of the SRST Election Code Title 15 Section 210(e) which required "all spoiled ballots shall be accounted for separately on the tally sheet".

This investigation examination of the Long Soldier District's ballot box did not find a tally sheet for spoiled ballots. The Election Office Supervisor CAROL STANDING CROW informed this investigation that no spoiled ballots were recovered or turned in to the Election Office. (See Attachment 1 & 2),

7. Ballots for the General Election were distributed to Long Soldier without following the normal procedures of having the District's Election Commissioner counting the ballots issued, signing and dating the ballot distribution document. The ballot distribution document for Long Soldier District was not signed or dated. In addition, the number of ballots listed for each race was not even close to those listed on the Ballot For Each District document the Election Office prepared when assembling the ballots and election materials for each

district. As a result, there was no way to determine an accurate number of ballots Long Soldier District received for the Chairman's race.

It is normal procedure for the Election Office to prepare packages of ballots along for each district. These ballot packages are distributed to the District Election Commissions the day before along with needed supplies and the ballot boxes. Each Election Commissioner is supposed to sign the ballot distribution document for the materials and ballots when picking up the packages. This did not occur for the General Election held on 09/29/2021. STANDING CROW and the former Election Supervisor, CLAUDETTE STRICKER prepared these packages and GERALDINE AGARD was supposed to supervise the distribution to ensure each Election Commissioner counts ballots they were picking up. At the time STANDING CROW noted the ballots placed in each package in the Ballots For Each District document she prepared. However, this procedure was not followed. Some of the ballot distribution documents were not signed and left with the Election Office when the ballot packages were picked up on 09/28/2021. Additionally, the numbers on other ballot distribution documents appear not to match the number STANDING CROW and STRICKER listed on the Ballots For Each District document. (See Attachments 2, 23 & 24).

The ballot distribution document for Long Soldier District was never signed or dated by SHANNA GAYTON. STANDING CROW found this unsigned document sometime after the election left on her desk. STANDING CROW was unable to determine when the Election Office received this document, and it could have been when the Long Soldier ballot box was received by the Election Office the night of the election or some time afterwards. The Running Antelope District's ballot distribution document was signed by ANTHONY BOBTAIL DEER and dated 09/28/2021. However, the Running Antelope document was never turned in to the Election Office but instead was found by PI GASPER mixed in with the ballots and election materials. (See Attachment 2, 23 & 25)

An accurate total number of ballots received by the Long Soldier District for the Chairman's race could not be determined by the Election Office or this investigation. The ballot distribution documents for Porcupine, Rock Creek, Kenel and Running Antelope Districts all have the number of ballots matching or within a few of the number handwritten on the ballot of each district document. The Cannonball District ballot distribution document matches the number of the ballot for each district except for the Chairman's race which had a 61 ballot difference. The Bear Soldier District ballot distribution document shows four (4) of eight (8) races between 50 and 130 less ballots than the ballot for each district document shows. The Wakpala District ballot distribution document was signed but no number of ballots were entered. A handwritten note on the documents states the ballots would be received the morning of 09/29/2021. The only ballot distribution document not signed and dated was the one for Long Soldier District. It appears some of the ballot distribution documents were completed during the counting of the ballots after the polls closed and reflect the number of ballots used instead of received. (See Attachments 23, 25, 26, 27, 28, 29, 30 & 31).

8. The number of ballots for the Chairman's race recovered in the Long Soldier ballot box does not match numbers of ballots for the other races in Long Soldier District or the number of ballots received by the District. Long Soldier election officials interviewed claim received same number of ballots for each race.

The examination of the ballots for the Chairman's race found in the Long Soldier District ballot box revealed a total of 732 ballots for the Chairman's race, 521 votes and 211 spoiled ballots with no unused ballots. For the Vice-Chairman's race there were a total 809 ballots, 516 votes and 293 spoiled ballots and no unused ballots. For Secretary there were a total of 700 ballots consisting of 455 votes, 245 spoiled ballots and no unused ballots. For Councilman there were a total of 731 ballots consisting of 514 votes, 88 spoiled ballots and 129 unused ballots. For Local District Chairman a total of 801 ballots consisting of 416 votes, 185 spoiled ballots and 124 unused ballots. For the Local District Treasurer, a total of 697 ballots with 447 votes, 136 spoiled ballots and 114 unused ballots. For SR Community School Board, a total of 688 ballots consisting of 514 votes, 88 spoiled ballots and 96 unused. For the Board of Trustee, a total of 701 ballots consisting of 443 votes, 134 spoiled ballots and 124 unused ballots. These numbers do not match the numbers issued to Long Soldier District between the unsigned ballot distribution document and the signed ballots delivered to the district polling site document. (See Attachments 32-39).

According to the Ballots for each District document Long Soldier District received 600 ballots for each race. On election day, the Election Office delivered an extra 200 ballots for the Chairman's race to Long Soldier District. STANDING CROW advised this was done when Long Soldier District reported it was running short of ballots. GAYTON signed for these ballots. If the unsigned Long Soldier District ballot distribution number for the Chairman's race was correct, then Long Soldier District only received 727 total ballots for the Chairman's race. However, the examination of the Long Soldier District ballot box found there are a total of 732 ballots in the ballot box. If however, the ballots for each district document number were correct then Long Soldier District received a total of 800 ballots for the Chairman's race. If the 527 number for ballots for the Chairman's race is subtracted from 800, then there would be 273 unaccounted for ballots for the Chairman's race for the Long Soldier District. The difference found in the vote total for JANET ALKIRE reported by Long Soldier District election night and what Running Antelope District found the next day is 72. (See Attachments 23, 24, 41-44).

The election staff for the Long Soldier District report who were interviewed, JOSEPHINE LAUNDREAUX, SHANNA GAYTON, LINDSEY TWINN and JALEN FOOL BEAR reported Long Soldier District received the same number of ballots for each race. None were able to explain why the Long Soldier ballot box contained a total of only 732 ballots for the Chairman's race while the Vice-Chairman's race had a total of 809 ballots. All ballots for both races were found to be stamped and initiated by Long Soldier District election staff members. All Long Soldier Election Officials also stated no ballots were taken out of the polling site or thrown away. No explanation for this discrepancy for why the unsigned ballot distribution document for Long Soldier had such a different number for each race was provided by SHANNA GAYTON, BERNICE ELK or anyone else. (See Attachments 5-8).

Attached are examples of all ballots being stamped and signed whether used or not. (See Attachment 46).

9. The Chairman race ballots for Long Soldier District were initially counted by BERNICE ELK and LINDSEY TWIN. The Long Soldier tally book for the Chairman's race shows it was signed by ELK and TWIN. All the elections officials for Long Soldier District who were interviewed all stated they were sure there were only 177 votes for JANET ALKIRE when after counting all the ballots for in the Chairman's race. However, the Chairman's race was the only race in which the tally book was signed by only two (2) Long Soldier election officials, ELK and TWIN and none of the other officials.

The Chairman race ballots for Long Soldier District were initially counted by BERNICE ELK and LINDSEY TWIN. The Long Soldier tally book for the Chairman's race shows it was signed by ELK and TWIN. This investigation's review found this was the only race in the Long Soldier District in which only two (2) election officials signed the tally book. (See Attachment 45).

All the elections staff members for Long Soldier District who were interviewed, JOSEPHINE LAUNDREAUX, SHANNA GAYTON, LINDSEY TWINN and JALEN FOOL BEAR all stated they were sure there were only 177 votes they for JANET ALKIRE when after counting all the ballots for in the Chairman's race. All officials also stated no ballots were thrown away or taken away from the polling place by any voter. (See Attachments 5-8).

10. The Long Soldier District ballots were counted during the official canvass by Running Antelope District election staff on 09/30/2021. When Running Antelope was assigned to count the Long Soldier's ballots, the ballot box was locked. Initially the Chairman's race ballots were counted by DENISE GILBERT and MADELINE THOMPSON. Each time Antelope District counted the Long Soldier's Chairman's race ballots it found JANET ALKIRE with 249 votes, not the 177 reported by Long Soldier District the night before. The Election Commission canvass on 10/03/2021 found similar results.

The selection of Running Antelope election officials to conduct the official canvass of the Long Soldier District's ballots was randomly done. The Long Soldier ballot box was locked when Running Antelope was selected to count its ballots according to DENISE GILBERT. GILBERT counted the Chairman's race three (3) times, and each time got the same result, 249 votes for JANEL ALKIRE not the 177 Long Soldier reported the night before. THOMPSON also found 249 votes for ALKIRE. (See Attachments 19 & 20).

A handwritten document recording the results of the Official Canvass conducted of Long Soldier District's ballots was created. GILBERT wrote some of what appeared in this document. It was signed by Running Antelope District Election Commissioner, ANTHONY BOB TAIL DEER. This document reported JANET ALKIRE received 249 votes. The other handwriting document reporting JANEL ALKIRE with 177 votes was done by Long Soldier District and found inside the ballot box by Running Antelope the next day. While it contains the signature of BOB

TAIL DEER also, the reported number of votes for ALKIRE was not what Running Antelope election officials found. GILBERT, THOMPSON and CHARLEE EAGLE PIPE all agree. After speaking with all Running Antelope election officials, it appears that ANTHONY BOB TAIL DEER signed this document because it had not been signed by any official from Long Soldier District and did not reflect results found by Running Antelope. The Election Commission reported the same 249 votes for ALKIRE after the 10/03/2021 canvass. (See Attachments 2, 19, 20, 22, 47 & 48).

11. The Long Soldier District Acting Election Commissioner SHANNA GAYTON failed to follow the requirements set down by Title XV (15) of the SRST Election Code Title 15 Section 211 (a) 8. This section requires the key to the ballot box be sealed in an envelope and then placed inside the District's ballot box which would be locked before leaving the polling place.

Title XV (15) of the SRST Election Code Title 15 Section 211 (a) 8 states the key held by the District Election Commission to the ballot box shall be placed in the locked ballot box prior to the Commissioner leaving the polling place and transporting the ballot box to the Election Office. GAYTON was observed in possession of the key at the start of the official canvass conducted in the Tribal Council Chambers on 09/30/2021. Running Antelope District election officials did not find the key inside the ballot box when it was opened the next day. This investigation also did not find any key inside the Long Soldier ballot box. (See Attachments 1, 2 & 19).

However, GAYTON was not the only Election Commission who failed to lock the ballot box key inside their District's ballot box before the boxes left their District's polling place. ANTHONY BOB TAIL DEER also failed to put the key to the ballot box to the Running Antelope District ballot box. The casual attitude of some Election Commissioners and former Election Office employee GERALDINE AGARD to such violations concerned some Running Antelope election officials such as DENISE GILBERT and MADELINE THOMPSON. (See attachments 19 & 20).

By failing to place the key to the ballot box inside the lock box prior to transporting the Long Soldier ballot box meant SHANNA GAYTON and another she provided the key to could access the box before it arrived at the Election Office the night of the election.

12. Long Soldier District election staff failed to follow normal procedures concerning the transportation of the locked District ballot box to the Election Office by two (2) election officials from the district.

The normal protocol for returning the ballot boxes to the Election Office is to have the District Commissioner and one other election official accompany the locked ballot box. This protocol was not followed by the Long Soldier District. The Ballot Delivered Post-Election form for Long Soldier shows the ballot box was dropped off by SHANNA GAYTON and her sister CRYSTAL AGARD. CRYSTAL AGARD was not a member of the Long Soldier District's election

staff and was not present during the election. At some point after leaving the polling place, GAYTON stopped with the ballot box and picked up CRYSTAL AGARD. Thus, GAYTON had access to the ballot box outside the presence of any other official election staff member. As discussed earlier, GAYTON failed to lock the key to the ballot box inside thus had the ability to access the ballot box without any other election official being present. (See Attachments 2, 4 & 49).

GERALDINE AGARD was present in the Election Office until the last ballot box arrived. According to AGARD the districts would call in saying they were bringing in their ballot box. AGARD then would go down the stairs to meet the election worker when they arrived at the Tribal Building. When the worker brought the ballot box in, AGARD would write down the time the ballot box arrived. According to AGARD, Long Soldier called saying they were bringing in the ballot box; however, they took so long to arrive that AGARD went back upstairs. AGARD then heard Long Soldier knocking at the door, so she went back downstairs. The ballot box was brought in by SHANNA GAYTON alone without another clerk or judge from Long Soldier. When AGARD pointed this out to GAYTON, GAYTON responded and stated, "I do and it was her sister" CRYSTAL AGARD. GAYTON went on to explain that "everybody was tired, and nobody wanted to come with me, so I had to pick her up and that was CRYSTAL, and they brought the ballot box". Both SHANNA GAYTON and CRYSTAL AGARD are GERALDINE AGARD's granddaughters. CRYSTAL AGARD was not an election worker for the election. (See Attachment 4 & 49).

Note that CRYSTAL AGARD was not interviewed for this investigation. Many attempts were made, and several locations were visited in an attempt to interview CRYSTAL. At each location, PI GASPER left his business card and requested CRYSTAL contact him. No response was ever received.

13. While there were reports of video showing individuals in the vicinity of the locked ballot boxes located inside the Election Office's space, the video was not preserved.

This investigation received information regarding some individuals who were seen on the security system for the Tribal Building entering after the Election Office staff left and before the normal workday began the next morning. Different people were named as possibly viewing this video. There were also inquiries made at the time of the election about preserving the video and at least one formal request made. KIM IRONROAD sent an email on 09/30/2021 concerning how long the video was preserved however the email was never opened by the IT Department. STEPANHANIE YELLOW HAMMER made a request to have the video preserved and requested to have it reviewed relating to the night of 09/20/2021 and 09/30/2021 on 10/18/2021. This request was part of her election challenge. The request was never addressed. The Tribal IT & Security Department did not take any actions to preserve any video from the night of 09/29/2021 or for the entire day of 09/30/2021. The Tribal IT & Security Department was contacted by this investigation in July of 2023 and a request was made concerning finding this video so it could be reviewed. On 11/20/2023, this investigation was informed the video no longer existed. (See Attachments 50-55)

The Tribal IT & Security Department did contact Highpoint Networks and on 11/13/2023 received an email. In the email, the contractor reports any video from this period was lost when the software program was upgraded in the summer of 2022. Without video, any information concerning possible access to the area where the ballot box has no evidentiary value and was not pursued by this investigation. (See Attachments 50-53)

14. BERNICE ELK and SHANNA GAYTON appear to have ties to the Lakota People's Law Project which candidate JANET ALKIRE also has been associated with. In addition, there is some evidence that GAYTON showed a preference for JAENT ALKIRE. However, no evidence was uncovered that JANET ALKIRE, or anyone associated with her campaign conspired with ELK or GAYTON to change the outcome of the 2021 General Election.

CAROL STANDING CROW advised both BERNICE ELK and SHANNA GAYTON were involved with the Lakota People's Law Project (LPLP) during the 2020 election. According to STANDING CROW, ALKIRE also had some connection to the LPLP. On 10/19/2021, ALKIRE sent a letter to the Election Commission in which ALKIRE stated her attorneys CHASE IRON EYES and GARY MONTANA would be attending the 10/20/2021 Election Commission hearing in ALKIRE's absence. CHASE IRON EYES is a LPLP Board member and holds the title as Director and Lead Counsel for the LPLP. IRA TAKEN ALIVE's election challenge contains images of a Facebook posting supporting JANET ALKIRE which was reportedly posted by SHANNA GAYTON's days before the 09/29/2021 election. (See Attachments 58-61).

During her interview, GERALDINE AGARD was concerned that someone placed ballots for JANET ALKIRE in the Long Solder ballot box at some point after the unofficial canvass. While GERALDINE AGARD had no direct knowledge it occurred, she did express concern her granddaughter, SHANNA GAYTON, was involved in some way. According to GERALDINE AGARD younger women such as SHANNA GAYTON supported ALKIRE just because she was a woman. (See Attachment 4).

This investigation did not uncover any evidence that JANET ALKIRE or anyone associated with ALKIRE's campaign conspired or had any knowledge of any effort by SHANNA GAYTON or BERNICE ELK to change the outcome of the 2021 General Election involving ballots from the Long Soldier District.

15. Using the ballot for each district document with the additional 200 ballots delivered election day, Long Soldier received 800 total ballots for the Chairman's race. Other District's ballot numbers seem to confirm the ballot for each district document was accurate. While 809 ballots for the Vice-Chairman's race were found, only 732 ballots for the Chairman's race were found in the Long Soldier ballot box. Counting the additional six (6) absentee ballots, there should have been at least 806 ballots for the Chairman's race found in the ballot box. The unofficial canvass reported only 449 votes appears way too low when compared with numbers of total voters, 523 as compared with other Districts rate of voting. As a result, either:

a. The Long Soldier District's count missed 72 votes for JANET ALKIRE

or

b. Votes for IRA TAKEN ALIVE were put aside by one of the members of Long Soldier election staff during their count and then substituted later by 72 stamped and initialed "spoiled ballots" that were marked for JANET ALKIRE. Both ELK and GAYTON had the access and opportunity to perform this task. No election staff member for Running Antelope had the opportunity to substitute any ballots.

The behavior of both ELK and GAYTON during this investigation raises concerns but is not proof in itself of any misdeeds conducted by either individual.

This investigation was unable to clearly determine which of these possibilities occurred.

If the Election Office's ballot for each district document and ballot delivered to district polling sites documents are accurate, Long Soldier District received a total of 800 ballots for the Chairman's race. Other results from other districts show the exact number of ballots delivered to each district varied a little from the Election Office's ballots for each district document. The Election Commission and this investigation examination of the Long Soldier ballot box located a total of 732 ballots for the Chairman's race while the Vice-Chairman's race had a total of 809 ballots. Thus, there were 68 less ballots found in the ballot box than Long Soldier District should have received for the Chairman's race. The subsequent counts found 72 additional ballots marked for JANET ALKIRE. The Voter Registration Book for Long Soldier showed 517 recorded voters. In addition, there were six (6) absentee ballot packages. A total of 523 individuals voted in the General Election. The Long Soldier District unofficial report reported a total of 449 votes. The Election Commission's official vote total was 521 votes. Based on an examination of the total number of votes for Chairman in the other Districts, the original total of only 449 votes reported by Long Soldier District appears to be way too low compared to the number of registered voters. As a result, either:

a. The Long Soldier District count missed 72 votes for JANET ALKIRE

or

b. Votes for IRA TAKEN ALIVE were put aside by one of the members of Long Soldier election staff during their count and then substituted later by 72 stamped and initialed "spoiled ballots" that were marked for JANET ALKIRE. Both ELK and GAYTON had the access and opportunity to perform this task. No election staff member for Running Antelope had the opportunity to substitute any ballots. (See Attachments 23, 24, 32, 33, 40 & 62).

16. The many problems and issues found in how the Long Soldier District conducted the 2021 General Election raise serious concerns as to the integrity of the election results of Long Soldier District. This investigation was unable to clearly determine which of these possibilities occurred. The behavior of both ELK and GAYTON during this investigation raises concerns but is not proof in itself of any misdeeds conducted by either individual. Since the

only information ELK provided was clearly false, an adverse inference as to her actions during the election should be considered.

Appendix:

There were other issues with the Long Soldier District and the procedures used to conduct the 2021 General Election. Of note, Long Soldier District election staff for the General Election failed to follow basic requirements set down by Title XV (15) of the SRST Election Code Title 15 Section 210 (b) which states "each elector must sign his/her legal name in the district register book before such elector may vote". The voters were not permitted to sign their own name and the Voter Verification book was never used by Long Soldier District. The Acting Election Commissioner SHANNA GAYTON cited COVID for this decision but was unable to explain how not requiring voters to sign the Registration book and an election official writing this information into the Verification book would protect anyone from COVID. Long Soldier was the only district where this occurred. This violation of Title XV (15) by Long Soldier District appeared not to be within the tasking of this investigation and was pursued.