



**The Conduct of the Porter County  
November 6, 2018 General Election**

**A Report to the  
Indiana Secretary of State  
based on Analysis of  
January 28-29, 2019 Interviews  
with Porter County Individuals  
Involved with the November 6, 2018 Election**

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## Executive Summary

This report addresses issues and problems leading up to and including the General Election on November 6, 2018 in Porter County, Indiana. These issues included polls opening late on Election Day, absentee ballots not being ready for transportation by the sheriff's department to polling locations, absentee ballots not delivered to polling places on Election Day for tabulation, poll workers not showing up at election locations, and late election results due to these issues. On Election Day some problems were not discovered until early in the day, and this created chaos. There were two county court orders issued that day, one ordering certain polling locations to remain open past 6:00 pm (see Appendix A) and the other requiring the County Election Board to count all ballots from the November 6, 2018 election (see Appendix B). As a result of events in Porter County, the Indiana Secretary State was asked by a bipartisan group of state legislators representing parts of Porter County to launch an inquiry. The inquiry involved the VSTOP team carrying out a Risk-Limiting Audit and the Secretary's office conducting interviews with individuals involved in election-related events in Porter County. This report discusses both of these steps. The reasons for the breakdown in election administration in Porter County was the direct result of the toxic culture permeating elections in the county and the tensions between the former Circuit Court Clerk, the Democratic Co-Director of the Board of Registration, and the Democratic member of the County Election Board. This report concludes with a set of recommendations for Porter County as they move forward. The recommendations provided to the State are intended to assist the County in avoiding any future occurrences of problems like those seen in Porter County leading up to and including Election Day.

## **Introduction and Background**

On General Election Day, November 6, 2018, several serious election related issues occurred in Porter County, Indiana. These issues included significant numbers of poll workers not showing up at assigned polling places, polls opening late, problems with absentee ballot delivery to polling places for tabulation, and a lengthy delay in the release of election results. As a result of these issues, Secretary of State Connie Lawson was asked by a bipartisan group of state legislators to conduct a review of the Porter County election preparation procedures and other related matters.

Acting upon that request, on December 5, 2018, Secretary Lawson and her staff asked that VSTOP conduct a Risk-Limiting Audit (RLA) of a select set of 2018 General Election races within Porter County. Deputy Secretary of State and Chief of Staff Brandon Clifton asked VSTOP to submit a proposal for the RLA project to Secretary Lawson by December 14, 2018. The proposal was submitted on December 14, 2018 and approved by the Secretary.

On January 15, 2019, members of the VSTOP team traveled to Porter County to meet with the newly elected Circuit Court Clerk Jessica Bailey, who had assumed office on January 1, 2019, succeeding Clerk Karen Martin, and other county election staff to discuss the upcoming RLA, observe ballot storage for purposes of developing a ballot manifest (a document that describes how ballots are stored and organized), and answer questions. During this visit, VSTOP made a public presentation regarding the upcoming RLA process. The VSTOP team spent two days in Porter County conducting the RLA on January 24 through January 25, 2019.

On January 28 and 29, 2019, the Indiana Secretary of State and her staff conducted interviews by telephone with individuals familiar and involved with the events that occurred leading up to the November 2018 election or events that occurred on and after Election Day in Porter County. A winter weather emergency prevented the Secretary and her staff from conducting these interviews on site as previously planned. A total of 27 individuals were interviewed. This report addresses VSTOP's prior election and election-related involvement with Porter County and examines the results of the interviews conducted by the Indiana Secretary of State.

One note on terminology: As used in this Report, the term "absentee ballots" includes so-called "early voting ballots", which are in fact absentee ballots cast in person at a county election office before Election Day. Under Indiana law, any voter can cast an absentee ballot at an "early voting" site without offering a specific reason for doing so.

### **History of VSTOP's Involvement in Porter County**

Prior to the RLA and the interviews held in January 2019, VSTOP had previously been involved with election-related matters in Porter County.

In the May 2015 Primary Election, Porter County experienced technical and procedural issues, which resulted in a discrepancy between the numbers of votes tallied and the number of voters recorded as checked-in using electronic poll books (EPBs). According to reports initially

published in the media, there were 334 more recorded votes than voter sign-ins on the EPBs. Clerk Karen Martin subsequently reported that the reconciliation error had been reduced to 33 once absentee voter check-ins were properly added to the total number of voter check-ins. Concerns about these issues were raised to members of the Indiana Election Division by a state representative and the Democratic Director of the Board of Registration.

The Secretary of State asked VSTOP to conduct an investigation and report its findings and recommendations. During its investigation, VSTOP gathered media reports of the issues and enlisted the assistance of Pro V&V, a voting system testing laboratory accredited by the U.S. Election Assistance Commission. On June 9, 2015, VSTOP met with county election officials and representatives from Elections Systems and Software (ES&S), the manufacturer of both the voting system and electronic poll book employed in Porter County. Additionally, VSTOP communicated with all parties via email messages and phone conferences. VSTOP analyzed data collected from ES&S, Pro V&V, and data retrieved from polling place reconciliation sheets. VSTOP was not able to determine a single root cause for the discrepancy between the number of ballots counted and the total number of absentee and voter check-ins during the May Primary Election. Instead, the discrepancy was likely caused by a variety of factors, including:

- Poll worker error, including failure to record final check-in tallies before shutting off EPB units during poll closing;
- Difficulties recording and calculating vote totals on reconciliation tally sheets during poll closing;
- Connectivity problems causing interruption of synchronization at some locations;
- Equipment failure, such as failure of a router at one location and failure of M100s processing ballots in other locations;
- Poll workers potentially confusing the tally sheets for reconciling votes during poll closing; and
- Inadequate poll worker training.

As a result of its investigation, VSTOP made a number of recommendations, including:

- Enhanced personnel training;
- Development and use of enhanced training materials;
- Redundant sources of connectivity for EPBs; and
- Availability of back-up equipment and reliability testing for EPBs and M100s.

### **A Brief History of the Conduct of Recent Elections in Porter County**

Over the past several years, elections in Porter County were conducted by the two-member bipartisan Board of Registration. Under Indiana law (IC 3-6-5-14), elections in 90 of Indiana's 92 counties are to be administered by the Circuit Court Clerk and County Election Board. In the remaining two counties (Lake and Tippecanoe), elections are to be conducted by a combined Board of Elections and Registration.

Indiana law (IC 3-7-12) also permits the Board of County Commissioners to establish a separate Board of Registration when the county determines that it is desirable to do so, and to abolish the

separate board if the executive later chooses to do so (IC 3-7-12-4). The Marion County Board of Registration was established by state law (IC 3-7-12-2.5). In recent years, several counties have abolished their Boards of Registration. As of 2019, only eight counties, other than Porter County, maintain a separate voter registration board (Allen; Howard; LaPorte; Madison; Marion; St. Joseph; Vanderburgh; and Vigo).

At an unknown date (sometime before 2011) and for unknown reasons, Porter County informally transferred almost the entire responsibility for conducting elections from the Circuit Court Clerk and the County Election Board to the Board of Registration. The Board of Registration's oversight of elections in Porter County definitely pre-dates former County Clerk Karen Martin's first term, which began on January 1, 2011. This practice was not permitted by state law, which specifies that counties cannot exercise "home rule" in determining how to conduct elections (IC 36-1-3-8). However, since no voter or candidate formally objected to the "transfer" of these responsibilities, it continued until 2018.

On March 8, 2018, the County Election Board acted to "transfer" the responsibility of conducting elections in Porter County from the Board of Registration back to the Circuit Court Clerk. This 2018 "transfer" appears to have brought Porter County's procedures for the administration of elections back into compliance with Indiana law. After the transition, it was reported that the May 2018 Primary Election in Porter County ran in a relatively efficient manner. However, this was not true for the November 2018 General Election. As a result of the events occurring during that election, Secretary of State Connie Lawson was asked by Porter County's state legislators of both major political parties to conduct a review of the county's election preparation, procedures, and other related matters.

### **2018 General Election Events**

Beginning the morning of Election Day, November 6, 2018, it was apparent that events were occurring to disrupt the election process in Porter County. There were media reports of several polling locations not opening on time, poll workers not showing up to their assigned locations, and absentee ballots not being delivered to polling locations for processing.

Before the election, Clerk Karen Martin made arrangements with the Porter County Sheriff's Department to provide support during the election by delivering absentee ballots to polling places and transporting technicians to polling places, in the event voting machines failed to operate properly. On Election Day, the Sheriff's Department was assigned to deliver absentee voted ballots from the court house to polling locations for tabulation pursuant to IC 3-11-10-12. There were also instances where blank ballots were not taken to polling locations by Inspectors requiring the Sheriff's Department delivery. Some of the absentee voted ballots were not delivered because the Clerk's office did not have the ballots sorted by precinct and therefore prepared for the officers to deliver. Sheriff's Department officers were instructed later in the day by Clerk Martin to take ballots not delivered to precincts to the county administration building. According to Officer Gary Gear (see Porter County Sheriff's Department report, Appendix C), Clerk Martin stated that she was "...court ordered to deliver the remaining undelivered ballots to the administration building".

According to the matter in cause number 64D01-1811-MI-10723, the court ordered, "...the Porter County Election Board to count all absentee ballots casted [sic] in the November 6, 2018 General Election," (Appendix B). While there are no details in the court order regarding where the counting of the ballots was to take place or under what authority ballots were taken to the county administration building, it is likely that Clerk Martin was instructed by the County Election Board, which was required to be in session for the entire election day, to have the ballots delivered to the county administration building. It was reported in U.S. News & World Report on November 7, 2018 that "...Schoon and her Democratic counterpart, Kathy Kozuszek, were appointed by the Election Board and political party chairs to monitor the vote tabulation."<sup>1</sup> It should also be noted that absentee ballots from the Portage early voting location did not contain the bipartisan absentee board member initials required by state law (IC 3-11-10-27).

There were serious communication problems between poll workers and election officials on Election Day, November 6, 2018. The poll workers reported confusion regarding where they were assigned to work and if they were needed to work on Election Day. Poll workers were given contact information of individuals to call if an issue arose. However, when an issue arose and efforts were made to contact these designated individuals, poll works reported there was no answer and calls were not returned.

Consequently, these events led to the issuance of a court order keeping some polling places open after the usual 6:00 pm closing time on Election Day to accommodate voters who were unable to vote during the regular polling hours (see Appendix A). All of these events culminated in late night ballot tabulation by the County Election Board. As a result, information regarding unofficial election results in the county was delayed until several days after the election.

### **Risk-Limiting Audit at Porter County on January 24-25, 2019**

At the request of the Indiana Secretary of State, the VSTOP team conducted a Risk-Limiting Audit in Porter County on January 24 through 25, 2019. In preparation for this audit, members of the VSTOP team traveled to Porter County on January 15, 2019 to meet with the newly elected Circuit Court Clerk Jessica Bailey and other county election staff to discuss the upcoming RLA and examine ballot storage in order to develop a ballot manifest (a document that describes how ballots are stored and organized). Additionally, during this visit, a public presentation was made by VSTOP regarding the upcoming RLA process. On January 24 and 25, 2019, the VSTOP team spent two days in Porter County conducting the RLA with assistance from Mr. Jerome Lovato, who offered his oversight and expertise. Mr. Lovato is employed by the U.S. Election Assistance Commission (EAC) and assisted VSTOP with the RLA as an independent consultant (not in his capacity as an EAC employee, but with the consent of that agency). Mr. Lovato's expertise in RLA methodology began in the state of Colorado (an RLA pioneering state) and has continued with his EAC employment.

RLAs provide statistical assurance that election outcomes are correct by manually examining samples of paper ballots or voter-verifiable paper records. RLAs do not guarantee that the

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<sup>1</sup> <https://www.usnews.com/news/best-states/indiana/articles/2018-11-07/glitches-keep-northwest-indiana-county-from-counting-votes>

electoral outcome is correct, but they do have a high probability of correcting the outcome if it is wrong. If the original outcome is wrong, there is a small chance the audit will not correct it. Thus, the risk limit is the highest possible probability of an incorrect outcome escaping correction. For instance, if the risk limit is 10% and the outcome is wrong, there is at most a 10% chance that the audit will not correct the outcome and at least a 90% chance that the audit will correct the outcome. Thus, if the risk limit is 1%, then at least 99 out of 100 wrong outcomes would be corrected by the audit. Risk limits are typically much less than 10%.

The details of the January 24 through 25, 2019 RLA and its findings are included in a previous report submitted to Secretary Lawson on January 31, 2019 (see Appendix D).

### **Interviews of January 28-29, 2019 and Findings**

In addition to the Risk-Limiting Audit conducted by VSTOP, the Secretary and her staff conducted interviews by telephone with individuals involved in the election and familiar with events occurring before the election held on November 6, 2018 in Porter County. Other interviewers present on the calls included members of the Indiana Election Division, Indiana State Board of Accounts, Baker Tilly, the state's voter registration system program manager, and VSTOP. A total of 27 individuals were interviewed. These parties ranged from poll workers, the former Circuit Court Clerk, Board of Registration workers, members of the County Election Board, and County Commissioners, along with representatives from Election Systems & Software (ES&S), the vendor of the voting systems and electronic poll books used in Porter County.

As a caveat to considering the information set forth below, the interviews were statements of individual understandings of events leading up to and during the election and should be interpreted with caution as some statements from the interviews were rumor and innuendo. Moreover, VSTOP is interpreting statements of events regarding the election primarily based on the interview data. The VSTOP team was not present in Porter County during the events in question. Thus, the narrative below attempts to focus on the best evidence available concerning direct experiences of those who were interviewed from the transcripts, and noting that some evidence is not fully or partially substantiated.

For confidentiality purposes, no names, other than three, are used in this report. The reason for identifying these three parties is because, as it appeared to VSTOP, they were at the center of the problems leading up to and during the election in Porter County. These individuals are the former Circuit Court Clerk Karen Martin (R), current Democratic Co-Director of the Board of Registration in Porter County Kathy Kozuszek (spouse of Jeff Chidester, the Democratic Party Chairperson in Porter County), and Democratic member of the County Election Board J.J. Stankiewicz. According to reports, there is a complex, long-standing, and vitriolic personal conflict between Kathy Kozuszek and Karen Martin. However, it was noted when conducting interviews with other parties that each of these individuals have their supporters and detractors. VSTOP concluded that although there was a cacophony of personalities involved in the Porter County election, two individuals, Karen Martin and Kathy Kozuszek, were at the center of the issues.

This toxic culture led to political tensions between individuals from the two major political parties in the county being expressed in a manner that lacked both common civility and a respect for the dignity of the election process. A clear example of this is demonstrated in a YouTube video of a Porter County Election Board Meeting held on October 31, 2018<sup>2</sup>, just before the November election. The meeting included plenty of shouting, arguing and finger-pointing, with Kathy Kozuszek and Karen Martin engaging in a shouting match, which Kathy Kozuszek instigated. There were claims made in the meeting that there would not be enough poll workers to carry out the election on November 6, 2018. Curiously, this prediction was made before the election, alerting those present to the impending problems and the need for individuals to work cooperatively to carry out a successful election. It does not appear that either the County Election Board or Board of Registration heeded this warning, and took action at or following this meeting to prevent this problem from occurring.

Since the oversight of elections was transferred from the Board of Registration after the Primary Election in May 2018, to the Circuit Court Clerk, the General Election in November 2018 was the first election held under the purview of the Circuit Court Clerk. It appears that the impetus for this change was statements made by Kathy Kozuszek that elections, by state law, are to be carried out by the Circuit Court Clerk. In an email from December 2017, Kathy Kozuszek told officials that running elections “is not our job.”<sup>3</sup> In 2014, Kathy Kozuszek ran against Karen Martin for Porter Circuit Court Clerk and was defeated in the General Election. It is also noteworthy that Karen Martin was on the November 2018 ballot for the office of County Auditor. Karen Martin had completed two full terms as Clerk and could not run again due to term limits. The efforts of Kathy Kozuszek to push the County Election Board to transfer the responsibility of elections from the Board of Registration to the Circuit Court Clerk may have been strategic. This move allowed Kathy Kozuszek to be in a position to criticize the sitting clerk over how the election process was being operated. For example, in a press conference on October 24, 2018<sup>4</sup> Kathy Kozuszek claimed that some citizens who had requested absentee ballots had not yet received them. It was reported by an interviewee that Kathy Kozuszek would not produce the list of individuals who made these claims.

Given that Karen Martin was running for another office, it is possible that Ms. Martin did not want to be portrayed as incompetent to run an election since that could impact her chances of being elected as County Auditor. Clerk Martin’s wish to project competence as an election administrator, along with the high level of tension with Kathy Kozuszek, likely led to the documented instances where Clerk Martin would not accept assistance from others when preparing for the 2018 General Election. It appears that Clerk Martin seriously underestimated the complexities of overseeing a major election and this was compounded by her reluctance to accept help from those who had more experience operating elections. A reluctance to accept help

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<sup>2</sup> <https://www.youtube.com/watch?v=ZFillg9gd4Q&t=3149s>

<sup>3</sup> [https://www.nwitimes.com/news/local/crime-and-courts/officials-porter-county-election-director-bailed-on-job-before-she/article\\_f98d1920-9d49-523e-a410-9bd8926a2490.html](https://www.nwitimes.com/news/local/crime-and-courts/officials-porter-county-election-director-bailed-on-job-before-she/article_f98d1920-9d49-523e-a410-9bd8926a2490.html)

<sup>4</sup> <https://www.chicagotribune.com/suburbs/post-tribune/news/ct-ptb-porter-jim-harper-st-1025-story.html>

may have also been driven by Clerk Martin's lack of trust in the individuals more experienced with elections, such as the Board of Registration and its Democratic Co-Director, Kathy Kozuszek, and employees within Clerk Martin's own office. It seems clear that the Circuit Court Clerk did not dedicate enough resources on her own staff to carry out pre-election and Election Day activities. Clerk Martin did not request any assistance from either party chairperson for bipartisan teams to more effectively operate the election. Bipartisan teams are essential to ensure bipartisan custody and integrity of the absentee ballots. Furthermore, she would not accept funding assistance from county commissioners who made offers to do so.

It is noteworthy that members of the VSTOP team interacted with Kathy Kozuszek, J.J. Stankiewicz, and former Clerk Karen Martin during the RLA process in Porter County during January 2019. In an interaction on January 15, 2019, Kathy Kozuszek alleged to a member of the VSTOP team that some absentee ballots were "never counted," but did not offer any additional information to identify specific individuals whose ballots were not counted, and whether any of the absentee ballots should have been counted under state law. On the same day, and close to the encounter with Kathy Kozuszek, J.J. Stankiewicz appeared in the Board of Registration office and shared, albeit in a jocular manner, that we (the VSTOP team) should be careful not to be "used" by the State. Former Clerk Karen Martin attended the second day of the RLA for a period of time, but was rather reserved and quiet.

It is likely, given the rancorous outbursts and arguments that occurred in public meetings, that there was additional negative and vindictive behavior going on behind the scenes, which undermined the election process in the fall of 2018. At the very least, there were "turf" issues between the Board of Registration and the Circuit Court Clerk. A lack of cooperation among key players due to personality conflicts and political differences directly led to problems preparing for and carrying out the election. The political differences among key players were exacerbated by criticisms of political nepotism in Democratic Party leadership, demonstrated publically at meetings and privately in the interviews (with reference to the roles exercised by spouses Kathy Kozuszek and Jeff Chidester).

From the interviews, it was learned that most absentee ballots were not ready for the Porter County Sheriff's Department (PCSD) officers to take to the polling locations for tabulation because they were not processed, sorted, and organized in advance by precinct by the Circuit Court Clerk's office. PCSD resources were wasted on Election Day because they were unable to transport ballots to polling places and were told to "sit and wait" at the court house for the ballots. Hours later, there were still no ballots to transport. Later, officers stayed around the clock to secure the ballots in the county administration building, where they were instructed to take them by Clerk Martin. As noted above, it is likely that the court order issued on November 6, 2018 requiring the County Election Board to count the ballots resulted in the Board ordering Clerk Martin to have the ballots taken to the county administration building. During this process, the Democrat member of the County Election Board, J.J. Stankiewicz, wrongfully accused PCSD of leaving voted ballots unattended. J.J. Stankiewicz later apologized for his false accusation.

Their prolonged efforts and wait would have been unnecessary if the ballots had been ready for

transport to polling places earlier in the day. However, it was reported that some polling places did receive absentee ballots while the polling location was open. Some were able to process the ballots, while most polling places were unable to do so since the precinct workers had already left the polling locations. These ballots were returned when the polls closed for subsequent processing. Although some precinct workers left, others stayed late into the night. Expecting all poll workers to wait indefinitely with no communication regarding when ballots were to arrive was unrealistic. The indefinite delay potentially tarnished their experience and impaired their ability to carry out their previous planned personal commitments or otherwise made it impossible to wait. This set a poor example for the High School student volunteers at these polling locations.

In addition, there was a serious communication breakdown between key members of the political parties regarding poll worker recruitment and confirmation of participation for Election Day. Those involved in recruiting poll workers would only call workers from their own party. A Democrat county employee would call Democratic poll workers and vice versa. This caused confusion among some poll workers from previous elections regarding if they were to be working in the November 2018 election and if so, where. The recruitment of poll workers involved individuals in both the Board of Registration and in the Circuit Clerk's office. These individuals were working on these tasks in an independent manner, and it is unclear if information was being shared between offices in a timely manner. This lack of centralization in poll worker recruitment and confirmation, coupled with the personality conflicts between the leadership in these offices, likely made for a confusing and disorganized effort. There were cases of numerous poll workers not showing up to work the polls on Election Day, which was likely due in significant part to the lack of coordinated efforts recruiting and confirming participation by poll workers.

Some poll workers did not feel adequately trained to carry out their roles during Election Day, especially first-time poll workers. During one training session as Clerk Martin was training poll workers, Kathy Kozuszek showed up. There were angry words exchanged between them and it is reported that Clerk Martin stormed out of the session. This instance is another example of the bitter public conflict between Kathy Kozuszek and Karen Martin. They were both in the wrong by venting their rancorous feelings for their own personal satisfaction and not considering (or caring about) the impact of their behaviors on other individuals who were sacrificing their time to prepare for the election. VSTOP does not understand the reason for Kathy Kozuszek's presence at the training, and as it appears, it only served to disrupt the process, which was likely the intent. As for Karen Martin, her action of walking out of the training session and saying to Kathy Kozuszek on the way out in an angry tone "you just do it then" was unprofessional and did not fulfill her role as the Circuit Court Clerk conducting the training. There is little question that the quality of poll worker training was lacking for the November 2018 election. Poll workers who attended the in-person training reported that these sessions were disorganized and had very little valuable content. If there were questions, poll workers were instructed to read the materials on being a poll worker or to watch videos. This defeats the purpose of having personal interaction through group training, where answering one individual's question may provide valuable information for everyone in the room.

Concerns began to accumulate just before Election Day. In addition to the issues and insecurities

caused by poor or non-existent training for poll workers, the “suitcases” with ballots and other election related supplies for inspectors were not ready early enough before Election Day. It was reported in the interviews that the “suitcases” which carried these supplies, were not ready until Sunday or Monday before the Tuesday election. Normally, these are ready before the weekend (Saturday or Sunday) preceding an election. The Board of Registration had to help the Circuit Court Clerk’s office get the “suitcases” ready. This caused confusion and concern among inspectors and others observing the election process.

It is well documented that some polling locations did not open at 6:00 am or begin operating at that time on Election Day, as required by state law. This problem involved two key factors. First, at least one polling place was not unlocked and ready for the poll workers to set up. This caused confusion for both poll workers and those who arrived to vote. At one polling location, someone instructed the poll workers by phone to just begin the check-in and balloting process outside in the parking lot. This unsecured and makeshift procedure was unacceptable in any case, but made worse because the weather was inclement. Secondly, there were polling places which were open at 6:00 am but did not have enough poll workers present to carry out election related duties. Some polling locations failed to open on time because they lacked the presence of an inspector. However, the poll workers were unaware that state law (IC 3-6-6-14(b)) provides that the judge of the same party serves as “acting inspector” in that scenario and the polls must be open on time. This was likely due to the aforementioned discussion of confusion among poll workers regarding proper polling procedures and if and where they were to report. This occurrence could have also been due to poll workers feeling discouraged about training and preparation and deciding not to show up. Thus, it seems clear to VSTOP that voters were possibly disenfranchised on Election Day because some polling locations were not open on time or ready to receive voters when the polls were to open, although no specific individuals were identified as being unable to cast their votes later in the day, particularly in precincts with extended hours by court order (see Appendix A).

As reported, there was a court order issued keeping polling locations open past 6:00 pm to recover lost time from polls opening late and the absence of poll workers in the morning. The domino effect of the court order, which was entirely appropriate due to its customized, precinct specific approach (rather than a blanket county-wide extension for a uniform period of time, regardless of actual delays), led to a very long day for those working the polls and for inspectors who were required to deliver the “suitcases” with election related materials to the county administration building. There are reports from some poll workers who were interviewed that people were standing in line in the building’s attached parking garage late into the night. There are at least two reports of “suitcases” being abandoned by individuals in the parking garage because they wanted to leave and go home. This claim was refuted by one interviewee, however. Reports from interviewees who were there and witnessed events after the polls closed indicate that some individuals were still waiting until late at night and early into the morning to deliver their “suitcases,” sign paperwork, and be on their way.

Since some absentee and early voted ballots were not delivered to the polling places for tabulation and some locations were not able to process ballots, tabulation had to be done on a few machines in the county administration building after the election ended and ballots were

delivered from the polling places. It is unclear who made the decision to conduct the tabulation in this manner and in this location, but, again, it was likely a decision made by the County Election Board, which was prompted by the court order (see Appendix B) requiring the Board to count the ballots. This took considerable time because ballots had to be processed through ES&S M100 voting machine units, which is a slow process. Voting machine problems were generally not an issue on Election Day. ES&S reported only having to address a few minor issues. However, having to process ballots through a handful of ES&S M100 voting machines was a long and arduous process. The M100 is not a high-speed central count absentee ballot tabulator. Instead, it is a voting machine designed to allow one voter at a time to enter a marked ballot. If the absentee ballots had been delivered to all polling locations as required by law, poll workers could have multiplied their efforts at the polling places and processed ballots simultaneously throughout the day. Instead, the task fell on a team of individuals, including ES&S personnel, in the basement of the county administration building using voting machines as ballot counting devices which added to the amount of processing time.

One final point is in order. It was alleged by some individuals interviewed that poll workers who did not work on Election Day were paid for working. However, former Circuit Court Clerk Karen Martin reported that she was not aware of any such occurrence. No names of any specific individuals were provided to substantiate this claim. If additional evidence of this violation of law is available, the State Board of Accounts and the Porter County Prosecuting Attorney's office may consider what additional enforcement actions are appropriate.

### **Recommendations**

Based on VSTOP's review of the interview transcripts and information from other sources, the program offers the following 18 recommendations to the Indiana Secretary of State. These are as follows and organized by themes:

#### Forthcoming Elections:

1. VSTOP should be allowed to observe the next two elections, Municipal Primary Election 2019 and Municipal General Election 2019, to assess the conduct and to offer recommendations to the county on the effective operation of elections; and
2. Contests with margins of less than 5% in the county should be audited using RLA methods in both the Primary and General Elections of 2019 (there is pending legislation in Senate Bill 570-2019 to permit a county to conduct such RLAs).

#### Future Voting and Ballot Tabulation:

1. The Office of the Circuit Court Clerk should have an updated election checklist to make sure that all duties and responsibilities are covered leading up to and during an election;
2. The Office of the Circuit Court Clerk should hire additional staff to prepare for and to carry out elections. Carrying out an election is a huge undertaking and, as we have seen, a

clerk and two deputies cannot adequately carry out an election in a county like Porter. Hiring temporary bipartisan staff may be in order to assure the same problems do not occur again;

3. The county should consider adopting a vote center model in order to minimize the need for so many poll workers and given the large number of individuals who vote early and by absentee; and
4. Central count absentee vote tallying should be employed in the county so absentee ballots do not need to be taken to polling places on Election Day.

#### Poll Worker Recruitment and Training:

1. The Board of Registration should not be involved in the recruitment of poll workers. This is the primary responsibility of the county political parties under state law, with the county election board acting to fill-in any vacancies where an individual is not nominated to serve in a poll worker position;
2. The County Election Board and the Circuit Court Clerk should have a list of reliable back-up poll workers for each election day who commit to step in at a moment's notice;
3. Training for poll workers should be highly organized, carried out in a professional manner by more than one subject matter expert. Multiple opportunities for training should be offered;
4. To supplement the material already provided by the state, the county should assemble an outline and a manual of poll worker training;
5. Porter County should provide in-person training for all poll workers and not just Inspectors. The in-person training for election workers other than Inspectors can be augmented with online training; and
6. Both parties must comply with state law by submitting written nominations of individuals to serve as poll workers by the deadline set in state law (21 days before the election) per IC 3-6-6-10, and then share information regarding who has been confirmed to serve as poll workers and to assist the county election board to ensure that any remaining poll worker vacancies can be filled by the board before election day, and that every poll worker receives appropriate training as required by law. All in-person training should be bipartisan and the completion of any online training documented. Both parties should periodically request from the county election board updated lists of all poll workers who have agreed to work and when training was completed.

### Election Administration and Oversight:

1. If any county employee refuses to conduct election work required by the employee's job description or assignment, that employee should be reprimanded in writing per county personnel policy;
2. The County Election Board should maintain closer oversight over the election preparation process by conducting frequent meetings as the election approaches to receive updated information from the Circuit Court Clerk;
3. Personnel in the Board of Registration should be instructed by the County Election Board to not interfere with any election-related activities conducted by the Circuit Court Clerk including training sessions for poll workers;
4. There must be a strictly defined process in place for processing absentee ballots. This process should be in writing. The Circuit Court Clerk should conduct daily oversight to ensure that the bipartisan process is being successfully carried out. Strict accountability for this process must be assured by County Election Board oversight;
5. All prospective and current poll workers (on Election Day) must receive prompt and accurate information and also receive return phone calls in a timely manner; and
6. Inspector supplies need to be ready when training takes place for these poll workers. This eliminates the need for Inspectors to make a return trip to retrieve supplies for Election Day.

### **Conclusions**

The General Election of November 6, 2018 and the early voting period preceding the election in Porter County was fraught with numerous difficulties. As cited in this report, there were examples of poll workers not reporting to polling locations, polling locations not opening at 6:00 am as required, absentee ballots not being organized and ready for delivery to polling locations, and late tabulation of ballots resulting in the delay of unofficial election results until several days after the election.

This report discussed the background of the circumstances which occurred in Porter County, prior history VSTOP has had there, the RLA conducted in January 2019, the assessment of interview information, and recommendations for Porter County moving forward.

It seems apparent that the cacophony of personalities involved in the election process in Porter County and tension between members of the Republican and Democratic parties directly contributed to the toxic culture around election administration. Although doing so ended Porter County's apparent noncompliance with state law, The County Election Board decision to move election administration from the Board of Registration to the Circuit Court Clerk in March 2018

began the trajectory resulting in failings during, and before, the November 6, 2018 General Election. This “transfer” of duties should have occurred before the 2018 elections began.

There was a serious breakdown between the Circuit Court Clerk and the Board of Registration to appropriately, efficiently, and effectively transition election duties to the Circuit Court Clerk’s office to conform to state law after that decision was made by the County Election Board in March 2018. Following this decision, several unfortunate events occurred which culminated in the tragic events of November 6, 2018. Decisions were made, assistance was refused, and toxic interpersonal relationships prevailed which let down the voters of Porter County.

Moving forward, several recommendations are offered in this report. The recommendations flow from the evidence the VSTOP team had at its disposal to write this report. It is hoped that the recommendations are helpful to the county in avoiding any similar procedural election problems and to better serve the voters of Porter County.

As a postscript, House Bill 1217 has been passed by the Indiana House of Representatives, and is under consideration by the Indiana Senate in the 2019 Indiana General Assembly. This Bill is intended to rectify issues and problems which occurred in Porter County during the 2018 General Election. This legislation, if passed, should serve to provide the county with legal mechanisms to assist with future elections.

### **List of Appendices**

The following appendices are shared through a box folder, which can be accessed at the following link: <https://ballstate.box.com/s/e4eg4h5tefjabsm4fq8ocgy88ebfxb2u>

Appendix A - 2018 Porter County Sup Ct poll hours extension Order 11-6-18

Appendix B - 2018 Porter County Sup Ct Absentee Ballot Order 11-6-18

Appendix C - Porter County Sheriff’s Department Report on Election Day Events

Appendix D - Porter County RLA Report to State