

***Opening the Floodgates
for Racial Intimidation,
Disenfranchisement,
and Violence by
Expanding Poll Watcher
Authority***

***"If We Can Disqualify
Enough Blacks
and Enough Mexican
Americans..."***

- Arizona Poll Watcher

**By
Emily Eby, Esq.
and Joaquin Gonzalez, Esq.**



Table of Contents

INTRODUCTION	1
I. THE PAST: RACIAL INTIMIDATION BY POLL WATCHERS	2
II. THE VERY RECENT PAST: POLL WATCHER INTIMIDATION IN 2020 ELECTION	7
A. Reports to Election Protection Hotline	7
B. Other Notable Incidents	8
III. The Present: Legislation Moving in Texas Today	9

Introduction

The Texas Secretary of State's Poll Watcher's Guide opens with a charge: regardless of their political affiliation, the poll watcher's "main interest is in the conduct of a fair and honest election."¹ It goes on to say that a watcher's duty is to "observe the conduct of the election at the location where the watcher has been appointed."² They can point out "an observed irregularity or violation of the Texas Election Code" to a poll worker, but they are not allowed to talk to voters or be in the "polling station" when someone votes.³ The current guidance ends by reminding poll watchers that election judges are the ones ultimately responsible for maintaining an orderly polling place, so watchers "should establish a cooperative relationship with these presiding officers and work with them to ensure that the voting process works smoothly."⁴

The Texas Legislature is looking to change that.

The two "election integrity" omnibus bills of the 2021 legislative session are HB 6 and SB 7. Though both bills have mutated many times over the last few months, one thing remains constant: both bills give partisan poll watchers free rein to disrupt the voting process. These, and other smaller bills, grant new protections and new rights to watchers. Expanding watchers' authority would allow the candidates and parties they represent to intimidate voters up until the last moment of the process, even as they cast their ballots, building on a racist history of vigilante poll watchers dating back to Reconstruction. These bills open the gate for voter intimidation, as well as disruption of the entire democratic process.

In this short paper, we'll dive into the reasons that it is such a bad idea to bestow poll watchers with unlimited power in the polling place. We'll look back into the past to see how poll watching has invited disenfranchisement, intimidation, and violence into the voting booth. We'll take a peek into the recent past to see how poll watchers used even their current power to intimidate voters in the 2020 General Election. Finally, we'll look at the poll watcher bills moving through the Texas legislature at present, and talk about why they must not become our future.

¹ [Poll Watcher's Guide](#), page 2. TX SOS.

² [Poll Watcher's Guide](#), page 9. TX SOS.

³ [Poll Watcher's Guide](#), page 9-11. TX SOS.

⁴ [Poll Watcher's Guide](#), page 21. TX SOS.

I. The Past: Racial Intimidation by Poll Watchers

As the Secretary of State's manual establishes, poll watchers are supposed to silently observe the conduct of election workers to ensure that their represented party, candidate, or measure is being treated fairly. Unfortunately, since the very beginning, poll watchers have often been more interested in the voters than in the workers, and not in the name of fairness. From Reconstruction to the most recent election, racist parties and candidates have deployed poll watchers to serve their own ends. When poll watchers have acted with impunity, people of color—and especially Black Americans—have been disenfranchised, injured, and even killed.

Note: this section features accounts of racially motivated violence. Though they are not overly descriptive, it may still be traumatizing for some readers. Sections II and III are free of descriptions of overt violence.

In 1867, Congress passed a law placing former Confederate states under Union military rule until they ratified the 14th Amendment, which guaranteed American citizenship to the newly freed slaves.⁵ Under these Reconstruction Acts, Black men in the South could vote and hold office for the first time. Many Black men ran for office and won, or became delegates to state constitutional conventions. In 1870, the states ratified the 15th Amendment, declaring that states could not deny a man the right to vote “on account of race, color, or previous condition of servitude.” The South was still a hotbed of racist voter intimidation, but the federal government used Reconstruction to provide Black voters some level of military protection.

This period came to an end in 1877, when Rutherford B. Hayes traded the Oval Office for the rights of Black Americans and ended Reconstruction by withdrawing federal troops from the South.⁶ Vitriolic racism and violence continued to stand between Black Americans and the ballot box, but without any hope of protection coming from Washington. During this time, white people who wanted to stay in power began to deploy their supporters directly to the polling place with a mandate: keep Black voters out.

⁵ [150 Years and Counting: The Struggle to Secure the Promise of the 15th Amendment](#), NMAAHC.

⁶ [Federal Troops Leave South, Ending Reconstruction](#), EJI.

In Mississippi in 1875, white poll watchers went on a violent rampage in order to keep Black people from casting their ballots throughout the state.⁷ The following year, white men in South Carolina killed six Black men, injured hundreds more, and destroyed the Hamburg Black business district in the name of making the polling place white again.⁸ Black Americans in Alabama, Mississippi, Louisiana, and many other states experienced the same devastating acts of anti-voter terror in the 1870s.

Violence by white men guarding polls did not lose steam over the next 50 years. On Election Day in 1920, several Black men in Ocoee, Florida went to vote. Poll watchers ordered them to leave. They refused. After being turned away twice, one Black man, Mose Norman, returned to his precinct with a gun. A group of white men (including Klan members) massacred approximately 50 Black Floridians in retaliation. There is no record of the exact number of people killed, because none of the killers were ever convicted.⁹

White suppression of the Black vote wasn't always a grassroots effort; often, it came with encouragement from state leaders. In 1946, Georgia Governor Gene Talmadge was asked how white people might keep Black people away from the polls. In response, he picked up a scrap of paper and wrote a single word on it: "Pistols." Not long after, Taylor County poll watchers informed a mob about a Black veteran who voted in the Democratic primary. Four white men murdered him in his home. Afterward, the murderers nailed a sign up at a local Black church: "The First N----- to Vote Will Never Vote Again."¹⁰

Other veterans faced death again in order to participate in the democracy they had defended overseas. In 1946, Medgar Evers returned to Mississippi from serving in World War II, eager to vote against Senator Theodore Bilbo, a rabid segregationist running for reelection. Bilbo told his campaign rally crowds that blacks should stay away from the polls in the Democratic primary, and that "red blooded" white men would be watching the polls to make sure that they did. Evers and four other veterans showed up the next day to vote, but were turned away by a group of white poll watchers waving pistols at the polling place door. A group of white poll watchers assaulted Black veteran Etoy Fletcher after the local registrar told him that "Negroes are not allowed to vote in Rankin County."

⁷ **Civil Rights in America: Racial Voting Rights**, page 10. National Parks Service.

⁸ **Civil Rights in America: Racial Voting Rights**, page 10. National Parks Service.

⁹ **Voting has a violent history in the U.S. There's a reason we're talking about it so openly now.** MSNBC.

¹⁰ **Trump's accusations of fraud in Georgia echo decades of racial violence.** MSNBC.

Another Black veteran, NAACP chapter president Vernando R. Collier, described how he and his wife were assaulted by a pack of white poll watchers as they tried to enter the polling place.¹¹

The 1960s finally began to realize some hard-fought civil rights victories for Black Americans. Unfortunately, this decade also marked the beginning of poll watchers organizing to keep Black voters out using “legal” means. For example, in 1962, two white Republican poll watchers stood outside a school polling place in Phoenix, Arizona to confront Black voters. They would show Black would-be voters a card featuring an excerpt from the Constitution and ask them to read it out loud to prove that they were literate. Whether or not they could read it, many of these people became discouraged and chose not to vote. One of those two white men was future Supreme Court Chief Justice William Rehnquist.¹² A lawyer on the Rehnquist poll watching squad said that “if we can disqualify enough blacks and enough Mexican Americans, we can elect Paul Fannin Governor in 1962.”¹³

In 1964, vote suppressors took their poll watcher intimidation movements nationwide. In the lead-up up to that year’s presidential election, the RNC launched the nation’s first major so-called “anti-fraud” campaign: Operation Eagle Eye. The RNC recruited tens of thousands of volunteers to show up at polling places in communities of color and challenge voters’ eligibility, take unwelcome photographs, loudly describe voters on two-way radios, and summon Republican-friendly police officers.¹⁴ Operation Eagle Eye deployed 10,000 volunteers in Texas alone.¹⁵ In Washington D.C., the Republican city chair instructed his poll watchers to target “people who look like they don’t belong in the community or are not the kind of people who would register and vote.”¹⁶ That same city chair assured the Washington Post that “well-dressed persons will not be challenged... only ‘the kind of a guy you can buy for a buck or a bottle of booze.’”¹⁷

¹¹ **[Civil Rights in America: Racial Voting Rights](#)**, page 25. National Parks Service.

¹² **[Vote Suppression Goes National—and Republican](#)**, page 46.

¹³ **[Vote Suppression Goes National—and Republican](#)**, page 47.

¹⁴ **[The Ballot Cops](#)**, The Atlantic.

¹⁵ **[Democrats Charge G.O.P. Poll Watch Today Will Harass the Negroes and the Poor; REPUBLICANS SAY HONESTY IS GOAL; Assert 100,000 Sentinels in 35 Cities Will Seek Only to Avert Voting Fraud](#)**, The New York Times (1964).

¹⁶ **[Democrats Charge G.O.P. Poll Watch Today Will Harass the Negroes and the Poor; REPUBLICANS SAY HONESTY IS GOAL; Assert 100,000 Sentinels in 35 Cities Will Seek Only to Avert Voting Fraud](#)**, The New York Times (1964).

¹⁷ **[Vote Suppression Goes National—and Republican](#)**, page 52.

The national director of Operation Eagle Eye told the New York Times that he expected his watchers to “successfully challenge or to discourage from voting” 1.25 million people.¹⁸ In St. George, South Carolina, poll watchers challenged one out of every three black people who were attempting to vote.¹⁹

This organization continued to escalate its tactics even after the Voting Rights Act of 1965. In 1981, the RNC organized a partisan poll watching group called the National Ballot Security Task Force. This group included armed off-duty police officers who patrolled polling places, occasionally removing voters in Latinx and Black neighborhoods. The DNC sued for violations of the 14th and 15th Amendments and the Voting Rights Act. Evidence in the case included the party’s plans to discourage voting by placing intimidating poll watchers in communities of color in Harris County, Texas. Party representatives made overt racial remarks across the country, such as “If it’s a close race . . . which I’m assuming it is, this could keep the black vote down considerably.”²⁰ The parties signed a consent decree allowing a federal court to review any proposed “ballot security” activities of the RNC, particularly in minority areas. The DNC alleges that the RNC has failed to respect the decree numerous times since, including incidents in which RNC poll watchers harassed voters in Pennsylvania, Arkansas, Kentucky and Louisiana. The decree expired at the end of 2017.²¹

Poll watcher efforts often have great success embedding in and terrorizing communities over several decades. In Charleston County, South Carolina, Black voters face a longtime pattern of voter intimidation. Election Commission member Carolyn Collins testified about inappropriate behavior she had observed by white poll managers in majority-Black precincts. One such manager had reportedly intimidated a number of voters and, when approached by Collins, replied that he did not have to listen to her. Collins also testified that she had received complaints from Black voters concerning rude or inappropriate behavior by white poll officials in *every election* between 1992 and 2002.²²

¹⁸ **Democrats Charge G.O.P. Poll Watch Today Will Harass the Negroes and the Poor; REPUBLICANS SAY HONESTY IS GOAL; Assert 100,000 Sentinels in 35 Cities Will Seek Only to Avert Voting Fraud,** The New York Times (1964).

¹⁹ **Kdi ZgSuppression Goes National—and Republican,** page 51.

²⁰ **The Politics of Voter Suppression,** page 56. Cornell University Press.

²¹ **Everything you need to know about election observers — and why the U.S. needs them.** Washington Post.

²² **The Long Shadow of Jim Crow,** page 10. People for the American Way & NAACP.

Poll watcher intimidation has changed shape—but it hasn't slowed— in the 21st century. In 2000, poll watchers in Florida locked gates to polling places that served Black communities in an effort to keep them from casting votes. During that election, a Black Floridian was 10 times as likely to have their vote rejected as a white voter.²³ In 2002 in Pine Bluff, Arkansas, Republican poll watchers focused exclusively on Black voters, asking them for identification and photographing them without their consent during the first day of early voting. Local law enforcement officials escorted the poll watchers out, but they later returned.²⁴

In Texas, we have seen poll watchers intimidating voters in the last few years. In 2018, Dallas poll watchers had to be escorted out for looking over voters' shoulders.²⁵ In 2010²⁶ and in 2020,²⁷ Houston poll watchers were reported for being too close to voters. The latter was especially intimidating to voters who were susceptible to COVID-19 and forced to vote in person by Texas's draconian vote-by-mail requirements.

Of course, Black voters are not the only people who have been targeted by poll watchers. Congress did not pass protections for voters with limited English proficiency until 1975, disenfranchising immigrants of all races even 10 years after the Voting Rights Act was passed.²⁸ Many Asian Americans were unable to vote until 1952, when the federal government allowed immigrants of Asian descent to become citizens.²⁹ In 2005, the city of Boston was found guilty of discriminating against Spanish-speaking, Chinese, and Vietnamese voters.³⁰

When Indigenous people tried to register to vote in the 1960s and 70s, they often had to register in a place where they did not feel comfortable, such as a store that did not welcome indigenous people. Poll watchers tracked those who voted, and sometimes penalized an indigenous person for voting by taking away their job, evicting them from their home, or suddenly refinancing their loan.³¹

²³ [**Voting while black: the racial injustice that harms our democracy**](#). The Guardian.

²⁴ [**The Long Shadow of Jim Crow**](#), page 7. People for the American Way & NAACP.

²⁵ [**Tensions are running high in Texas, and people are reporting cases of voter intimidation at polling places**](#). Business Insider.

²⁶ [**Tensions rise between voters and poll watchers in mid-term election**](#). KHOU.

²⁷ [**Texas AG's office says poll watchers may perform duties within 6 feet of others**](#). KVUE.

²⁸ [**50 Years of the Voting Rights Act: An Asian American Perspective**](#). AAJC.

²⁹ [**50 Years of the Voting Rights Act: An Asian American Perspective**](#). AAJC.

³⁰ [**50 Years of the Voting Rights Act: An Asian American Perspective**](#). AAJC.

³¹ [**Civil Rights in America: Racial Voting Rights**](#), page 85. National Parks Service.

Latinx voters face racist voter intimidation from poll workers, in addition to language discrimination. In 1975, Leonel Castillo, city controller of Houston, spoke of armed law enforcement officials that were dispatched to polling places for the sole purpose of intimidating Latinx voters, and poll watchers who made “excessive demands for personal identification” from Mexican American voters. Poll watchers in Texas have also been known to call Border Patrol in an attempt to curtail Latinx turnout.³² In the 1980s in the Rio Grande Valley, poll watchers were known for intimidating non-English speaking voters by trying to kick them out of the polls and photographing them. ³³

In 2000, the Department of Justice came to an agreement with a Michigan municipality where poll watchers were challenging the registration of voters of Middle-Eastern descent.³⁴ Poll workers responded to those challenges by forcing all “Arab-American voters and other dark-skinned voters, such as Bengali-Americans” to take a citizenship oath before they could vote. This requirement was not imposed on white voters.

II. The Very Recent Past: Poll Watcher Intimidation in 2020 Election

A. Reports to Election Protection Hotline

The Texas Civil Rights Project is a part of the Texas Election Protection Coalition, which helps run the 866-OUR-VOTE hotline. We provide nonpartisan support to every voter, from basic information to helping solve complex voting issues. During the 2020 General Election, the hotline received 267 reports of voter intimidation in Texas alone.³⁵ Several of these calls were about intimidating poll watchers.

³² [Civil Rights in America: Racial Voting Rights](#), page 106. National Parks Service.

³³ [The Long Shadow of Jim Crow](#), page 21. People for the American Way & NAACP.

³⁴ [City of Hamtramck, Michigan to Revamp Election Procedures to Prevent Voter Discrimination Under Justice Department Settlement](#), Department of Justice.

³⁵ [Voter Intimidation In Texas During the 2020 General Election](#). Texas Civil Rights Project.

In Dallas County, a voter reported that a white female poll watcher was standing within three feet of all of the voting machines and taking notes on a clipboard. The watcher stood where they could see people's votes and personal details of their IDs. This polling place primarily serves Black and Latinx voters. The poll workers—many of whom were elderly and Black—quietly told the concerned voter that they didn't know where the watcher was allowed to be. When the voter approached the poll watcher, the watcher hugged her notes close to her chest so they could not be seen and covered her badge so her name was not visible.

In Bowie County, a black voter had someone who appeared to be acting as a poll watcher looking over her shoulder as she voted, and asking her about who she was voting for. When the voter made one selection, the watcher pointed to it and asked if that was who the voter meant to choose. Finally, the voter asked the watcher to step away while she voted.

In Harris County, we received a call from a woman who was accompanying her mother to the polls. A poll watcher confronted the caller's mother as she was surrendering her absentee ballot so she could vote in person. The watcher declared that vote-by-mail was all fraudulent. Though he was a poll watcher, this man was actively involving himself in the ballot surrender process.

In Tarrant County, a voter reported feeling nervous and uncomfortable at his polling place, because poll watchers were walking around behind him and looking over his shoulder as he made his selections.

We also received reports of poll watchers harassing a poll worker in Harris County and one problematically confronting voters inside a polling location in Bexar County.

B. Other Notable Incidents

Common Cause Texas obtained video footage of a Harris County Republican Party presentation recruiting and training poll watchers for the 2020 General Election. Throughout the video, the presenter uses dog whistles to target exclusively minority neighborhoods and rile up potential volunteers to form an aggressive poll watching "brigade."³⁶ The presenter states that the predominantly white suburban areas of Harris County are "safe," therefore "courageous" watchers from the suburbs need to venture into Harris County's predominantly Black and Brown

³⁶ [**Video shows GOP targeting Houston minority communities with poll watcher 'brigade'**](#).

Houston Chronicle.

urban core, highlighting particular areas on a map. Wheeler Baptist Church, a historic Black church with storied ties to the civil rights movement, is singled out as a particularly problematic example, despite the fact that no evidence is cited or exists indicating that fraud has occurred at this polling place.

Other states saw issues with poll watchers too.³⁸ During the November 2020 election, poll watchers in Pennsylvania sent voters to the wrong lines and the wrong precincts.³⁹ In Colorado, a poll watcher phoned in suspicions about a precinct with a high concentration of people of color.⁴⁰ In Florida, poll watchers threatened black voters who took bottles of water from NAACP members and fish sandwiches from church volunteers as they waited in long lines under punishing heat.⁴¹

III. The Present: Legislation Moving in Texas Today

The 87th Texas Legislature values poll watchers above voters. While bills to protect voters are lucky to even reach committee, bills to empower poll watchers are surging through both the House and the Senate. Two of these bills have been passed in the dead of night or without any advance notice, suggesting that the push for poll watcher protections may not be as broad a consensus as these bill authors claim.

Some of these bills allow poll watchers to do nearly anything and be nearly anywhere without consequence. HB 6 and SB 7 would allow poll watchers to run the polling place by making it a crime for election workers to remove them (or have them removed, including by police) for nearly anything short of violence or a direct threat of violence. HB 4364 allows poll watchers to serve whatever hours they choose, as well as letting them be wherever they want to be in the polling place other than directly inside the booth with the voter. SB 1215 also says that a poll watcher “may not be denied free movement” in the polling place. HB 1724 would require an election clerk to stop *working entirely* if a poll watcher has an objection, which would create even longer lines than we already have in Texas.⁴²

³⁷ [G.O.P. Seeks to Empower Poll Watchers, Raising Intimidation Worries](#). New York Times.

³⁸ [The racist history of voter challenge provisions in NC 'monster' election bill](#). Facing South.

³⁹ [The racist history of voter challenge provisions in NC 'monster' election bill](#). Facing South.

⁴⁰ [The racist history of voter challenge provisions in NC 'monster' election bill](#). Facing South.

⁴¹ [The racist history of voter challenge provisions in NC 'monster' election bill](#). Facing South.

⁴² [Black and Latino voters were hit hardest by long lines in the Texas Democratic primary](#), Vox.

And it's not just the polling place! Poll watchers may soon be running the vote-by-mail counts too. HB 3970 is one of *several bills* that empower poll watchers to exercise unprecedented power over the bipartisan committees who count mail-in ballots. SB 1591 requires that poll watchers be able to stand so close to vote-by-mail counters that the watcher themselves can verify the signatures on the ballots.

To be clear, though: these laws aren't made for just anyone to serve as a poll watcher. They are meant to empower and protect a certain type of person as a poll watcher. HB 463 would prohibit people with a past felony conviction from serving as a poll watcher, even if their felony conviction has nothing to do with elections. Black Texans are four times as likely to be incarcerated as white Texans.⁴³ HB 4364 requires poll watchers to show ID to their election judge, limiting that role to people with IDs. Up to 25% of Black Americans do not have a government-issued photo ID, compared to only 8% of white Americans.⁴⁴

Taken as a whole, and with full knowledge of the racist context of poll watching, these bills show a concerted effort by their supporters to return to the Jim Crow days of intimidating BIPOC voters from participating in Texas's increasingly diverse democracy.

⁴³ [Color of Justice: Racial and Ethnic Disparity in State Prisons](#), The Sentencing Project.

⁴⁴ [Oppose Voter ID Legislation Fact Sheet](#), ACLU.