

**CONFIDENTIAL REPORT OF INVESTIGATION**

**BY**

**LUZERNE COUNTY OFFICE OF LAW  
WITH THE ASSISTANCE OF LUZERNE COUNTY HUMAN RESOURCES**

CONFIDENTIAL

**Shannon Crake Lapsansky, Esq.**

**Date: December 5, 2022**

## EXECUTIVE SUMMARY

### **A. OVERVIEW**

At approximately mid-day Wednesday November 9, 2022, the Luzerne County Human Resources Department was contacted by a full-time employee from the Elections Bureau (“Elections”) requesting assistance and indicating there had been incidents indicative of a hostile and/or abusive work environment, Witness 1 harassment, race related discrimination, racial slurs and profanity directed at Elections employees by a member of the County Council (“Council”) appointed Elections Board (“Board”), Witness 1 Alyssa Fusaro. The correct avenue for Luzerne County employees to report workplace issues is through the Luzerne County Human Resources Department. Although the Human Resources Department responded and took initial witness statements on November 9, 2022, since the situation also involves a member of the Luzerne County Elections Board, the matter was turned over to the Office of Law for review, follow up investigation and the compilation of this report to provide to Luzerne County Council as the governing body with the ultimate authority over members Luzerne County Boards and Commissions. (Luzerne County will also be referred to interchangeably as the “County”.)

This report will provide Council with summarized witness statements, either provided to Human Resources or myself, of more than one dozen County employees, both full time and part time and both Elections employees and County employees from other departments with knowledge of the facts related to the matter. As indicated above, I received initial statements that were provided to the Human Resources Department. Based on those statements, I had followed up with questions for certain employees. Additional statements were provided by employees who had not been initially interviewed by Human Resources and through the course of my investigation I contacted additional potential witnesses to seek information to either corroborate information or, in the opposite, gain information that would indicate any information obtained was deemed unfounded. During the course of my investigation, without prompting, I was also provided with information regarding instances of harassing and abusive behavior by Ms. Fusaro prior to November 9, 2022; such information will be included in this report in a separate section.

This report shall serve to advise County Council on the information obtained, as well as, determining potential liability concerns for Luzerne County by means of state or federal law, as well as, possible violations of the Luzerne County Home Rule Charter and/or other codes and policies of Luzerne County. Although certain election issues may intertwine with the matters addressed in this report, the purpose of this report is not an analysis of the election process and any errors that occurred during the General Election held on November 8, 2022; this is not an election error review and investigation but rather a focus on personnel/work environment issues as generally indicated above.

## **B. INFORMATION AND LAW REVIEWED**

1. Witness Statements
2. Email Correspondence of Concerned Citizen
3. Surveillance Footage of Cameras located within the Penn Place Building
4. Relevant Portion of Report of Alyssa Fusaro<sup>1</sup>
5. Luzerne County Home Rule Charter
6. Luzerne County Personnel Code
7. Luzerne County Administrative Code
8. Luzerne County Accountability, Conduct and Ethics Code
9. Luzerne County Personnel Policies
10. Pennsylvania State Constitution
11. Pennsylvania Human Relations Code
12. Federal Equal Employment Opportunity Code
13. Pennsylvania case law related to hostile and abusive work environments
14. Title 25 – Pennsylvania Elections Code<sup>2</sup>
15. Bureau of Elections background information on tasks discussed within witness summaries and procedures related to tasks

## **C. BACKGROUND**

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<sup>1</sup> On her own accord, Ms. Fusaro did her own individual report related to election activities for the General Election that occurred on November 8, 2022. Although information contained in her individual report may be relevant to an inquiry by the Board or Council with regards to specific election matters, only information related to this particular to the personnel inquiry shall be contained herein so as to focus on the personnel inquiry.

<sup>2</sup> Review is limited to the allegations and potential liability of this personnel inquiry.

Based on the witness summaries and/or statements provided below about Elections Bureau work, I found it necessary to ask for an explanation of what tasks were being completed and how the general process works in order to put the situation into context. I was advised that when ballots (actual votes) and other materials are returned to Luzerne County from the polling places, the items are segregated into different bags as follows. Votes or actual paper ballots case, namely provisional ballots completed at a polling place, are placed in "red" bags. The red bags are held in a secure room within the Elections office unless and until they are taken to a courtroom for canvassing and counting.

The "black" bags, also referred to as the Judge's bags, are bags turned over from the Judges of Elections at the respective polling places. I was informed that the black bags contain the following: poll books, the written voter lists, counter tape which counts the number of votes cast on a voting machine and miscellaneous paperwork and unused items from the polls. The black bags are not to contain cast provisional ballots.

I was advised that due to a past situation where a temporary employee handled a provisional ballot and discarded it in error, the policy over the course of the last few elections is to have full time employees work with the temporary employees that are brought in to assist at election time. This is not a legal requirement; however, Luzerne County has begun following this process in the interest of best practices.

I also inquired about the issue of who is sworn in: is every employee working in and with Elections required to take an oath to aid in the elections process in the days leading up to an election, election day, and the days after the election. I was advised by employees from multiple offices who participate in the elections process that any employee who is going to participate in canvassing ballots and touching actual votes is sworn in prior to touching any "votes". As to the procedure for employees not canvassing ballots/touching votes, the practice over the past few elections has varied. After frequent back and forth questions or comments at board meetings or emails, former Chief Solicitor and Acting County Manager Romilda Crocamo determined the best way to put the issue to rest was to just swear everyone in and time and attention could be focused on other issues. For this past general election, I was informed that there was no mass swearing in but if and when employees became involved in the canvassing of ballots and touching

votes, they were sworn in prior to. It should also be noted that at the time of Elections, multiple employees from various departments are required to support the process, the Election Bureau and the Election Board. For example, attorneys, deputy sheriffs, I.T. department employees to name a few are involved in assisting. In addition, building and grounds would be involved with the removal of garbage bags and/or taking paper to a shredding bin. There is absolutely no legal requirement that any employee who assists in whatever form be required to take an oath prior to setting foot in the Elections Bureau.

#### **D. WITNESS STATEMENTS<sup>3</sup>**

Initial witness statements regarding claims of harassment by Alyssa Fusaro were obtained by the Human Resources Department, LynnMarie Shedlock, HRBP on November 9, 2022. Ms. Shedlock responded to a request for assistance from an Elections employee who came to the Human Resources Department and asked Ms. Shedlock “to come to Elections because of an emergency. On the way to the office, she briefed me stating that Alyssa Fusaro had been harassing employees and making racist statements.” Ms. Shedlock met with ten witnesses on the same day as the allegation and one witness the following day, November 10, 2022. Those statements are summarized below. All witnesses stated “Alyssa Fusaro was interfering with the elections staff while they were trying to do their job. Additionally, many of the Elections staff witnessed Alyssa Fusaro taking photos of an Elections employee (Witness 1) while accompanied by TJ Fitzgerald. When I arrived in the Elections breakroom, Witness 1 and Witness 2 were both visibly upset and crying while on their phones.”

Some witnesses were not available to be interviewed by Human Resources on November 9-10; because their names were mentioned in some of the witness statements provided to Human Resources, I requested they provide me with statements. Relevant portions of those statements are included herein verbatim.

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<sup>3</sup> Witness names have been redacted to maintain confidentiality.

As indicated above, I have obtained an approximately 24 hours of surveillance footage (based on multiple camera locations) from the Luzerne County Sheriff's Department. Again, the cameras do not record audio as this would be a felony wiretap violation under Pennsylvania law.

## **1. WITNESS SUMMARIES FROM HUMAN RESOURCES INTERVIEWS**

### **WITNESS 1, Full Time Elections Employee**

Witness 1 was crying and on the phone when I first encountered her in the Elections break room. She stated that Alyssa Fusaro from the Elections Board had been harassing she and Witness 2 all morning. At first Alyssa Fusaro came over while she and Witness 2 were working on the black bags. Alyssa Fusaro told her she was going to go through the garbage because it's her job. Witness 1 said "that is fine, do what you have to do." Alyssa Fusaro started questioning her on the contents of the garbage. She then went around the office asking if it was OK to throw away the items that Witness 1 and Witness 2 had put in the garbage. Office employees all agreed that what they threw away was fine.

Alyssa Fusaro kept telling Witness 1 that she was doing her job by going in through the trash, but she only went through Witness 1 and Witness 2's trash, no one else's.<sup>4</sup> Alyssa Fusaro then started to tell them what to put in the purple bin for shredding. It should be noted that both Witness 1 and Witness 2 are Hispanic/Latino females.

Witness 1 continued doing her job and when she finished with the bags, she went out in the hall to take them to Purchasing. She saw Alyssa Fusaro and the guy with the gray jacket (identified as TJ Fitzgerald) in the hall with the Sheriff and Deputy. The guy in the gray jacket was on crutches and limping. When Witness 1 walked by them, she said Allyssa was talking about having non-sworn in people touching the ballots and bags. She said the guy in gray told Alyssa Fusaro to tell the media because they're downstairs.

When Witness 1 came out of Purchasing, Alyssa Fusaro started taking photos with her camera of Witness 1. With a look of disgust on her face, Alyssa Fusaro stated that "She's one of them". Witness 1 told them not to take any pictures of her and covered her face. They guy in

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<sup>4</sup> Surveillance footage corroborates Ms. Fusaro repeatedly approaching Witness 1 and Witness 2.

gray and Alyssa Fusaro continued to look at Witness 1 with disgust. In response to Witness 1 saying not to take her photo, Witness 1 was told “oh shut the fuck up”. That’s when she went back into elections and started crying.<sup>5</sup>

Witness 1 stated that she is not comfortable around her, she doesn’t want to be around Alyssa Fusaro and the guy with the gray jacket, she does not trust them and wants to press charges.

In a follow up request for information, Witness 1 indicated it was originally planned that she would act as a Spanish-English translator should one be required during the Election Board’s adjudication process. Witness 1 declined to act as a translator after the incidents of November 9 occurred. She indicated she was not comfortable being in the same room as Ms. Fusaro nor did she feel like it was okay to be asked to perform in a translator capacity when she had been discriminated against and/or targeted for being Latino.

#### **Witness 2 – Temporary Employee in Elections**

Witness 2 stated that as soon as she and Witness 1 and came in at 9 a.m., they started emptying the black judges’ bags. Alyssa Fusaro kept watching them and kept on telling them what to do and not to do. Alyssa Fusaro went back to her desk, then 5 minutes later started checking the garbage and told them that they were not supposed to be throwing certain stuff

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<sup>5</sup> Surveillance footage shows Ms. Fusaro proceeding to the exit of the Elections Bureau down the “internal hall”. Witness 1 was then observed walking with 2 black bags towards the Elections Bureau internal hallway area to exit the office. The internal hall is more like a small area that is obscured by a solid wall. The access door is also obscured by the wall. Witness 1 then comes back into view in the external hallway leading towards Purchasing. Through the Elections Office window Witness 1 is observed walking towards the Purchasing Dept and TJ Fitzgerald begins following Witness 1. Witness 1 walks past TJ Fitzgerald without looking at him and then is again obscured by the Elections wall. When Witness 1 comes back into view in the Elections Office she is extremely distraught and sobbing. She goes to her cubicle where she is consoled by numerous Elections employees.

away.<sup>6</sup> Witness 2 went to have a cigarette and returned to see the man with the gray jacket in the hall.<sup>7</sup>

When she came back (from break), Alyssa Fusaro had taken all the stuff out of the garbage and put it on the floor. Alyssa left and came back and asked if it was legal for Witness 2 to work here. Witness 2 said, “yeah, I’m legal”. Witness 2 said she was offended by the question as she is Puerto Rican and she does not need a passport to be in this country. Alyssa Fusaro left and a short time later came back and asked if they had been sworn in. Then she asked Witness 2 what her name was.

Subsequently, Witness 2 stated that Alyssa Fusaro went to the front desk and was on the phone and she heard Alyssa Fusaro say, “this spic don’t know what the fuck she’s doing”. Witness 2 went to a supervisor and told her Alyssa Fusaro keeps harassing them. The supervisor said not to worry about it, she’ll take care of it.

Later when Witness 1 went to take her bags to Purchasing, that is when Alyssa Fusaro she came out with her cell phone and the guy with the gray hoodie, and they took pictures of Witness 1 and all the profanity happened. Witness 2 said she heard Alyssa Fusaro “spewing the F word and her facial expression was like she was disgusted. That’s when she told Witness 1 to shut the fuck up and then the guy also told her to shut the fuck up.

Witness 1 came back in the office and was crying. Then the news came, and Alyssa Fusaro was telling them that they were shredding ballots and kept telling them that they weren’t sworn in. Alyssa Fusaro asked Witness 2 for her name while she was on the phone. Witness 2 ignored

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<sup>6</sup> Surveillance footage shows Witness 2 leaving her work area after being approached by Ms. Fusaro on two instances close in time. Ms. Fusaro is seen approaching Witness 2 and walks away. She then comes back a short time later seen pointing at the employee’s and raising her hand (presumably the question about being sworn in). Witness 2 is seen coming to the back of the office and reporting to a supervisor; the employee was upset and animated at the time. Over the course of the next several minutes, Witness 2 goes out of view (presumably to the breakroom area) and then returning with tissue in hand wiping her eyes. The supervisor is subsequently observed approaching Ms. Fusaro.

<sup>7</sup> Surveillance footage confirms that man in grey was TJ Fitzgerald and the footage corroborates he was in the hallway.



her and didn't respond to this point. "I then told the office that I would bust her ass and ride her out of this building after hearing her say "spic" etc."<sup>8</sup>

Witness 2 stated that Alyssa Fusaro has been acting crazy since Monday (November 7). She was so rude to one of the temp workers yesterday. She heard Alyssa Fusaro say to the employee "I don't have time to listen to your fucking mouth". She (Alyssa Fusaro) said it out loud. Another witness may have heard it.

### **Witness 3, Temporary Elections Employee**

Witness 3 stated that she saw Witness 1 and Witness 2 returning to the elections office and heard yelling. She noticed Witness 1 was upset and crying. Witness 3 went to her (Witness 1's) cubicle to see what was wrong. Witness 1 stated, "I'm tired, I'm tired of this racism". Witness 1 indicated that Alyssa Fusaro was bothering her all morning by constantly checking her trash. She also told Witness 3 that "the guy in the gray jacket was cursing at them" and that they're always targeting Latinos".

At that point Witness 11 directed Witness 1 and Witness 2 to the break room and Witness 8 went to get Human Resources.<sup>9</sup>

### **Witness 4 – Temporary Elections Employee**

Witness 4 witnessed Alyssa Fusaro continuously approaching Witness 1 and Witness 2 to ask them what was in their trash bags and then witnessed Alyssa Fusaro going through their trash bags. Witness 4 said that Alyssa Fusaro would take items out of the trash and go to Witness 7 and/or Witness 10 to find out if the items should be in the trash.

Witness 4 stated that Alyssa Fusaro was directing Witness 1 to put items in the bin to be shredded. Witness 2 ultimately became angry and went to a Supervisor. The Supervisor contacted the Sheriff's department about Alyssa Fusaro.

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<sup>8</sup> Witness 2's statement is corroborated by surveillance footage as Witness 2 is observed in an excitable manner directing her attention to someone obscured by the wall in Elections.

<sup>9</sup> Corroborated by Surveillance Footage.

Shortly thereafter, Witness 2 went back to help Witness 1, and Alyssa Fusaro came and told them “do not touch the ballots” and asked if they were sworn in. They responded “no”. Alyssa Fusaro shouted, “you two do not touch the bags!” After this the Deputy came in and removed Alyssa Fusaro.

Witness 1 left the Elections office shortly after this exchange. When she returned, she was crying and Witness 4 went to comfort her. Witness 1 told her that Alyssa Fusaro took her photo and said she wasn’t sworn in and said she is harassing her. At that point, Witness 2 went to the door and words were spoken between Alyssa Fusaro and Witness 2. Witness 4 heard someone say “Shut the fuck up” to Witness 2. Witness 2 started walking toward Alyssa Fusaro and the man with her but the Deputy stopped her and told them all to calm down or they’d be arrested. The Deputy moved Alyssa Fusaro and the man further away from the Elections office and told Witness 2 to go back into the Elections office (to keep everyone apart).

#### **Witness 5 – Luzerne County full time employee helping in Elections**

Witness 5 didn’t see how this started but she heard the board member start yelling about Witness 1 and Witness 2. She was asking them if they were even sworn in to be participating in this. Witness 5 said a Supervisor came over too Alyssa Fusaro and asked her to leave. Alyssa Fusaro told the Supervisor that she didn’t need to leave because she’s on the board. Alyssa Fusaro then just got up and started asking randomly who was sworn in. She would not leave until the Deputy came and removed her. She took her laptop and left.

Witness 5 stated that Alyssa Fusaro was trying to take photos of Witness 1 when she walked into the hall and Witness 1 became upset. Witness 5 said “we were having a peaceful morning until Alyssa Fusaro started up.”

#### **Witness 6 – Luzerne County employee helping in Elections**

Alyssa Fusaro was sitting at front desk then got up and went back to Witness 1 and Witness 2 and asked what they are throwing away and keeping. She instructed them to put anything with names and addresses in the shredder. Alyssa Fusaro then came to Witness 6 and Witness 7 and asked what they were throwing away. She went back to Witness 1 and Witness 2

and at some point, the deputy came in. Alyssa Fusaro said she has the right to be there. After the deputy removed Alyssa Fusaro, she must have called TJ because he came up yelling about voter suppression. Alyssa Fusaro said she didn't want anyone touching anything who wasn't sworn in and stated, "I don't know who those people are". Then the Witness 2 got very upset saying "why is she picking on me."

Then the shouting started with Witness 1, Witness 2 and Alyssa Fusaro and Alyssa Fusaro started taking pictures of the employees out in the hall. Then the employees started crying and were upset and were taken into the breakroom.

### **Witness 7 – Full Time Elections Employee**

Witness 1 and Witness 2 started the day by opening the black bags. Alyssa Fusaro was sitting at the front desk. She got up and went over to Witness 1 and Witness 2 and asked what they were throwing out. Alyssa Fusaro went through the trash and saw the mailing list and told them they need to put it in the (purple) bin and told them if it doesn't have any writing on it, we don't have to save it. Alyssa Fusaro went back to her seat, then she came back to the employees to look in the trash, then she went to Witness 7 to ask what she was keeping and throwing away then went back to her seat. Sheriff came and said she had to leave the building<sup>10</sup>. She said she didn't have to leave and made a call on her phone. She was sitting in the office now.

Witness 7 felt she was targeting them (Witness 1 and Witness 2) because she kept going over to them, no one else, to check their trash. Then she asked them if they were sworn in and asked Witness 2 what her name was.

Witness 7 stated that she did not witness the incident in the hallway.

As a side note, Witness 7 mentioned that Alyssa Fusaro was greeting voters on Monday (November 7) at the front desk. Joseph Decker, a judge came in to discuss the poll books. Then she went up to talk to him and agreed with his complaint. She told the judge that she agrees with

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<sup>10</sup> For clarification, Ms. Fusaro was not removed from the Penn Place building.

him on poll book procedures, but she was overruled. The judge became rowdy, and the sheriff made him leave.

### **Witness 8 – Full Time Elections Employee**

Around 10:20 am, Witness 8 saw Alyssa Fusaro go over to Witness 1 and Witness 2. Witness 8 was watching her and she was going through the garbage bag. Witness 8 texted a Supervisor that Alyssa Fusaro was overstepping her boundaries. Alyssa Fusaro did it again and Witness 8 heard her (Alyssa Fusaro) yell at them (Witness 1 and 2): “anything with a voter’s name should go in the bin. You guys have to go through this stuff and put it in the bin”. Witness 8 texted a Supervisor again. The Supervisor instructed Witness 8 to call the Sheriff. Two female sheriff’s deputies came up and told Alyssa Fusaro we’ve been ordered to remove you from the office. Alyssa Fusaro replied in a snarky tone, “I’m from the board and I oversee this office, I’m not going anywhere”. A female deputy said she was going to call her boss. The Sheriff came while Alyssa Fusaro was on the phone.

Witness 8 then recalled seeing Witness 1 crying in her cube and Witness 2 all hot and gesturing. Witness 8 noticed that a news reporter was at the counter with a camera. Witness 8 took them (Witness 1 and Witness 2) into the lunchroom then came to get Human Resources.

### **Witness 9, Deputy Sheriff**

I got a call from Witness 8 that they wanted one of the board members from elections removed from the building. When she arrived, she told Alyssa Fusaro that the reason I’m here is because they want you removed from the building. Alyssa Fusaro told her “I cannot be removed, I’m on the board of elections”. Alyssa Fusaro contacted her superior (?) regarding the current situation and shortly thereafter the Sheriff arrived. They approached Alyssa Fusaro and asked to speak with her in the hallway. She’s yelling that she’s being removed from the building and stating that there are 3 people in elections who didn’t take the oath, all in front of people that were in the hall. An employee was going into purchasing with a black bag and Alyssa Fusaro and TJ Fitzgerald were taking pictures of her. The employee became upset and went back to the office. The Sheriff and Deputy told Alyssa Fusaro that she could be in the front of the office. Witness 2 then came to the door and yelled at Alyssa Fusaro saying she was going to beat her

ass. Witness 9 brought Witness 2 back into the interior of the Elections Office and told her I'm here to deescalate situations, nothing personal. Come to me if you need anything. The female deputy sheriff stayed at the Elections office the rest of the day.

The employees said Alyssa Fusaro was picking on them the last 2 days and it escalated. Alyssa Fusaro is now on the 3<sup>rd</sup> floor. Witness 9 said that they never asked her to leave the building, but she's on the phone yelling that we are making her leave, but that never happened.

#### **Witness 10 – Full Time Elections Employee**

Witness 10 briefed Witness 1 on how to empty the black bags. Alyssa Fusaro came over and put her two cents in and ordered them around. Witness 8 texted a Supervisor. Alyssa Fusaro took pictures of Witness 1 saying they weren't sworn in and that they weren't supposed to be touching the bags. She was telling TJ Fitzgerald and he said let's go tell the media, they are downstairs. She had a look of disgust on her face.

Alyssa Fusaro was screaming out in the hallway, "Oh they called the Sheriffs on me". Alyssa Fusaro had come in that morning saying, "I don't trust anyone in the office".

#### **Witness 11 – Full Time Luzerne County (non-Elections) employee**

Alyssa Fusaro came back and was demanding an Elections employee to give her a statement on what transpired over the paper issue. Witness 11 called the employee over to look at something to get her away from Alyssa Fusaro. Alyssa Fusaro followed her and was hovering near them. Witness 11 made small talk until Alyssa Fusaro walked away. Witness 11 told the employee she needs to talk to HR and her supervisor about Alyssa Fusaro.

Witness 11 saw the (hallway) incident but couldn't hear anything from where he was located. Witness 11 brought them (employees) back to the breakroom afterwards. He wanted them to calm down. He said he'll get a deputy and help is on the way.

Alyssa Fusaro came to Witness 11 on Election Day to demanding "I need reports because we've been hacked". Witness said if the state system was hacked there was nothing they (Luzerne County) could do about that. Witness 11 told Ms. Fusaro that "we were not hacked".

When asked what her reason was to believe we (Luzerne County) were hacked, Witness 11 replied that she was unable to provide a reason.

#### **WITNESS 12 – Full Time Elections Employee**

Tuesday November 8<sup>th</sup> :

When we were walking to the office after finishing the pre-canvassing of mail ballots (approx. 9:30 pm), Ms. Fusaro stopped me and said, “You had better start thinking of a very good excuse. I have questions and you better have a very good answer.” This was in reference to the paper shortage.

Wednesday November 9<sup>th</sup>:

Ms. Fusaro came to the office first thing in the morning to “work on her report.” She set up at one of the empty desks at the front of the office. While the Administrative team was working to empty the Judge bags, I was working back in the fishbowl preparing for the ballots with deficiencies meeting. Ms. Fusaro came back while I was pulling a report from the Agilis machine. She said she wanted my official statement about what happened with the paper for a report. When I did not immediately give her a statement, she became agitated and demanded a response. Witness 11 was in the office and asked a question about the set up for the courtroom and Ms. Fusaro followed me. While I was speaking with Witness 11, Ms. Fusaro stormed off saying “Fine. I will just give my report without your statement.” My Supervisors were not in the office at that point, so I went to ask the Office of Law what action I should take. I was advised to speak with the County Manager and HR. The County Manager was not in the office. I spoke with a Human Resources employee on the phone.

I returned to the office and continued working. Ms. Fusaro began going behind two Elections Bureau employees and digging through the garbage bags they were using to empty the Judge bags. I could not hear the details of what was said during these interactions, I was only able to see she repeatedly targeted the same employees. Witness 8 came back to me at one point and asked what they should do. Since I was already involved in situations with Ms. Fusaro that morning I told her to reach out to a Supervisor and let her know what is happening. A Supervisor told Witness 8 to have security remove Ms. Fusaro. Security came and Ms. Fusaro refused to leave. Ms. Fusaro was on her phone periodically during this time. She continued to harass those

two employees (Witness 1 and Witness 2). After one of the girls came back in tears asking to take a break, I went to confront Ms. Fusaro.

I told her she is not to direct the staff in this office and this issue has been addressed with her multiple times. We got into a heated argument over her belief that she is in charge of directing the office. Two Deputies arrived during this argument, and told us to separate. I walked a distance away. The Sheriff came and asked me what was going on, he asked Ms. Fusaro to leave the office to speak with her in the hall. When Ms. Fusaro was removed from the office, I reiterated to the staff that she is not to give them orders and if she continues to do so they need to report it to HR.

At some point during the chaos that followed it was reported that Ms. Fusaro began taking photos of the employees and telling them she was going to give it to the news since they weren't sworn in and touching ballots (they were not touching ballots). Since I was in and out of the office, I did not witness the rest of the situation as I was trying to prepare for a meeting; I was unaware of the extent of what had transpired between Ms. Fusaro and these employees.

#### **WITNESS #13 – Full Time Elections Employee**

Several days prior to the election on November 8th, Alyssa Fusaro began "helping" a temporary employee recruit poll workers for various polling locations. I was concerned about this because election officials have received warnings and reports prior to the election regarding poll worker interference in elections. Ms. Fusaro had also been "working" the front counter at the Bureau in the days prior to the election. Ms. Fusaro was overheard agreeing with a poll worker who came into the Bureau that Bureau staff were trying to "rig" the election.

On Tuesday November 8th, as the issues on Election Day were unfolding, Alyssa Fusaro stated to me that she thinks the missing paper in the voting machines was done on purpose. She also asked me if it was possible that the machines were unsealed and paper was taken out of them. I advised her that is next to impossible, as the seals are barcoded and it would take a considerable amount of effort to do so.

Both myself and my Supervisor were at a meeting offsite the morning of November 9th. At around 10:30 AM, I began receiving text messages from one of my administrative assistants. She stated that Alyssa Fusaro was in the Bureau of Elections and was disturbing

employees. I advised her to contact security, as I was off site. I did not fully understand what was happening at that moment. When I got back to the Bureau, Alyssa Fusaro had left and two administrative assistants, one of which is a temporary employee, were in our break room with an employee from Human Resources, Lynnmarie Shedlock. They were incredibly distraught and were sobbing. They began to recount what happened. They told me that Alyssa Fusaro had called them racial slurs and that TJ Fitzgerald screamed at them as well. They also told me that Alyssa Fusaro was going through their trash and screaming at them while doing so. It escalated to the point where we now need to have a sheriff's deputy in the Bureau every day during the work day.

On the first day of adjudication, myself and another employee were moving a wheeled cage with ballots into Courtroom A in Penn Place through the public seating area to begin adjudication. When we walked in, I heard TJ Fitzgerald say "...executed" and began to sing/chant "dead man walking" roughly three times<sup>11</sup>. Ms. Fusaro empowers dangerous people, like TJ Fitzgerald.

To be candid, I have not experienced a political environment quite like this. Ms. Fusaro has tasked myself and other Bureau employees on numerous occasions and she routinely oversteps her authority. Ms. Fusaro makes working for the Bureau a hostile work environment, and you never know what she is going to say or do. She has keycard access to the Bureau, which I personally think should be revoked for safety concerns.

#### **Excerpt from Report of Alyssa Fusaro**

Ms. Fusaro drafted a report as an individual Election Board Member. An unsigned copy of the report was provided to me through the Office of Law. This report will include excerpts from Ms. Fusaro's report related to this personnel inquiry only. The portions regarding general elections processes and concerns would be relevantly addressed by inquiries commenced by the Election Board or County Council. The below is verbatim from Ms. Fusaro's statement.

"As soon as I could in the morning, I headed to the office to watch the opening of the polling place bags. Upon arrival, I tried to find a spot to sit so I could start this report. While watching

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<sup>11</sup> Timeline wise this would have occurred shortly after TJ Fitzgerald was allegedly with Ms. Fusaro taking photos of employees and cursing at them.



the opening of the bags, I noticed that 2 of the temporary employees<sup>12</sup> were opening the bags unsupervised in the back of the office (between Beth McBride's office and Jennifer Pecora's office). I was concerned that I had not heard anyone instruct them on how to open them or on what to keep and throw away. I went back and looked through their garbage bags (they each had their own) to ensure that nothing important was being thrown away. I found several voter lists containing names, addresses and other personal voter information. I immediately went to Joanne and asked her if the contents of each garbage bag was getting shred or thrown away. She told me that Building & Grounds comes to pick it up at the end of the day and she has no idea what happens to it. I asked her what should happen with the list. She told me that it should go into the Purple Eater (the shredder service bin). So, I dropped them in and went back to the garbage bags to make sure that there were no more list and found an election judge's Provisional Ballot envelope that was empty and ripped. The temporary worker opened the envelope, handled the provisional ballots by placing them into her bin. Very concerned, I went back to the desk I had been sitting at and called a Council Member to advise them of my concerns. After telling him of my concerns, he asked me if they had been sworn in. With him on the phone, I went back to both employees and said: "Have you been sworn in?" the one girl asked me what I meant. So, I raised my left hand (my phone was still in my right hand and to my ear with the council member on the phone)<sup>13</sup> and said: "Did you raise your hand in front of a judge and swear to uphold the election process?" She told me no. Then I looked at the other temporary employee and asked, "Have you?" and she also told me no. I then asked them to please stop handling the bags and their contents. Knowing that they were not at fault and just taking instruction, I was extremely kind to them, and I even told them that I was sorry and that I knew that it was not their fault. The worker closest to me threw papers on the table in front of us and walked away. I went back to the desk and told the council member on the phone that they were NOT sworn in and I was unsure of what to do. They said, "yes I heard." As they were still on the phone and had been the entire time I was walking around, and they said that they would call me back. I resumed typing this report. Not too long after I hung up with him, Officers from the Sherriff's office came into the office and

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<sup>12</sup> Ms. Fusaro is mistaken. One of the employees she refers to as temporary or part time is in fact full time. This was confirmed the Human Resource documentation and personnel transaction reports.

<sup>13</sup> Surveillance footage corroborates the "raising of the hand" action.

told me that they were instructed to remove me from the office. I told them that they cannot remove me from the office as I am doing my job as an Election Official and was overseeing the election. I was told that they would check with their Sherriff and let me know but they still asked me to leave immediately. I was later told that I could view them from the glass enclosed area, but I would not have been able to view what the temp workers were doing as they were in the rear of the office behind a cubicle. I left the office. As I was walking out, one of the temporary office workers was walking out of the office across the hall rolling 2 more precinct bags behind her. I stopped and figured I would snap a picture of her with my phone so I could document her identity. Seeing me do this, she dropped the handles to the bags and yelled at me saying “don’t take my picture @#\$\$”<sup>14</sup> and moved forward as if she were going to come after me. I said “Fine, I will just go to the news.” I meant the press but I was scared at that point so I just walked away.”<sup>15</sup>

#### **Additional Information Disclosed During the Course of the Investigation**

##### Witness #13:

“During Logic and Accuracy Testing for the Primary Election board member Fusaro came to observe the process at the warehouse. Members of the public are permitted to observe in a dedicated area of the warehouse behind a barricade, they are not permitted to enter the work area of the warehouse or touch the equipment. Ms. Fusaro was not wearing her county issued ID badge, and attempted to push past a deputy sheriff on duty to enter the work area. Ms. Fusaro was told she was not authorized, and needed to be approved by Emily Cook or Mike Susek to enter that area. Ms. Fusaro told the deputy sheriff that she is the boss of Emily and Mike, she is here to do her job and asked if the deputy know who she was. Ms. Fusaro then informed the deputy that she had “many friends on County Council” and that she could make the deputy lose her job with one phone call. The deputy called me since I was with Solicitor Radick another part

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<sup>14</sup> It is unknown if Ms. Fusaro is referring to Witness 1 or Witness 2 as both were involved. Witness 2 admitted she made comments to Ms. Fusaro in response to Ms. Fusaro’s actions and comments as well as those of TJ Fitzgerald.

<sup>15</sup> At this point, surveillance footage from the second floor lobby shows Ms. Fusaro come into view from the direction of the Elections Office walking quickly towards the elevator. Her demeanor does not suggest she is scared, rather she appears angry. TJ Fitzgerald was following closely behind Ms. Fusaro and is observed speaking excitedly at an employee who was paused in the lobby observing the commotion. Ms. Fusaro and TJ Fitzgerald entered the elevator together; timewise, this was shortly prior to when the Adjudication Process was to begin on the 3<sup>rd</sup> floor.

of the warehouse. Ms. Radick and I informed the deputy that Ms. Fusaro is a member of the Board and as an "Election Official" is technically allowed to observe the process.

The deputy sheriff reported the incident to her superiors immediately, and they contacted Bureau leadership to request that members of the Board do not threaten their staff. I reported the incident to Mr. Susek. Mr. Susek (when he arrived) and I apologized directly to the deputy for Ms. Fusaro's behavior."

Email from Citizen at Polling Place on Election Day

Luzerne County Administration was forwarded the below email from a citizen.

**From:** [Cgulus80@gmail.com](mailto:Cgulus80@gmail.com) <[cgulus80@gmail.com](mailto:Cgulus80@gmail.com)>  
**Sent:** Tuesday, November 8, 2022 9:51 AM  
**To:** Election Board Distribution Group <[ElectionBoard@LuzerneCounty.org](mailto:ElectionBoard@LuzerneCounty.org)>  
**Subject:** [EXTERNAL]: To your attention.

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**WARNING:** This message is from an external email address. Do not click any links or open any attachments unless you recognize the sender **AND** you know that the contents of the email are safe to open.

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I just wanted to bring this incident to your attention that at the Luzerne Borough polls elected board member, Alyssa Fusaro jumped the line stating that "I am getting too many phone calls, I hope you all don't mind, but I am a county official".

At that time I was too aggravated to say anything and allotted myself some time before even sending this message. What this board member did was absolutely appalling to use her position to jump the line and not have to wait like everyone else claiming "there was no paper for one polling place & work needs to get done". I also need to get work done which is why I got there early so I can appropriately manage my time.

I am truly disgusted with the behavior that I have witnessed today, and wanted to bring this to your attention.

**E. Corroboration of Certain Allegations**

As set forth above, corroboration via surveillance footage was largely contained in footnotes. Although other corroboration references may also be found in footnotes herein, it is necessary to state the following was determined.

1. Ms. Fusaro alleged two temporary employees were working unsupervised. This is inaccurate as one of those workers is a full-time employee. This was confirmed by Human Resources documentation. In addition, other full-time employees are within the Bureau of Elections Office so it is not as though employees are unattended.
2. In her report, Ms. Fusaro indicates a temporary employee had handled provisional ballots and upon being concerned called a Council Member. I have asked numerous Elections employees, Executive Branch Supervisors and attorneys in the Office of Law, whether through conversation or in the presence of the Election Board, if at any point Ms. Fusaro raised a concern that an employee was handling provisional ballots. Categorically the only time the matter was raised by Ms. Fusaro was in her report (the excerpt contained herein) and with the Council Member, presumably Mr. Urban since he indicated he had been on the phone with Ms. Fusaro. There has been no evidence presented to the Elections Board or otherwise that employees handled completed provisional ballots as in "votes". Clearly had this had occurred, it would have at the very least been raised during the adjudication process which it was not.

There is no requirement under Title 25 that requires employees who are not canvassing ballots or counting votes to be sworn in. Best practices were observed in swearing in of employees when they would be tasked with handling votes. Ms. Crocamo's point is well taken that, although not required, it makes sense to just swear everyone in to avoid arguments over same.

As an aside, Election Board Members themselves only take the standard Luzerne County oath that all members of authorities, boards and commissions take. Arguably, a member of, for example, the Drug and Alcohol Advisory Board could make the argument that they have taken an oath so are permitted to touch ballots.

3. There is no evidence to corroborate that ballots were shredded.
4. There is no evidence to suggest from any witness, Ms. Fusaro or the Election Board that Ms. Fusaro's actions and statements regarding matters addressed in this report were Election Board sanctioned. 25 P.S. § 2643 provides that all actions of a county board shall be decided by a majority vote of all the members, except as may be

otherwise provided herein. As such, Ms. Fusaro's actions were unsanctioned by the Elections Board.

5. The statement related to threatening a sheriff's deputy with losing her job was corroborated.
6. The Luzerne County Information Technology Department indicated there is absolutely no evidence that Luzerne County was "hacked" during the election process.

#### **F. LIABILITY CONCERNS**

This report is not intended to be an exhaustive legal review of claims that could be potentially raised against Luzerne County and what our legal defenses would be. Should there come a time where an action with the Pennsylvania Human Relations Commission ("PAHRC"), federal Equal Employment Opportunity Commission ("EEOC") or a federal lawsuit are filed, specific legal allegations and defenses will be discussed at that time with County Council in an Executive Session.

Based on my review of the PAHRC Act, EEOC Act and caselaw related to hostile and/or abusive work environments, the alleged behavior on the surface raises legitimate concerns of liability and exposure for the County which can range from being ordered to take corrective action or monetary damages. As a board member appointed by County Council, Ms. Fusaro is arguably an agent of the County and holds herself out as same.

#### **G. REFERENCES TO LUZERNE COUNTY HOME RULE CHARTER AND CODES AND POLICIES OF LUZERNE COUNTY.**

Section 4.07.2. of the Luzerne County Home Rule Charter states the County Manager shall have the power to "supervise and direct, or delegate the power to supervise and direct, the administration, operation, and the internal organization of all divisions, departments, bureaus, offices, agencies, boards, commissions, and other administrative units of the County government not specifically placed under the jurisdiction of any elective County official, the Judiciary, or Office of Court Administration by this Charter or applicable law."

Furthermore, Section 4.07.3. states the County Manager shall have the power to "appoint, promote, discipline, suspend, and remove, or delegate the power to appoint, promote, discipline, suspend, and remove, subject to the terms and conditions of the County Personnel Code, other

personnel policies, applicable 25 labor contracts, and applicable laws, all County employees who have not been specifically placed under the jurisdiction of any elective or appointed County official, the Judiciary, or Office of Court Administration by this Charter or applicable law.”

The Luzerne County Administrative Code at Section 3.03 – Powers and Duties of the Manager – states at subsection B. states “The County Manager shall serve as the head of the Executive Branch of government for the County. The County Manager is responsible for the administration of all County operations placed in his or her charge by the Home Rule Charter, the Administrative Code and other County ordinances and/or resolutions. The County Manager directs the County’s organizational, operational, management, budget, and administrative operations and activities and provides oversight for all Division Heads in the County. The position plans, directs, and controls the operations and activities of all County employees who report through to this position.”

As such, Mr. Randy Robertson as County Manager on the dates in question, had the sole authority to direct employees of the Executive Branch or delegate that authority to other employees which he unequivocally did so. The statements from the witnesses, and to some extent Ms. Fusaro herself, clearly indicate that she was attempting to direct Elections Bureau employees that fall within the Executive Branch. Even if a majority vote of the Elections Board was obtained, which it was definitely not, the Board cannot direct employees in any fashion.

The Luzerne County Administrative Code at Section 2.10 – Luzerne County Authorities, Boards and Commission – at Section C states “For purposes of coordination, all authorities, boards and commissions shall work in close cooperation with such department in County government as are appropriate to the nature of their respective missions. The coordination shall exist for clerical services, reporting, budgeting, personnel, purchasing, data processing, and other administrative services that may be necessary.

The Luzerne County Administrative Code is a document that was drafted and approved by Luzerne County Council. The intent is for boards and departments within the County, including the Executive Branch, to work together. It does not give authority to a board, or a single member of a board, to direct personnel or be “their boss”. Luzerne County Council as a whole or via a singular Council Member is prohibited from directing Executive Branch personnel (or any other

branch personnel); therefore the premise that board members individually or as a quorum have the ability to direct employees is unfathomable. If there are issues or concerns, the board as a whole should discuss and then proceed to consult with/raise concerns through the chain of command of the Executive Branch. In this case, all evidence suggests Ms. Fusaro did not consult with either her board or Executive Branch supervisors; only Councilman Urban and TJ Fitzgerald.

The Luzerne County Accountability and Ethics Code at Chapter 102.G. defines “Covered Persons” as all employees of the County, all members and employees of County authorities, boards, and commissions, all elective County officials and all employees of their offices, and all employees of the Judiciary and Office of Court Administration.

Section 103.05 Standards of Conduct - sets forth the following pertinent standards of proper conduct to be followed by Covered Persons:

- A. Honor and Integrity – Dedicating themselves to the highest ideals of honor and integrity in all public relationships in order to merit the respect and confidence of Covered Persons and the Public.
- B.1. Service in Public Interest – Serving the best interests of public at all times with the recognition that this is the chief function of government.
- O. Discrimination – No Covered Person shall in any way, engage in discrimination on the basis of race, religion, creed, national origin, age, disability, sexual or gender, or shall any official or employee engage in actions which are oppressive or which constitute harassment.

In addition to the Home Rule Charter and Administrative Code, the alleged conduct described in this report tends to indicate violations of the Luzerne County Ethics Code.

#### **H. COUNCIL AUTHORITY OVER MEMBERS OF AUTHORITIES, BOARDS AND COMMISSIONS**

The Luzerne County Home Rule Charter at Section 2.09.A.5. gives Luzerne County Council the authority to make appointments to County authorities, boards, and commissions as provided for in the Charter or by applicable law. Section 8.04 sets forth the process and qualifications of Elections Board members, as well as, what would restrict a citizen from being appointed and/or circumstances with which a Board member’s seat may be declared vacant.

The Home Rule Charter does not address what to do when circumstances arise, such as those alleged in witness statements contained in this report, and what Council's legal authority is to take action. The Pennsylvania State Constitution classifies board members such as Election Board members as civil officers. Article VI §7 Removal of Civil Officers – indicates "appointed civil officers...may be removed at the pleasure of the power by which they shall have been appointed. As such, the sole discretion on what action, if any, is taken based on this report, rests squarely with Luzerne County Council.

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