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CSHB 1900 DEBATE - SECOND READING

(by Goldman, Metcalf, Bonnen, Raymond, Button, et al.)

CSHB 1900, A bill to be entitled An Act relating to municipalities that adopt budgets that defund municipal police departments.

REPRESENTATIVE GOLDMAN: To quote Yogi Berra, "It's like déjà vu all over again." Here we are with **CSHB 1900**, a pro-public safety, pro-police, back-the-blue bill. Members, when last we met, we did make some changes that Representative Anchia and Representative Turner requested in the bill. It was sent back to State Affairs and those changes were made. And now I lay out **CSHB 1900** in its current form, and I believe there are several amendments.

[Amendment No. 1 by Goldman was laid before the house.]

GOLDMAN: This amendment is just clarifying language on the dates that this is adopted.

[Amendment No. 1 was adopted.]

[Amendment No. 2 by Goldman was laid before the house.]

GOLDMAN: This amendment is about a municipality in defunding under a chapter. It's clarifying for that particular section of the bill.

[Amendment No. 2 was adopted.]

[Amendment No. 3 by Dutton was laid before the house.]

REPRESENTATIVE DUTTON: All of us have to live within the district that we represent, and there's a reason for that. That's because you ought to know more about that community before you can come here and say you represent that community. You ought to know what that community does. You ought to know what they feel. You ought to know what they want. And essentially, you ought to know who they are. I think that's the same position that we ought to apply to people we allow to have a gun and they can actually patrol your neighborhoods without living in those neighborhoods.

So what this amendment does is says that this bill won't go away. It just starts to apply only when 35 percent of the police force actually live within that municipality. It doesn't require 100 percent because I thought that was too much. And you know why I thought that was too much? Only because the percentage is so low now for police officers within the city of Houston—that's what I'm talking about. Within the city of Houston, so few police officers live within the city. Now, I was talking to Representative Frullo back there, and he said, "Well, that's

because it's unsafe." And I said, "Well, that explains it, doesn't it?" If we had more police officers living in the city, the city would obviously be safer. And you know why you ought to know that? Because you passed a bill that said if more people had guns, we would be a safer community. And so this follows that same logic, that all the people who we now already let have guns, if they could live in the community, the community would be a lot safer.

And so that's what this amendment does. I applaud police officers. I'm having a meeting with the chief of Houston's police, who's a very good friend of mine. He grew up in my neighborhood. And he's actually coming here next Tuesday, so he'll be here. And I shared it with some of my police officer friends, and some of them said, "Well, we'd like to live there, but we just haven't been asked to do that." And so what this amendment does is ask that this bill apply only when 35 percent of the police officers live within that jurisdiction.

GOLDMAN: As we discussed last week on this amendment, it should not matter where a police officer lives. It should matter where they serve, and they serve admirably in our cities and municipalities. And that's why, respectfully, I am going to be against Representative Dutton's amendment.

DUTTON: I know this is not a tough vote, but then, they don't pay us \$600 a month to not do tough votes. And I know this one is tough because it looks like it's aimed at police officers, but it's really not. What this is aimed at is safer communities. Because I guarantee you where the police officers live and wake up every morning to go to work, I'll bet that's a safe community. And so one of the things I think we ought to do is in making communities safer, we ought to do that by starting to allow the people who we employ to help our communities be safer, have them live there as well. And so if we could do that, I guarantee you we would have a safer community because—I'd love to make this percentage a hundred. I think if you made it a hundred, you wouldn't even have anybody around here saying anything about defund the police because they would be your neighbors. They would be the people you go to church with. They'd be the people you see at the grocery store. And so, unfortunately, there's some communities that don't exist like that. There are communities in this state where the people who live there don't see a police officer until something bad happens. And so all they ever associate police with is something bad has happened. They don't see the police officers at your church, at your grocery stores, at your civic club meetings, or next door.

REPRESENTATIVE REYNOLDS: Chairman Dutton, I believe I understand the reason and rationale behind your amendment, but I wanted to ask you a few questions to make sure my understanding is correct. So is your amendment to basically ensure that police officers live within the area they patrol to make sure that police officers are familiar with those areas that they are patrolling, that there is more accountability? Is that part of your reason?

DUTTON: Yes, and more especially so that people will be more familiar with them. Because like you and I both know, there are a lot of people in Texas and communities who the first time they see a police car, they react the way you and I would if you saw one in the rearview mirror with the lights flashing. I mean, the

blood pressure goes up. And so what this tries to do is to say police officers aren't bad—police officers are great. Police officers are needed in these communities and not just to patrol in this community but to live in this community.

REYNOLDS: So Chairman Dutton, and I know this is a—when you talk about "defund the police" wouldn't you agree that's a false narrative? That there really is a—most people who have coined that phrase were talking about reimagining, to reallocate, and not to end policing but to shift resources so that there is more, for example, neighborhood policing.

DUTTON: Well, yes, somehow or another I think there were some people who sort of stole the narrative of "defund the police," because they caused it to mean one thing when the people who started that phrase meant something totally different. For example, if you talk to the people who started that phrase you'll find out that what they meant or intended was that police officers ought not to be called to anything or an event that doesn't need law enforcement attention. Sometimes, if there is a dispute between a husband and a wife, and it's not a violent confrontation at the time, then you may need somebody to go over there who can do something else other than be a policeman. If you've got a mental health problem, then you may need a mental health professional to go and try to diffuse the situation or try to help that situation. But just imagine that it's a mental health situation and somebody shows up with a gun. Well, then, you've added more fuel to this fire, and that's what happens many times in our communities.

REYNOLDS: And Chairman Dutton, isn't it true that when you have police officers who live in the communities that they serve, that you don't really have as many incidences of racial profiling?

DUTTON: Oh, absolutely not, because the community is more familiar with the police officer and the police officer is more familiar with the community. And if the police officer is your neighbor, you understand them and appreciate police officers more.

REYNOLDS: And that builds more trust within the community and the police.

DUTTON: And as a consequence, you end up having less crime.

REYNOLDS: So basically your amendment would help reduce crime and build safer communities. Is that correct?

DUTTON: Absolutely, and I think the best thing about this amendment is it'll cause police officers to recognize communities now, particularly communities of color, as something other than to be an occupying force. Because many of them don't live in that community, many of them don't understand a lot of times the people in that community. So this helps on both sides. It helps on the community side and the police side.

REYNOLDS: It helps both sides because when the police officers live in the community, they may understand that all communities aren't the same. They may understand unique needs that that community has, correct?

DUTTON: Absolutely, and the community would understand the police officers as well. Because they have a job to do, and if the only time you ever see police officers is when something bad happens, you tend to think of police officers as bad people, when that's not really who they are. And so if they live in the community, I think the community will have a different appreciation for police officers.

REYNOLDS: And then it would be less likely that the police officers would view those people in that particular community as a potential threat.

DUTTON: Exactly, and this doesn't say they have to live there. This just says this bill, as it's drafted now, only applies when the percentage of police officers who live in that community reaches 35 percent.

REYNOLDS: Well, Chairman Dutton, I think you have an excellent amendment that would bring accountability. It would ensure safer neighborhoods. It would build more public trust, and it would be good for the communities and the police. And I hope that people will support your amendment.

REPRESENTATIVE RAMOS: Chairman Dutton, I think this is an amazing—this is a wonderful amendment. I think it's often really overlooked. Have you worked with children in communities and diverse communities, sir?

DUTTON: When I was in college, I worked at a United Fund Agency called the Julia C. Hester House. I was the athletic director, and there were police officers I worked with who would actually bring youngsters to me. They'd say, "Look, we're going to release you to Mr. Dutton, but if you don't do everything that he tells you to do and he calls us, we're going to come back and take you to juvenile." And so that happened—that happened at least probably once a week for a whole year or a couple of years.

RAMOS: And that officer was able to communicate with the children and kind of speak to them in their own language, something that they were familiar with?

DUTTON: Yes, and the children understood the officer. And the moment we started playing basketball together and baseball together, everything changed. And so their idea about the police officers and the police officers' ideas about them, I think that had a lot to do with the changes.

RAMOS: Yes, sir, and I think especially now, where we are at now, a lot of our young communities and our young generation, especially of color and even progressive whites in the urban areas, there's a lot of distrust right now with police. And I think having those as your neighbors, people in your community, you will not see them nor will the community see the police as "others," but the police won't see the children in the communities as an "other," either. They coexist and live together, and I think this is very brilliant. I hope that we support this amendment because we all—everyone here is expected to live in their communities. Isn't that correct?

DUTTON: Right, and there's a reason for that, like I said earlier. It's because we need to know what those communities desire.

RAMOS: Exactly.

DUTTON: And the only way you're going to know that is you live there. And if you don't live there, then, you know, you become part of that occupying force that comes in to do things. And we don't want to require that, but we require just about every official, every elected official, to live within a certain jurisdiction or within certain boundaries within that jurisdiction. And again, that flows throughout until you get to people who are employed. Now, I think that the reason we ought to do it for police officers is because we give them the absolute authority. And we don't give that to any other elected official—we don't give that authority.

[Amendment No. 3 failed of adoption by Record No. 833.]

[Amendment No. 4 by J.D. Johnson was laid before the house.]

REPRESENTATIVE J.D. JOHNSON: Members, this amendment simply says that it's not considered defunding if we reduce civilian positions within police departments. In the City of Houston, there are over 1,200 civilian positions—one thousand two hundred civilian positions. Some of those positions, and this is coming directly from their budget, includes a buyer, a car attendant, a car attendant supervisor, a custodian, customer service cashier, fixed asset clerk, payroll clerk, laundry worker, truck driver. This is the HPD, Houston Police Department's police budget. Truck driver, word processor, clerk typist—these are civilian positions within HPD, Houston Police Department. At any given time that HPD decides we no longer need a car attendant, we no longer need a car attendant supervisor, we no longer need a truck driver, we no longer need a typist—that does not mean that the City of Houston has defunded the police. It simply means that those fiscal conservative city council members of your city have made the conscious decision to do what is in the best interest of that city. There is no reason why state legislators need to tell the city how they should fund or not fund or reduce or increase budgets for their constituents, which are your constituents. Many of you in this room were city council members just like me, and I certainly would hate for some state legislator to tell me I defunded the police because I reduced a janitorial position from HPD or if of an \$800 million budget, I reduced \$10,000 or I reduced even \$1 million.

Let's stop with this rhetoric of defund. This is not defunding. These are city council members and mayors looking out for what's in the best interest of their budgetary bottom line. None of you want to be placed in that position. Please don't put cities in the same position to try and make a decision about how they should use policing, because they want their neighborhoods safe as well. This amendment simply says, "for a fiscal year in which the municipality adopts a budget that is less than the budget for the preceding fiscal year, the reduction in the budget is due to changes in non-active duty personnel," which means those that are not police officers. No one in this building—not one democrat, not one republican, not one libertarian, not one independent, white or black, Hispanic, Asian—wants police officers reduced, because they are the protection that we oftentimes need in our communities. So let's not start playing this game by saying we're defunding. That's red meat that we don't need. We want to make sure that our cities are safe, but we also want to make sure that we don't take

authority away from city mayors and city council members to do their job. Members, I'm asking you to simply vote conscience, not party. I'm simply asking you to vote what is common sense that all of you out here talk about every single day. This is the most commonsense amendment that I could put forth. Let's not play games with police officers. Let's not play games with cities and pit them against one another. Let's not do that. I'm asking you to vote yes on this amendment so that our cities can be made whole and our police departments will be taken care of.

REPRESENTATIVE COLE: I believe you served on the city council in Houston just as I served on the city council here in Austin. Is that correct?

J.D. JOHNSON: Yes, ma'am.

COLE: And in that capacity, we came to have an appreciation for local control, wouldn't you agree?

J.D. JOHNSON: Yes, ma'am.

COLE: And how do you feel that this bill erodes local control?

J.D. JOHNSON: Well, it erodes it all the way because the legislators are telling the cities what they have to do with their budget. If a city has a reduction in its taxes, if a city has a reduction in its sales receipts, its property taxes, if its bonding went down—if any factors come into play—we have taken away the authority and the power for that city to make a decision on what it should and needs to do for the best interest of its constituents.

COLE: So we take away the authority that the governing body was elected to do for the people that it serves.

J.D. JOHNSON: That they were absolutely elected to do.

COLE: Let's talk a little bit about this narrative of defunding the police as opposed to reallocating funds for the police or reimagining funds for the police. Isn't it true, as it was in Houston—

J.D. JOHNSON: Well, before we get to that, I don't want to reallocate, because this amendment doesn't reallocate, and I would hate for somebody to say, "stay with the amendment." Because I do have another amendment as well, but we can stick with the narrative of what defunding means, which is a misnomer. There is no defunding. There may be a reduction. As my amendment just pointed out, it's a reduction in police budget. That does not mean defunding. It just simply means that's a reduction in the budget because we reduce budgets all the time. Here in this state, we reduce budget.

In 2015, the governor, Governor Abbott, reduced DPS's budget by \$50 million. No one said anything about it was defunding. No one said, "Oh, Governor Abbott defunded the police." That was not defunding. That was a governor making a conscious decision about what he needed to do for the best interest of the state. Now, while it may have irritated many constituents like myself, I still did not say that he defunded anybody because it wasn't defunding.

The governor made a decision. It boggles my mind when we start to talk about defunding police, because we know what that narrative is, and that's not what we're here to do. We're here to be good legislators.

COLE: So wouldn't you agree that if a local governing body decides to use its budget differently than what the state thinks is true or correct, that that would be overstepping its bounds, the state's bounds?

J.D. JOHNSON: Way overstepping. Way overstepping.

COLE: You have a good amendment.

RAMOS: Representative Johnson, I think this amendment is really important. I think we need to look at it as you do, sir. Do you have staff in your Capitol office, whether it's here or in the district?

J.D. JOHNSON: Yes, ma'am.

RAMOS: So you don't legislate all on your own?

J.D. JOHNSON: Ma'am?

RAMOS: You need a team of people to support you, correct?

J.D. JOHNSON: Yes, ma'am.

RAMOS: And not everybody in your office is a legislator, correct?

J.D. JOHNSON: No, ma'am.

RAMOS: Right.

J.D. JOHNSON: No, ma'am. They may think they are, because they tell me what to do all the time.

RAMOS: Sir, I think that's an important point to make because our police officers need an army of support in their people, like you said, whether it's car attendants, whether it's car washers, whether it's people there to assist them in the data entry or whatever. I think it's a false narrative to say that it's only the boots on the ground and the uniformed officers when, in all honesty, it is a whole slew of personnel. And I really appreciate that your amendment addresses that, that it's not only the officers but it also protects the non-officer personnel or the non-duty personnel who provide that additional support that our communities are asking for and desperately need.

J.D. JOHNSON: Yes, none of the positions that I mentioned—I mentioned to you typist and car attendant and custodian—none of those reduce the number of police hours on the ground in our communities. None of those reduce the presence of police officers in our communities. It just simply says that these people can be helpful to policing and the police force, but it is certainly not changing public safety at all.

RAMOS: Exactly, and I think what your amendment does is it makes the officer's job easier for them, and it makes them better at what they do because they have that personnel and that support behind them. But by not addressing that in this

bill, you're essentially punishing the officers, the actual boots on the ground, for some consequences that will directly affect them, but they're indirect consequences of this bill. It's a great amendment, sir.

GOLDMAN: Sorry, Ms. T. Members, obviously, if a department has too many janitors or other officials in there, we want that money to be maintained within the police department's budget to be used for public safety. So respectfully, I'm going to oppose this amendment.

J.D. JOHNSON: In city budgets, when you cut, you don't say simply, "Oh, we have extra money. Let me just move it over here; let me give you a raise." There are processes in place. You don't just simply say that this is the budget it's going to be forever—forever. The fact that cities may have a reduction in population, the fact that crime may go down—isn't that a novel thought? Wow, crime actually went down in Texas.

REPRESENTATIVE RAYMOND: I don't want to cut into your flow. You've got a flow—when you finish.

J.D. JOHNSON: Well, you already messed up the flow, but it's all good. It's still there.

RAYMOND: Okay, I'm going to go with the flow. I just wanted to clarify, because I'm listening—I read the amendment and I'm listening—and this is what I'm hearing, and if I'm wrong, tell me. So let's say, because you talked about Houston, so let's say 150 of these positions get cut, okay?

J.D. JOHNSON: Out of the 1,203 positions that are in the City of Houston—civilian positions.

RAYMOND: So let's say there are 1,200 civilian positions but they're under the umbrella of funding for law enforcement, right?

J.D. JOHNSON: Yes.

RAYMOND: Okay, so if your amendment passes and 200 of those positions are cut, then you don't want that reduction to be used in the calculating of whether or not the budget went down, right?

J.D. JOHNSON: No, sir.

RAYMOND: No?

J.D. JOHNSON: No, sir, it's not considered defunding. What the bill says is that any reduction in a police budget would result in what the author considers defunding.

RAYMOND: Right, so if 200 of these were cut—under the current proposal, right? If 200 were cut, then the budget obviously went down, right?

J.D. JOHNSON: Yes.

RAYMOND: And you don't want that to be counted against Houston, right?

J.D. JOHNSON: It should not be to the fault of Houston.

RAYMOND: I hate to say I'm confused, because I try to fight for the little guy, and so I'm hearing you say it's okay to cut the little guy. That's okay. We don't want you to use that against us if we cut the little guy, but if you cut police, then you get it. So that's what we're hearing. I'm not the only one. We were talking about this going, wait a minute, so he's saying that it's okay to cut the little guy?

J.D. JOHNSON: You mean the author? Or do you mean my amendment?

RAYMOND: I mean your amendment. With your amendment, you can fire, what did you say, attendants and—what were some of the positions you were talking about? Say them again?

J.D. JOHNSON: These are all civilian positions, non-active duty.

RAYMOND: So what are some of the positions you mentioned?

J.D. JOHNSON: Janitor, truck driver, web designer, word processor, typist.

RAYMOND: Okay, let's go with janitors. So if you cut 50 janitors, you fire them, you don't want that to be used against the city. And that doesn't make sense to me, man, because it sounds like you're saying it's okay to fire the janitors.

J.D. JOHNSON: What I said was that that does not reduce policing in our communities. The bill—we only need to talk about the bill. The bill talks about public safety. This is about backing the blue. This is about making sure there's public safety. This has nothing to do with cutting the little man. What it does is give the power to the cities to be able to make their decision on what's best and in the best interest for that city. If that city has said our website is already built—we've already built the website so therefore, this position is going to go away at the end of the fiscal year. We're not going to re-up that position.

RAYMOND: Let me try to pose the question another way. If your amendment passes and the City of Houston wanted to fire 200 people—non-uniformed but that are in that category or in that department—they wanted to cut 200 of them. Let's say they're janitors, custodians, just to make it simple. So if your amendment passes and they cut 200 and they fire 200 custodians, that's okay.

J.D. JOHNSON: We're not going to call it firing. You're missing my point. That's not my point.

RAYMOND: I'm asking the question. If they fire them—

J.D. JOHNSON: My point is if they decide to reduce positions from the City of Houston, it shall not be held against the city because it does not take away from public safety. You are now mixing up—I shouldn't have let you interrupt my flow. Now, I regret letting you interrupt my flow because you're mixing this thing up. That's not what I'm talking about. You're worrying about whether or not the city is going to have to let go. The city reduces and fires and lets people go, and people retire and they don't rehire for those positions all the time. Every business retires individuals. Every business fires. Every business lets people go. That does not mean that they are heartless and they're careless and that does not mean—that's not what I'm saying. I am not trying to step on the little guy if you stick with my amendment.

If you stick with the bill, the bill says by reducing any budget of any policing, we will punish cities. What the bill says is that cities no longer have authority over what they can do with their police budget. That's what that says. It takes away power from cities to make decisions that are in the best interest of the city. That's all it does. I don't want to get into who got fired and who this and who that because that's not what my amendment does.

RAYMOND: Well, I do, because it's hard for people to find jobs these days.

J.D. JOHNSON: Tell me in Houston if one of your cousins got fired. I would talk for them.

RAYMOND: Look, you're my friend. We are on the same side almost all the time. Maybe if you amended the amendment to say if people retired and they decided not to fill that position, that's different to me. The way this is written, they can fire 200 janitors. They lose their job, and that's a way to cut the budget, and it's okay. That's the way it's written.

J.D. JOHNSON: Do cities have authority to make monetary and budgetary decisions? Do they have that decision to make on their own? To make a decision on positions? Do they want to see these positions filled? Do they want to reallocate resources? That's what that is. This is not about staying the same. It's about being what's in the right interest for the city.

RAYMOND: I'm just saying that when you responded, you said that if they retire and they don't want to fill that—that's very different than some little guy having a job, trying to make it, and they get fired and it's okay. Your amendment makes it okay.

J.D. JOHNSON: So if someone leaves from the janitors—let me give you another example because you keep saying firing. That's what you've got in your head. At the end of the day, they may take the janitor from HPD and say he's no longer needed at HPD and move him over to building services. They still have a job with the City of Houston. But that's a budget reduction to the HPD because that's no longer a position in HPD. This individual who is a janitor still has a job. The typist and the truck driver—

RAYMOND: That's a much better scenario, but that's not the way the amendment is written.

J.D. JOHNSON: I'm not trying to get into the weeds, but at the end of the day, people don't have to lose their job, but if positions are switched from department to department, it's still going to be a city position. Members, again, my amendment simply just says that it gives power back to the cities. We're not reducing public safety. We're not reducing the number of police officers or police officer hours that are patrolling our communities. This just simply gives power to the cities to make a decision that's in their best interest. And believe me, if those cities do wrong, their constituents will vote them out. Leave the power in the hands of the cities themselves.

[Amendment No. 4 failed of adoption.]

[Amendment No. 5 by J.D. Johnson was laid before the house.]

J.D. JOHNSON: I don't know if anybody's listening because you're going to go party line anyway, but let me give you another example. I mean, it's real talk. I don't get up here and talk just to talk. But I know this is party line, and you guys don't want to go back to your cities and say, "Oh, we defunded the police," because somebody with a scorecard is going to tell you you defunded the police when you didn't defund the police. You just simply made a fiscal conservative decision.

Now, when the Super Bowl came to the city of Houston, we had to go and contract and give overtime to many, many, many police officers to make up for the hundreds of thousands of new residents that were coming to the city of Houston for the Super Bowl. That means we increased the budget because we knew we were going to need overtime for that festival. Somebody put up a bill today talking about hot rods. Well, they're going to go into that city and they're going to need more police officers for that hot rod show, the same way we need more police officers when we're putting on big festivals—South by Southwest or anything else. That means those budgets have to increase by sometimes \$10 million. But then the Super Bowl is gone the next year. This bill says that the city has to leave that budget at the additional \$10 million. That's what it says. But they don't need the \$10 million because the 100,000 people that came into the city are gone. So where do we get this additional money? Because the Super Bowl is only one time, but I've got to keep that budget consistent for the next however many years the bill says. My amendment just simply says we take into consideration when there are large festivals, Super Bowls, or other special events that will make budgets increase during that one budget session or during that one budget season.

GOLDMAN: I'm going to respectfully oppose this amendment. It's redundant. What Mr. Johnson is saying is already covered in the bill. They are allowed to increase their budgets if they need to.

J.D. JOHNSON: Of course they can increase their budgets if they need to, but then they wouldn't be able to reduce it if they have to. That's all it is.

[Amendment No. 5 failed of adoption.]

[Amendment No. 6 by J.D. Johnson was laid before the house.]

J.D. JOHNSON: Hello? Just want to make sure that everybody's listening. You're all out here looking at me, and some of you are out here nodding your heads going, "That makes sense. My God, that makes sense." And yes, I'm looking at some of you R's. That makes sense, but then you turn right around and you vote no when it makes sense. Why? Because I've got to go party line. We did not come to this body to be delegates. We came here to be leaders. Please, stand up and be a leader.

Because the idea about policing is to make communities safer. We want to make our communities safer. Now, police officers—and I've talked to them, you've talked to them—they are an intervening body. They intervene after a crime has been committed. Well, you know what police officers want to do? If you talk to any of your cousins, friends, uncles, brothers, husbands, wives—if

you talk to any of them—they would tell you, "We want crime reduced." My question is, how do we reduce crime? There are many different measures that we can take to reduce crime. And if we reduce crime, then we've done our job, the police have done their job, and everyone can be happy. We want to reduce crime.

My amendment simply says that the police themselves can put in preventive measures to help reduce crime. This would be done at the police department's request. This is the police department saying, "We voluntarily want to reduce our budget to put money into preventive measures." The point is that police officers don't want to be mental health police officers. They don't want to deal with that. And oftentimes when police officers are called to the scene, there's somebody who is in psychosis. There's somebody going through turmoil. Police officers want somebody to be there to support them. And so if the police department chooses to reduce its own budget to create preventive measures, that's what this amendment says. The police department asks for a reduction in their budget to create preventive measures.

RAMOS: You spoke about being leaders, and I think this is a great amendment because would you agree that many times in our communities, police officers are there in a reactive position more so than a proactive?

J.D. JOHNSON: Yes, ma'am, absolutely.

RAMOS: And this amendment allows the police department, through various initiatives, to be proactive versus reactive?

J.D. JOHNSON: Yes, ma'am.

RAMOS: Which could mean different initiatives that address crime or that address areas where there is a lot of crime through various measures, not just uniformed officers, correct?

J.D. JOHNSON: Yes, ma'am.

RAMOS: I don't know if you know this, and many people probably don't know this, but you spoke about being leaders. The City of Dallas is a leader in this initiative, and I'm sure your Houston Police Department is as well and many of the municipalities. Unfortunately, this bill requires me to know what's going on in McAllen or Timbuktu, Texas—the overall bill—but your amendment allows the different municipalities to make their own decisions and not one blanket uniform policy.

And one of the things is that if people here just research proactive policing, just lighting in a community that essentially could be a high crime area, lighting—that is not necessarily the police department but it could be through various departments, like the City of Dallas has the Office of Integrated Public Safety Solutions—when you put lighting in a high crime area, drug dealers don't want to hang around there anymore. And as a matter of fact, our former colleague Mayor Johnson had a press conference about the reduced crime just due to lighting, not boots on the ground. And so I commend you for this amendment because it allows police departments, it allows municipalities, it allows good

leaders to make those decisions to address the criminal element and high crime areas through various initiatives and not in a very narrow-minded way of boots on the ground.

COLE: Representative Johnson, you talked about police officers not wanting to be mental health providers.

J.D. JOHNSON: Yes, ma'am.

COLE: Can you give us an example of how that is overstepping the bounds of their particular expertise?

J.D. JOHNSON: Oftentimes, police officers are called to the scene of the crime. At the scene of the crime, the individual is going through a mental crisis. They're in psychosis. They're not able to follow simple commands and simple instructions. The police officers realize that this is happening and realize that it is happening far too often. They may want to use resources to then bring in mental health therapists to do more trainings for police officers. They may want to contract with other departments that will be able to support these police officers in dealing with many of the calls to service from people who are having mental crisis.

COLE: Do you consider when a governing body makes that decision to use those funds that came from a public safety budget to be defunding police?

J.D. JOHNSON: It's not defunding police. It's all working together. It's allowing cities to make what's in the best interest of themselves. It's allowing the police department to have better resources, because what we don't want to happen and as we have seen all the time, when things happen, we have to be able to respond and react. Unfortunately, what we will not be able to do as a city, any of these cities, will be to respond and react to their own budgets when it comes to their cities because they will be hand tied, literally, because they will not be able to do what they need to do for their budget. This is truly about local control. I don't know why we don't have an amendment or a bill somewhere that simply says, "We're going to cut out all city councils and mayors and we, from the state body, will start to run all municipalities."

COLE: I couldn't agree with you more, Representative Johnson. This erodes local control and stands in the way of a city's ability to govern. In my city here in Austin that I represent, in my district, the City of Austin made a decision to use more public safety funds for mental health provisions to avoid any allegation and make sure that they didn't intend for that to be defunding the police. So I'm glad that you support that decision and understand it. I support your amendment.

J.D. JOHNSON: My amendment simply says that if the police department from your municipality decides to put more training in for 9-1-1 calls or to do preventive measures, they can do that, and it will not be to their peril. It would simply be for the best decision that they can make for the best interest of the police department and the city. It allows the city police department to make its own decision on whether or not it wants to cut its budget because it has done its own evaluation and knows where it needs to put preventive measures in place to

reduce crime. At some point or another we have to start talking about reducing crime. And you reduce crime by putting preventive measures in place, and that's what my amendment does.

REPRESENTATIVE BECKLEY: There's been a lot of talking going on, so I just want a clarification. You want to put more power in the hands of the police to decide how they spend their funds.

J.D. JOHNSON: Yes, ma'am.

BECKLEY: So in one of my communities, they have decided to reduce—

GOLDMAN: Members, I respectfully oppose Mr. Johnson's amendment.

REPRESENTATIVE DAVIS: Chairman Goldman, tell me why you're opposed to this amendment that would protect the integrity of the department.

GOLDMAN: Well, in my opinion this just gives reason for budgets to, according to Mr. Johnson's amendment, it would give reason for the budget to be decreased in the police department, and we don't want to do that. The whole point is to keep these budgets at current level or an increase. We want more money spent on police to keep our community safe, not less.

DAVIS: So Chairman Goldman, are we prepared to send DPS to the cities? I'm trying to understand why—

GOLDMAN: We have. We have. In fact, we've sent DPS to Dallas, Ms. Davis. At the request of Dallas, we've sent DPS to Dallas because there was a—

DAVIS: Well, it's probably because of something like this that you've done. So let me ask—

GOLDMAN: No, it was a request of the City of Dallas. They asked for the help because their police levels were not where they wanted them to be. So at the City of Dallas' request, we sent—the State of Texas sent—DPS officers to your city to help protect your citizens.

DAVIS: And I'm aware of that, but it was at our request. Did it have anything to do with you all telling or the state telling the city how to do their budgeting? Was that part of the dilemma that you were trying to address, is that we were not budgeted properly?

GOLDMAN: It is my understanding, and you can correct me if I'm wrong, the City of Dallas is trying to hire more police, and there are not enough police on the streets, as many as the City of Dallas has budgeted for and wants.

DAVIS: And the question is, what does your bill do to help get more police in Dallas if it didn't have anything to do with budgeting?

GOLDMAN: It makes sure if the City of Dallas wants to take money from their budget, from the police budget, that it's not allowed to do that.

DAVIS: But that was never an issue with regard to the city or police reducing their budget to get policemen—

GOLDMAN: And so then there's no problem. Then there's no problem.

DAVIS: —so that's not an issue here. That's not the issue here.

GOLDMAN: Correct. That is not an issue for the City of Dallas.

DAVIS: So let's not talk about apples and oranges. Let's talk about the fact that we're now as a state attempting to now do budgeting for our cities.

GOLDMAN: I believe we're talking about the amendment, Ms. Davis, not the entire bill.

DAVIS: That is the amendment. The amendment is saying that he's trying to make sure that the cities can budget properly for their police department.

GOLDMAN: I believe his amendment is about police departments specifically, not about the city budgets.

DAVIS: But the police department's budget comes from the city.

GOLDMAN: I agree.

DAVIS: And so therefore that's relevant to this conversation.

GOLDMAN: Okay.

DAVIS: So the question is, why are we here in Austin talking about what city departments can do at the expense of taking the city's elected officials out of the equation?

GOLDMAN: Because we have seen nationwide where cities either defunded their police departments or they've redirected funds from their police department for other uses.

DAVIS: What cities have defunded their police departments?

GOLDMAN: Defunded or redirected funds—

DAVIS: No, what police departments? Let's talk about defunding first.

GOLDMAN: Look, we can talk semantics all day. So we can say "defunded" or we can say "redirecting funds."

DAVIS: Okay, so what cities have decreased their public safety dollars for some other issue like you just described?

GOLDMAN: We are in one right now, Ms. Davis.

DAVIS: I'm sorry?

GOLDMAN: We're in one right now. The City of Austin. And they admitted by a city councilman here in the City of Austin that they took money away from their department and put it toward other things.

DAVIS: Toward improving the quality of life in its city for its residents, is that correct?

GOLDMAN: Is that what abortion is? Because the City of Austin admitted that they took funds away from the police department for abortion services.

DAVIS: So Mr. Goldman, let me ask you something. Has there been a reduction in your cities that you represent?

GOLDMAN: I'm sorry?

DAVIS: Has there been any reduction in funding in the cities that you represent?

GOLDMAN: No, ma'am.

DAVIS: So then you're now determining what happens in another city that you don't represent?

GOLDMAN: I'm not determining. We are saying that we don't want money taken away from the police force because public safety, as elected officials, public safety, in my opinion, is one of our number one priorities. If we can't keep our citizens safe, how do we think that more people will want to move here? We're at 29 million people, approaching 30 million people.

DAVIS: I don't think Austin is worried about more people moving here. I think they're worried about the legislature being here. I think that's their greatest concern is what we do to them while we're here.

GOLDMAN: Well, I think the people of Austin spoke about some of their city council rulings this last week.

DAVIS: And I've spoken to folks who say they worry about the legislative initiatives that impact citizens. So what we find ourselves doing here every session is trying to usurp the authority of local elected officials. Would we like the federal government to do that to us? At some point we've got to be responsible for what happens in Texas in this house and let those other elected bodies be responsible for what they're elected to do. But this is just a political agenda trying to advance an argument around a political issue. This is not about safety.

GOLDMAN: Ms. Davis, this is all about safety and making sure we keep the current police force on the streets protecting our citizens.

REPRESENTATIVE CROCKETT: So you brought up my city as well as my district, so I felt compelled to get over here in my kitten heels and have a quick conversation. You just talked about the fact that the City of Dallas needed help from DPS, correct?

GOLDMAN: That is my understanding. Yes, ma'am.

CROCKETT: Okay. And that wasn't because at that point in time, the City of Dallas didn't have funds to have officers. It was the fact that people were not applying to work at Dallas PD. Is that correct?

GOLDMAN: I will have the City of Dallas defend their reason they requested DPS officers from the state to come into their city.

CROCKETT: Okay, but let's talk about this. When DPS left my district, do you know why DPS left?

GOLDMAN: No, I do not.

CROCKETT: So you're unaware of the fact that there was a DPS officer that shot yet another unarmed black man? You're unaware of that?

GOLDMAN: I'm not aware why DPS left your district, Ms. Crockett.

CROCKETT: Okay, so here's the issue. We've not addressed the elephant in the room. This summer, we saw protests in the streets. We also saw elected officials that decided to make decisions because of police brutality, but for whatever reason, we still haven't seen Ms. T's bill on this floor. We've not dealt with the George Floyd Act. We refuse to improve policing in this state. Instead, we attack those that are trying to take care of their citizens. How does that make sense? You're saying your cities didn't do this, but mine did. And guess what? Every single one of those city councilmen that decided to make whatever decisions about their budget, they all got reelected on Saturday. Every single one of them. Not one of them lost, no matter how many people put out mailers against them.

So let me be clear. You should let my elected officials decide what to do with my city, because sadly enough, plenty of people haven't been to south Dallas, where black people are afraid most of the time because they don't know if they're going to get killed. And instead of us doing something to protect people in this state, we decide to punish—punish people who are already suffering. That is what's wrong in this house.

GOLDMAN: And the goal is, Ms. Crockett, by passing this bill, is that we keep more police on the streets to protect your citizens.

J.D. JOHNSON: On the amendment, again, this amendment just simply says that the police departments can make their own decision about a budget that they have that they want to use for preventive measures. Those preventive measures are: improve 9-1-1 calls; prevent violent crimes; direct veterans, children, individuals with mental health issues, and families in economic crisis to services designated to prevent crime. That's what this amendment does. It puts the power in the hands of the police departments to let them make their own decision. It does not take away from police. It helps police to make the best decision that they can make for their own municipality.

And if the police department has said we want to put money toward this, then it should be done. If we want to give to other departments to make sure preventive measures are in place, the police department has the authority to do so. If you care about police officers as you have obviously demonstrated, as we all do, make sure that you vote for this amendment. These are amendments. It does not say that you have to go against the bill, but we're only trying to make the bill better and more user-friendly for municipalities. So this party line stuff on amendments, look at the amendments for what they are. Look at the amendments. It's not the overall bill. I'm not trying to change the bill. I'm not trying to change police officers' budgets. I'm not trying to reduce it. This final amendment says police officers have their own authority to reduce a budget if they so choose to use it for preventive measures.

[Amendment No. 6 failed of adoption by Record No. 834.]

[Amendment No. 7 by Martinez Fischer was laid before the house.]

REPRESENTATIVE MARTINEZ FISCHER: This is a very important amendment. This legalizes marihuana. So I just want to make sure you're listening, okay? I really wish this bill would have come through Ways and Means, because it's really more about taxes than it is about public safety. And it's real simple. The bill says if you spend less on police—if you "defund" police—we will adjust your tax rates and penalize you for it. That's really a revenue one-way street. I take Chairman Goldman at his word. I've listened to this debate. I know you have, too. Chairman Goldman says his number one priority is to make public safety our number one priority. And what this amendment does is it creates a revenue two-way street. And what it says is that if a city actually increases the amount of money it spends on police, that they get a hold harmless. They get a hold harmless. They will not have it counted against them if they make the decision.

I'm from the city of San Antonio. In the last budget, they increased spending for police. And if they do it again next time, if they're fortunate enough to do it, they should receive a hold harmless. If a city—we heard a lot about the City of Houston. If the City of Houston is struggling and has to let go of non-police personnel, if they spend the money, they get a hold harmless. And so all this does is if we really, really care about protecting public safety budgets, let's tell our local jurisdictions—for those over the 250,000 population cap that this bill applies to—if you spend over the amount, you get a credit. Bear in mind, we just sent a bill to the senate yesterday that we told cities and counties that we would not penalize them for roads. We would not penalize them for heavy equipment. We would not penalize them for spending money on police cars and fire trucks. We said we're going to make some priorities. Use that revenue instrument that you're using, and we're not going to hold it against you. That's all this does. It creates a revenue two-way street. It's a complicated amendment because it's a formula on a no-new-revenue, but that's all it does. And I certainly hope that Chairman Goldman will consider it and at least adopt this amendment to keep the conversation going.

GOLDMAN: As much as I would love to take this amendment, Representative Martinez Fischer, I'm going to oppose it. It's my opinion that it actually raises taxes, and this is not a bill about raising taxes. It's about keeping the public safe, and so I'm going to oppose this amendment.

MARTINEZ FISCHER: I thank Chairman Goldman, and I rarely disagree, in the words of Chairman Leach, vehemently, but it doesn't raise revenue. Because if it did, this would be a Ways and Means matter. This is a State Affairs matter. It's not a Ways and Means matter. It's not a revenue matter. All this says is whatever policy we're trying to adopt here, if cities take away, they get punished. And all I'm saying is if cities—

REPRESENTATIVE ROMERO: Representative Martinez Fischer, I want to understand this. As I'm reading the bill, I just want to make sure I'm reading it correctly. Is your understanding of the bill, then, that any municipality that ever raises their budget will never be able to move it down in any way whatsoever? And what your amendment is doing is saying that if next year I decide to raise

it—in essence, what we're doing as of today in 2021, this is the floor, this is where I'm starting at—so if I raise it, I have the ability to come back to this point, in essence. Is that right?

MARTINEZ FISCHER: I think, because it does create the baseline, there will be local governments that will just hold the line because they don't want to raise that hurdle. They don't know when the next recession is coming. They don't know when the next pandemic is coming. They don't know when federal funds run out. And so yes, I think there will be folks who say, "We better not do it, because if we can't maintain that, we get in trouble."

ROMERO: I know the author can't speak to this again since you're closing on the amendment, but I think that's the point that I wanted to get at here is that what's the incentive, right now, for a city that may or may not be growing to actually add police officers to their force knowing that they may not be able to reduce that budget? I mean, is that where you're going here?

MARTINEZ FISCHER: I think there is no incentive. I mean, it's sketchy. And so again, regardless of how you feel, when we make this policy, if it's the wisdom of this body to enact a law that says we will punish jurisdictions if they cut funding, then we should be intellectually consistent in that same tax policy and say, but on the other hand, if you decide to spend more money, then we're going to give you a credit. We're going to hold you harmless. We're going to incentivize you to do it. So at the end of the day, it's not a tax. We're not raising taxes. We're just telling folks that we're not going to penalize you with the revenue that we've given you to spend.

And so if it's important enough for us to hold harmless a tractor, if it's important for us to hold harmless a telephone system or an IT system or a laptop, then we ought to be able to say for the men and women that put the uniform on every single day to protect and to serve that we're going to give them a hold harmless too when it comes to their budgets. So this is not something that's, you know, black or white. We can be both for law enforcement and we can also be both for our cities that have these budgets and tell them we're going to give you the tool you need to raise the money.

And I'm also big enough to correct myself when I'm wrong, and the word was "resoundingly." We should resoundingly adopt this amendment, Chairman Leach. Thank you. I'll consider this a co-sponsorship of this amendment. So let's just take this amendment. Let's add it on. If it ends up becoming something that's too hard to bear, there's always going to be the time to deal with it in the senate or some other place. You don't want to walk this back and hear from your local officials that we gave them a hold harmless to buy a tractor but we're not going to give them a hold harmless to invest in police. So I hope you vote for the amendment.

[Amendment No. 7 failed of adoption by Record No. 835.]

[Amendment No. 8 by Cole was laid before the house.]

COLE: This amendment is a simple one. We all remember Winter Storm Uri and the blackouts that occurred. This amendment simply states that if a municipality is determined to have defunded the police, its municipally owned utility can still raise rates and fees if the funds raised are going toward weatherization of the municipally owned utilities' generation, transmission, or distribution facilities to reduce the risk of power outages. Black and brown communities have suffered disproportionately with power outages and blackouts. These communities should not be subject to blackouts and additional dangerous situations because the governor has determined that a municipality has chosen to defund the police.

GOLDMAN: This amendment either raises fees or raises taxes at an unlimited amount. And so respectfully, I'm going to oppose the amendment.

COLE: This is simply an effort to help our municipalities when the state has usurped them from local control. I ask that you vote aye on the amendment.

[Amendment No. 8 failed of adoption by Record No. 836.]

[Amendment No. 9 by Herrero was laid before the house.]

REPRESENTATIVE HERRERO: This amendment clarifies that a municipality that may be determined to be defunding police wouldn't somehow negatively affect the pensions of those municipal employees. And so this amendment ensures that the contributions that the employees and the municipalities are making toward those employee pensions remains as what it was the preceding fiscal year before they were determined to be a defunding municipality. I believe it is acceptable to the author.

[Amendment No. 9 was adopted.]

REPRESENTATIVE SHERMAN: I know that this is a very contentious subject that we've been discussing. And Deacon Jarvis Johnson, I mean Representative Johnson, you certainly had a lot of amendments. Representative Goldman, certainly you have been working on behalf of your constituents, I believe. But I've got to say that when you refused the amendment that would give the authority to the police department, that concerns me. The very police department that we're saying we want to empower, you said that you would not accept that amendment.

I started writing notes about this issue and what it means. You know, I'm known here as a pastor, but I haven't always been a pastor. In fact, before I came here, I was a city manager. And I resigned as a city manager because my predecessor, Representative Helen Giddings, who served here for almost a quarter of a century, asked me to run. She came to my office and asked me to run. And I've got to tell you that the \$600, compared to what I was making, is—there is a little difference. But I was driven, brother Thompson, by this body's audacity to just forget about local control. Lord, take us back to the '80s when republicans meant and believed in local control. I don't know what happened, but it's like there is no regard for the intellect of the city managers. Do you even know how the process goes for establishing a budget? I know you do, mayor. I know you do. The city manager drafts the budget. I know you do, city attorney. The city manager drafts the budget. He convenes all of his directors in. The number one

director in those meetings is your police chief. Your police chief provides the city manager with what budget amount he believes he needs. If he thinks he needs more police cars, he gives them to the city manager. He drafts a budget for the city manager. Same with the fire department.

You know, sometimes I know we get sick and tired of being here and, you know, we miss home. And I was having one of those moments where I just missed home, and I had to text my youngest son, who is a police officer. I didn't share with him what we are talking about right now, but I showed this picture to Representative Gary VanDeaver, and he said he's a handsome young man. He said it like he was surprised. And then he said, I bet your wife is gorgeous. You know, those budgets are drafted based on the needs of the community. This state mandates that our budgets—we can't budget more than we take in. But it's as though no one is aware of that here. The number one issue for us is public safety. Because we're the ones who go into—and when I say we, as a former mayor and city manager and city council member and mayor pro tempore, I'll tell you—when we run into H-E-B or to Tom Thumb in my community, the citizens see us. We can't just arbitrarily raise taxes. We're not here at the Capitol. I'm not three hours-plus away from home when I make these decisions back home. I'm at home.

So let me stick to my notes because I'm getting a little excited. My son told me, "Dad, I'm getting ready to meet with our city manager, our new city manager." I know her. She's really dynamic, from Virginia, and she's about business. I have to ask. You know, I know we seem to be really partisan here, and that's one of the things that when you've served on a local level as a mayor or a council member, you really miss because we're not partisan. This is partisan. I was so depressed after my first session here. It doesn't matter whether something is good or bad. I had one of my republican friends write something for me. I'm not going to say who it was and what it was. He wrote it. I liked it. I said, "I'm going to submit it. I want you to sign on it." He says, "I can't do that. They'll put somebody in a primary and run against me." What universe are we in? I didn't run for this office to worry about staying in this office. I ran for this office to make a difference.

My predecessor, Helen Giddings, whenever there was an issue dealing with municipalities, she would call me when I was a mayor. She would call me when I was a city manager because she had never served as either. If I have a question about the medical field that is regarding a bill that we're discussing here on the floor, you know who I talk to? I talk to the doctor that we have on the floor. Yes, I talk to Dr. Oliverson, and Dr. Oliverson can give me some input. When I have a question about education administration, I talk to Gary VanDeaver. I think he may be the only ISD former superintendent here. I know that I've been told that I'm somewhat of an enigma. I'm a pastor, former city manager, former mayor, former council member. When some were talking about this, nobody talked to me. No one asked me any questions about this. This is politics. What makes me different? If I have a question about any of these areas that I don't know anything about, that don't relate to my background, then I'm going to talk to VanDeaver.

Representative Goldman, when I walked up here, you said, I love you. And I'm sure he meant that in a, you know, agape manner, right? And I love you, too. You stated one of the most important issues to you here at the state is public safety. Public safety. Each of us has a Bible in our desk. Am I right about that, Representative Krause? I'm sure you've opened yours many times. Each of us has a Bible in our desk. If this is our number one priority, why is it that cities outspend us for public safety? Sixty-five to 70 percent of our overall budget is for public safety. We know city business, but you know what the state spends for public safety? About six percent is what we spend for public safety overall. I think if we changed our focus and put our focus on what our focus should be on, education should be number one. Health care should be number two. But we have lower—talk about defunding police? We've defunded education. I know that we did a good job last session.

Parenthetically, Jesus says where your treasure is, that's where your heart is. In Matthew 6:21, where your treasure is, that's where your heart is. The city's heart is in public safety, 65 to 70 percent. Ours is about six percent. I asked my fellow city managers how they felt about this bill. Not one of them supported this bill, and they support police. Every city where I've been a city manager or a mayor, I have raised the salaries of our police and our fire department. Every one of them. Even when we had budget constraints, we did it. They've been watching us—the city managers, the mayors, and councilmen—and what they believe is that the penalty that we have applied here, even if you don't reduce funding for police but increase funding for other areas or at a faster pace, it's a problem. It's problematic.

In my conclusion—I have to say that when I get behind this podium—it's legislative overreach. The big concern is that the bill's definition of defunding caught too many situations where defunding wasn't actually happening. Also, the consequences were automatic, and there was no recourse or appeal process to prove up police were not actually being defunded—I'm reading this from a city manager. This is a battle they have with Austin, and they should leave the rest of us out of it. That's coming from a city manager in North Texas. I hope and pray, I implore you to not vote politics, but actually vote for our police. Vote for our police. That is all. So I'm asking you to vote two. I know I'm not of the same party that you are, but I'm just a local. I'm just a little guy from the local, okay? So we need your help. Please, stop stepping on the city.

RAYMOND: I think I've done this a couple of times where I've gotten up here and said I sense that the republicans are all going to vote for this. So I'm going to talk to democrats. Sometimes we're going to disagree. My good friend Carl, he's a good man, but sometimes we're going to disagree. Just like we saw Joe Deshotel and Dr. Mary González disagree just a little while ago. And that's going to happen. When I first ran for office—all of you can remember your first run for office, for state house—they asked me, "What's the most important thing to you? What's the most important issue?" I said, "Well, there are a lot of important issues out there." Education is important. Health care is important. Jobs are important. But I said, "The most important thing to me is public safety." And in the 27 years

I've been here, that's how I always answer the question. The most important issue for me is public safety because if our communities are not safe, if folks don't feel safe, if we don't have law and order, then nothing else really matters.

So when this issue bubbled up last year—I understand politics. We're all political in here. We're all politicians. It's not something I'm ashamed of. I'm proud of it. I embrace it. You have to run for office to get elected and by definition you're a politician. That doesn't mean we don't study issues and look at them. But when this came up, in my view, it was very simple. We don't need to invest less in law enforcement; we need to invest more in law enforcement. I see what just happened in Minnesota with George Floyd. That was such a big, important event, if you will, and a tragedy. But I watched it. I watched part of the trial. And what became clear to me was that if you had not had the police chief and three or four of Chauvin's—the police officer that had been charged—supervisors get up there and testify that that's not how we train—we don't train police officers to do that; he did not follow proper protocol; that is not how we train people—if they had not testified that way, I'm not sure that he would have been convicted for killing George Floyd. That's how I saw it. But when you had the training and you could show that these folks were trained and when they did something wrong that they don't follow the training, then we weed them out. That's how you get there. You invest more. You invest more in training our law enforcement officers, not less. With all due respect, members, it is not less, it is more. That's how you make it better. How do we make our schools better? We invest more. How do we make our health care system better? We invest more. That's what we do. We don't invest less.

So it is not political for me. Now, do I understand politically that if you do not vote for this bill, it could be interpreted that you are not strong on law enforcement? Absolutely. I'd use it against you. I'd use it against you in a heartbeat. So expect that. If you want to think about politics, fine, but let's push past that and ask yourselves, "How do we make our law enforcement organizations better?" As democrats, we fight all the time for police officers and firefighters and first responders. We fight for them all the time. Let's fight for them now to make sure that we better train them, that we can pay them better, that we can have better quality folks in these very, very important positions. So yes, I'm speaking to you, democrats—my democrats, my colleagues, my party—and I hope every one of you votes for it. I know it's a redistricting year and some of the districts are going to change up and issues will come up—they just will. So yeah, think about that a little bit. But I hope you agree with me.

It is about the policy for me. I've had personal experience, especially in recent times, where I've seen how lacking we are in how we train law enforcement and how we've got to do a better job of making them better. And you don't do that by cutting budgets. You just don't. You want to cut budgets? I'll cut your budget. All of you know—you want to talk about city councils? They're all my friends, but I know about discretionary funds. I see things that they spend money on that I'd never spend money on, I hope, if I were in their positions. You want to go through budgets? We'll go through budgets. We'll find you money. Don't cut here. Cut somewhere else. That's what this is about. Don't cut public

safety. Cut somewhere else. So let's not make it political. Let's make it about protecting the folks that we represent. Let's make it about having a better quality and continuing to invest in the quality of our law enforcement systems out there, our entities, our organizations. That's what it is for me.

RAMOS: Representative Raymond, page 1 of the bill says it applies to municipalities with a population of more than 250,000. How many municipalities in your district have more than 250,000 in its population?

RAYMOND: I represent one municipality. I represent the city of Laredo, and not even the entire city. If you want to look at my district, as you know by definition, I don't think any of us has a district that exceeds over 250,000. Not as we're about to redistrict.

RAMOS: Do you have a municipality in your district with a population—

RAYMOND: Is Laredo 250,000 today? I won't know until we get the census numbers. We may or we may not be.

RAMOS: So the answer is no. Thank you, sir. No more questions.

RAYMOND: Well, if it's no, trust me, I want this to be for every city in the state. If that's what you're asking me.

RAMOS: It doesn't apply to your district.

RAYMOND: You know what? Do an amendment that says Laredo and I'll vote for it. Write it up for me. If you're trying to make a point about Laredo, let's go. Put Laredo in there.

RAMOS: Sir, you're talking about communities that don't even interest you.

RAYMOND: Put it in there. Put the word "Laredo." It's fine with me.

RAMOS: We're still on the bill. You can do that now.

RAYMOND: Do it.

RAMOS: Yes, sir.

J.D. JOHNSON: We have talked about public safety. This is a public safety bill. I'm sick and tired of always having to come up here and say how much I love police officers and how I care about police officers and how I've got to put a disclaimer on loving police officers. And I'll do it again. I thank police officers every single day for the job that they do. This bill in reality is not about public safety. And let me tell you why it's not about public safety. Because this bill is bracketed for 11 cities. Eleven cities is all this bill affects. Eleven cities. That means out of the other 489 cities, I guess it doesn't matter. They can cut their police budget all they want, anytime they want. Ask yourself, why is this bill only bracketed to 11 cities? That's not even half of Texas' population. So what happens to the rest of the population that has populations of 100,000? What happens to those people? If their communities decide to do what's fiscally conservative and fiscally right to rearrange their budget to make sure that they

can meet their budgetary needs and requirements, what happens to those? Are they considered not backing the blue? Would they be considered defunding the police?

Come on, if we're going to be serious about this, then let's stop playing this game of defunding the police and all this other rhetoric. As my colleague just said, does it look like you're defunding the police or you're against the police if you vote against this bill? One thing I love about this body is that every time I talk to my colleagues, every last one of you, you all believe in policy. You all believe in what's fair. You all say that to me every single time: This is what's right and this is what's fair. But we just made a bill that is punitive to large municipalities only. Smells like political rhetoric here. Smells like a political bill here. Doesn't smell right.

Secondly, this bill is not about public safety. This is about local control. That's all it is. This is about taking control away from Houston, Dallas, Austin, San Antonio, El Paso. That's what this is about. This is about rhetoric and dialogue and going back and forth about defunding police and how some groups talk bad about them. But that's not what—nope. This is truly about saying to cities, hey, we control you now. We control you now. We control how you think. We control how you decide how you're going to make policing for your city. And the reason why I know this is not about public safety is because when I put an amendment on that simply gave police the authority—it gave police the authority—this body voted against giving police the authority. How are you telling me you're for police if you didn't even give police their own authority to do what's in the best interest of police? How are you telling me you're for police officers? The sheer hypocrisy in that alone is blinding and deafening. We talk about backing the blue and we didn't even give the blue their own authority to do what's in the best interest of the blue. How are you telling me you're for police?

We're supposed to be here to make this state better. Let's finally get there. Let's finally get to a point where we do something that's right and in order and not just simply political expediency. I'm not against police. I'm for police, as everybody else in this building is. But I think this right here is divisive rhetoric that puts us all at odds. For those 11 cities, you're telling those mayors they don't know what they're doing but you know better, because there are people here from rural Texas telling the mayors of Houston, Dallas, San Antonio, Austin that you know better than they do on what's best for their city.

When I was growing up, I put money in my piggy bank and when I got older I started putting money in the bank. And when I had a good week or a good month or good year, I added more. But imagine if my bank told me that, well, I'm not going to let you put less in. Not going to let you put less in. But I don't have it. I don't have it this year. But can I still help? Can I still work? Nope. As a matter of fact, we're going to penalize you for putting in less. Come on, that's what this bill is. Members, I'm asking you, if this is about police, backing police, let's make sure we take care of all citizens in the entire State of Texas, not just 11 cities. Not just 11 cities. Every citizen in the State of Texas should be protected if that's what you're saying here today.

BECKLEY: So of those 11 cities that are 250,000 or more, what is the party of the representatives who represent those cities? Most of them.

J.D. JOHNSON: I would venture to believe they're all democrat. Those are all democratic cities.

BECKLEY: Yes. So this bill is purely a political move to force, in an election year, for democrats to take a bad vote because it is bracketed specifically for that. Would you agree with that statement?

J.D. JOHNSON: Yes.

BECKLEY: And what about those in swing districts? Is it a bad vote for them, too?

J.D. JOHNSON: I don't know what's a good vote and what's a bad vote. What's a good vote is a vote that you need to make that's in the best interest of your city, that's in the best interest of your constituents, not political rhetoric and political positioning.

BECKLEY: Well, I represent a portion of Dallas, so therefore I have to make that vote, and I'm forced into it. I wonder if the author will take the 250,000 off so everybody in this building has to make the same vote equally.

J.D. JOHNSON: That would be left up to the author.

RAMOS: Going back to what you bracketed, the municipality with a population of more than 250,000 how many municipalities would fit that description in your district, sir?

GOLDMAN: In my district?

RAMOS: How many cities have more than 250,000?

GOLDMAN: I represent four cities that are in my district and one, the city of Fort Worth, would be represented by this bill.

RAMOS: So you have one city out of four. So a quarter of your cities in your district this bill would apply to?

GOLDMAN: Yes.

RAMOS: So essentially this will apply to Fort Worth. Is that what you said?

GOLDMAN: Yes, it would apply to the city of Fort Worth.

RAMOS: Okay, and Representative Crockett talked about what's happening in her district and the city of Dallas, and you said you were not advised. Correct?

GOLDMAN: Well, I read the papers.

RAMOS: Right, but she asked you a specific question about different DPS and things going on in her community, and you said you weren't advised, correct? You don't recall?

GOLDMAN: I don't recall the exact thing of what I said based on what you're discussing.

RAMOS: Yes, sir. Well, she asked you about the police and different initiatives in the City of Dallas and you said you weren't advised. And I think that that—

GOLDMAN: I don't know everything the City of Dallas does. That's correct.

RAMOS: Okay, you don't know what the City of Dallas does.

GOLDMAN: I don't know everything that the City of Dallas does. That's correct.

RAMOS: And thank you, sir, because that's exactly the point. You don't know what they're doing. Yet you have this bill to legislate what they're doing when, in fact, you just said you have no idea what they're doing.

GOLDMAN: And Ms. Ramos, if they are consistently keeping their budget where it is for the police or they are increasing their budget for the police, this bill has no effect on them whatsoever.

RAMOS: Okay, so a budget that stays the same or an increased budget—essentially money, right? More money, based on your definition here, means success, right? So we're tying money and budget to success. Is that what we're doing here?

GOLDMAN: I don't know what you mean by the word "success."

RAMOS: You just said more money. That what we're doing in this bill—

GOLDMAN: This bill does not affect any municipality that keeps their current budget the same for the police or increases their budget for the police. This bill does not affect those municipalities one bit.

RAMOS: But we want to keep the budget or we want to increase the budget for those police departments because what we're saying is with that funding they're able to essentially be successful in their public safety initiatives. Because the reverse would be they would be less successful in their public safety initiatives, correct?

GOLDMAN: Well, we have seen where cities across this nation have either defunded their police or diverted money away from their police and crime has increased.

RAMOS: Okay, thank you, sir. And you're talking about crime, and I think that's wonderful. Because if what we're doing here today, members, is really addressing public safety, there's not one mention of a reduction in the crime rate. Not one mention in your bill. So if we're really about public safety, then we would address the reduction in the crime rate and not funding.

GOLDMAN: Well, anecdotally, Ms. Ramos, we have seen a parallel that when you reduce budgets for police, crime increases. We've seen it. The facts are there.

RAMOS: Sir, nowhere in your budget addresses the crime rate. So essentially, if the police departments—

GOLDMAN: So the hope is with more police on the streets—

RAMOS: It punishes municipalities. It punishes the cities and municipalities who are offering creative solutions and possibly spending less money in addressing the crime rate. This essentially punishes those cities for offering creative solutions that address the crime rate.

GOLDMAN: No, ma'am, it does not. If they want to have creative solutions in their police budget, of course they're allowed to do so.

RAMOS: Sir, there's more than one way for municipalities to reduce their crime rate. Would you agree with that?

GOLDMAN: Oh, I'm sure.

RAMOS: Exactly, and that's the problem with your bill, sir. That's exactly what happens.

GOLDMAN: Then you have every right to vote against it.

J.D. JOHNSON: You keep mentioning if everybody keeps their budgets the same. What about the other 400 cities beneath the 250,000 threshold? What if they change their budget? Does it matter to them?

GOLDMAN: They're not included in this bill, Representative Johnson.

J.D. JOHNSON: Why didn't you include them in the bill?

GOLDMAN: I chose not to. You had every right to do an amendment to put them in, and one was not offered.

J.D. JOHNSON: So the public safety of all the other millions of residents across the State of Texas didn't matter?

GOLDMAN: Of course it matters. But anecdotally across this nation, the larger cities who've defunded their police or diverted funds from police, they're the ones who are having an increase in crime.

J.D. JOHNSON: Nobody defunded police. There's no such thing as defunding police.

GOLDMAN: If you don't believe in the word "defunding," then certainly, monies have been diverted from police departments and their budgets have been cut and the crime has increased.

J.D. JOHNSON: Is it defunding the police for Governor Abbott? Do we call it defunding when Governor Abbott reduced \$50 million. Is that defunding? Did he defund?

GOLDMAN: I don't know what you're talking about, Mr. Johnson.

J.D. JOHNSON: Did he defund by \$50 million in 2015?

GOLDMAN: I don't know what you're talking about. I have no idea what you're talking about.

J.D. JOHNSON: I'm just trying to make sure we can be consistent with this. I think we're all aware—

GOLDMAN: I don't understand the premise of your question. I have no idea what you're talking about.

J.D. JOHNSON: So again, cities underneath 250,000, they can do whatever they want with their budgets? If they decide to reduce, increase, they can do whatever they want and we're not going to punish them?

GOLDMAN: They are not included in this bill. That's correct.

J.D. JOHNSON: So they won't be punished and they can do whatever they want?

GOLDMAN: I believe I've answered that question several times.

J.D. JOHNSON: One more time for me just for the good record.

REPRESENTATIVE WU: Representative Goldman, am I correct that this bill was on the floor prior to being removed for a point of order?

GOLDMAN: It was on the floor last week. Yes, sir.

WU: And during that time, an amendment was actually offered to remove the arbitrary cap of 250,000 from the bill. Was that not correct?

GOLDMAN: I don't remember every single amendment that was offered last week, Mr. Wu.

WU: But it would be fair to say that would be reflected in the *House Journal*, correct?

GOLDMAN: I'm sure it would be.

WU: And earlier just now, just before, Representative Johnson asked you why you had the cap at 250,000 population. Do you recall that?

GOLDMAN: I mean, that was just a few minutes ago. Yes, I recall that.

WU: Okay, I wasn't sure. And your answer was because you felt like it, correct?

GOLDMAN: Not because I felt like it. Because anecdotally, Mr. Wu—

WU: I'm sorry. Your answer to Representative Johnson was, "Because that's what I felt like."

GOLDMAN: No, I'm saying because we have seen anecdotally across the nation when municipalities had decreased their funding for police or diverted funds away from police, from those budgets, we have seen a spike in crime. We have seen where the citizens have responded and said that they fear for their safety because there are less police on the streets. And we do not want that to happen here in Texas.

WU: And I apologize. English is not my first language. Let me ask again. And when Representative Johnson asked you why you chose the cap at 250,000, your answer to Representative Johnson was, "Because that's what I chose. That's what I felt like."

GOLDMAN: I don't recall my exact words, Mr. Wu.

WU: If I told you that that's what you said just a few minutes ago, would you disagree with me?

GOLDMAN: Repeat what I just said.

WU: I'm sorry?

GOLDMAN: I'm going to repeat what I just said.

WU: Okay.

GOLDMAN: Okay, so let's get to your point.

WU: Do you have a specific policy reason—

GOLDMAN: Yes.

WU: —for choosing the exact number of 250,000?

GOLDMAN: Yes.

WU: And what is that?

GOLDMAN: Because anecdotally we've seen across this nation that the major municipalities—some of the larger municipalities—when they defunded their police or diverted monies away from their police departments, crime has increased. And the citizens have responded that they did not want that to happen.

WU: And what does that have to do with the number 250,000?

GOLDMAN: Those tend to be some of the larger municipalities in the state.

WU: So why not 200,000?

GOLDMAN: You could have done an amendment to make that change, Mr. Wu. You did not do so.

WU: Well, we actually offered an amendment, again—

GOLDMAN: You did not today.

WU: It was offered on this bill last week, but you don't remember.

GOLDMAN: Okay. You didn't offer it today. You could've.

WU: Well, generally, we can't offer amendments multiple times on a bill.

GOLDMAN: I'm sorry?

WU: We're not allowed to offer the same amendment multiple times on a bill.

GOLDMAN: Oh, absolutely. Mr. Herrero's amendment was going to be offered last week. I accepted it today.

WU: Okay, fair enough.

GOLDMAN: Members, a vote for this bill is a vote for public safety. A vote for this bill is to back our police. A vote for this bill is to back the blue.

[CSHB 1900, as amended, was passed to engrossment by Record No. 837.]

CSSB 7 DEBATE - SECOND READING

(Cain, Schofield, Jetton, Klick, and Oliverson - House Sponsors)

CSSB 7, A bill to be entitled An Act relating to election integrity and security, including by preventing fraud in the conduct of elections in this state; increasing criminal penalties; creating criminal offenses.

REPRESENTATIVE CAIN: In Article VI, Section 4, of the Texas Constitution, the people of Texas delegated their constitutional authority to the legislature to make all laws necessary to detect and punish fraud and preserve the purity of the ballot box, and the legislature shall provide, by law, for the regulation of all voters. **CSSB 7**, now also known as the Election Integrity Protection Act of 2021, contains six articles.

Article 1 of this bill provides that the purpose of this bill is to exercise the legislature's constitutional authority. Section 1.03, Subdivision (3), says that "reforms are needed to the election laws of this state to ensure that fraud does not undermine the public confidence in the electoral process." To that end, Section 1.04 of the bill requires the conduct of our elections and the Election Code to be applied uniformly and consistently throughout this state. It further provides that public officials, which means anyone elected, selected, appointed, or employed by this state, an agency of this state, or a political subdivision of this state, shall be strictly construed.

Article 2 begins with a provision that seeks to ensure that our voter rolls are accurate. That's done by requiring that local registrars send the abstract of deceased voters to the secretary of state no later than seven days after the abstract is prepared and clarifies that spoiled ballots be properly tracked and recorded.

In the third article, we ensure that poll watchers are permitted to observe the conduct of an election and report any potential irregularities or violations to the election officers. It protects watchers from being improperly excluded or removed, and it makes it a crime for an election officer to refuse to accept a watcher.

REPRESENTATIVE J. GONZÁLEZ: Mr. Cain, why did you file this bill, again?

CAIN: I filed this bill to ensure that we have an equal and uniform application of our Election Code and to protect people from being taken advantage of.

J. GONZÁLEZ: And what is your main purpose behind this bill?

CAIN: Well, the main purpose of this bill is to protect every single voter in Texas.

J. GONZÁLEZ: Was there a specific incident, event, or a crime that you witnessed in your time as a candidate or a voter that prompted you to file this bill?

CAIN: No, ma'am. But I believe that all voters deserve to have their right to vote to be protected.

J. GONZÁLEZ: Or in the hours that we spent in the Elections Committee, did anybody give an actual example of these things occurring in the State of Texas to warrant this bill?

CAIN: I believe there were a lot of people in testimony that gave examples of things.

J. GONZÁLEZ: Like examples that had data behind them, actual data, not just something that they heard?

CAIN: Well, I think we observed witnesses talking about how they themselves were excluded from places that they were duly appointed to be watchers at, yes.

J. GONZÁLEZ: Based on credible data? Based on actual facts they can point to?

CAIN: When they filled out their witness affirmation form, they took a sworn oath under penalty of perjury, so I think I would trust what they have to say.

J. GONZÁLEZ: Do you agree with the secretary of state when they testified in our committee that we have free, fair, and safe elections?

CAIN: I think the goal is to have free, fair, and safe elections.

J. GONZÁLEZ: I'm sorry?

CAIN: That is the purpose, and that's exactly what this bill seeks to do.

J. GONZÁLEZ: No, I said, "Do you agree with me?" Because the secretary of state's office testified before our committee that very first day, and the secretary of state said the 2020 elections were free, fair, safe, and secure. Do you not agree with what the secretary of state said?

CAIN: I think that that's their opinion, sure.

J. GONZÁLEZ: You think what?

CAIN: I believe that that's their opinion.

J. GONZÁLEZ: That's their opinion?

CAIN: Yeah, I think for the most part, it was free, fair, and safe, yeah. But we heard testimony that said otherwise.

J. GONZÁLEZ: But the secretary of state's office was there for a reason, and so I would imagine that their opinion would be highly regarded that our elections were safe and secure.

CAIN: Okay.

J. GONZÁLEZ: Do you disagree with the secretary of state's office?

CAIN: I've heard people say that they disagree with the secretary of state's office in committee so—

J. GONZÁLEZ: So are you saying that you disagree with the secretary of state's office is what I'm asking you.

CAIN: I mean, I think they're probably right in the adding up of it all from what they saw that it's a free, fair, and secure election.

J. GONZÁLEZ: So as of right now, our elections are safe and secure, correct?

CAIN: What this bill seeks to do is to make them safer and more secure.

J. GONZÁLEZ: I'm asking you. I mean, if the secretary of state's office said that and you said that you agree with them, right? Currently, as our elections are right now, they're safe and secure. I'm just trying to figure out what the purpose of this legislation is if the secretary of state has said that our elections were already safe and secure and you're agreeing with the secretary of state.

CAIN: Well, the purpose of this is to make them even more safe and secure. You know, the Constitution commands the legislature to pass legislation to detect and punish fraud and preserve the purity of the ballot box. And I've seen a lot of polling. I think we'd all agree that people's trust in the electoral process is down.

J. GONZÁLEZ: So if it's not broken, then what are we trying to fix? I mean, that old saying—if it ain't broke, don't fix it, right?

CAIN: Well, you know, every session we see omnibus election bills filed, and this is no different. We're here to clean things up. It's a patchwork system, and we want to clarify. We want to restore trust to the voters so that they have confidence in the outcome of their election so that they trust the laws we make.

J. GONZÁLEZ: I'm just trying to understand. I mean, because, you know, in the last two terms that I've served in the legislature, one of the first questions that you get asked when you file a bill is, what are you trying to accomplish? What is the intent? What are you trying to fix? What happened that you're trying to fix? And so that's what I'm asking. That's what we've been trying to figure out in the Elections Committee every week when we meet. That's all I'm simply asking is, what are we trying to fix here that is not broken?

CAIN: Okay, would you like me to finish laying the bill out? We can discuss some of that?

J. GONZÁLEZ: I'd like you to answer my question, please.

CAIN: Okay, well, I think we'll get to that if you let me finish the bill layout. I'll probably answer more of those questions.

J. GONZÁLEZ: Well, you did yield to some questions, so I would like to continue my questions.

CAIN: Well, I happen to believe that, you know, we don't need to wait for bad things to happen in order to try and protect and secure these elections and to make sure that this is a process that everyone's following.

J. GONZÁLEZ: So before bringing this bill to the floor—and I know this question was asked in committee as well—did you ever take the opportunity to speak to any of the minority groups like MALDEF, NAACP, to get their feedback in regard to the language that you laid out in committee before us?

CAIN: Yes, I've spoken to—I can't remember his name—in the hall. And I've actually read some proposed amendments yesterday from the NAACP.

J. GONZÁLEZ: So you were able to discuss their concerns and, you know, maybe make some changes to the bill?

CAIN: Actually, one of the amendments that we have was based off of some suggestions from the NAACP that I would like to lay out soon.

J. GONZÁLEZ: Before bringing **HB 6** or, I guess, **CSSB 7** to the floor, did you or the AG's office perform any analysis about how this bill might affect minority voters?

CAIN: No. No, I haven't done that. I'm not sure if the attorney general's office did that.

J. GONZÁLEZ: So you didn't consult with him in regard to the effect that this bill would have on people of color in Texas? Texas does have a history of discrimination, and so I would just imagine that's an important question to ask. I mean, this bill affects every single person in Texas, every person who's an eligible voter.

CAIN: Look, this bill is designed to protect all people, regardless of the color of their skin or their age or their abilities.

J. GONZÁLEZ: To protect them from a problem that doesn't exist, right?

CAIN: Well, most of this bill is designed and it's targeted at those who conduct our elections, not at people, not at the voters.

J. GONZÁLEZ: Okay, did you talk to any of the civil rights organizations like ACLU? Were they included in those conversations as well?

CAIN: You know, during the committee process—and several of the bills that we've passed through this chamber and passed through that committee are also included in this bill—we took testimony from them. In fact—I mean, I may not be able to point to the exact organization—but we've got some amendments that I'm ready to get going on that reduce crimes, some that add elements of mens rea to make sure that we have the specific intent requirements of some of these things, and that came from hearing testimony in committee from organizations like the ACLU and the Civil Rights Project and others. Yeah, it was very valuable and helpful.

J. GONZÁLEZ: Did you talk to any attorneys about this bill? Members of the AG's office? Today? In the back hallway?

CAIN: I did not talk to anyone from the attorney general's office today.

J. GONZÁLEZ: Okay, can you explain the major differences between the original version of the bill? It's the exact same version of **HB 6**, right? You modified it when you did the substitute?

CAIN: Yes, the committee substitute for **HB 6**, which was passed out of our committee, is identical to the house committee report of **CSSB 7** that's before us right now.

J. GONZÁLEZ: And in your opinion, how did our first hearing go on that bill?

CAIN: The first hearing—oh, yeah, that was a bummer we didn't get to finish it. It kind of slowed things down, yeah.

J. GONZÁLEZ: In your time in the house, have you ever witnessed a chairman or a speaker stop a vote after calling the question?

CAIN: Have I seen someone call the question?

J. GONZÁLEZ: I'm referring to our committee hearing where we got the substitute a minute before we had to vote. You called the question. The vote wasn't completed. Why did that occur?

CAIN: Why did it occur? Well, I think it occurred because—

J. GONZÁLEZ: Because it would have failed?

CAIN: You had expressed some, you know, concerns and things and other members had. So I thought it was the right thing to do.

J. GONZÁLEZ: Because it was going to fail, correct?

CAIN: You know, I disagree with that, but that's okay.

J. GONZÁLEZ: After 22 hours of testimony where leaders of the NAACP, MALDEF, and disability rights pleaded to the committee about how your bill would suppress their vote, did that factor into your desire at all before bringing this bill to the floor today?

CAIN: I'm trying to understand.

J. GONZÁLEZ: We heard more people testify against the bill than on the bill. So if our job is to pass legislation for our state, for our constituents, we're here to pass policy that they want, not force legislation on them that they don't agree with.

CAIN: It's okay if I disagree with some of the witnesses that come to the committee. I don't believe that this bill suppresses any votes. In fact, I think it's designed to help all voters. And if we thought this was suppressing votes, I wouldn't have voted for it or written it, and I don't think any other members on that committee would have voted for it.

J. GONZÁLEZ: Well, I mean, there were legal experts that have done work—voting rights work—for years, that argued before the Supreme Court, that would say otherwise.

CAIN: Okay, I think we've consulted others that disagree, and that's what this chamber does.

J. GONZÁLEZ: So the long history of discrimination in Texas just doesn't exist anymore? Or it's never existed, in your opinion?

CAIN: I'm not saying that at all. Discrimination is a disgusting thing. And I don't think a single member that voted for this bill or I would've written it or drafted it if we thought that it was discriminating against anybody.

J. GONZÁLEZ: Well, in effect, it discriminates against people. I mean that is something that you weigh in when you bring legislation and you force it on Texans. It's going to disproportionately impact people of color. You have to understand the damage that you're causing.

CAIN: I disagree. I think this is not—

J. GONZÁLEZ: So you disagree with somebody who is disabled and who is pleading to you and saying that it's going to be more difficult for them to go vote? You're going to say, "Oh, I don't believe you, even though you're the one that's disabled"?

CAIN: Well, one of the amendments that I've filed was actually from working with a disability organization, and we're literally doing every single thing they wanted except for one. We're writing it slightly different. And so we did take that into consideration. And when we drafted it, even during committee, we heard it. And I said, "Oh, you know, they're right." And then they came to us, and Representative Schofield also met with them. And when we get to that point, we will explain that again.

J. GONZÁLEZ: So the hundreds of people that have testified against or they submitted comments against this bill, you just disagree with all of them, right? The people that have done this for years, legal experts who've argued in front of the Supreme Court on this issue, that have protected the right of people of color, protected their vote for years—you disagree with all of these people because you understand what voter suppression looks like, right?

CAIN: I disagree that it does that.

J. GONZÁLEZ: So you disagree with these experts that have said otherwise?

CAIN: I suppose you could say that.

J. GONZÁLEZ: That have challenged these things in court and have been proven by the Supreme Court of having that effect?

CAIN: I believe that, you know, that it's incumbent on the Texas Legislature to improve the electoral process for all Texans, and that's what this bill does.

J. GONZÁLEZ: It's incumbent upon the legislature to enact laws that are going to help the people of Texas. That is our job, not to pass laws that are going to hurt them. So that's what I'm trying to find out from you is, why would we want to do that?

CAIN: Well, I don't think this is voter suppression. I believe it's voter enhancement. I think this bill seeks to improve things for all Texans and so—

J. GONZÁLEZ: It's expanding participation? More people are going to be able to vote as a result of this bill?

CAIN: Yeah, we're protecting voters to ensure that no one's taken advantage of. Yeah.

J. GONZÁLEZ: How is that increasing participation? By adding more restrictions and criminalizing minor things, mistakes that somebody could make?

CAIN: Wow, I don't think this bill at all criminalizes minor mistakes. No. No, it doesn't do that.

J. GONZÁLEZ: It doesn't criminalize somebody for making a simple mistake?

CAIN: It does not. That's one thing this bill doesn't do.

J. GONZÁLEZ: I guess you don't recall the testimony that was elicited from the AG's office and how they're going to enforce this bill. And some of it sounds really scary and could affect every single person in this room who runs for office when we run for reelection.

CAIN: Yeah, I understand. I think from the testimonies—

J. GONZÁLEZ: And so we're willing for people to put their spouses in a position, who may be helping them block walk or poll greet—it's a slippery slope there. They could potentially be accused of illegal voter assistance simply because they're trying to help their loved one get reelected.

CAIN: Can you explain to me what section or page number in the bill would do that?

J. GONZÁLEZ: I don't have the bill in front of me, but I can come back with the question. But there was testimony that I asked the attorney general in regard to the definition within the code that defines someone who is assisting to have some kind of benefit. So for example, let's say my colleague here, Gina Hinojosa, that she has her husband on her health insurance. That seemingly is a benefit because he's getting a health insurance benefit. Now, if he's helping her get reelected, that could potentially—he could potentially be committing a crime under the way the bill is written. And the AG's office said that.

CAIN: What section is that?

J. GONZÁLEZ: The AG's office said that.

CAIN: We need to fix that. What section does that?

J. GONZÁLEZ: I mean, I could find it, but it's in there. And that's pretty scary.

CAIN: Please do.

J. GONZÁLEZ: That's pretty scary.

CAIN: Please do. If someone is going to get in trouble for being on their spouse's insurance while they're standing polls, we need to fix that.

J. GONZÁLEZ: But that's what your bill does.

CAIN: Can you show that to me?

J. GONZÁLEZ: I definitely will.

CAIN: Okay. I really—I don't see it. And I guess that's why we're here. I'm not seeing that.

REPRESENTATIVE C. TURNER: So Representative Cain, your bill discusses fraud a number of times. It's there in the caption. It's in the purpose of the bill. It's in these new legislative findings that you're creating. So can you detail for the body how many instances of election fraud occurred in the 2020 elections?

CAIN: You know, this bill, like you said, it targets voter fraud. And it's—

C. TURNER: Just a number. Just a number is all I need.

CAIN: In the 2020 elections?

C. TURNER: Yes.

CAIN: In what state?

C. TURNER: In the State of Texas. This is a bill that applies to the State of Texas, is it not?

CAIN: It does. It does. You know, look, the whole point is that it protects every single voter because I believe that's the goal of everyone. And any amount of fraud is too much fraud. Wouldn't you agree?

C. TURNER: But you don't know of a specific amount of fraud, a specific number of instances of fraud?

CAIN: No. No, I don't know, but it's really hard to find what you don't look for.

C. TURNER: I see. Well, so a couple months ago, you were at a press conference in Houston, were you not? I believe it was with Senator Bettencourt and Governor Abbott. Do you recall that?

CAIN: Yes, I recall that.

C. TURNER: And you talked about **HB 6** and **CSSB 7** and why we need to crack down on voter fraud in Texas. And the governor was asked at that time by a reporter, well, are there instances of fraud in the 2020 elections? He said he wasn't aware of any at that time. And what I'm wondering, in the two months since, have you or the governor or anyone else unearthed any fraud? And I think you're saying the answer is no. Representative González already covered with you the secretary of state's testimony in your committee that Texas had an election in 2020 that was successful, smooth, and secure. You do recall that testimony, right?

CAIN: Yes, I do. But can I answer you? You know, the attorney general's office did come in, and they talked about some of the things they prosecuted. And you know, sometimes these things can take two years to build their cases before they prosecute it. So I'm not sure. One of the main reasons they might not have data from that is that it takes that long before they file any information or a charge.

C. TURNER: Well, I'm glad you brought that up because that's actually my next question. It's about the attorney general. Do you know how many staff hours that the attorney general spent investigating election fraud?

CAIN: No, sir. Could you tell me?

C. TURNER: Twenty-two thousand staff hours. And it beefed up the Election Integrity Unit—it now has 17 staffers, eight more than previously, so nearly doubling. So after all that, and I presume you've heard this testimony in your committee from the attorney general, can you tell me how many instances of fraud the attorney general found after that incredible investment of staff time?

CAIN: From what time period to when?

C. TURNER: Since he spent 22,000 staff hours on it.

CAIN: When did they do that? I'm just trying to know. Was this 2010?

C. TURNER: I believe it was 2018, 2019. I can get you the exact year.

CAIN: Yeah, I'm not sure. You know, they discussed that in committee. I'm sorry. I don't have it memorized. But—

C. TURNER: So you've got 16.

CAIN: Mr. Turner, you asked me to answer a question for you.

C. TURNER: Sixteen total instances. Out of 22,000 staff hours, 16—

CAIN: Well, may I expand more?

C. TURNER: —out of the state of 29 million people and over 15 million registered voters.

CAIN: Well, Mr. Turner—

C. TURNER: Sixteen—one, six.

CAIN: You know, Mr. Turner, we also discussed there have been fluctuations in their staff. For example, I believe during Harvey, their person that was in charge of elections was put to be there for price gouging. They didn't have one. So that's fluctuated with their manpower. And so—

C. TURNER: I'm sorry, what does price gouging have to do with this?

CAIN: Well, because that meant they literally did not have a person over in charge of elections. And what I'd say, again, is you can't find what you don't look for, you know? And I think some of these areas—

C. TURNER: So we haven't found it but we've got to keep looking? Okay, I got it. All right.

CAIN: No, no. You can't find what you don't look for. If you weren't looking, it can't be found. You know, some of these things, our laws aren't clear enough. And actually, this is a good thing. The attorney general's office and prosecutors—and I hope this is true and I've heard so—won't prosecute somebody unless the statute or the way that law is written fits it exactly. And to their credibility, they haven't done that because there's not a lot of flexibility in the code that's really clear of what things are unlawful or not.

C. TURNER: Sure, and I would agree that you can't find what you don't look for. And that's why when Representative González asked if you had done an analysis of your legislation to analyze what the impact would be on minority voters in the State of Texas, on communities of color, you said you hadn't done that.

CAIN: I hadn't heard of that being done for any of the bills this session, and I guess maybe if I—

C. TURNER: Well, it's something that's done often in terms of voting rights bills or bills that suppress voting rights like this one does.

CAIN: Well, I mean, I disagree that it suppresses voting rights.

C. TURNER: So let's move on. Other members have questions, so I want to get through mine. Your legislation says that problems with voting "threatens the stability of a constitutional democracy by undermining public confidence in the legitimacy of public officers chosen by election."

CAIN: Yes. Wouldn't you agree?

C. TURNER: And so I've heard that, a variation of that statement, a lot over the last year. And so my question very simply, Representative Cain: Is this bill simply a part in the continuation of the big lie perpetrated by Donald Trump that somehow he really actually won the presidential? Is that really what this is all about?

CAIN: No, not at all. This bill is not about 2020.

C. TURNER: It just validates the former president's falsehoods that he somehow actually won an election that he lost by more than 7 million votes. Is that what this is about?

CAIN: No, this bill is not a response to 2020. A lot of these things have been a long time coming. We see bills, again, like this filed every session.

C. TURNER: I've never seen a bill like this that's filed, but let's move on. Does your bill, since we're talking about threats to democracy, does your bill in any way address the aiding and abetting of an insurrection?

CAIN: No, I don't believe so. No.

C. TURNER: Why not?

CAIN: Well, this bill is about—this is about protecting voters. This is about making sure our voter rolls are clean. This is about restoring the integrity of the process and the trust of the voters. This is about making sure people aren't taken advantage of. This is also about making sure that when things happen that people can get heard in court in a timely manner because, as you know, when an election's over—

C. TURNER: Do you think an insurrection that is predicated on a big lie about bogus election fraud is a threat to our democracy?

CAIN: Yeah, I guess. I mean, that's bad to have an insurrection, of course, yeah.

REPRESENTATIVE ANCHIA: Representative Cain, **CSSB 7** was considered in your House Committee on Elections last week, is that correct?

CAIN: Yes.

ANCHIA: And you're the chairman of that committee, correct?

CAIN: Yes, sir.

ANCHIA: And as I review the bill, it seems that both **CSSB 7** and **HB 6** have identical captions. Is that correct?

CAIN: Now they do. Yes, after we did the committee substitute to **SB 7**, now it has the same caption.

ANCHIA: So yes?

CAIN: Yes, sir.

ANCHIA: And as I reviewed the committee substitute to **SB 7**, which was considered in the Elections Committee, it seems that the bill language itself is maybe not identical but nearly identical to the current version of **HB 6**. Is that correct?

CAIN: I'm under the impression that they're the same thing. Yes, sir.

ANCHIA: Okay, so you believe they're identical. You chose a peculiar term in drafting this bill, and it's on page 1, line 12. Do you have a copy of the bill in front of you?

CAIN: I do. Yes, sir.

ANCHIA: And you talked about preserving "the purity of the ballot box." Is that correct?

CAIN: Yes, that's a quotation from the Texas Constitution. It'll be Article VI, Section 4.

ANCHIA: Right, and are you aware of the history behind that provision of the Constitution?

CAIN: I'm not.

ANCHIA: Are you aware that references to "purity of the ballot box" used throughout this country's history has been a justification for states to disenfranchise groups they deem unfit to vote? Or somehow lacking?

CAIN: I didn't know that. I wasn't aware of that. I guess I thought "purity" meaning not having fraud in it or something.

ANCHIA: Are you aware of the 1972 Supreme Court case *Dunn v. Blumstein*?

CAIN: I'm not.

ANCHIA: In that case, they noted that statements related to the "preservation of 'purity of the ballot box,'" while "a formidable-sounding state interest," cannot be used to justify any and all voting requirements that a state might think up. Did you run across this explanation when you specifically used that term?

CAIN: No, not at all.

ANCHIA: What was your motivation for using that term "purity of the ballot box"? Because that's a specific set of words that has a lot of meaning in state history. What was your intention?

CAIN: Well, I'm going to answer it for you. You know, you may have figured out by now, I really like the State Constitution. And I think as a legislative body, just as Congress should—they should be looking for their authority from their charter, from the thing that gives them power. And so when we're looking at what authorizes us, the sovereign people of the State of Texas delegated their authority through the Constitution. We then should look to the Constitution and say, what gives us authority to do anything on this issue? And that's the provision that does that. So that would be why.

ANCHIA: And do you know what the motivation was for that text in the Texas Constitution? And you're referring specifically to the Texas Constitution of 1876, correct?

CAIN: Yeah, our current constitution, yes.

ANCHIA: Did you look at the history before using that word?

CAIN: No. No, the only thing—if we were to have a discussion, maybe over some coffee or drinks or something, I could go into the details of Article I really well. I've read the debates in the journals of the Convention of 1875 on that, for that thing, but I'm not familiar with the one on Article VI.

ANCHIA: You may have missed it then, and this would've been very obvious, I think, to anybody who looked at that and looked at that language. That provision was drafted specifically to disenfranchise black people—black voters, in fact—following the Civil War. Did you know that?

CAIN: No, that's—I'm sorry to hear that.

ANCHIA: And are you familiar with white primaries?

CAIN: We've heard and read of such things. I'm glad that's gone. It's a disgusting thing.

ANCHIA: You've read about those?

CAIN: Yes.

ANCHIA: Did you realize that that "purity of the ballot box" language in the Texas Constitution gave rise to all-white primaries?

CAIN: No. No, I didn't.

ANCHIA: And did you know that this "purity of the ballot box" justification was also used during the Jim Crow era to prevent black people from voting?

CAIN: No. No, those are troubling things. I didn't know that was their reason.

ANCHIA: Did you know that in states across the country that penal disenfranchisement schemes were put in place, including in Texas, as far back as 1845 to effectively lock African American people out of the political process? Are you aware of this history?

CAIN: You know, I think we've said a few times that I wasn't aware of any kind of malicious intent in the use of that term, and the reason it was used is I looked at the Constitution because I believe our authority is derived from the people and that's why.

ANCHIA: Now, because we have that history in place, and the references in your bill that evoke some of that very dark history in our state, I wanted to ask you—I want to fast forward to the last decade. Are you aware that there have been multiple findings of intentional discrimination against African Americans and Latinos by the state legislature found by three federal courts?

CAIN: I don't know the numbers, but I believe you if you said it. By the way, I'd be totally fine with an amendment to maybe strike the word "purity" and say "integrity" or something, if you want to offer that.

ANCHIA: I was just curious because I think language is important, and the language you chose to use in this bill might reflect on one's intent. Because if you are a student of the Texas Constitution, as you said you were, I think that might be probative, and that's why I wanted to ask those questions. Because of the history that we just outlined, that you said you're generally aware of—you weren't exactly sure the number of times—I will tell you that in the D.C. Circuit Court, in an El Paso court, and in a three-judge panel composed of two republican appointees and one democratic appointee, there were findings of intentional discrimination against the Texas Legislature, specifically against communities of color. So in light of that history, can you tell me why you did not do a racial impact analysis on how this legislation would affect people of color?

CAIN: Well, Representative, you'd asked if I was familiar with it, and—when were those, by the way? Because I wasn't and so—

ANCHIA: I'm sorry. They were—it was from 2010 to 2020, in the last decade.

CAIN: I'd like to pretend that I was younger than that. I really don't recall that, and so your questions based on in light of this, as if—

ANCHIA: But were you generally aware? Have you heard that that's been an issue?

CAIN: I wasn't aware of it, and so how could it be in light of that and therefore do this, you know, in spite of or something? And so I'm not aware of it, sir.

ANCHIA: Okay. Well, given that history, did you ever give thought to how this legislation might impact African Americans? Did you ever give it a thought?

CAIN: Did I give it a thought? Yeah, and if I thought somehow that this was designed to have some animus against any people or group, it wouldn't have been written that way. In fact, due to the number of this bill, I don't think our speaker would've allowed it to be done that way. I don't think we'd have as many people signed on to it. They wouldn't have done that. I don't think the members of the committee would've voted for it or supported it if it did that. So no, I didn't. It didn't cross my mind. But I didn't think it did it, and so—

ANCHIA: So as a result, in an effort to make sure that there was—forget the intentional discrimination that occurred in voting rights matters during just the last decade. Did you worry that there might be a discriminatory effect? Even if you thought there was no discriminatory intent, because under Section 2 of the Voting Rights Act, we have a discriminatory effect standard. Did you ever look to see if there might be or solicit a third-party analysis or any third-party testimony about the racial impact of this bill?

CAIN: You know, what I can tell you is in crafting it, there were things that people had proposed and brought us. And when I read those things I thought, "Man, I don't like that; that looks bad." And so we rejected it. Does that make sense?

ANCHIA: Because you didn't like it?

CAIN: No, because I'm thinking, no, these are bad things. These are things that I actually thought might have a—

ANCHIA: And what does "bad" mean to you?

CAIN: Something that would have a disparate impact on somebody. Something that you could go, "Hey, you know that? I think that's wrong."

ANCHIA: And how did you make that call?

CAIN: Just kind of by your heart, kind of a gut feeling.

ANCHIA: It was your gut feeling, right? It was, you know, you may not have known but you just thought it was your gut feeling that, "Hey, that feels bad to me, and I don't want it to be in my bill." Right? Is that what you're saying?

CAIN: You know, from people that we talk with, there's lawyers—

ANCHIA: No, but is that what you're saying? Like you said, it came from your gut and you thought there's some stuff that would be bad, right? So—

CAIN: So here's how it began. Mr. Anchia, if you'd allow me to answer the question, please.

ANCHIA: Well, I'd love for you to answer the question that is being asked.

CAIN: So you look at it and you go, "Man, I don't like that. I'm going to go talk to"—

ANCHIA: And I'm going to say your words back to you.

CAIN: And I'm going to talk to other members about it. Because you're construing it—let me finish. You see something and you go, "Man, you know, I'm not sure about that." That happens in this chamber all the time, and then we go and talk to people. We go, "Hey, I think maybe that's not good. You agree?" And then other people say, "Yeah." And so that's why it wouldn't have come in.

ANCHIA: And so with whom in the chamber did you discuss these things?

CAIN: You know, members of the committee and friends and other people.

ANCHIA: So you asked members of the committee if proposals might have a disparate impact on Latinos and African Americans. Is that what you're saying to the body?

CAIN: No, not like that. What I'm saying is if you're, "Hey, I'm not sure about this—is that bad?" And, you know, maybe they'd agree.

ANCHIA: And what was their analysis when you asked them?

CAIN: I'm not saying any of this is about some racial impact. What I'm saying is whether we thought maybe, you know, I don't think that actually helps people.

ANCHIA: But the question was specifically about Section 2 of the Voting Rights Act and not discriminatory intent but rather discriminatory effect. So I will ask—

CAIN: I don't recall you mentioning—

ANCHIA: Can I ask? I've allowed you to finish your—

CAIN: I don't recall you mentioning Section 2 of the Voting Rights Act. I'm sorry. What I'm—

ANCHIA: I have allowed you to finish your answers, so if you could allow me to restate my question again. You said you're, for lack of a better term, deciding what would go in and not go into the bill based on your gut feeling. And some things you did not put in the bill because of that gut feeling or because, as you have said, you spoke to other members of the committee about those things. Did you ever think to ask for testimony in your committee on racial impact from this legislation?

CAIN: Will you allow me to answer your question?

ANCHIA: Yes, that is a very specific question. Did you ever do that?

CAIN: All right, so you had phrased it, and I was talking about going to go with a gut feeling. I wasn't talking about impact on any kind of particular thing, meaning—

ANCHIA: Well, that was the frame of the question.

CAIN: Well, you keep bringing up the gut feeling thing, so I think I need to clarify it. What that means is, you know, I thought that wasn't good law or something.

ANCHIA: What is good law here? What does that mean to you? What is good law?

CAIN: I think anything that treats everybody equally and makes sure that watchers aren't excluded, that they're able to watch the process to make sure that it's fair. That we don't have people that are receiving assistance being taken advantage of, you know, making receiving that assistance—

ANCHIA: But in making good law, it doesn't sound like you're including understanding what the impact is on African Americans or Latinos, right? Because you did not do that. Is that correct?

CAIN: Did we have an impact study done? No, and I think I've answered that. Yes, sir.

ANCHIA: Okay. Why did you not have one done? If you were trying to figure out what might constitute good or bad law and you knew that rather than having a discriminatory intent, which you're telling us today this bill does not have, that it might have a discriminatory effect?

CAIN: This bill is designed to protect all voters, and so I guess because I didn't think that this was treating anyone differently. I wouldn't have thought there was a reason to study it because it literally is about all voters in Texas.

ANCHIA: Were you ever asked in committee by a member of the committee to do such a study?

CAIN: Actually, someone asked had we performed one. That question was done and I answered it then that one wasn't done.

ANCHIA: And did you think to do one after that request had been made?

CAIN: You know what? I didn't think so. I didn't think that was necessary because I believed that this bill is designed to protect all voters, every single one of them.

ANCHIA: Because you thought that this bill was neutral and you trusted that gut feeling. You trusted how you felt about the bill, right?

CAIN: Recall that you asked me. You tried to pin me down on the gut feeling thing, and I've told you that was about whether I like language or not. It wasn't about that—

ANCHIA: I'm just restating your terms.

CAIN: Yeah, but it wasn't about that in context. So I'm just trying to reestablish context. So, you know, in writing it—whether you think words are good or bad, "must" or "shall"—those kind of different things. But no, this wasn't about anything like that.

ANCHIA: Can you describe what types of voter fraud this is intended to stop? This bill? Because you said earlier that this was about protecting voters and sort of allowing people to watch polls. What fraud is it designed to stop?

CAIN: Okay, yeah. Well, you know, we've got—we're trying to maybe stop what we call ballot harvesting.

ANCHIA: And what does that mean to you?

CAIN: That means when someone is compensated in order to go and harvest votes. I mean, they're being paid. In fact, I prefer the words "ballot trafficking" more.

ANCHIA: What do those terms mean to you? What is—walk me through how ballot trafficking works.

CAIN: Okay, let's go to the section of the code that'll fit it for us. We're going to go to Chapter 276 in our code. We're going to go to 276.014.

ANCHIA: And what page is it in your bill?

CAIN: Let me find it. Here we go. So 276.014, which is entitled "Paid Vote Harvesting," and the purpose there is to, you know, you can't have any benefit. So vote harvesting "means direct interaction with one or more voters in connection with an official ballot."

ANCHIA: Mr. Cain, I don't know—you probably don't know this and if you can confirm it for me. You know, my dad doesn't speak very good English because he's an immigrant. Did you know that?

CAIN: I didn't know that about your father, sir.

ANCHIA: Do you know how many people in Texas are speakers of a non-English language?

CAIN: I'm unaware.

ANCHIA: It's 8.6 million. They need help when they vote. So do you know how—have you inquired how your bill will affect non-English speakers in Texas? The 8.6 million of them?

CAIN: Yes, yeah. In fact, Chapter 64—

ANCHIA: What page are you looking at?

CAIN: Oh, I'm just going to the Election Code. I'm sorry. You know, Chapter 64 of the Election Code speaks to assistance of voters, and a person that's eligible to receive assistance is someone that needs help writing their ballot or reading it. And what this bill does for them is we want to make sure that no one takes advantage of them.

ANCHIA: Can you point to me where instruction is given—where in your bill instruction is given—in a language other than English? Because you said this bill is designed to help those people. So where in your bill does it talk about non-English speakers and assisting those people?

CAIN: Well, it doesn't speak to that. But what it does is it ensures, like in the oath of assistance provision of this bill—

ANCHIA: What page are you talking about?

CAIN: Let's look for it. Here we go. We're on page 10, but this section begins at the top of page 9. So it's Section 4.02. And Chapter 64.031 of the Election Code, I believe, sets out those who qualify to receive assistance.

ANCHIA: What line of your bill is that?

CAIN: Okay, of what?

ANCHIA: What you're referring to. You said in your bill and you directed me to page 10. What line are you—

CAIN: Yes, we're going to be at Section 4.02. So go on below Section 4.02. So that's page 9, line 25.

ANCHIA: Page 9, line 25. Go on.

CAIN: Yeah, okay. So that's why we're amending this existing oath, you know, to make sure that people who are eligible for assistance, that no one pressures them or maybe takes advantage of them, of someone that maybe is unable to properly read the ballot in the language that it's written in. Because under Chapter—

ANCHIA: And is that oath in a language other than English? Or is there a provision in your bill related to that?

CAIN: No, but I'm not opposed to ensuring that the secretary of state makes sure they write the oath in more than one language. That sounds like a good thing.

ANCHIA: Do you have any data on how the provisions of your bill would impact non-English speaking voters?

CAIN: Well, here's how I know it would impact voters. So eligibility for assistance—

ANCHIA: I'm specifically referring to non-English speaking voters. I think you're trying to answer a different question than what I'm asking.

CAIN: Yeah, hold on, this is about this. Listen, so it's Section 64.031. It says, "A voter is eligible to receive assistance in marking the ballot, as provided by this subchapter, if the voter cannot prepare the ballot because of a physical disability that renders the voter unable to write or see or an inability to read the language in which the ballot is written."

ANCHIA: My question related to data. Have you looked at any data on how your bill—I mean, have you solicited testimony? Have you asked for a study? Have you asked the secretary of state for data? Because it's not specifically about the provision you're referring to but how your bill would impact non-English speaking voters. Have you done any of the things that I just described?

CAIN: No, sir, and I didn't hear anybody during the testimony mention that. But, you know, I don't think that it's a bad idea that we ensure that the oath of assistance is in more than one language. I mean, this is a diverse state.

ANCHIA: Okay. Now, your bill significantly increases the role of poll watchers at polling locations. Is that correct?

CAIN: I don't think it significantly increases the role at all.

ANCHIA: So it doesn't increase the role at all, in your opinion?

CAIN: No, it simply verifies—

ANCHIA: It doesn't change existing law to—

CAIN: Well, we change existing law to clarify—

ANCHIA: To give that poll worker more power.

CAIN: That's correct. It does not at all. At all. So Chapter 33, by the way, is entitled "Observers," but it's all about watchers, actually. "Observers" is a federal law term, for some reason, but we're on watchers. And it doesn't—

ANCHIA: And so under current law, an election judge has complete authority over poll watchers, correct?

CAIN: Yeah, they've got the—they're the boss of the polling location.

ANCHIA: And in your bill, they would no longer have that authority, correct?

CAIN: No, I don't think it changes their authority or anything. Really clarifying it, you know? For example, this bill makes sure that a watcher who's appointed and properly there, they can't just be removed for any other reason. But to clarify that, we've got some amendments today that we'd like to offer that make sure to clarify.

ANCHIA: Is that Representative Klick? I'm sorry. I couldn't understand who you were referring to.

CAIN: Oh, I've got an amendment as well—

ANCHIA: You? You have an amendment?

CAIN: —that will make sure to kind of clarify that. It will clarify that they can obviously be removed for violation of 276. We've got one that wants to be very clear that hey, you can call the police to have them removed for breaches of the peace. And by the way, they're not even allowed to talk to, communicate to, a voter in the code. I don't know if you were aware of that. Watchers—it's illegal for them to even talk to a voter, you know? And we've got some that want to clarify. You know, that also means you can't harass them, and I agree with that.

ANCHIA: So let me ask you. On page 5, line 18, where you discuss removal of the watcher from the polling place, you put limitations on the presiding judge's ability to remove the watcher. On line 19, you say that the judge "may remove a watcher from a polling place only if the watcher engages in activity that would constitute an offense related to the conduct" of the bill. So that changes the authority of the watcher vis-à-vis current law, does it not?

CAIN: I think it's clarifying what the existing law is. But we also have—I've seen some amendments that we're working on that would say "or of this code." You know, a violation of the code, to kind of really further clarify that. And I think that's already their power.

ANCHIA: But let's be clear about this. Under current law, the election judge that otherwise has the power of a state district judge—you're aware of that, correct?

CAIN: Yes.

ANCHIA: They would have complete authority over the poll watcher to make sure that they could conduct the election. And here, you are placing a limitation and saying that the election judge can only remove a poll watcher under a very specific set of circumstances. Isn't that right?

CAIN: Yeah, you know, so—

ANCHIA: So is that "yeah" as in "yes"?

CAIN: So the overarching goal of this bill is to—

ANCHIA: Just help me out. Did you say "yeah," as in yes, at the beginning of your answer?

CAIN: Yes, and it's because the overarching goal of this bill is to instill the trust in the electoral system, and that's why we're ensuring that watchers can do what they were appointed to do.

REPRESENTATIVE COLLIER: I just want to pick up where Chairman Anchia left off. If you could turn with me to page 4 of your bill. It says, "In this code, a watcher who is entitled to 'observe' an activity or procedure is entitled to sit or stand near enough to see and hear the activity or procedure." What does this word "observe" mean and why is it in quotation?

CAIN: Well, I think it would be related to the concept of what a watcher is there to do. And by the way, this "observe," in Texas, we call them a watcher. Under federal statute, they call them an observer. In the federal, they say an observer is allowed to watch. And in Texas, we say a watcher is allowed to observe. And so I just kind of—that's the way the term's done there.

COLLIER: Well, I'm just trying to figure out why is it in quotes. Is it for emphasis? The bill has "observe" in quotes.

CAIN: Yeah, I guess it's to emphasize they're entitled to observe.

COLLIER: Is there a different meaning to that word than what is in the dictionary? I'm just trying to figure out what is meant by "observe."

CAIN: No, I don't think so.

COLLIER: Okay, and do you define "observe" somewhere else in this statute or in this bill?

CAIN: Yeah, if you give me a moment, let me find it real quick. So currently in the Election Code, under Section 33.056(b), it says, "A watcher is entitled to sit or stand near enough to the member of a counting team" to "read correctly" or "to verify" the votes are "tallied correctly"—you see that concept there. We've also got other provisions under Chapter 33 that say the same thing, you know. And we're just repeating it again so that we can be really clear that the whole purpose is they can be near enough to see and hear the activity or procedure that they're there to observe.

COLLIER: Well, I'm trying to figure out what the purpose is of the quotes for "observe."

CAIN: Maybe it's an emphasis thing.

COLLIER: Well, is it a reference to—are you citing something else? Is it citing a different part of the Election Code? It just doesn't have any type of purpose. I don't know what the purpose is.

CAIN: Okay. Yeah, I think that's there to be clear.

COLLIER: Typically when you have quotes with words, when you have words that are encased with quotes, they're in reference to something. Maybe a quote from somebody? But I'm not sure what the quotes would mean in this measure. So are you defining "observe" somewhere else?

CAIN: I'm not sure. If you give me a moment, I'll look at it.

COLLIER: Okay. So does this part of—

CAIN: I'm trying to get somebody to help me find it.

COLLIER: Okay.

CAIN: It may appear to be a scrivener's error. I was checking, looking at the **HB 6** committee substitute that we passed out of the committee to double check, and it's there as well. Maybe it's a scrivener's error, I assume, that we could fix.

COLLIER: So it was an error?

CAIN: Yeah.

COLLIER: It's not meant to mean anything. Is that correct? With the quotes, I mean.

CAIN: Yeah, you're probably right. Yes.

COLLIER: Okay. So does this part, Section E that we're still on, does that mean that a watcher is entitled to see a voter's ballot?

CAIN: No, not at all. In fact, they're not allowed to do that under the Election Code.

COLLIER: Okay. Does this mean that a watcher is entitled to see what a voter marked on their ballot?

CAIN: No, not at all. In fact, Section 33.057(a) of the Election Code says, "A watcher is entitled to be present at the voting station when a voter is being assisted by an election officer, and the watcher is entitled to examine the ballot before it is deposited in the ballot box to determine whether it is prepared in accordance with the voter's wishes." And then (b) says, "A watcher may not be present at the voting station when a voter is preparing the voter's ballot or is being assisted by a person of the voter's choice." Yeah, that means they can't be there. That's wrong—anything that would stop the security of someone's private vote. They can't do that.

COLLIER: All right. Would you agree that the suppression of lawful voters and voiding lawfully cast votes threatens the stability of a constitutional democracy?

CAIN: The suppression of lawful voters? Yeah, that's a bad thing. I think so, yes.

COLLIER: You would agree with that?

CAIN: Yes.

COLLIER: Will this bill permit a presiding judge to have a poll watcher removed if that watcher intimidates a voter?

CAIN: That would be a crime if they were to intimidate somebody. I think of course they could be removed. The police are there to enforce our criminal laws and things. And right now under 276, and I have to go review 276, voter intimidation is under that. But yeah, that's a bad thing.

COLLIER: So will a presiding judge be permitted to have a poll watcher removed if they are intimidating a voter under your bill?

CAIN: Can you tell me—just real quick so I can answer it—what would they be doing?

COLLIER: Intimidating a voter.

CAIN: Tell me how that looks.

COLLIER: Just a little second ago, your bill says a poll watcher can be removed only for violations of Chapter 273.

CAIN: Of 276.

COLLIER: Oh, 276. Yes, thank you for the correction. So would that include a presiding judge being able to remove a poll watcher if they have intimidated a voter?

CAIN: I guess it depends if it meets 276, but we also will get an amendment that would add "including an offense under Chapter 276 or of this code," just to make sure that that would be included.

COLLIER: So not at this time, though, but you're going to amend it.

CAIN: I'm not sure if 276 covers that, but we do want to make sure that we go ahead and make it very clear, yes.

COLLIER: So will this bill permit a presiding judge to remove a watcher who causes physical harm to a voter?

CAIN: I guess if that would be a violation of the code. Otherwise, they really should call the police so that person could be arrested.

COLLIER: Well, I mean, would the presiding judge be able to have that poll watcher removed?

CAIN: Yeah, they are 100 percent able to call the police and have those people removed. And I'm sure they could ask them to step outside, yes. And I hope they'll call the police. It's very, very important.

COLLIER: I understand but your bill does not provide for that. It says Chapter 276?

CAIN: There are—again, they have the power of a state district judge, so I don't see why they couldn't already do that.

COLLIER: Well, because you limit it in this bill. You said a poll watcher can only be removed—

CAIN: There we go. So 276.001 says, "A person commits an offense if, in retaliation against a voter who has voted for or against"—you know, it's illegal to harm or threaten to harm a voter already under Chapter 276.

COLLIER: So physical harm?

CAIN: To harm or threaten to harm.

COLLIER: So if they cause physical harm, the presiding judge can remove them?

CAIN: It also says or to threaten to harm.

COLLIER: Okay, so then your bill would allow a presiding judge to have a poll worker removed if they cause physical harm to a voter?

CAIN: Yeah, a watcher. Yes, I believe so.

COLLIER: All right. Does this bill require poll watchers to identify themselves to the public?

CAIN: I don't think that's in this bill, but, you know, they're not actually even allowed to talk to voters under Chapter 33. They're not even allowed to communicate.

COLLIER: Well, do they wear anything that says they're a poll watcher? Is there anything that says, "I'm a poll watcher"?

CAIN: No, I'm not familiar with that.

COLLIER: Okay. So there's no way someone, a voter, would know that the person that is sitting or standing near enough to observe the activities—they would not know if they're a poll watcher?

CAIN: Well, one moment. The watcher, by the way, they present their credentials to the presiding judge when they get there. So the presiding judge knows exactly who they are.

COLLIER: But what about voters that are there? The people who are there to vote, will they know who they are?

CAIN: I think some counties do it optionally. They let people wear name tags and things. I've heard about that.

COLLIER: Does anything in this bill prohibit poll watchers from being paid?

CAIN: Does it prevent poll watchers from being mean?

COLLIER: Paid.

CAIN: Paid. Let me look at—when we're looking at bills, it's sometimes important to look at existing law. I'm not sure they can actually be paid. Yeah, I don't think you can be paid to do this. This is a volunteer gig just like—well, actually, it's not really a volunteer for other people. Some election workers do get paid. But it's not in the bill.

COLLIER: Does this bill permit poll watchers to videotape voters inside the polling place?

CAIN: This bill does not do that.

COLLIER: So does this bill prohibit poll watchers from videotaping voters inside the polling place?

CAIN: It does not but current law does.

COLLIER: I'm sorry?

CAIN: Current law does. It's already illegal under current law.

COLLIER: Okay, so this bill would not change that?

CAIN: That's correct, yes. In (c): "A watcher may not be accepted for service if the watcher has possession of a device capable of recording images or sound unless the watcher agrees to disable or deactivate the device." So they can't do that stuff. That's existing law.

COLLIER: And you're not changing that. Are you familiar with the campaign Operation Eagle Eye?

CAIN: I've never heard of that.

COLLIER: Well, earlier, your vice-chair, Representative González, asked if you had reached out to any organizations that specialize or that focus on voting and elections. Did you reach out or did you have any communication with the Texas Civil Rights Project?

CAIN: They were in the hearing room a lot. And they also often handed things to us, and I'd read through their documents.

COLLIER: You read documents?

CAIN: Yeah. When they handed things out for the bills, yes.

COLLIER: Did you consult with them when crafting this piece of legislation?

CAIN: No, ma'am.

COLLIER: Okay. Let me just give you an explanation, because they provided this document to talk about Operation Eagle Eye. The Republican National Committee 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. And in Texas, there were over 10,000 volunteers alone to do that as poll watchers. You weren't familiar with that?

CAIN: I'd forgotten about the term, but I remember reading something like that now. Yes, Operation Eagle Eye.

COLLIER: Were you aware that in 1980—

CAIN: By the way, I mean I read the term, but I'm not familiar with the rest of that.

COLLIER: Sure. Were you aware that in 1981, the RNC organized a partisan poll-watching group called the National Ballot Security Task Force?

CAIN: I'm not advised.

COLLIER: Okay, so this group included armed off-duty police officers who patrolled polling places, and they occasionally removed voters in Latinx and black neighborhoods.

CAIN: You know what, that's actually—I'm glad you mentioned that. We've got a provision in this bill—it's under Section 3.08—and this is to clarify who can be at a polling place because we don't want that exact thing to happen. Polling places aren't libraries. They're not the courthouse steps. And that's why—

COLLIER: Well, I actually have a polling place that is a library.

CAIN: Well, when you're inside the polling place—you know, those doors where it's voting? And that's actually why we clarify who can be inside of it. And it's people that are any kind of government officials are there to do a job, and if they're not doing exactly what they're supposed to be, they don't need to be inside there. And so we say that during the time prescribed, they can only, under this one for a polling place, it's only the "election judge or clerk, a watcher, the secretary of state, a staff member of the Elections Division of the Office of the Secretary of State performing an official duty in accordance with this code"—meaning they don't get to just go hang out. They've got to be there to do a job.

COLLIER: So let me ask you this. In 2018, Dallas poll watchers had to be escorted out for looking over voters' shoulders. Were you aware of that?

CAIN: I was not, but that's wrong because I think when we go to the code, it says they can't do that.

COLLIER: But that's just a tactic that they used. In 2010 and 2020, Houston poll watchers were reported for being too close to voters.

CAIN: What do you mean by too close?

COLLIER: Well, I guess it must be closer than the six feet that you reference.

CAIN: I don't reference six feet.

COLLIER: Okay, so—

CAIN: I wasn't really good at following those rules.

COLLIER: This is what the problem is. When you have in-person elections and people have to be there—and we're still in the pandemic and there's COVID-19 going on—if you have a poll watcher who is too close, that could become concerning. That's very concerning. Were you aware that poll watchers in Texas have also been known to call border patrol in an attempt to curtail Latinx voters?

CAIN: I'm not advised, and I didn't hear anybody in committee explain any of that either.

COLLIER: So in Dallas County, a voter—were you aware of this—a voter reported that a white female poll watcher was standing within three feet of all the voting machines and taking notes on a clipboard. Will your bill allow for that process?

CAIN: We're actually—we're not changing any of that current law. Again, under Chapter 33, it allows people to take notes, and they can't leave with their notes without giving them to the presiding judge. And that's current law. We're not affecting that at all.

COLLIER: So they can stand close to the voter while they're voting? Is that permitted under your bill?

CAIN: Well, the bill says, conveniently, "enough."

COLLIER: Okay. So in Bowie County, a black voter had someone who appeared to be acting as a poll watcher looking over her shoulder. And this is why I asked you about if your bill requires them to have identification. So they had a poll watcher or somebody acting as a poll watcher look over her shoulder as she voted and ask her about who she was voting for. Will your bill prohibit those types of actions?

CAIN: It's already prohibited in the code. They're not allowed to communicate to a voter.

COLLIER: Okay, so they're not allowed to.

[Amendment No. 1 by J. González was laid before the house.]

J. GONZÁLEZ: This amendment simply strikes the enactment clause in the bill. You know, I don't think that anyone in this chamber would advocate or condone voter fraud. All of us can agree that anyone who commits voter fraud should be prosecuted, convicted, because that's just not how our democracy is supposed to work. But members, the only way our democracy can function is by allowing people to be able to participate in that democratic process, not creating barriers that make it more difficult, intimidating, and make people fear going to exercise their right to vote. That's what I think will happen if we pass this bill, and I don't think that Texas wants that. As a woman of color who has worked in the Department of Justice in the Voting Section and led the voter protection charge in Nevada in 2012, I know what discrimination looks like, and **HB 6** is just that. It's old Jim Crow dressed up in what our colleagues are calling election integrity. We cannot deny Texas' long history of using a racially gerrymandered legislature and blatant attempts to pass discriminatory laws with the intent to disenfranchise people of color. Yet here we are again. Even Governor Abbott was asked a few weeks ago, when he was promoting this bill, "Was there voter fraud in the 2020 election?" He said, "I can't think of any. I don't know of any, but there may have been." And the secretary of state, who was appointed by the governor and who oversaw the 2020 elections, said to the Elections Committee that the election was "smooth and secure".

Members, this is by far the worst piece of legislation that Texans have seen. We should be encouraging more Texans to vote, not trying to turn someone who makes a simple mistake a felon. I think about me when I was young and I was a new voter. I was excited but I was really nervous. It's scary to go to the polls for the very first time. I remember even asking for assistance because I was scared that I would push the wrong button and my vote wouldn't count. Creating these additional barriers is going to make it even scarier for people and limit the assistance a person may need, just like the 18-year-old Jessica who went to vote for the very first time. This bill places burdens on elderly, disabled, and minority voters by virtually guaranteeing that a large percentage of their mail-in ballots will be rejected. These ballots will be rejected not because of fraud but because the voter did not fill out the paperwork in the way that it is delineated in this bill. There is no cure process for this type of disenfranchisement. This will silence thousands of potential eligible voters. And haven't we heard this over and over by the supporters of this legislation that any cancellation of any legal vote is voter suppression? And so that's what this bill is going to do, in effect.

This happened to me once, and I will say that I was so disappointed. It was the 2008 presidential primary election, one that was historical in the eyes of many. I was a law student and I went to school out of state. I applied for my vote-by-mail ballot, and it was the first time I ever had. I was so excited about receiving it and dropping it in the mail felt like the very first time that I went to go vote. Come to find out, I got a letter in the mail about a month or two later and found out that my vote was never counted. And I haven't really told a lot of people that story because, to be quite frank with you, it felt embarrassing. I was embarrassed by it because, technically, I didn't go vote. And I was so excited about voting in that election. Mainly, I was heartbroken about that because I did

not have the opportunity to have my voice heard in that primary. This bill is going to increase the chances for those in that type of situation for it to occur more and more. It's going to affect people who are in the military and students who go to school out of state. We should not be making voting more difficult, and that's what this bill is going to do.

In addition, this bill places poll watchers in positions to intimidate voters in the polling place, and those watchers, no matter how disruptive or coercive they may be, they cannot be removed unless they are violating a part of this code. And in fact, it makes it a crime to remove a disruptive poll watcher. Poll watching is not a constitutional right like our right to vote is, and we need to understand that. The idea that we should allow poll watchers into the polling place and not remove them when they disrupt the administration of our elections is ludicrous. Even after 20 hours of testimony of people testifying on the dangerous effect that this bill will have on Texas voters, this bill was still rammed through our committee as if these real concerns were an insignificant nuisance. And still we are being forced to hear this bill today despite the outcries of the people of Texas.

Finally, the biggest tragedy of this bill is the chamber's failure to work together. I think that there are many things that the folks in this house can agree on. There are provisions in this bill that no one should accept. But when you only talk amongst the people who you agree with, this is the result. This bill right here is the result. We are Texans and we take pride in our state, of who we are, where we came from, and we must do better. And we can do better. No one on this floor got here because of voter fraud. The reason I know that is because the secretary of state told me so—told members of the Elections Committee that were present during the hearing and the thousands of Texans across the state that tuned in that our elections were safe and they were secure. So I'm not really sure what problem we're trying to solve today. Every single member on this floor believes that election fraud is a crime and should be prosecuted. Where we disagree is that we do not believe that legal voters should be rejected and disenfranchised because of the extraordinarily rare crime of election fraud that, again, doesn't really exist.

People may want to deny the fact that systemic racism exists, that Jim Crow laws from the old days aren't coming back, but we know that they do. Texas is one of the main reasons that the Voting Rights Act of 1965 was passed by President Lyndon B. Johnson—because of Texas and other southern states—and for us to ignore the facts and pretend that the problems never existed is insulting. It's insulting to the people of color. It's insulting to all the people who have faced discrimination in the past. And it is insulting to the people of color of today. We should not be making voting more difficult. You know, I have a sign on my door in my office that I brought here to the floor today. It says, no negroes, no dogs, and no Mexicans allowed. I have it in my office, and I have it hanging by the door so I can see it every single day when I walk out of my office that our rights should never be taken for granted. It will be a dark day in Texas if **HB 6** becomes law. Let's reject this bill and start again. And let's do right by Texans.

COLLIER: Vice-chair González, I want to thank you so much for your steadfast leadership on the House Elections Committee. You have done a fine job. I appreciate your leadership and being the voice of those who have been left out.

J. GONZÁLEZ: Thank you, Madam Chair.

COLLIER: I want to ask you information about your amendment to strike the entire bill. On the committee, you heard information, you heard testimony from the attorney general's office. Did they provide you with evidence of widespread voter fraud in Texas?

J. GONZÁLEZ: No, ma'am.

COLLIER: Did they provide you with evidence of issues with fraud and limited integrity? Did they show you where or did they provide information about where the purity of the ballot box is in question?

J. GONZÁLEZ: No, ma'am.

COLLIER: There was no evidence of that?

J. GONZÁLEZ: No.

COLLIER: Did they provide you with any information about those that they are currently investigating?

J. GONZÁLEZ: They did. Well, they personally didn't at first when we requested it at our organizational meeting. They had just given us a blanket number—I believe it was like five hundred and something—seemingly making it look like they were investigating 500 individual cases. But in reality, it was offenses. And the reason that that number had spiked so much was because there were individual people that were getting charged with all these other offenses, some that were overlapping, like conspiracy and things of that nature. And so it was very misleading to the members on the committee because they made it sound like they were investigating that many people when in reality, if I'm recalling correctly, all those offenses broke up into about five or six people.

COLLIER: That's what I recall as well. So the people that have been the target of the attorney general's investigations, did they give you the racial makeup of those individuals or ethnic makeup?

J. GONZÁLEZ: They did not. They said that they do not keep that information.

COLLIER: So in the past, those that have been charged with voter fraud, did they give you the racial or ethnic makeup of those individuals?

J. GONZÁLEZ: No ma'am. We requested it. They told us that they do not keep that information.

COLLIER: Okay, they do not keep that information. Would it surprise you to know that people of color have been the target of those investigations? So you talked about the poll watchers. You said that was a concern for you. Are you familiar with the history of the poll watcher? Are you familiar with the intimidation tactics they used?

J. GONZÁLEZ: I'm aware of it happening.

COLLIER: In fact, it's happened in the 2020 elections.

J. GONZÁLEZ: Yes, ma'am.

COLLIER: So if we're still seeing these intimidation tactics, do you have any idea why we would need to further empower a poll watcher?

J. GONZÁLEZ: Absolutely not. I mean, I've seen some of this happen actually to one of my colleagues from my Dallas delegation in one of her reelection campaigns.

COLLIER: But it's your understanding that this bill would empower poll watchers?

J. GONZÁLEZ: Yes, ma'am.

COLLIER: And do poll watchers take an oath now to be a poll watcher?

J. GONZÁLEZ: No.

COLLIER: Okay. Are poll watchers trained?

J. GONZÁLEZ: No.

COLLIER: They're not trained, but the presiding judge is trained?

J. GONZÁLEZ: I believe so, yes.

COLLIER: The election judge is trained. They received a training. They take an oath, but the poll watcher is not taking an oath. So let's talk about the criminal penalties that you mentioned that you said are unnecessary. Under this bill—well, let me ask you this. Based on the information that you have and based on your experiences with elections, traditionally has it been difficult to enlist poll workers?

J. GONZÁLEZ: Yes.

COLLIER: And I'm talking about poll workers, people who are at the clerk's—the clerks and the presiding judges. Has it been difficult to do that?

J. GONZÁLEZ: Yes, very difficult.

COLLIER: And so the criminal penalties that are in this bill, do you believe that that would further limit participation and volunteerism as a poll worker?

J. GONZÁLEZ: Absolutely. For some of these folks, this is a part time job. It's not like they make tons of money working the polls when we need them. It's very difficult for polling locations to fill those positions. And when you put a person in a situation that they can accidentally commit a crime, it's going to discourage people from taking those positions and make it even harder for people to be able to employ folks at the polling location when we need them.

COLLIER: Absolutely. So you believe that this bill is going to really have a disparate impact on the polling locations.

J. GONZÁLEZ: I'm confident that it will.

COLLIER: All right. And then let's talk about the impact of the voter assistance section that you are striking of this bill. You talk about simple mistakes. So if somebody accidentally fills out the form, is there a provision in here that excuses that mistake?

J. GONZÁLEZ: Not that I'm aware of.

COLLIER: Or do they automatically get arrested first and questions later?

J. GONZÁLEZ: I'm not aware. When we've asked some of these questions to the AG's office, because they're going to be the ones that are going to be enforcing this bill, even some of those responses were unclear to us, too, on how this would be enforced in several provisions of the bill.

COLLIER: So that's the concern that we have is that you get arrested first and then questions are asked later. But there's no provision here that removes that arrest when someone is vindicated. Would you agree with that?

J. GONZÁLEZ: Yes.

COLLIER: So do you believe that this bill, if it was passed, would have the impact of increasing arrest for individuals?

J. GONZÁLEZ: Absolutely.

COLLIER: And so that would, in turn, impact that person's ability to thrive—meaning that, with the arrest record, it would impact their ability to contribute to the economy.

J. GONZÁLEZ: Yes, ma'am, and it would also discourage people from assisting a voter because they're going to be afraid that they're going to be "unlawfully" assisting a voter under the language of this bill.

COLLIER: So not only can the voter be charged currently but the person who is providing assistance could also face charges because right now, someone can have someone assist them with voting.

J. GONZÁLEZ: Yes, ma'am.

COLLIER: And this bill does not even limit a poll watcher's ability to walk around and observe those activities, does it?

J. GONZÁLEZ: No.

COLLIER: So they can come stand behind them?

J. GONZÁLEZ: Yes, ma'am.

COLLIER: Under this bill?

J. GONZÁLEZ: Exactly.

COLLIER: They can watch what they're doing—follow them around, even?

J. GONZÁLEZ: Yes.

COLLIER: They could follow voters around under this bill?

J. GONZÁLEZ: It gives them free range, and it does not allow you to remove them even for doing coercive things in the polling location. Or if they're doing things that are threatening a voter, you're not allowed to remove them.

COLLIER: Are you familiar with the term "progressive sanctions"?

J. GONZÁLEZ: I'm not advised.

COLLIER: Okay, that's in the criminal law. In the criminal law, what we do is you start off at a lower penalty phase and then as the crime or the offense becomes more egregious, you increase the penalties. So, of course, we have Class C, Class B, Class A misdemeanors, and then you go into the state jail felony and above. Are you familiar that this bill really starts at the Class A misdemeanors and then works up to state jail felonies?

J. GONZÁLEZ: Yes.

COLLIER: So the first offense could land someone in jail. Were you aware of that?

J. GONZÁLEZ: Yes, ma'am.

COLLIER: And so with the state jail felonies, this bill would really deter someone from participating because of the fear of having some type of criminal record.

J. GONZÁLEZ: Absolutely, it will.

COLLIER: And so that's why you've brought this amendment. Because you have not heard, there's no evidence of, there has not been testimony on that would support—or credible testimony—that would support the necessity of the measures in this bill.

J. GONZÁLEZ: Yes, there is no data that's driving any good policy behind this piece of legislation.

CAIN: Members, what this amendment would do is it would remove the enacting clause, and I must respectfully move to table the amendment. I withdraw my motion to table. I do oppose this motion, and I ask that we all vote no.

ANCHIA: I don't know if you were in a position to hear the testimony or the remarks offered by Vice-chair of the committee González. I wanted to ask you if you're familiar with the term "voter suppression" because she raised it a number of different times. Are you familiar with that term?

CAIN: I just wanted to get some clarification about the amendment. We've heard that term.

ANCHIA: I'm sorry. I'll restate the question. Are you familiar with the term that Vice-chair González used where she described the contents of the bills as voter suppression? Are you familiar with that term, "voter suppression"?

CAIN: I've heard that term a lot.

ANCHIA: And how would you define it?

CAIN: Well, I believe there's laws that define it. I guess for me it would mean where you're stopping people from voting.

ANCHIA: And could you furnish an example of what you think that looks like?

CAIN: Oh gosh, I think a great example would be—a poll tax would certainly be a form of voter suppression. It's a stain on our nation's history.

ANCHIA: Okay, so a poll tax. Would putting up regulatory barriers to a person voting be voter suppression?

CAIN: I guess that would depend on that barrier.

ANCHIA: And so you've clearly stated that a poll tax is voter suppression. What if a person goes to the polls—who is otherwise eligible to vote—and is unable to vote? Do you think that's voter suppression?

CAIN: If a person goes to the polls and they're eligible—

ANCHIA: Who is otherwise eligible.

CAIN: And they're unable to vote?

ANCHIA: And they're unable to vote.

CAIN: I guess it depends on the reason. I mean if, let's say, I don't know, there's a fire in the polling place—I don't know if that was some kind of intentional suppression.

ANCHIA: Absent, sort of, acts of God, emergencies, and other things—otherwise eligible to vote. Lives in the precinct or in the county where they're registered, shows up to vote, is on the list, and is unable to vote. Do you think—

CAIN: What stopped them from voting? I think this is a really important factor. And I must admit, I'm not a judge here, and I'm not—

ANCHIA: Sure, but you think that would be a bad outcome, right?

CAIN: Well, yeah, that would be bad. But I don't know if that equals that, is what I'm saying. Yeah, that's terrible.

ANCHIA: That would be—so a regulatory regime that produces that outcome would be a bad result? If a person is eligible, is registered, shows up at the poll, and attempts to vote and is unable to vote—you think that is a bad public policy result?

CAIN: And they showed up on time?

ANCHIA: They showed up on time during the election.

CAIN: Yeah, that's not a good thing. But that's also, for example, why we have backups. For example, we let people vote provisionally and things because we don't want to send them away.

ANCHIA: Okay, but you agree that that's a bad result?

CAIN: Yeah, and that's why this bill's designed to make sure that we protect all voters to allow them to be able to vote.

REPRESENTATIVE CROCKETT: Mr. Cain, I'm just a little bit curious about what it is that you do know about voting in the State of Texas. Number one, do you realize that the voter turnout in the State of Texas tends to be among the lowest, if not the lowest, in this country?

CAIN: One moment, I've got something on that. I think, actually, we had like the highest turnout. We actually broke records in 2020. Even during the pandemic, by the way. I'm not sure if—

CROCKETT: We broke records for Texas.

CAIN: Yeah. Yeah, yeah, isn't that awesome?

CROCKETT: But overall—

CAIN: I know, but I think that stands for something, that even during a pandemic, Texas broke records on turnout, on first day of voting. And so—

CROCKETT: Okay, so let's try it this way. Are you aware that Texas makes it harder than all other 49 states to vote?

CAIN: I'm not. You know, I've seen that, and I've seen disputes on that evidence. I've heard people say it, and I think it's disputed.

CROCKETT: Okay, well let me ask you this. You'd agree with me that nothing in this bill actually expands access so that more people can vote, correct?

CAIN: Well, again, so this bill—this one, we've got other bills. This bill makes sure that people aren't taken advantage of while they're trying to vote. This makes sure that their vote's counted, that their vote's not stolen, and so in a way it does that.

CROCKETT: Okay, so it's integrity. So let's talk about integrity, just briefly. In this bill, once again, we're working on local control issues. You decided that no one would be allowed to vote before 7 a.m. or after 7 p.m. Is that correct?

CAIN: That's not in this bill, sorry.

CROCKETT: It's not in this bill? You struck that?

CAIN: I mean, it's just not in this bill. It's not in this bill.

CROCKETT: It's not in the bill that we're dealing with today?

CAIN: No, ma'am, it's not in this bill. This is the house committee substitute. This is the house committee report for **SB 7**. It's identical to the committee substitute for **HB 6**.

CROCKETT: So we don't have to worry about you attempting to limit the hours that persons would be able to vote. Is that right?

CAIN: Voting hours is not in this bill.

CROCKETT: Okay, so let me ask you this, because I apologize, there's been a number of versions. Does this bill have anything in there that restricts an administrator, say, from doing something like what we saw in Harris County where they provided for additional locations for persons to be able to drop off their mail-in ballots?

CAIN: I don't think there's anything here in this bill that does that. Now, there is something in the bill that maybe might address that, so—

CROCKETT: I'll tell you what. Seemingly either I don't know your bill or you don't know your bill.

CAIN: Yeah, I do know. You're right. That's not in the bill.

CROCKETT: So what I'm going to do—this is on me. So what I'm going to do is I'm going to go back to my notes, and I'm going to get you page and line, and we'll talk about it a little bit later. Is that fair?

CAIN: Please, that would help. Yes, ma'am.

REPRESENTATIVE A. JOHNSON: Representative Cain, we were talking up there and I was asking when I might be able to ask you about a couple of definitions with regard to amendments. What does "in connection with an official ballot" mean?

CAIN: Could you point me to the line in it so I can read "in connection"?

A. JOHNSON: I sure can—page 15, lines 17 and 18.

CAIN: Lines 17 and 18?

A. JOHNSON: Yeah, on page 15. So this is in your definition of vote harvesting.

CAIN: Representative Schofield just walked by and reminded me that we have an amendment that's going to fix this.

A. JOHNSON: Oh, okay, good.

CAIN: But by the way, "in connection with an official ballot"—you know it's so hard to define terms based on what they are. I have a feeling—my brain, it says, connected to an official ballot. But I think we've got some clarifying language coming up in an amendment.

A. JOHNSON: Great, and I'll gladly look at those, but I want you to know the reason I'm asking is because I'm thinking about this from a prosecutor perspective. Because you're making this a felony, which means if I were still assigned to the DA's office, I'd have to decide who I can prosecute and who I can't. And most of the time, we have definitions of terms so that there is some clarification. So I will gladly look at the amendment, but that is a question. What does it mean to be—

CAIN: Is this a fact question or would that be a question for a jury?

A. JOHNSON: I think there's a fine line between what's a fact question and what's a definition of law. And if you look in the Penal Code, in Section 1.07 we have definitions of terms or we have definitions of terms in a chapter. You have definition of terms in here, but I don't see a definition of the term "in connection with an official ballot." So my question—

CAIN: Well, I guess that would be a question for the jury, then.

A. JOHNSON: I don't think so because you have to give notice. So if the question is of notice, because you and Vice-chair González disagreed, if my wife is standing—so the question is, if somebody is outside a poll and someone is going in to cast their vote, is that location "in connection with an official ballot"?

CAIN: Well, you know, so we've got to read it in context of things. So for example, on page 16, at line 4—this is that Subsection (e)—it says: "This section does not apply to political speech or other acts merely promoting a candidate or measure that do not involve direct interaction with an application for ballot by mail, in the presence of the voter or a voter's official ballot, ballot voted by mail, or carrier envelope." I guess if we are voting out at locations, I don't see where that ever comes into play.

A. JOHNSON: I appreciate that, and I have the same quotations on page 16, line 9, because my question is, your definition says "a voter's official ballot, ballot voted by mail, or carrier envelope." I think "carrier envelope" would have a clear definition—if not by statute, by dictionary. I think "ballot voted by mail," again, is a recognizable thing. But I am genuinely confused, as a prosecutor preparing for this trial or to give notice to a defendant, is a voter's official ballot an electronic machine?

CAIN: I guess it could be, yeah.

A. JOHNSON: Or is it just paper?

CAIN: Well, there are paper ballots, and we want to be clear that this is their official ballot and not some other ballot, yeah.

A. JOHNSON: So the question would be, is this just limited to mail ballots? Or is this also attributable to the machines when we go to a polling location? And so I would ask the author to consider that because I don't know that we're giving notice.

CAIN: One moment, please. You know, it's my understanding that this is really about mail and mail-in ballot applications—the envelope and the ballot that would go inside the security envelope which then goes inside the carrier envelope. That's my understanding.

A. JOHNSON: Would the author be acceptable to a friendly amendment to clarify that this section is limited to mail ballots only?

CAIN: By the way, so if you offered, if you bring it to Representative Schofield, I think we have some language to clarify this, and maybe we could all talk and get it going.

A. JOHNSON: All right, and then let me ask you one other thing—and again, this might go to the same concept—"or during the voting process." Can you give me the definition of what it means to be "voting process"?

CAIN: And what page and line number are you on?

A. JOHNSON: So "voting process"—

CAIN: Because usually things in context matters. I mean, "voting process" could be inside the polling place while people are voting. I guess "voting process" could be while someone is filling out their ballot. I'd just like to see the language that surrounds it to understand exactly what that means here.

A. JOHNSON: I'm going to have to look.

CAIN: Yeah, we're trying to google it right now or at least look it up in a PDF version of the bill, but we can come back to it, and once he gets to it we can try and answer that.

A. JOHNSON: That's great. On page 16, "for services other than the vote harvesting services provided"—can you also tell me what the definition of "services" is?

CAIN: All right, let's do this. So we are on page 16. What line are we on?

A. JOHNSON: Lines 14 through 16.

CAIN: So this is Subsection (f): "In this section, compensation or other benefit in exchange for vote harvesting services is inferred if a person who performed the vote harvesting services for a candidate or campaign solicits, receives, or is offered compensation from the candidate"—I'm not understanding what the problem is—"for services other than the vote harvesting services provided". The idea is trying to get around by an indirect payment.

A. JOHNSON: So your definition of "services"—again, it's inferring, which is a very unique concept in the Penal Code, and you're saying "for services." So do you mean financial compensation?

CAIN: Okay, yeah, compensation or other benefit. Compensation means money or other benefit. It could mean doing political favors and other things like that. I think it's defined here in the code: "'Benefit' means means anything reasonably regarded as a gain or advantage, including a promise or offer of employment, a political favor"—which I hope we all think is not a good thing—"or a favorable discretionary official act, and a benefit to any other person whose welfare the beneficiary has an interest." So like buying someone a car.

A. JOHNSON: So just to clarify, I'm not talking about the benefit. I'm talking about page 16. On 15, it says, "is offered compensation from the candidate or campaign, directly or through a third party, for services other than the vote harvesting services provided." My question is, what does "for services" mean on line 15, at the end of the sentence. Do we have a definition of "services" in that context?

CAIN: Yeah, I guess that definition would be, in its context, "for services other than the vote harvesting services."

A. JOHNSON: Correct, and what are "services"?

CAIN: Well, I guess that'd be left up to the prosecutor and the jury for that.

A. JOHNSON: Actually it's not. We follow the law of definitions, and as I mentioned earlier, you can either put a definition under 1.07 of the Penal Code or you can put a definition in this subchapter. And if you don't put a definition in this subchapter, then we're going to defer to the dictionary, and the dictionary says "to offer help." So are you intending it to be that broad, that services are to offer help? Because I was thinking about Vice-chair González's question earlier when she said if my wife is standing outside pushing cards for me, promoting me

as a candidate, and my wife is married to me and offers me help daily and gratefully, and she does get insurance, and that insurance is part of our marriage—is my wife technically now a third degree felon under your statute?

CAIN: Yeah, I guess services other than that means some other kind of service, so.

A. JOHNSON: So I need a definition because other than that you're leaving it up to a significant amount of prosecutorial discretion, right?

CAIN: I'm not sure. I mean, I believe that you believe that.

A. JOHNSON: No, no, no. This is Texas law. We make the policy. Prosecutors prosecute the law—

CAIN: I think it's worded fine.

A. JOHNSON: —and we do it by definitions, and you're not providing me a definition as a prosecutor.

CAIN: Well, look, there's a lot of definitions in the code, and we'd get nowhere if we had to define every term and word. However, I will say I'm glad you brought this up. Let's talk about it. A lot of people have been talking to us for the last few months.

A. JOHNSON: Great. So this is the only time we can talk about it because we know once we start voting on these amendments they're going to go red and blue. We already know the outcome of this. And to let the people of Texas know what your notice is on whether or not they're going to be a third degree felon—this is it.

CAIN: Look, I'll tell you this much. Ms. Johnson, you may recall early on in this session I sent out a letter to every member of this body and said, hey, come talk to us. We want to have some input. We want to hear from some people, and this is the first you've brought it up. Let's talk about it with Representative Schofield or Representative Jetton over here. Let's talk about it so we can look and try and understand it with you, okay? I'm not against that, so let's chat. Now we can do this longer—

A. JOHNSON: I don't want to do it longer, but also let me tell you—

CAIN: Or we can try and look at it. You mentioned how the votes would go. And let's talk about it so we can help clarify things.

A. JOHNSON: Okay, so let me also reference, because you asked where I was getting "during the voting process." It's on page 14, line 17. So again, it says, "influence the independent exercise of the vote of another in the presence of the ballot." So again, my question is, what is "in the presence of the ballot"?

CAIN: Oh, during the voting process? That's existing law. I guess that's during the process of someone voting. Yeah, during the voting process.

A. JOHNSON: So again, it says, "including by altering the ballot of another." And so my question goes back to, is "ballot" an electronic machine or are you limiting this law to paper ballots being submitted and received through the U.S. mail?

CAIN: I think this is intended to be "altering the ballot of another," and that's however that is. And that is wrong if someone "knowingly or intentionally makes any effort" to alter someone's ballot, whether it's digital, virtual, paper. And—

A. JOHNSON: So Representative Cain, I'm just letting you know, as a prosecutor you have to give notice. And if I'm asking you that I can't figure out what your intention is of "ballot," and it's a simple question of machine or paper, and you can clarify it. So Representative Cain, I would ask if you would please, before—because we know this is passing—before you put a law that makes Texans a third degree felon with two to 10 years in prison, that you have the decency to describe to them these terms so they know what they can and cannot be prosecuted for.

CAIN: All right, let's be helpful. So right now, the way this is written, it says state jail felony. I've got an amendment to take it down to a Class A misdemeanor because that's actually where I think it should be.

A. JOHNSON: Great.

CAIN: It should be restored back to where it is because I think prosecutors actually need misdemeanors sometimes for—

A. JOHNSON: Say that again?

CAIN: I think prosecutors need misdemeanors. If you have all felonies, you can't work things, you know? And this bill, I think this was **HB 542**, this language is almost identical. We went down on the crime level, and we're going to go even lower. I believe it was by Representative Greg Bonnen that this language was done. It passed this chamber—I don't know, 98 to 40-something. And it passed our committee—I believe, I don't know, something like 7-2 or maybe it was 5-4. And it's already passed committee in the senate doing this identical thing. And questions weren't raised then when we went over this exact thing.

A. JOHNSON: Do you mean the first time when you shut down the hearing or the second time you had a hearing?

CAIN: No, **HB 542** is Section 5.03 of this bill. Except in that bill, the crime was even higher. I think it was like a third degree felony or something like that. And so this bill has it as a state jail felony, but I've got an amendment drafted that will turn it back to a Class C misdemeanor.

A. JOHNSON: Well, let's go—since you want to talk about punishment range. Let's go back to the discussion of if my wife is outside a polling place and encouraging people to vote for me as they walk in to cast their ballot, and she receives a service from a third party vendor, which is insurance, because of her marriage to me, and the fact that she is a wonderful, loving wife that provides me

help which meets the definition of the dictionary, which I would have to refer to since you've not provided a definition—is my wife now a third degree felon? Is that your intention that she's going to go to prison for two to 10 years?

CAIN: I don't think. It's not in connection with the official ballot.

A. JOHNSON: I'm sorry, what's an official ballot?

CAIN: I don't think that that service is in connection—like the purpose, it has a nexus with you, with your vote.

A. JOHNSON: So the problem is, if you look at page 16, on line 12, you have defined that her benefit from a third party is inferred to be harvesting. And that's why I said, if you fully grasp—

CAIN: Yeah, if they're doing something with connection with a vote.

A. JOHNSON: —for something we don't do anything in the Penal Code.

CAIN: Well, if it's in connection with a vote, yeah, that is what it says.

A. JOHNSON: No, no, no. It says you're going to infer that that compensation is for vote harvesting services even though it's from some other party. So you're not asking for direct benefit. You're implying that anybody who is getting any compensation from services from a campaign's individual or a third party.

CAIN: Yeah, we're going to infer it. Well, hold on. I think this—I mean, it makes sense. We're going to infer it if you perform vote harvesting services. We're going to infer if you perform vote harvesting services, which is a defined term, for a candidate or a campaign if you solicit—meaning you ask for money or you receive money or if you're offered money. Why can't we infer that you were compensated if you asked to be paid to perform a vote harvesting service, which the code defines.

A. JOHNSON: Which code? I mean, are we talking about the Penal Code or the Election Code.

CAIN: I'm sorry, the bill. The bill defines it.

A. JOHNSON: And the bill is referring to the code, and so I'm asking you, very genuinely—

CAIN: The bill has the term "vote harvesting services" defined at line 16, page 15.

A. JOHNSON: And that's fine. I got that definition. The problem is you're inferring compensation for services by a third party as intent for payment for vote harvesting.

CAIN: Yeah, if you ask for money.

A. JOHNSON: So that's the hypothetical. The hypothetical is my wife receives insurance benefits. The service, because you're not giving me a definition, could be that she helps me daily by walking the dogs, feeding the dogs, helping me, right? And she gets insurance from a third party vendor that can be considered

financial. And now she's going to go stand outside and have on a T-shirt that says "Ann Johnson" and she's going to tell a group of people coming to the ballot, please vote for my wife. That violates your third degree felony.

CAIN: I don't see that happening. I don't that see being a possibility.

A. JOHNSON: But that's the question, which is you don't see it happening.

CAIN: There's no way. There's no way it's going to happen. Can't happen.

A. JOHNSON: Okay, so let's go through the analysis here. Because you say you don't see it happening, but the decision is prosecutorial discretion, correct?

CAIN: There's no court that's going to allow somebody to prosecute that. And when you read it, we all know what it means.

A. JOHNSON: But wait. I know you say that, but this is what I'm asking you. Follow me through with Penal Code law. I'm going to trust that you know the election law since you're the chair of Elections. Prosecutorial discretion is warranted to every county, right? Do you know that? Are you aware of that?

CAIN: I'll trust you that that's what it is.

A. JOHNSON: Okay, great. Will you also trust me that prosecutors are elected individuals with a partisan tag?

CAIN: They're elected, and I think we have things in place to try and restrain that partisan tag, but yes.

A. JOHNSON: No, no. Prosecutors are elected with a partisan tag. We have the ability to make them nonpartisan because that's what we do in other elections.

CAIN: Oh, I thought you were saying that they were always partisan or something like that.

A. JOHNSON: But prosecutors are elected with a partisan tag, and you are giving a law to partisan individuals with complete prosecutorial discretion on a third degree felony of which I have just articulated a fact pattern that could easily fall into the hands of a wrong prosecutor with voter intimidation.

CAIN: But for one, I think somebody had an amendment for to go to a state jail. But I think it has to be connection with the ballot. I'm sorry. I disagree with your reading of that.

A. JOHNSON: And the ballot—so let's say that people are walking in—the ballot's right there, right? You know that 1,000 foot marker? I know you know this because you're the chair of Elections. There's a 1,000 foot marker, we have to stand outside of it, and the ballot is right there. It's the moment. And that's the question of during the election and voting process. When does the process begin?

CAIN: This is paying somebody for them to do something in connection with that ballot. I don't think we're—

A. JOHNSON: Will you please amend your law so that is clear? Because that's not what your law says. That's not what your bill says.

CAIN: Well, Representative, I believe I've invited you to come down and talk with Representative Schofield and others to get to doing that.

A. JOHNSON: All right, I'll do it. I appreciate the invitation to help you amend this law, to provide notice, and to stop prosecutorial discretion to go after political opponents. And I thank you very much, and apparently, my wife is going to thank you too, since you might set her up for a felony in 2022.

REPRESENTATIVE J.E. JOHNSON: So there's been several questions asked of you about harvesting and solicitation, and I wanted to clear up a few things that I don't know. If they've been addressed, I didn't hear them. But in the solicitation matter, the definition is very broad. Would that be inclusive of people who are making phone calls to voters to see if they would like to fill out a mail-in ballot? Is that considered solicitation under your bill?

CAIN: No, ma'am, and we have something in this bill that clarifies exactly that. In fact, we've learned about that from questions, I believe, from Representative Bucy in committee and some others. And so we clarify that. It's somewhere in here. I'm sorry. I don't know exactly the spot. Let me see. "This section does not apply to political speech or other acts merely promoting—"

J.E. JOHNSON: What page are you on?

CAIN: We're on page 16, line 4.

J.E. JOHNSON: Okay, so is this the entire bill or are you referring only to the previous section of 276.014?

CAIN: Yes, that's what that would mean, this section.

J.E. JOHNSON: Just to the section? So the rest of any of the political speech or promoting a candidate, that limitation is not to the entire bill, only to this one section?

CAIN: Well, that's to this section because something like that needed to be there, yeah.

J.E. JOHNSON: So just to be clear so that we're clear on legislative intent, any campaign is eligible to text, phone call, or reach out to eligible voters who can vote by mail and encourage them to request a mail-in ballot. Is that correct?

CAIN: Well, it's exactly what this says from page 16 to lines 4 through 10, and it means that. And I guess that's based on what a reasonable person would read that as.

J.E. JOHNSON: I would just like an answer to the question. It's a simple yes or no.

CAIN: I think it means exactly what it says.

J.E. JOHNSON: So does that mean it's a yes?

CAIN: No, it means what it says.

REPRESENTATIVE C. TURNER: I'm speaking in favor of this amendment to strike the enacting clause today for several reasons. I'd like to take a few moments to talk about what is really framing this debate that we're having this evening. First of all, none of us should get lost in the partisanship of all this. And make no mistake, the backers of this election bill believe it'll help republicans and hurt democrats. We all know that. And you know, we'll have a lot of those today, and a lot of them probably fall along party lines. That's no surprise. But that is not why this bill is so insidious, and that's not why so many of us oppose it with the intensity that we do.

The theory driving this bill and the provisions themselves in the bill are designed and intended to undermine and suppress participation in elections by black Texans, Latino Texans, the Asian American community, and folks who have a disability. It's a straight up assault on voting rights. Key provisions of this bill will almost certainly be overturned by the courts, and if the John Lewis Voting Rights Act reauthorization legislation is adopted in the federal level, it's likely that all or nearly all of the provisions in this bill would fail a fair voting rights preclearance review. Now, all of us coming into this debate are aware or should be aware of our state's shameful history of intentional discrimination. Just since 2011, the last decade, federal courts have ruled nearly a half dozen times that state leaders violated the Voting Rights Act and the Constitution. The courts further ruled that they did not do it benignly or inadvertently. The court ruled time and again that the discrimination was done intentionally to harm minority Texans. All three redistricting maps enacted in 2011 were ruled to be discriminatory in effect and adopted with discriminatory intent. A voter ID requirement was imposed in 2011. State leaders pushed this legislation in a clearly discriminatory fashion with discriminatory intent. One federal judge even called the Texas voter ID bill in 2011 a modern-day poll tax.

State leaders have used the big lie of widespread voter fraud to justify vote suppression for a long time now. When he was attorney general in 2006, Governor Abbott converted federal funds intended to monitor cybercrimes to launch a so-called voter fraud task force that targeted almost exclusively Latino and black voters. His office even used sickle cell stamps and pictures of African Americans standing in line to vote as indicators of suspicious voting behavior. The effort wasn't just a bust. It was a total sham. No widespread or significant voter fraud of any type was ever uncovered. What was accomplished? They created an atmosphere of fear in minority communities about voting. As we know more recently from the *Houston Chronicle*, Attorney General Paxton recently spent 22,000 staff hours investigating so-called voter fraud and only found 16 instances. And each incidence of "fraud" was a voter listing the wrong address on their voter registration card. Last cycle, two years ago, Governor Abbott, General Paxton, and the secretary of state at the time hatched a scheme to purge thousands and thousands of Latino Texans from the voter roles. It took a lawsuit and a federal court order to stop them, to stop that illegal purge.

So the pattern is established, it is clear, and it is very recent. Our state leaders repeatedly take actions to limit and suppress Texans' voting rights in violation of the law, and they force African Americans and Latinos and other minority Texans

to go to court to defend basic voting rights that are guaranteed by the Constitution. But it hasn't stopped there. Recent history: Attorney General Paxton, with the support of the governor and others, used our tax funds and the good name of the State of Texas to try and overturn the free and fair election of Joe Biden and Kamala Harris by attacking the voting laws of other states. The lawsuit was ridiculous and was immediately rejected by the United States Supreme Court—a court dominated, by the way, with republican presidents' appointees. As we know, General Paxton was in Washington and helped rally the mob on January 6 that eventually stormed the Capitol and used flagpoles to beat police officers.

So that brings us to where we are today in this legislative session. In the effort to impose a whole series of voting restrictions on Texans, from the beginning it's been an exercise in arrogance, exclusion, and confusion. Texas is a majority minority state where residents of color now significantly outnumber Anglos. Texas has the second-highest number of Latino residents at just under 12 million and the highest number of African American residents in the nation with nearly four million. Those Texans are in every part of our state but concentrated in the five big counties, and that's where the primary focus of this bill just happens to be—Harris County, Dallas County, Bexar County, Travis, and Tarrant. Whites make up the minority population of all those counties, and efforts to limit or restrict voting in these counties has a disproportionate impact on Latino, black, and other minority voters.

As mentioned earlier, Texas has a terrible history. Not just from 50 years ago but in recent years of engaging in intentional discrimination. One of the more damning provisions of this bill, which is why we need to adopt this amendment, is already playing out like a voter suppression story from the 1950s—the provision designed to harass and intimidate election workers and voters within the polling place itself. Partisan poll watchers would be empowered to roam throughout the polling place, imposing their own partisan views on the administration of elections. They would even have a hotline to the attorney general's office to make unsubstantiated accusations. Partisan ideologues intent on voter suppression are already at work planning to disrupt voting in heavily minority precincts. A leaked audio of partisan republican operatives planning voter harassment and recruiting poll watchers from primarily Anglo areas in Harris County to go into and disrupt voting in primarily minority areas in Harris County has already surfaced. Many people have seen it. It's all over social media.

I remember in 1998, when I was a young campaign worker in Tarrant County, sitting in an elections commission meeting with the then-chair of the Tarrant County Republican Party, and the subject of poll watchers came up. And the elections administrator said, well, is either party planning on appointing poll watchers for the general election? I said we hadn't planned on it. And the republican chairman said, well, we're probably going to have some poll watchers in the problem areas. And I asked, what are those problem areas? He said, well, you know, southeast Fort Worth. Southeast Fort Worth is District 95, represented by Chairwoman Collier. Those were the "problem areas" that the Republican Party wanted to send the poll watchers into to harass and intimidate voters.

Now, the 67 members of the democratic caucus come from all over this state. We're diverse by region, by race, and ideology, and you see that on votes on this floor. But we all share a very important fact when it comes to this bill. We are each the candidate of choice of the minority voters within our districts, and they are who elects us. And we reflect their successful ability to choose their representatives and elect the candidates of their choice. So don't think this debate is about democrats and republicans. It's about state leaders in the name of the State of Texas squaring off to undermine the voting rights of Texas voters of color. We've all become too used to the term "discriminatory intent" being used in the legal opinion describing the actions of the Texas Legislature. If you want to know what a discriminatory intent looks like in real time, pay attention to how our state and legislative leaders are handling this legislation on this floor today. I urge you to vote for the amendment to strike the enacting clause.

J. GONZÁLEZ: You heard the line of questioning just now. You heard the author respond in guesses. And he even said, I believe, stated, "This is starting to make sense to me." If the author does not know and can't explain the reach of his own bill, we should not be voting on it today. I encourage you to vote for my amendment and give us the opportunity to start over and do this right. Texans deserves better.

[Amendment No. 1 failed of adoption by Record No. 838.]

[Amendment No. 2 by J.D. Johnson and Cain was laid before the house.]

[Representative J. Turner raised a point of order against further consideration of **CSSB 7** under Rule 4, Section 32(c), of the House Rules on the grounds that the bill analysis is materially misleading. The point of order was withdrawn.]

CAIN: The amendment is acceptable to the author.

[Amendment No. 2 was adopted.]

[Amendment No. 3 by Cain was laid before the house.]

CAIN: Members, this is another perfecting amendment. We just want to clarify that people that receive assistance are able to be helped on how to read the ballot. It's acceptable to the author.

[Amendment No. 3 was adopted.]

[Amendment No. 4 by Cain and Schofield was laid before the house.]

CAIN: This amendment is from some work that Representative Schofield and I did based on some advice from the NAACP. It's acceptable to the author.

[Amendment No. 4 was adopted.]

[Amendment No. 5 by Cain and Schofield was laid before the house.]

CAIN: This amendment that Representative Schofield and I worked on with the Coalition of Texans with Disabilities is acceptable to the author.

[Amendment No. 5 was adopted.]

[Amendment No. 6 by Murr was laid before the house.]

REPRESENTATIVE MURR: This amendment makes some clarifications throughout the bill. I believe it is acceptable to the author.

[Amendment No. 6 was adopted.]

[Amendment No. 7 by Bucy was laid before the house.]

REPRESENTATIVE BUCY: I just want a few minutes of time. I want to tell you about someone I've gotten to know. Is Chair Collier here? Members, someone I've gotten to know over the last year, her name is Crystal Mason. She is a black woman from Tarrant County. She is a mother, a grandmother, and an active member of her church community and the community at large. During the winter storm, she used her event center to help house and feed displaced members of the community. In 2018, Ms. Mason was sentenced to five years in prison for submitting a provisional ballot in the 2016 presidential election that was never counted. At the time she cast her provisional ballot, Ms. Mason had no idea this state considered her ineligible to vote because she was on federal supervised release for a tax offense. No one told her that being on federal supervised release might have consequences for her ability to vote. Ms. Mason's provisional ballot was not counted. No election was changed. That process worked exactly as it was supposed to. Members, this amendment clarifies the law to make the legislature's intent explicitly clear. Before and after passage, it will make sure that only people who know they are ineligible to vote can be prosecuted for illegal voting and that people who make innocent mistakes in the voting process cannot be thrown in jail for mere confusion or a slipup.

REPRESENTATIVE J. TURNER: Thank you, Representative Bucy, for bringing this amendment. I just want to ask you a few questions for purposes of intent regarding the amendment. By amending our Election Code to clarify the knowledge requirement, do you mean in any way to imply that actual knowledge by a person of the person's ineligibility to vote was not already a requirement for conviction of this offense under Section 64.012(a)(1) of the Election Code?

BUCY: No, Representative, that is not my intention here.

J. TURNER: The existing statute already requires that to commit an offense under that provision, a person must vote or attempt to vote "in an election in which the person knows the person is not eligible to vote." Correct?

BUCY: That is correct.

J. TURNER: And as the amendment author, would you agree that no one should read this clarification of your amendment to suggest that the knowledge identified in your amendment was not previously required under a proper interpretation of Section 64.012(a)(1)?

BUCY: That is correct. Mr. Speaker, I believe this amendment is acceptable to the author.

[Amendment No. 7 was adopted.]

[Amendment No. 8 by Davis was laid before the house.]

[Amendment No. 8 was withdrawn.]

[Amendment No. 9 by Bucy was laid before the house.]

BUCY: This amendment is designed to promote election integrity and security by fostering transparency and ensuring that for local and tax-related elections, Texans know when and where to vote. I believe this is acceptable to the author.

[Amendment No. 9 was adopted.]

[Amendment No. 10 by Minjarez was laid before the house.]

REPRESENTATIVE MINJAREZ: This amendment simplifies the voting process by declaring all races with unopposed candidates as elected and moving them to the bottom of the ballot. I believe that this amendment is acceptable to the author.

[Amendment No. 10 was adopted.]

[Amendment No. 11 by Bucy was laid before the house.]

BUCY: This amendment ensures that election judges who are good faith actors and make simple and honest mistakes in the course of filling out a form associated with the provisional ballot process are not prosecuted for a state jail felony, which is punishable by up to two years in jail. I believe this is acceptable to the author.

[Amendment No. 11 was adopted.]

[Amendment No. 12 by Bucy was laid before the house.]

BUCY: This amendment is designed to promote election integrity and security by ensuring that voters know when elections are, who is running for office, and who currently represents them. I believe it is acceptable to the author.

[Amendment No. 12 was adopted.]

[Amendment No. 13 by Howard was laid before the house.]

REPRESENTATIVE HOWARD: This is about giving the application forms to high school seniors. It is acceptable to the author, and he said to have a good day.

[Amendment No. 13 was adopted.]

[Amendment No. 14 by Klick was laid before the house.]

REPRESENTATIVE KLICK: This amendment creates a method for all voters who request a ballot by mail to track the location and status of their ballot. This is acceptable to the author.

[Amendment No. 14 was adopted.]

[Amendment No. 15 by Gervin-Hawkins was laid before the house.]

REPRESENTATIVE GERVIN-HAWKINS: This amendment just gives notice of a defect and gives the voter an opportunity to correct any defect on the ballot.

[Amendment No. 15 was adopted.]

[Amendment No. 16 by Vo was laid before the house.]

REPRESENTATIVE VO: Voting is a civic duty allowed by our U.S. Constitution. We need to make sure our constituents who work hard and work long hours have the opportunity to express their voice and express their vote. Under current laws, an employee is allowed to be absent from work on Election Day for two hours to go vote. This amendment would include the early voting period in this section by giving employees more time to vote during early voting instead of staggering them on Election Day. In early voting, the lines move faster, and it saves counties money by having less machines on Election Day. I believe this amendment is acceptable to the author.

[Amendment No. 16 was adopted.]

[Amendment No. 17 by J. Turner was laid before the house.]

J. TURNER: This amendment will facilitate change of voter registration address when a person has moved to a new county, and it is acceptable to the author.

[Amendment No. 17 was adopted.]

[Amendment No. 18 by Dutton was laid before the house.]

REPRESENTATIVE DUTTON: This amendment just ensures that the person who decides to be on the ballot is the correct person.

[Amendment No. 18 was adopted.]

[Amendment No. 19 by Clardy was laid before the house.]

REPRESENTATIVE CLARDY: This amendment reconciles the "assistant" language and makes it consistent for both mail-in and early voting, and it also defines the oath consistent with current statutory revisions.

[Amendment No. 19 was adopted.]

[Amendment No. 20 by Beckley was laid before the house.]

BECKLEY: This amendment adds a type of voting machine already approved for use in Texas to the secretary of state's list. It's acceptable to the author.

[Amendment No. 20 was adopted.]

[CSSB 7, as amended, was passed to third reading by Record No. 841.]

