

THE  
CARTER CENTER



THE CARTER CENTER  
LIMITED OBSERVATION MISSION  
TO THE CHEROKEE NATION  
SPECIAL ELECTION FOR  
PRINCIPAL CHIEF

SEPTEMBER 24, 2011

FINAL REPORT

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ONE COPENHILL  
453 FREEDOM PARKWAY  
ATLANTA, GA 30307  
(404) 420-5188  
FAX (404) 420-5196

[WWW.CARTERCENTER.ORG](http://WWW.CARTERCENTER.ORG)



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## EXECUTIVE SUMMARY

This is the final report of the Carter Center's limited observation mission to monitor the Cherokee Nation special election for principal chief during September and October 2011 in Oklahoma. The report summarizes the Center's involvement in this election process.

In June 2011, the Cherokee Nation witnessed an extremely close and hard-fought race for principal chief, with candidates requesting multiple recounts and the Cherokee Nation Supreme Court ultimately ruling that because the results could not be determined with mathematical certainty, a new election had to be called. This dramatic controversy undermined public trust in the integrity of the nation's political and electoral institutions. In addition, the ongoing electoral process coincided with dramatic developments in the nation's ongoing debate regarding the citizenship status of the Freedmen, descendants of freed black slaves of the Cherokee Nation, which eventually attracted involvement from the United States federal court system.

At the suggestion of the Tribal Council, the Cherokee Nation Election Commission (CNEC) invited The Carter Center to observe the rerun of the June election, which was to take place in September 2011. After consulting with the candidates, Tribal Council members, and the Election Commission, the Center agreed to observe the September election.

The Carter Center's mission had several purposes, including the following:

- assess the quality of election processes and procedures and provide recommendations as to how these could be improved;

- increase voter confidence in the nation's electoral process by serving as independent observers to the process; and
- demonstrate support for the Cherokee Nation's efforts to enhance its democratic processes.

The Center sent teams to observe all components of the voting and counting processes. Observer teams were deployed to observe the polling on the early-voting days (Sept. 17, 20, 21, and 22) and election day (Sept. 24), as well as the extra voting days that were subsequently added to the election (Sept. 29 and Oct. 1, 4, 6, and 8). In addition, the Center observed the three days of counting, tabulation, and certification of the election results (Oct. 9, 10, 11, and 12).

*The Center found that the election was run professionally and fairly and is helping to rebuild the confidence of Cherokee citizens.*

observation of early voting, the Sept. 24 election day, the five additional election days, and the counting process. This report also analyzes the legal framework in place for the Cherokee Nation elections, with attention paid primarily to strengths and weaknesses of both the Constitution of the Cherokee Nation and its election code. The Center released public statements on Sept. 27 and Oct. 14 that highlighted the Center's findings and recommendations in regard to the Sept. 24 election day, the extra voting days, and the counting process.

Throughout its observation, the Center noted the CNEC's work was strained by a series of last-minute court rulings from a federal judge and the Cherokee Nation Supreme Court, which alternately disqualified and qualified Freedmen voters from participation in the election. Despite these complications, the Center observed that the CNEC managed the election in an

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inclusive manner that was in accordance with both the law and with professional standards for election administration. The Center found that the election was run professionally and fairly and, despite the challenging circumstances, is helping to rebuild the confidence of Cherokee citizens in the integrity of their institutions.

After concluding observation efforts, The Carter Center recommended the need for:

- better communication between the CNEC and the Tribal Council, particularly in regard to updating electoral legislation;
- more systematic and frequent updates to the voter registration rolls, which would require better communication between the CNEC and the Cherokee Nation Registration Department;
- revisions to the Cherokee Nation election code, including clarification of ballot acceptance procedures, permission for more poll watchers to be

present during elections, and implementing dispute resolution mechanisms to address alleged violations of voters' fundamental rights;

- implementation of a more comprehensive voter education campaign throughout the nation by the CNEC;
- more participation by CNEC commissioners in technical processes pertaining to storing ballot information;
- reconsideration of the use of absentee ballots for voters within the 14 counties of the Cherokee Nation; and
- initiation of an inquiry concerning gross procedural errors made by notaries, which in turn disenfranchised voters who cast absentee ballots.

More detail concerning these recommendations is provided in the Conclusions and Recommendations section at the end of this report.



# THE CARTER CENTER IN THE CHEROKEE NATION

In addition to observing the 2011 special election for principal chief, The Carter Center previously observed the 1999 elections for principal chief, deputy chief, and 15 Tribal Council representatives for the Cherokee Nation.

## THE 1999 MISSION

In May 1999, following a constitutional crisis and the involvement of the Bureau of Indian Affairs (BIA) in the Cherokee Nation's dealings, the Cherokee Nation Election Commission (CNEC) invited The Carter Center to observe the elections for principal chief, deputy chief, and 15 Tribal Council representatives. The period leading up to the elections was marked by a high level of suspicion and lack of confidence that the elections would be transparent. The CNEC hoped that the presence of an observation delegation from

The Carter Center would facilitate a credible process, calm the atmosphere surrounding the elections, and encourage all sides to accept the results—if the process was ultimately deemed fair and legitimate.

This 1999 mission marked the Center's first comprehensive election observation mission within the United States. The Center sent 10 observers to monitor the election and the subsequent runoff on July 24, 1999, and concluded that the elections were conducted in accordance with the law and with professional standards. The Carter Center offered several recommendations to the nation regarding how it could improve its electoral processes in the future. The key recommendations included:

- streamlining the voter registration system in order to decrease confusion among potential voters;

- creating at-large seats in the Tribal Council to better represent citizens who live outside the nation's geographical borders;
- clarifying the instructions for election watchers so that the parameters of their role were clear;
- reforming the procedure used to appoint CNEC members so that a permanent council existed in between elections and so that the principal chief, upon election, could not constitute the CNEC primarily with his or her supporters; and
- considering the elimination of the use of challenged ballots altogether or at least the establishment of a more consistent method for how challenged ballots are handled.

*This 1999 mission marked the Center's first comprehensive election observation mission within the United States.*

The Cherokee Nation implemented some of the recommendations made by the Center in 1999, but not others. Though the Center suggested the nation streamline its registration process, it does not appear the nation did this. The Center suggested that voter registration could be greatly simplified by relying on a citizen's tribal registration to verify voter eligibility and/or by allowing day-of voting registration. As of the 2011 election, the nation still required that voters actively register to vote, using one of three tribal identification cards to prove their eligibility. Since the Center's 1999 mission, the nation has created two at-large seats on the Tribal Council to represent citizens living outside the 14 counties. This addition was beneficial as many Cherokee citizens do not live within the nation's Oklahoma territory.

During the 2011 election, the CNEC established a written code of conduct for election watchers that each had to sign under oath prior to observing the election. The code was clearly and fairly written,



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and the Center observed that watchers consistently adhered to its terms. The nation also implemented the Center's recommendation to reform procedures for appointing CNEC members. The election code establishes a staggered system for appointment of commissioners and permits the principal chief to select only two of the commissioners. As established in the 2003 Constitution of the Cherokee Nation, the CNEC is a permanent entity that remains constituted even after the close of an election. In regard to the Center's suggestion on challenged ballots, the CNEC continued in 2011 to use such ballots. However, the CNEC did shift final authority to itself, from the precincts, to determine whether a challenged ballot would be accepted. In doing this, the CNEC made the challenged ballot process somewhat less arbitrary, although some improvements in the system are still needed.

### THE 2011 MISSION

The CNEC invited The Carter Center to observe the Sept. 24, 2011, special election for principal chief after the June 25, 2011, election results were vacated by the Cherokee Nation Supreme Court (CNSC). The Tribal Council recommended The Carter Center be invited to monitor the election and dispel some of the mistrust that surrounded the process in the first round. After sending two senior staff to conduct an assessment in Oklahoma, the Center agreed to establish an observation mission.

The special election for principal chief commenced with early-voting days held on Sept. 17, 20, 21, and 22 at the CNEC headquarters in Tahlequah, Okla. The Center deployed two observers to monitor the early-voting process. The observers, working either in a team of two or individually, monitored each day of polling activity from poll opening to closing, using checklists and personal notes to capture observed data.

*The Center deployed 12 observers on Sept. 24 throughout the 14 counties of the Cherokee Nation and visited all 38 polling precincts.*

To monitor actual election-day processes, the Center deployed 12 observers on Sept. 24 throughout the 14 counties of the Cherokee Nation and visited all 38 polling precincts. Each team spent approximately 40 minutes at each station, monitoring whether procedures were followed, completing checklists, and noting any problems that arose. Carter Center observers also were present at CNEC headquarters, which served as one of the polling precincts. While there, the Center observed the receipt and logging of election materials, the sealing of absentee ballot materials, the walk-in voting process, and the securing of sensitive election materials at the end of the day.

On Sept. 26, two days after close of the Sept. 24 election, the federal court for the District of Columbia issued a ruling requiring the Cherokee Nation to hold an additional five in-person voting days for Freedmen and other eligible Cherokee

voters between Sept. 24 and Oct. 8. In addition, the ruling required the nation to extend the absentee ballot submission deadline accordingly to accommodate Freedmen voters who had received last-minute notification of their reinstatement as citizens. The ruling also mandated the nation delay the vote-counting process until Oct. 9–11, 2011.

For this process, the Center was again invited by the CNEC to observe the additional days of voting on Sept. 29 and Oct. 1, 4, 6, and 8. The Center deployed an observer to monitor this process and sent five additional observers to witness the subsequent three days of the vote-counting process. This included the observation of the logic and accuracy testing of the ballot tabulator, tabulation of precinct-level results, the processing and tabulation of close to 10,000 absentee ballots, and the review and hand tallying of close to 150 challenged ballots cast throughout the 10 days of voting.

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## CARTER CENTER OBSERVATION METHODOLOGY

In deploying an independent observation mission to observe the Cherokee Nation special election for principal chief, The Carter Center hoped to increase voter confidence in the nation's electoral process by demonstrating support for the Cherokee Nation's efforts to improve its democratic processes. The Center also envisioned conducting a thorough assessment and analysis that would permit it to provide final conclusions and recommendations to the Cherokee Nation Election Commission.

Throughout the mission, observers used checklists that prompted them to note both quantitative and qualitative data on electoral processes, and they were

encouraged to document any irregularities they witnessed. Observers also documented procedures that the CNEC used so that Carter Center staff could compare these actions against procedures outlined in the election code. Based on the outcome of this assessment, the Center was then able to provide feedback to the CNEC and the Cherokee Nation regarding how the electoral process was carried out overall and how it might be improved.

All Carter Center election observation missions are conducted in accordance with the Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers that were adopted at the United Nations in 2005 and have since been endorsed by more than 37 election observation groups.



## THE JUNE 25 ELECTION AND AFTERMATH

The initial election for principal chief of the Cherokee Nation was held June 25, 2011.

In the June 25, 2011, elections, Cherokee citizens voted for principal chief, deputy chief, and the eight Tribal Council members and participated in a referendum on three constitutional amendments. While the results of the other contests were fairly straightforward, the results of the contest for principal chief between incumbent Chadwick Smith and Bill John Baker were inconclusive. Early unofficial results showed opposition candidate Bill John Baker leading by 11 votes (Baker: 7,600; Smith: 7,589); however, official results released the following day indicated that incumbent Chadwick Smith had won by seven votes (Smith: 7,609; Baker: 7,602). Given the close margin, Baker requested and paid for a hand recount of the ballots. After this June 30 recount, Baker was ahead by 266 votes (Baker: 7,613; Smith: 7,347). The CNEC certified the results of this final count, which made Baker the victor.

When Smith then challenged the results of the June 30 recount, Cherokee Nation Supreme Court ordered an evidentiary count be conducted under the watch of the Supreme Court justices. This count resulted in a win for Smith by five votes; however, a procedural issue with absentee ballots invalidated 25 votes. Because these ballots could not be identified and removed from the count, the CNSC decided that the resulting mathematical uncertainty rendered the results invalid. The court thus vacated the results

of the election and ordered the election take place again, on Sept. 24, 2011.

On Aug. 22 the CNSC handed down a ruling that stripped Cherokee Freedmen (descendents of Cherokee-owned slaves) of citizenship in the nation. This action essentially barred the Freedmen from voting in the September 2011 election. The federal court for the District of Columbia ultimately intervened to reverse this action, and the Bureau of Indian Affairs (BIA) froze \$33 million in federal funding from the nation for disenfranchising the Freedmen. As the result of a series of federal court orders, the nation reinstated suffrage to the Freedmen, mailed absentee ballots to them via overnight mail containing notices informing them that they could vote, and added five extra voting days after the original Sept. 24 election day in order to accommodate voters who had received last-minute notification of their reinstatement as citizens. The additional voting days included time for voters to mail in absentee ballots or to walk in and cast ballots in person at the CNEC in Tahlequah on Sept. 29 and Oct. 1, 4, 6, and 8, 2011. These additional days of voting were opened to all Cherokee citizens.

The Sept. 26 federal court order that required the nation to hold extra voting days also mandated that the CNEC not commence the counting of any ballots cast during the election until after Oct. 8. CNEC commissioners made the collective decision to allot three days to counting regular, absentee, and challenged ballots before certifying election results.



## VOTING RIGHTS OF FREEDMEN AND THE SEPTEMBER 2011 ELECTION

Prior to the arrival of Europeans, the Cherokee people traditionally enslaved prisoners of war; but “slave” status generally was temporary, with slaves eventually being given their freedom. During the colonial period, however, the Cherokee began to adopt a version of slavery in line with that of their southern white counterparts. In 1836, when members of the Cherokee Nation were forcibly removed to Oklahoma on the Trail of Tears, their slaves were removed along with them.

In 1866, as part of the Reconstruction era policy to re-integrate the defeated Confederate states into the Union, a treaty was signed between the federal government and the Cherokee Nation forcing the Cherokee to ban slavery permanently. The treaty also gave former slaves the same rights as those held by their former Cherokee owners. This often is interpreted as granting the freed slaves citizenship in the Cherokee Nation.

At the end of the 19th century, the federal government established the Dawes Commission to draw up rolls of membership for the “civilized tribes” in Oklahoma for the purposes of dividing land into individual plots. These rolls were inconsistent with regard to the Freedmen; in some cases anyone who Dawes Commission officials thought was of African descent was listed as a Freedman, even if the individual actually had Cherokee blood as well. The Dawes Commission rolls also introduced the concept of “blood quantum,” according to which full-blooded Cherokee and those who had intermarried with whites also had detailed their fraction of Cherokee blood. Freedmen, whether or not they had Cherokee blood, were listed on a separate roll.

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*The 1866 treaty also gave former slaves the same rights as those held by their former Cherokee owners.*

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In 1907, the Cherokee Nation was officially disbanded when Oklahoma became a state. When the nation was reconstituted in 1975, the Dawes Commission rolls were used as the basis for determining tribal membership. Using the Dawes rolls caused some confusion since the language used in the 1975 Cherokee Constitution was unclear as to whether membership should be determined only by using the “Cherokee by Blood” roll or whether membership also should consider the Freedmen roll as a basis for citizenship. In 1983, Principal Chief Ross Swimmer issued an executive order that all Cherokee citizens must have a Certificate of Degree of Indian Blood (CDIB) card issued by the federal government in order to retain their citizenship. This card notes the Cherokee blood quantum held by tribal members. However, since the Dawes rolls never made note of the blood quantum for Cherokees of African descent, most Freedmen were unable to obtain the CDIB cards and were thus stripped of Cherokee citizenship and the right to vote in Cherokee Nation elections.

A number of court cases thus ensued over the following decades regarding the citizenship rights of Freedmen. In 1989, a class-action lawsuit was filed claiming discrimination and seeking to have the Freedmen’s citizenship reinstated. A federal court ruled that the issue was under the jurisdiction of the Cherokee courts and dismissed the suit. In 2004, the CNSC ruled that the Freedmen should be eligible for citizenship. In 2007, a Cherokee Nation constitutional amendment excluding the Freedmen from citizenship was passed, backed by Principal Chief Chadwick Smith. The Freedmen appealed to the BIA and attempted to sue tribal leaders in federal court



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over the matter. Later in 2007, the CNSC ruled that the Freedmen should have their citizenship temporarily reinstated pending the final settlement of their court cases in federal and tribal court. In January 2011, a Cherokee district court ruled that the 2007 exclusion of the Freedmen was invalid, but in August 2011, the CNSC overturned the ruling and stripped Freedmen of their Cherokee citizenship once again.

It was argued by some that the CNSC's decision to disenfranchise Freedmen voters was politically motivated. Suspicion grew because the same primarily Smith-appointed CNSC that invalidated results from the June 24 election that had declared Baker victor now was removing a segment of the voting population from voting eligibility—although those people had been eligible to vote in the June election. Accordingly, the CNSC's disenfranchisement of a segment of the voting population who participated in that election raised many concerns regarding the true motivation behind the CNSC's ruling.

After the CNSC announced its decision to strip Freedmen of voting rights, the federal government once again became involved. The federal Department of Housing and Urban Development (HUD) decided to withhold funds from the Cherokee Nation, and the BIA sent a letter to the Cherokee government threatening to not recognize the outcome of the principal chief elections if Freedmen were not re-enfranchised. Seeking to avoid a showdown with the

federal government, the CNEC announced it would allow the Freedmen to cast “challenged ballots.” This would mean that Freedmen would cast ballots at the CNEC headquarters, and the CNEC would determine later whether to count the ballots, based on the outcome of pending litigation. A hearing in federal court was held on Sept. 20, 2011 (four days before the election), and federal court Judge Henry Kennedy ordered the CNEC to reinstate Freedmen voter rights. The CNEC was then required, as noted in the section above, to send out nonchallenged ballots to registered Freedmen voters via overnight mail along with a letter explaining that they had been reinstated as citizens. Judge Kennedy also ordered that five extra voting days be added after Sept. 24 to accommodate Freedmen voters who had received such late notice. During the extra voting days, Freedmen were permitted to cast regular ballots just as the non-Cherokee Freedmen did.

As a result of the court order, the CNEC also was required to delay the counting of any ballots, cast absentee or in person at precincts, until after Oct. 8, the last day of the extended voting period. The CNEC made the decision to give itself three days to count ballots and certify the election results. Counting was thus allotted to take place from Oct. 9–12, with certification of results occurring on Oct. 12.



## TIME LINE OF 2011 EVENTS

**June 25:** Initial election results are reported with Smith ahead by 9 votes.

**June 26, morning:** After considering 250 challenged ballots overnight, the CNEC releases unofficial results with Baker winning by 11 votes (Baker: 7,600; Smith: 7,589).

**June 27:** The CNEC “canvasses” the votes overnight and releases official results with Smith winning by 7 votes (Smith: 7,609 votes; Baker: 7,602 votes). Baker announces he will request a recount.

**June 30:** Baker requests an official recount; the CNSC orders the CNEC to recount votes by hand. CNEC issues official recount results putting Baker ahead by 266 votes (Baker: 7,613; Smith: 7,347).

**July 5:** Smith files a petition to have the election results vacated; CNEC Commissioner Roger Johnson resigns from the CNEC, stating that inaccurate media reporting has distorted the facts surrounding the election controversy and discredited the work of the CNEC. He states that the CNEC performed its job professionally but that the media has misrepresented testimony at the CNSC hearings, leading to a perception by both campaigns and by the general public that the election count was done improperly.

**July 6:** Smith claims that noncitizens voted in the election and asks for a list of all those who voted; Smith also produces a list of 142 noncitizens who allegedly voted.

**July 9:** The CNSC releases list of voters to Smith’s team so they can investigate if noncitizens voted; CNEC ballot counters testify that there were no irregularities in the recount.

**July 10:** The president of Automated Election Services, Terry Rainey, testifies that he entered the vault where the ballots were kept on June 27 and annotated one of the tally sheets to correct a clerical error, thus explaining the change in the provisional election results between June 26 and June 27. CNSC orders the list of people who voted to be compared with the citizenship rolls to verify that noncitizens did not vote.

**July 16:** CNSC begins an evidentiary recount.

**July 19:** The CNSC issues evidentiary recount results (Smith: 7,627; Baker: 7,622). Baker motions to have “altered” ballots removed from count and a redo of the election if this motion is rejected. Smith asks for the evidentiary recount results to be certified.

**July 21:** The CNSC says results cannot be determined with “mathematical certainty” and vacates all election results.

**Early August:** Smith sets repeat election date as Sept. 24 upon recommendation by the CNEC.

**Aug. 14:** Joe Crittenden, Baker’s running mate and winner of the deputy chief position in the June election, is sworn in as acting principal chief, pending the results of the September elections. (Smith’s term expired on Aug. 14.)

**Aug. 22:** The CNSC rules 4-1 that Freedmen are not citizens of the Cherokee Nation, thus disqualifying them from voting in the Sept. 24 redo of the elections.

**Aug. 23:** Susan Plumb is confirmed by Tribal Council as new CNEC member to replace Roger Johnson, who resigned July 5.

**Sept. 7:** HUD announces it is freezing funds to the Cherokee Nation because of the disqualification of Freedmen voters.

**Sept. 15:** BIA sends a letter to the Cherokee government expressing concern about the tribe’s treatment of the Freedmen; CNEC announces that Freedmen will be allowed to cast challenged ballots.

**Sept. 17, 20–22:** Early walk-in voting.

**Sept. 20:** A federal judge orders the CNEC to send out regular ballots to registered Freedmen voters via overnight mail and add extra voting days.

**Sept. 24:** Redo of June election.

**Sept. 29; Oct. 1, 2, 6, 8:** Extra voting days.

**Oct. 9–11:** Counting and tabulation of votes take place at CNEC.

**Oct. 12:** Election results are certified by the CNEC; Bill John Baker is declared winner.



## LEGAL FRAMEWORK FOR THE CHEROKEE NATION ELECTIONS

Elections should be organized and regulated by a specific legal framework that is clear, understandable, and transparent and addresses the various aspects of an electoral system necessary to ensure a democratic election takes place.<sup>1</sup> The Carter Center assessed the Cherokee Nation special election for principal chief on the basis of the Constitution of the Cherokee Nation<sup>2</sup> and the Cherokee Nation election code.<sup>3</sup> In conducting the assessment, the Center also considered international good practice for democratic elections.

The sections that follow analyze the Cherokee Nation's constitution and electoral code, noting its strength along with areas that could be enhanced to better protect citizens' fundamental political rights.

### CONSTITUTION OF THE CHEROKEE NATION

The first Constitution of the Cherokee Nation (the Constitution), drafted largely by Georgia- and Tennessee-based nation members at a constitutional convention in 1827, established a three-branch government, a bicameral legislature, and a bill of rights<sup>4</sup> that mirrored that of the U.S. government. In 1839, following the Cherokees' forced removal from their homelands on the Trail of Tears, resettled Cherokee in Oklahoma held another constitutional convention. The convention produced the nation's 1839 constitution<sup>5</sup> that would govern the nation until 1898 when the U.S. Congress passed legislation that formally mandated the allotment of Cherokee land and the abolition of the Cherokee government by 1906.<sup>6</sup> As a result, the Cherokee Nation functioned without a government from 1907 until 1970, when the nation reconstituted itself and was again recognized by the U.S. government.<sup>7</sup>

*Elections should be organized and regulated by a framework that is clear, understandable, and transparent.*

By 1976, the U.S. government's more paternalistic attitude toward Indian affairs began evolving into one that promoted a policy of Indian self-determination. Principal Chief Ross Swimmer called for creation of a new constitution for the Cherokee Nation that would supersede the 1839 version that essentially had been rendered null by Congress' 1898 abolition of the nation's government. The new constitution divided the Cherokee Nation government into three branches: a legislature composed of a 15-member elected Tribal Council; an executive branch with power vested in a principal chief and deputy principal chief, both elected to four-year terms; and a judicial branch composed of a three-member Supreme Court and other lower courts the Tribal Council established. Also incorporated into the constitution were the protections included in the 1968 Indian Civil Rights Act, along with provisions for referenda and initiatives.<sup>8</sup>

By the late 1990s, after a period of growth and success during which time Wilma Mankiller served as principal chief, the Cherokee Nation began encountering internal political turmoil. In 1999,

<sup>1</sup> International Election Standards: Guidelines for Reviewing the Legal Framework of Elections, International IDEA, 2002.

<sup>2</sup> Constitution of the Cherokee Nation (1999) (Constitution).

<sup>3</sup> Legislative Act 06-10, Title 26 Elections (Election Code).

<sup>4</sup> See Eric Lemont, Overcoming the Politics of Reform: The Story of the 1999 Cherokee Nation of Oklahoma Constitutional Convention, Harvard Project on American Indian Economic Development, JFK School of Government (July 2001), p. 5 (Lemont).

<sup>5</sup> Lemont.

<sup>6</sup> 30 U.S. Statute 495 (1898).

<sup>7</sup> Lemont, p. 6.

<sup>8</sup> Lemont.



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under Principal Chief Joe Byrd, 79 Cherokee Nation citizens served as delegates for a constitutional convention and helped develop an amended constitution that was accepted by vote by Cherokee Nation citizens July 26, 2003.<sup>9 10</sup>

### ANALYSIS OF CONSTITUTION OF THE CHEROKEE NATION

The 1999 Constitution of the Cherokee Nation includes a number of important provisions that protect the fundamental rights of its citizens and that establish regulations governing the conduct of elections. Key provisions of the constitution also: establish parameters for setting the jurisdictional boundaries of the nation;<sup>11</sup> protect citizens' rights to free speech and press as well as their right to peaceably assemble;<sup>12</sup> institute parameters for conduct of the election and removal of the principal chief along with others holding executive positions;<sup>13</sup> and establish a judiciary, noting its jurisdictional powers.<sup>14</sup> The constitution is available in both English and Cherokee, the two principal languages of the Cherokee Nation.<sup>15</sup>

Crucial to the electoral context, Article IX of the constitution establishes an electoral commission—The Cherokee Nation Election Commission (CNEC)—to oversee electoral processes. In accordance with international good practice, which notes that it is essential for an election management body to function independently and impartially from the ruling government,<sup>16</sup> the constitution notes the CNEC: “shall be an autonomous and permanent entity charged with the administration of all Cherokee Nation elections, in accordance with election laws.”<sup>17</sup> The constitution also vests the CNEC with powers to enact laws governing the conduct of elections, provided they are not inconsistent with any parts of the constitution.<sup>18</sup> As Chapter 2 Section 11 of the election code notes, the CNEC is composed of five members and is an independent commission that is not under the direction or supervision of either the

*The 1999 Constitution of the Cherokee Nation includes a number of important provisions that protect the fundamental rights of its citizens.*

Cherokee Nation Executive Office or the Cherokee Nation Tribal Council.<sup>19</sup>

The constitution addresses citizens' ability to exercise their free will to participate in and vote during the electoral process. In Article IX(3) the constitution requires that all elections take place by secret ballot. It also explains criteria for citizenship as well as for election and

how boundaries are to be delimited. The constitution establishes a judiciary that has authority to create

<sup>9</sup> Lengthy discussion ensued between the Cherokee Nation and the BIA before the constitution could be submitted to the citizens for vote. This was the result of Article XV, Section 10 of the constitution, which requires “no amendment or new Constitution shall become effective without the approval of the President of the United States or his authorized representative.”

<sup>10</sup> See generally Constitution of the Cherokee Nation (July 26, 2003). Among others, the major changes that arose under the 1999 constitution relevant to the electoral framework were: the addition of Article II establishing territorial jurisdiction for the nation; an enumerated bill of rights based upon the Indian Civil Rights Act and the 5th and 14th Amendments of the U.S. Constitution; clarification that Cherokee citizens must trace their lineage to the Dawes roll or a descendent who was on the Dawes roll; establishment of a process for voters living outside the Cherokee territory to register; an expansion of the Tribal Council's removal power to extend to appointed officials; establishment of term limits for the principal and deputy principal chief; creation of the Office of Attorney General; increase in size of the Supreme Court from three to five members; increased jurisdiction of the Supreme Court to include jurisdiction over all judicial officers; creation of the Election Commission in Article IX; and provision of power to the citizens to remove the elected principal chief from office by referendum.

<sup>11</sup> Constitution, Article II.

<sup>12</sup> Constitution, Article III (Section 4).

<sup>13</sup> Constitution, Articles VII and XI.

<sup>14</sup> Constitution, Article VIII.

<sup>15</sup> Constitution, Article XVIII.

<sup>16</sup> See United Nations Human Rights Committee, General Comment No. 25, paragraph 20.

<sup>17</sup> Constitution, Article IX. Prior to the adoption of the 1999 constitution, elections were overseen by the Tribal Election Committee, which was similar in function and composition.

<sup>18</sup> The CNEC produces the Precinct Officials Manual, which details election-day processes for precinct officials—from poll opening through tabulation and reporting of results to the CNEC.

<sup>19</sup> See <http://www.cherokee.org/Docs/Org2010/2011/9/24782FAQs.pdf>. Note that of the five members who serve a term of four years, two are appointed by the Tribal Council, two are appointed by the principal chief, and one is selected by the other four chosen appointees.



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lower courts as needed. Any changes to the constitution must be agreed upon through a democratic process and put forth to the citizens of the nation for vote by referendum.

All of these provisions are reasonable and in line with good practice for democratic elections. Overall, the constitution works well to protect citizens' key rights pertaining to elections but would be enhanced by including additional provisions to improve the quality of elections within the nation.

### CHEROKEE NATION ELECTION CODE

The other key document of the legal framework for Cherokee Nation elections is the Cherokee Nation's election code. The Tribal Council drafts and promulgates the election code, which in turn serves as a guide for members of the CNEC who administer elections. The most recent Cherokee Nation election code was formed under Legislative Act 06-10 Title 26 and amended prior Legislative Acts 7-97 and 39-95. The Tribal Council produced the new election code on Feb. 16, 2010,<sup>20</sup> well in advance of the initial June 25, 2011, election for principal chief.

The election code is broken into six chapters that cover various aspects of election administration, including: specific guidelines governing the function and composition of the CNEC; provisions governing how citizens qualify to register to vote and run for office; regulations regarding campaign finance oversight; and procedural guidelines on how the election-day processes should unfold, including ballot counting and dispute resolution procedures. The election code is clearly written and complements the constitution by providing more detail on key regulations necessary to protect the political rights of Cherokee citizens throughout an election. Analysis of the electoral code by key topic follows:

### ELECTION MANAGEMENT

Chapter 2 of the election code covers election management procedures, noting how the CNEC should be composed and what its duties are.<sup>21</sup> Good practice promotes election management systems that are inde-

pendent, impartial, and transparently run. Section 11 of the election code supports this commitment, noting the commission should be independent in performing its duties. Provisions of the chapter also encourage transparency by the CNEC in its decision making and provide procedures for determining if a commissioner needs to be removed from office.<sup>22</sup> To help the CNEC carry out its duties effectively, the code also establishes precinct boards throughout the nation that support the CNEC in carrying out functions related to voting.<sup>23</sup>

### VOTER REGISTRATION

Voter registration is recognized as an important means to protect the right of citizens to vote and should be made available to the broadest pool of citizens possible to ensure universal and equal suffrage are protected.<sup>24</sup> Voter registration procedures are covered in Chapter 3 of the election code, which appears thorough and covers relevant eligibility requirements for voters and the conditions under which voters may forfeit their registration. Of note as well is that the CNEC is required to make efforts to publish the registered voters list throughout the nation and, for a nominal fee, will make the same voters list available to all Cherokee Nation citizens.<sup>25</sup> The voter registration guidelines appear to place no restrictions on a person's ability to vote, including prisoners or ex-convicts, provided they are a Cherokee citizen over 18 years of age.

Although the provisions in the code concerning registration are fairly thorough, there is no mention of any requirement that the registration roll be updated with any frequency. Section 23(2) does note that the

<sup>20</sup> Legislative Act 06-10, Title 26 Elections, Chapter 1 (2010) (Election Code).

<sup>21</sup> Election Code, Chapter 2.

<sup>22</sup> Election Code, Chapter 2, §11 (E) and (G).

<sup>23</sup> Election Code, Chapter 2, §12.

<sup>24</sup> United Nations Human Rights Committee, General Comment 25 on "The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service," paragraph 11.

<sup>25</sup> Election Code, Chapter 3, §§219(A)3 and 25.



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CNEC is tasked with marking addresses on the voters roll that do not appear current. Section 24 highlights provisions guiding the CNEC to remove deceased or disenrolled people from the rolls when they receive proper notice from the Cherokee Nation Registration Department. Though this requirement is certainly helpful, it still forces the CNEC to rely on outside forces to be proactive and submit a notice of death or disenrollment in order for the registration lists to be updated. This provision also implies that the CNEC and the Registration Department must maintain some level of regular information exchange in order for deceased or disenrolled people to be removed from the list. Missing from the law is a clear provision stipulating the frequency with which the rolls should be updated. The electoral code should provide a more systematic method and time line for updating the registration lists in order to increase the likelihood that the list it uses during any given election is up-to-date.

Finally, the Tribal Council should note in the election code what means of appeal are available for citizens who feel their names have been wrongly removed from the list or who have been denied the ability to register. This provision is particularly important within the Cherokee Nation context since many Cherokee reside outside the 14-district area and may encounter more difficulty proving they are indeed eligible to vote.

## CANDIDACY AND CAMPAIGNING

Chapters 4 and 5 of the election code titled “Qualifications of and Filing by Candidates” and “Disclosure of Campaign Finances” are thoroughly written and support core rights of candidates and voters relevant to candidacy and campaigning during the electoral process. Equitable treatment of candidates and parties during an election as well as the maintenance of an open and transparent campaign environ-

ment are important to protecting the integrity of the democratic election process.<sup>26</sup> This includes campaign finance, the registration of candidates and political parties, and other aspects of the electoral process associated with campaigns and/or candidates and political parties.

Anyone is able to run for office within the Cherokee Nation who is a citizen of the nation and has not been convicted of or pled guilty to a felony charge under United States laws, the laws of any state, or those of any federally recognized Indian tribe.<sup>27</sup> The election code also permits potential candidates to appeal to the CNSC any decision by the CNEC surrounding eligibility to run for office.<sup>28</sup> International good practice recommends that everyone have the right to an effective remedy before a competent national tribunal for acts that violate their rights or freedoms,<sup>29</sup> so this provision of the election code is an important step toward protecting this fundamental right.

Similarly, the chapter on campaign finance regulations has thorough provisions to minimize possible fraud or irregularities from occurring during the election process. The chapter includes important provisions that restrict the amount of funds a candidate can receive and that prohibit candidates from accepting anonymous contributions. Candidates also are required to submit certified financial disclosure forms on a monthly basis to the CNEC to promote transparency throughout the process and reduce possible abuse of funds.<sup>30</sup>

<sup>26</sup> International Convention on the Elimination of All Forms of Racial Discrimination, art. 5(c).

<sup>27</sup> Election Code, Chapter 4, §31(A)2.

<sup>28</sup> Election Code, Chapter 5, §37(2).

<sup>29</sup> UN International Covenant on Civil and Political Rights (ICCPR), art. 2; OAS, American Convention on Human Rights, art 25; Council of Europe, European Convention on Human Rights, art. 13.

<sup>30</sup> Election Code, Chapter 6, §§43, 44(A), and 46(A).



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Certain additions to this chapter would bolster campaign finance safeguards currently in place. For instance, the electoral code should make clearer how “in-kind” contributions are calculated. As currently written, this is not discernible.

Though it is commendable that Section 46(A) of the code requires certified disclosure by candidates of their financial reports on a monthly basis, the Tribal Council also should require in the code that these reports be made public so as to increase transparency and promote voters’ understanding of aspects of the electoral process and how candidates finance their campaigns. It is also unclear whether the CNEC has the staff capacity to conduct thorough review of such financial disclosure on a monthly basis as required by the code. If this provision is not realistic for the CNEC, they should consult with the Tribal Council so that the code might be updated to reflect a more sustainable campaign finance review scheme.

In addition, more clarity is recommended in Section 47(C) on “Radio and Television Time,” particularly the means used by the CNEC to quantify radio or television time donated to candidates. This would provide additional protection to ensure such donations do not unfairly benefit one candidate over the other, in violation of campaign finance regulations within other sections of that chapter.

## VOTING OPERATIONS

Chapter 6 of the election code covers the “Conduct of Elections.” The way in which the voting process unfolds is crucial to ensuring that elections uphold core political rights of voters throughout election day. Voting operations relate to all election-day operations and events, including aspects that facilitate voting operations such as the procurement of ballots or technology, establishing alternative means of voting, etc. Referenced in Chapter 2 of the code in Section 12, precinct boards are created and appointed by CNEC commissioners to help carry out election-day activities. The provisions establishing the board ensure competency and impartiality of its members, noting for instance in Section 12(B) that they cannot be

related to a Cherokee Nation official and/or a candidate for office. The provisions also clearly detail the responsibilities of board members on election day.

### Absentee Ballots

Chapter 6 references key regulations pertaining to both absentee and challenged ballot procedures as well as the required identification voters must present at polling precincts. Article 3 governs absentee ballot procedures, noting procedures by which voters can request, have replaced, and cast such ballots. Section 73 of Article 3 lays out formalities that must be completed in order for an absentee ballot to be accepted; for example, Section 78 requires that voters have their absentee ballots notarized prior to returning them to the CNEC. However, as was reported by Carter Center observers during the counting process, in many instances it was the notary and not the voter whose error rendered ballots invalid, for example, by failing to sign their seal. The Tribal Council may want to consider inserting provisions into the code to ensure that voters who followed correct procedures but unknowingly used a notary who did not are not disenfranchised.

Voters are permitted to return their absentee ballots in person at the CNEC’s Tahlequah headquarters or via mail. Reports were made throughout the campaign that, often, candidates were collecting absentee ballots for voters and returning them to the CNEC or the post office to facilitate the process for voters. Such actions are not desirable when ensuring that all ballots are properly handled, received, and counted during an election. However, currently there are no provisions in the electoral code that forbid such handling of absentee ballots by candidates.

The election law provides that voters who have not received their absentee ballots are able to cast challenged ballots. However, Carter Center observers noted that many voters who received absentee ballots but lost them were prompted throughout the election to cast a challenged ballot. In instances where voters swore via an affidavit that they never received their absentee ballot, the CNEC would later count their challenged ballot. Other challenged ballots not



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bearing a clear statement that the ballot had not been received would not be accepted. This process of requiring specific language from voters in order for their vote to count is not desirable in that it unnecessarily restricts the voting rights of citizens.

### Challenged Ballots

Section 64 governs provisions for the casting of challenged ballots on election day. In addition to the provisions governing the use of challenged ballots for absentee voters, the election law states that a voter whose name does not appear on the voter list, or whose right to vote is challenged by a precinct official for another reason, will be permitted to vote only if they complete a voter registration application for a residence address in an at-large district. They also will be permitted to vote if they sign a statement swearing and affirming they currently are eligible to vote and have not yet voted. Once a challenged ballot is cast, the ballot is preserved in a separate challenged ballot box.

Once counting takes place, the CNEC will count the ballot if the person was entitled to vote but will not count it otherwise. Thus, some voters who cast challenged ballots may, in the end, not have their ballots counted. This should be made clearer to voters.

### Required Identification

There is no clear mention in the electoral code of the type of identification required by voters to verify their identity and eligibility to vote on election day. Section 62, paragraph B simply notes that to vote in person, voters must appear at the precinct, announce their name to the official, and sign the registry before being handed a ballot. Throughout observation, Center observers noted that precinct workers could authenticate voters' identity by either: personal knowledge, driver's license, voter registration card, or tribal membership card. In practice, the authentication method used was inconsistent and varied

depending on the polling precinct. The code should delineate explicitly what methods are acceptable for verifying voter identity. To ensure consistent application, it would be beneficial if the Tribal Council limited the variety of ways voters can identify themselves—perhaps limiting it to tribal membership card and/or driver's license, for instance.

### Other Election Day Provisions

Chapter 6 covers a number of crucial aspects pertaining to election-day procedures, including: how voters may cast ballots, electioneering near polling sites, selection of poll watchers, provisions permitting disabled and linguistically challenged people to vote, handling absentee ballots, conduct of the counting process (including recounts), and the challenges and appeals process regarding election results.

Though Chapter 6 covers important aspects of election-day procedures, the Tribal Council may consider clarifying the following ambiguous procedures and/or language:

- Section 53, paragraph C provides the CNEC the “sole authority to determine the number of watchers at any given precinct,” but does not make clear what procedure is in place to determine what this number should be.
- Section 64, paragraph 1 notes that a precinct official may challenge the voter's right to vote “for other reasons” besides their name not being on the voter list. The Tribal Council should explain what these “other reasons” are to minimize the potential for precinct officials subjectively creating reasons for disenfranchising a potential voter.
- Section 64, paragraph 1 should be amended to clarify whether some type of appeals process is available to a person who is denied the right to vote and/or is required to cast a challenged ballot.



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- Section 74, regarding procedures in instances of rejection of an absentee ballot application, does not make clear whether a person has appellate remedy upon being notified their application was rejected.

## MISSING PROVISIONS

The Tribal Council promulgated the most recent version of the election code on Feb. 16, 2010. The Carter Center recommends that the council take into account the recommendations noted in this section for improving upon this code. Additionally, the Center would strongly encourage the council to work in close conjunction with the CNEC to draft any revisions. As the CNEC commissioners administer the election and implement provisions of the electoral code, they are in a prime position to advise the Tribal Council regarding what provisions of the code are ineffective or weak or should be rewritten for clearer language.

To ensure that all core political rights of citizens are protected throughout the entirety of the electoral process—from before the election starts until after the winners are announced—the Tribal Council should include a chapter on voter education in the electoral code since voter education efforts are necessary to ensure an informed electorate is able effectively to exercise the right to vote.<sup>31</sup> Though the method for determining district boundaries is referenced in the constitution, the council may consider noting related procedures in the electoral code so that it is clear under what circumstances boundaries and district lines might be updated from election to election.

Though the code covers prerequisites for a person to run for public office, the electoral code should also provide regulations governing candidates' actual campaign activity during the electoral cycle. Equitable treatment of candidates and parties during an election as well as the maintenance of an open

and transparent campaign environment are important to protecting the integrity of the democratic election process. Accordingly, the code should reference a code of conduct for candidates during elections, requiring them to run campaigns according to procedures and not to impede on the fundamental rights of their opponents or of citizens.

The Tribal Council also may want to consider adding language that governs the role the media play during elections, noting parameters of their participation and the extent to which they should have access to information during elections, especially in regard to election-related data. The media play an indispensable role during democratic elections by educating voters

and political parties about major issues, thus giving them access to information so they can make truly informed decisions. With such regulations in the electoral code, members of the media along with key stakeholders would be aware of the parameters of their respective rights in this regard.

Finally, the Center recommends that more language be placed in the electoral code on electoral dispute resolution mechanisms. Effective dispute mechanisms are essential to ensure that effective remedies are available for the redress of violations of fundamental rights related to the electoral process.<sup>32</sup> The Tribal Council should ensure that citizens have the right to effective remedy whenever their fundamental rights have been denied by the CNEC, CNSC, or other governmental body. Such access to remedy is particularly needed in regard to voters' rights, and the extent to which voters can appeal decisions of the CNEC regarding their eligibility to participate in various aspects of an election—from being denied ability to register to being denied the ability to vote on election day.

*The Center would strongly encourage the council to work in close conjunction with the CNEC to draft any revisions.*

<sup>31</sup> ICCPR, art. 25; United Nations Human Rights Committee, General Comment 25, paragraph 11.

<sup>32</sup> Article 40, Southern Sudan Referendum Commission Rules and Regulations on Polling, Sorting, Counting and Declaration of Results.



## CARTER CENTER OBSERVATION OF EARLY VOTING

Early voting for the special election for principal chief took place on Sept. 17, 20, 21, and 22 at the CNEC headquarters in Tahlequah, Okla. Polling was conducted from 9 a.m. until 5 p.m., and voters could vote a regular ballot or drop off their absentee ballot. The Carter Center had an observer present each day during early voting. Overall, the voting process went smoothly, and Carter Center observers did not report any irregularities that would compromise the integrity or credibility of the polling.

Each day, voting machines and ballot boxes were removed from a secured vault at the commission building (the vault was guarded 24 hours a day by Cherokee marshals). Any person in the room during removal and storage of election materials in the vault was recorded on camera and had to sign two logs—one kept by the CNEC and one kept separately by the marshals. Each morning, voting materials were brought to the lobby of the commission building by a commissioner, the counter on the ballot box was checked to ensure that it matched the end count from the day before, and polls were opened. Observers noted that polls were opened on time each day at 9 a.m. and were closed at 5 p.m. Voters arriving after 5 p.m. were not allowed to cast their votes, although voters were allowed to complete the voting process as long as they arrived at the CNEC before 5 p.m.

The voting process unfolded consistently throughout the early-voting days. A poll worker asked each voter to fill out a ballot request form. A CNEC employee then checked the voter's information against a database of registered voters, and if

registered, the voter was given a ballot. The voter was able to mark the ballot in a private area behind a voting booth that maintained secrecy of the ballot. If a voter was disabled or needed additional assistance, such aid was provided.

Each candidate was permitted to have a poll watcher present at the commission to observe the voting, although during most of the early-voting days, only one poll watcher was present. Observers did not report any issues with poll watchers, and watchers appeared to adhere to the code of conduct provided to them by CNEC officials. Officers from the Cherokee Nation Marshal Service also were present to maintain order and ensure no security issues arose.

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credibility of the polling.*

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On Sept. 14, 2011, in order to ensure that the election could go forward as scheduled despite the pending litigation, the CNEC decided to allow Cherokee Freedmen to vote challenged ballots. These ballots would not be counted unless a decision ultimately was made to reinstate their tribal citizenship. In taking this step, the CNEC ensured that if litigation ended with restoration of the Freedmen's citizenship, they would be able to count the Freedmen votes without having to hold a new election. The practice of issuing challenged ballots to Freedmen during the early-voting period continued even after a Sept. 20 federal court decision reinstated Freedmen voting rights. However, following the decision, the CNEC decided to count all Freedmen ballots. Although these challenged ballots were counted, several Freedmen vehemently protested the policy, saying that the commission was violating the court order by not allowing them to vote



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regular ballots. Observers did not report instances of Freedmen being treated any differently from non-Freedmen Cherokee voters. Nevertheless, one of the

Freedmen did file a declaration in federal court that she had been mistreated by CNEC staff during early voting on Sept. 17, 2011.<sup>33</sup>

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<sup>33</sup> The woman stated she was treated like she was illiterate and felt that overall she had been treated rudely. Though one CNEC staff allegedly came out to apologize for the behavior of other staff members, the Freedmen voter noted she was degraded by the experience. (Declaration of Charlene White, Sept. 19, 2011.)



## SEPT. 24 ELECTION DAY

Following the Carter Center's observation of the Sept. 24 election day, the Center released a statement of findings on Sept. 27. The section below includes the text from this statement in addition to any subsequent observations the Center made.

### ELECTION ADMINISTRATION

Overall, Carter Center observation teams commended the competent administration of the election by the CNEC and precinct polling staff. The conduct of this election was notable given the evolving round of legal disputes and administrative burdens placed on the CNEC by the federal court just days before the election.

In many precincts where poll workers were understaffed, Center observers noted that poll officials managed the election-day process despite having fewer staff than anticipated in the law and regulations. Poll workers were well-informed about voting procedures, including many of the last-minute changes in the signed federal court order of Sept. 21. However, there were a few exceptions to this, including instances where Carter Center observers noted confusion among some poll officials regarding the use of challenged ballot mechanisms and other important election safeguards.

The policy of the CNEC to have precinct poll officials call the commissioners if in doubt regarding any aspect of the election process helped polling officials navigate some of the more challenging election-day issues. Precinct officials reported to The Carter Center that the CNEC was generally responsive to their needs when they sought clarification on processes and procedures, although some complained that the phone lines were jammed. This atmosphere of open communication between the CNEC and poll workers was especially important given that confusion arose often due to the last-minute changes in the election procedures. However, in the future, precinct

officials and the voters they serve would benefit from additional call-in lines so that election issues can be addressed even more efficiently.

Polling was well-organized in most precincts, ensuring the efficient flow of voters through the voting process. Most observers reported that the layout of the precinct was such that the secrecy of the ballot was protected.<sup>34</sup> The majority of precincts were accessible to disabled voters. While Carter Center observers noted that precinct poll officials did not consistently explain to voters how to cast their ballots, voters seemed to understand the voting process and were able to vote without hindrance.

Despite the administrative burdens and the last-minute shifting of election procedures noted above, the Center found that the CNEC and poll workers conducted a successful and disciplined election.

### ABSENTEE VOTING AND CHALLENGED BALLOTS

A large number of Cherokee Nation registered voters were sent absentee ballots for the September 2011 election. Absentee voting is internationally recognized as a good practice to ensure the right to vote. However, absentee voting removes some of the safeguards that are inherent in controlled, in-person voting environments.

The CNEC dispatched approximately 12,000 ballots to voters in the 14 counties and throughout Oklahoma and beyond.<sup>35</sup> Some 8,000 of the 56,000 registered Cherokee voters requested absentee ballots in June 2011. Of the 15,000 total ballots cast in June, 6,000, or approximately 40 percent, were absentee

<sup>34</sup> A few precincts situated the ballot tabulator very close to the precinct staff, thereby potentially undermining a safeguard of ballot secrecy. This also was observed during early voting; however, Carter Center observers did not report any evidence that ballot secrecy was violated.

<sup>35</sup> This marks a considerable increase from the approximately 8,000 absentee ballots issued for the June 25 election.



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ballots. Following the Supreme Court decision mandating a rerun, the CNEC reopened the window for absentee ballot requests for a short period in early August. Eventually, 4,000 additional absentee ballots were requested, bringing the total absentee ballots requested for the September 2011 election to 12,000.

All voters who had requested an absentee ballot for the June election were automatically sent them for the Sept. 24 special election. Since the Sept. 24 election was a redo of the June one, citizens who registered to vote between the two elections were not eligible to vote in the Sept. 24 election. However, citizens who were registered but did not request an absentee ballot for the June election could request one during a 10-day period in August.

While the automatic dispatch of the absentee ballots was a good-faith effort by the CNEC to ensure all voters were able to cast a ballot in the principal chief race, Carter Center observers reported some voter confusion caused by this at the polling precincts. Voters who were issued an absentee ballot, but who stated that they did not receive that ballot, were eligible to cast a challenged ballot.<sup>36</sup> The procedures surrounding casting a challenged ballot created some confusion, as some voters thought that they would be able to vote a regular ballot at the polling station even if they had received an absentee ballot. Poll workers often were in contact with the CNEC in such cases, and at times they issued challenged ballots to voters. However, challenged ballots can only be counted if the voter says that he or she never received an absentee ballot, not if the voter lost the ballot or decided that they wanted to vote in person instead.

These ballots, once voted, were placed in secrecy envelopes and stored separately from the regular ballots cast via the tabulator. The challenged ballots were to be reviewed by the CNEC during the vote-counting process and a determination made on their validity.<sup>37</sup> Carter Center observers reported instances of challenged ballots being cast, in most precincts on the basis of this, but also for other reasons. In several cases, a voter who had received an absentee ballot (and/or who was listed on the voter registry as having been issued an absentee ballot) arrived at

the station with the hope of either casting a regular ballot in person or casting the absentee ballot in person via the tabulator. Some voters arrived at the precinct to find they were unable to vote because they had been issued absentee ballots they claimed not to have requested. Because the Cherokee Nation law states that voters issued absentee ballots may cast challenged ballots only if they state that they did not receive an absentee ballot, these voters were not able to cast a challenged ballot. Although precinct officials generally sought guidance from the CNEC on how to proceed in each individual case, future elections would benefit from a more robust public information campaign to explain the absentee and challenged ballot processes in detail.

No ballots were counted by the Election Commission until the week of Oct. 9, 2011. This included ballots cast in the tabulator at precincts as well as absentee and challenged ballots.

## VOTER REGISTRATION AND IDENTIFICATION

Carter Center observers noted significant confusion regarding voter registration procedures for this election. Only voters who registered to vote for the June election were eligible to vote in the September election for principal chief. While new registrations and requests to change precincts were taken by the Election Commission between June and September, these new registrations and amendments to the voters roll were not applicable to the Sept. 24 election.<sup>38</sup>

The fact that registration and change of precinct forms that were completed between June and September were not applied to this election also led to some confusion among voters. Some came in

<sup>36</sup> Election Code, Chapter 6, Article 3, §78 states that “Voting in person at a precinct by a voter who has requested and received an absentee ballot shall not be permitted; but a voter who claims that he or she never received an absentee ballot may cast a challenged ballot as set forth in Section 64 of this Title.”

<sup>37</sup> Election Code, Chapter 6, Article 2, §64 (1).

<sup>38</sup> July 29, 2011, opinion of the attorney general of the Supreme Court regarding the Special Election for Principal Chief.



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thinking that they had registered to vote in this election, and others went to the wrong precinct thinking that the forms they had filled out would apply to the September election. In several cases throughout the counties, citizens arrived at the polls to find that either they were not registered to vote at that precinct or were not registered at all. In most of these cases, voters either were sent to the appropriate precinct or were sent away (respectively). In some cases, however, such voters were advised that they could cast a challenged ballot. However, these challenged ballots could not be counted, because the election law prohibits voters from voting outside of the precinct in which they are registered. The election law does not anticipate the use of challenged ballots in such circumstances and, therefore, does not provide for these ballots to be counted. The Carter Center recognizes that the unusual circumstances of this election (i.e., that it was a rerun of the June election rather than a new election) contributed to this confusion. In the future, the Election Commission may want to consider engaging in a more robust voter outreach program to increase public awareness.

The election law of the Cherokee Nation requires that poll workers identify voters before they cast their ballot.<sup>39</sup> Such a requirement is in accordance with internationally recognized best practice. In the case of the Cherokee Nation, voter identification can take one of two forms—recognition by precinct polling officials, or if they are not recognized by poll officials, voters may be required to present a valid form of identification at the discretion of precinct officials. While Carter Center observers noted some minor variations in identification practices among precincts, all observed were in conformity with the law. Some Carter Center observers noted that some poll workers took the extra precaution of requesting ID from every voter even if they knew them. The Center felt that greater consistency in the application of the

regulations would be of benefit to the process and would help to alleviate confusion and misunderstanding about the ID requirements in future elections.

### POLL WATCHERS

The presence of poll watchers for all political contestants, throughout polling and counting, is a critically important safeguard to the electoral process. It is a valuable means of protecting the rights of candidates to be elected fairly and can contribute to the transparency and integrity of the election. Cherokee election law provides for the presence of watchers who are to observe the election procedures on behalf of the candidates.<sup>40</sup> The watchers are not allowed to speak with voters or leave the precinct at which they are observing until the end of the day.

Carter Center observers reported the presence of poll watchers in most precincts visited;

*Carter Center observers reported the presence of poll watchers in most precincts visited.*

cincts observed, the watchers did not observe the entirety of the process, including the closing of the polls and securing of election materials. Only one of the candidates had a poll watcher present to observe the securing of absentee ballots on the afternoon of Sept. 24 or the receipt and logging of election materials at the commission that night. The other candidate reported to the Center that he was unaware that he was entitled to have a poll watcher present during this process. Both candidates cited the difficulty of finding watchers who could stay at a given precinct the entire day as a reason for the lack of watchers from both campaigns at each station.

<sup>39</sup> Election Code, Chapter 2, §12 (C) (1) states that “Each Precinct Board shall oversee the conduct of elections at its assigned precinct within a district, including the following specific duties: 1. Ensure that the identity of each person attempting to vote is established either through personal knowledge or photo ID.”

<sup>40</sup> Election Code, Chapter 6, Article 1, §53.



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The lack of poll watchers representing both candidates during all phases of the process undermines the inherent value of having poll watchers present. The Carter Center hopes that the Election Commission will take any steps necessary to facilitate the full access of the watchers for both candidates for future elections.

The Election Commission developed a thorough set of regulations regarding the conduct of poll watchers while in the polling precinct. This includes not speaking to poll workers or voters and remaining in the polling precinct all day to avoid the distraction caused by coming and going. These regulations were intended to protect the rights of voters to cast their ballots free from intimidation, which is to be commended. However, the restrictions on watchers made it difficult for candidates to recruit watchers who could remain in the polling precinct all day, thereby unintentionally diminishing the poll watcher as a transparency measure. In almost all cases observed, poll watchers abided by the regulations of the Election Commission, although they were not consistently applied by precinct staff. In order to maximize the value of poll watchers, the Center suggests that the CNEC consider revising the poll watcher regulations to ensure they are able to observe all aspects of the process. In addition, the CNEC should consider introducing a voluntary seminar on election-day procedures for poll watchers.

### FREEDMEN VOTERS

Despite the controversy regarding the disenfranchisement and subsequent re-enfranchisement of the Freedmen, Carter Center observers did not report any cases of Freedmen encountering obstacles in casting their ballots on the Sept. 24 election day. No distinction was made between Freedmen and other voters on the voters roll. Observers noted Freedmen were treated as courteously as any other voter. In a meet-

ing on Sept. 25, two Freedmen organizers told Carter Center observers that they received no complaints of discriminatory behavior or actions. The Center noted that the Election Commission went to great lengths to ensure compliance with all federal court orders and to guarantee that all eligible voters were treated fairly.

The change in procedures caused by the Sept. 21 federal court order caused some confusion and frustration to Freedmen voters during early voting (which took place Sept. 17, 20, 21, and 22). In an effort to anticipate the considerable administrative challenges that might result from the Sept. 20 hearing in the federal court, the Election Commission decided to allow Freedmen to cast challenged ballots. Following the hearing, a signed court order regarding the voting rights of Freedmen was issued on Sept. 21, 2011. The federal order required that Freedmen be entitled to "vote in the upcoming Principal Chief election and to have their vote counted in the same manner as all other Cherokee citizens."

The Election Commission did not receive the proposed final order until the afternoon of Sept. 21, even though the general thrust of the order was known. This caused some consternation during early voting when Freedmen voters arrived at the commission headquarters to vote on Sept. 21. Because the final order had not been received and the details of its implementation were still being finalized, approximately six Freedmen voters were given challenged ballots and reassured that these ballots would be counted by the commissioners. Once the order was received, Carter Center observers reported that the commission took action to ensure that Freedmen and all voters were able to cast regular ballots. The Election Commission reiterated its commitment that it would count all challenged ballots cast by Freedmen prior to the receipt of the final, signed court order.

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## OBSERVATION OF EXTRA VOTING DAYS

As per the Sept. 26, 2011, federal court order, the Cherokee Nation was required to hold five extra walk-in voting days to give Freedmen voters an additional opportunity to cast their ballots.<sup>41</sup> The extra voting days took place on Sept. 29 and Oct. 1, 4, 6, and 8 at the CNEC headquarters in Tahlequah, Okla. The Carter Center deployed an observer to the CNEC to monitor each of the extra voting days, with five additional observers joining to monitor the final day of voting.

### ELECTION ADMINISTRATION

A Center observer reported that the CNEC consistently carried out procedures for opening and closing the polls each day. Consistent procedures were followed regarding the removal and setup of election materials for voting. After closing, all voting materials were returned to the vault and secured by a marshal and appeared protected from the possibility of any tampering.

When voters had questions on the process, CNEC staff carefully addressed the matters. Throughout the extra voting days, most processes flowed fairly smoothly. However, confusion did arise consistently regarding a letter the CNEC sent to some registered Cherokee voters. The letter noted that all registered Cherokee who had not yet voted could do so during the extra five voting days. Many would-be voters came to the CNEC, having interpreted the letter to mean that they had not voted, although many actually had. Others, who had not registered in time for the initial June 25 election, read the letter to mean they now had the opportunity to vote. In each case observed, CNEC staff corrected any error in interpretation by voters and seemed to resolve the matter fairly smoothly. In other rare instances where voters appeared upset because of a misunderstanding of the process,<sup>42</sup> the commissioners and staff consistently remained calm as they worked with those voters to

resolve the problems and maintain calm within the polling area.

Throughout the additional voting days, the CNEC carried out its tasks in an impartial manner, without interfering with polling procedures. When any issues or doubt arose, the CNEC seemed to err on the side of caution and considered whether their actions could be perceived as partial or in violation of any electoral regulations.

### ABSENTEE VOTING AND CHALLENGED BALLOTS

During the extra voting days, as was seen during the early-voting days and the Sept. 24 elections, confusion arose surrounding the absentee voting and challenged ballot process. The absentee ballot process went smoothly for voters who dropped off completed absentee ballots into the designated box at the CNEC. Approximately eight voters, however, encountered problems during the extra voting days, because they were not in possession of their absentee ballots but still sought to vote. The majority of these people claimed never to have received their absentee ballots, and they were instructed to cast challenged ballots. Several others admitted to having received their absentee ballots and misplaced them. These people were told they could cast challenged ballots.

Though CNEC workers properly followed regulations in instances where they instructed voters to cast challenged ballots, they did not always consistently explain to voters there was a possibility the ballots might not be counted. This may have led to some voters casting challenged ballots in instances where

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<sup>41</sup> Following the Carter Center's observation of the five additional voting days, the Center released a statement of findings on Oct. 14. This section and the section that follows on Counting draw extensively from the text of the Oct. 14 statement.

<sup>42</sup> There was one instance in which a voter accused commission staff of stealing her tribal membership or blue card.



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they might otherwise have tried to locate the initial absentee ballots they had received. If the CNEC had verified a clear procedure and understanding regarding how the challenged ballot process was supposed to function, they might have avoided such confusion during the voting days.

### VOTER REGISTRATION AND IDENTIFICATION

On each voting day, CNEC officials followed the voter identification procedures outlined in the election code, requiring voters to provide one of the following forms of identification: a driver's license, blue Cherokee citizenship card, or red voter registration card.

CNEC staff then checked the information provided against a computer database to ensure that the person had not already voted. Once this was confirmed, a ballot was printed and the voter could cast a ballot. Voters who did not have the requisite materials to identify themselves were not permitted to vote.<sup>43</sup>

As on election day, during extra voting days, several voters did not realize that they were not registered to vote. In some cases, this was because they had registered between June and September, which meant they would be eligible to vote in the next election but not in the Sept. 24 election. In other cases, voters did not realize that being registered as a citizen of the Cherokee Nation did not automatically denote that person was also registered to vote. In instances where voters arrived and learned they were not in fact registered, they were given a voter registration form to fill out so that they could vote in the next election. In each case observed, the process unfolded fairly smoothly without any disruption in the voting process.

*If the CNEC had verified a clear procedure regarding how the challenged ballot process was supposed to function, they might have avoided confusion during the voting days.*

### POLL WATCHERS

During each of the five extra voting days, both candidates had poll watchers present all day to monitor activity. The Center observer noted that all poll watchers were sworn in properly by the CNEC each day, and watchers adhered to the code of conduct in place.<sup>44</sup> Poll watchers maintained a cordial attitude while monitoring the polling process, asking the CNEC questions for clarification as needed. During one instance in which a poll watcher felt procedures were being violated, he was calm in presenting his claim to the CNEC<sup>45</sup> and was instructed to file a formal written complaint, which he did before resuming his watcher duties.

In spite of these minor problems that arose, the poll watchers overall were observed to carry out their responsibilities professionally and in accordance with electoral regulations and their code of conduct.

### CAMPAINING

At several points during the extra voting days, representa-

tives of the campaigns appeared at the commission to check on the status of the voting. In one such case, one of the candidates for principal chief entered the polling station to obtain the current vote count. In others, friends and/or family members of poll watchers

<sup>43</sup> The only exception to this arose for a voter who had none of these cards and instead presented his pharmacy prescription that contained his tribal membership number, a unique numerical identifier that is present on all Cherokees' blue cards, and enabled the CNEC to confirm him as a registered voter.

<sup>44</sup> The only exceptions occurred on two separate days when watchers for one candidate actively used their cellular phones throughout the day (a prohibited activity), with no admonishment by the CNEC staff. This did not appear to interfere with the polling process though.

<sup>45</sup> The poll watcher filed one complaint on the grounds that: 1) one of the candidates briefly entered the polling station, wearing a campaign pin for himself, and 2) a candidate supporter was lingering in the polling station area for a longer time than the watcher felt was permissible.



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entered the polling station to bring the poll watchers lunch, etc., but seemed to linger and carry out discussions with the poll watchers, all while voters were casting ballots. Although an observer noted these acts did arouse some comment from voters present at the commission, the Center does not believe these acts affected the integrity of the polling process.

### VOTING BY FREEDMEN

The Carter Center observed that CNEC staff treated all voters equally and with respect. Voters' questions were answered by CNEC staff in a professional and courteous manner. Where problems arose for any voters—whether because they mistakenly thought they had registered to vote, or they had lost their absentee ballots—Center observers reported that CNEC staff instructed everyone to follow the same procedures.



## THE COUNT

The counting and certification process for the special election for principal chief took place Oct. 9–12.<sup>46</sup> The Carter Center deployed a team of six observers to observe the counting and certification processes. The counting process took place in stages over the course of several days. Spacing out the process helped the CNEC ensure accuracy of the count and permitted them to complete the counting process without becoming fatigued due to a failure to rest while counting approximately 20,000 ballots. This contrasted with the June election when the commissioners counted all ballots overnight without rest.

At each stage of the process, the CNEC was assisted by commission staff, several helpers selected by the commission, and their attorneys. The overall atmosphere during the counting process was very convivial.

Carter Center observers noted that all staff and volunteers involved in the counting process appeared to be thorough and consistent in their work, in spite of the long hours everyone was required to work during the counting.

The process of reviewing and counting the ballots in the Cherokee Nation is complex. Each phase of the counting process has numerous steps, which require all commissioners to be present and to participate. Carter Center observers reported that the complexity of each phase of the process caused some initial confusion among the commissioners, staff, and assistants about how best to complete the task at hand, particularly given the shifting parameters caused by the federal court orders.

During the first stage of counting, ballot tabulators from each precinct printed the results by precinct from the votes cast on the early-voting days, the Sept. 24 election day, and the five extra voting days.

A count also was produced from the single tabulator used throughout the election period at the CNEC headquarters. Once tabulation was completed, the data was then recorded. During the second stage, the absentee ballot envelopes were verified for the requisite presence of a notary seal and voter signature. The mailing envelope and secrecy envelope were then opened, and the ballots were fed into a high-speed tabulator that read the ballots and produced a result. The commissioners then went through the

ballots that the machine failed to read and counted them. In the third stage, challenged ballots were opened and evaluated by the five commissioners for determination of whether they should be counted. Once these steps took place, results were computed and unofficially announced before being certified the following day by

the commissioners. The decision of the Election Commission to release unofficial, partial results as they were available contributed to a calm atmosphere throughout the process.

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*All staff and volunteers involved in the counting process appeared to be thorough and consistent in their work, in spite of the long hours.*

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### PRINTING OF TABULATION RESULTS

For the first stage of the process, the ballot tabulators from the precincts were brought out of the vault and made to print the results from each precinct. The tape was passed around to the commissioners, and the poll watchers and Carter Center observers were allowed to see each result. The results were then tabulated and certified by each of the commissioners. These results were released to the public as the unofficial results.

During the counting process, there were three instances in which the commission was required to

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<sup>46</sup> This section on Counting draws extensively from the Center's Oct. 14 statement of findings.



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make decisions regarding the validity of votes, including the review of notary and signatures, hand tallying of ballots rejected by the tabulator, and the review of challenged ballots.

### REVIEW OF NOTARY AND SIGNATURE

The commission reviewed each absentee ballot to ensure that it bore a notary seal and signature as well as the signature of the voter.<sup>47</sup> Each commissioner worked with an assistant, in teams of two, to review the validity of absentee ballots. Every ballot ultimately was reviewed by four people to verify that there were a notary seal and signature and that the voter had signed the absentee ballot. This process helped ensure consistency in the verification process.

Next, envelopes used to send the absentee ballots were inspected for the presence of notary seals and voter signatures. The envelopes were divided into stacks, and a team consisting of one commissioner and one assistant inspected each envelope in the stack. Teams then switched stacks so that each envelope was inspected by four people. If any envelope was missing either a voter signature or a valid notary, or if there was some doubt about the validity of the notary seal, the envelope was set aside and later reviewed by each of the commissioners, who together had the final say regarding whether the vote could be counted or not. Approximately 300 out of a total of 10,000 absentee ballots were rejected because of lack of valid notarization and/or signature.

Evaluation of ballot notarization proved to be a complicated process. Notary regulations vary by state, so some notaries placed a jurat<sup>48</sup> inside the envelope in lieu of a notary seal on the outside. The commissioners were aware of these variations, and envelopes without a notary on the outside were opened by the commission to see if a jurat was included inside. Carter Center observers also noted

that several notaries had failed to both sign and stamp the envelopes as required by law. These ballots had to be rejected because of invalid notarial seals, even though the voters had made good-faith efforts to vote correctly. Since the faulty actions of those notaries disenfranchised voters, the Center recommends the CNEC contact those notaries and appropriate regulatory bodies to inform them of the errors they made. Despite these complications, the Carter Center observers noted that the criteria used to evaluate the validity of ballots were consistently applied.

After the inspection of the absentee ballot envelopes, the accepted envelopes were fed through an envelope-opening machine that opened the outer envelopes, and then the process was repeated for the secrecy envelopes. During the process, it was noted that a small number of ballots had not been enclosed in secrecy envelopes but had instead simply been placed in the outer envelope addressed to the CNEC's Tahlequah headquarters. Such ballots thus made it visible to CNEC workers how

that particular voter had voted. Commission workers consistently set aside such ballots so that they could be counted with the rest of the ballots once they were ready to be fed into the tabulator machine.

Ultimately, The Carter Center found the commission used consistent criteria for determining whether to accept or reject absentee ballots on the basis of notary and signature. This in turn contributed to the overall accuracy and transparency of the process.

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*Carter Center observers also noted that several notaries had failed to both sign and stamp the envelopes as required by law.*

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<sup>47</sup> Election Code, Chapter 6, Article 2, §78.

<sup>48</sup> A jurat is a portion of an affidavit in which a person has sworn that the contents of his/her written statement are true, filled in by the notary public with the date, name of the person swearing, sometimes the place where sworn, and the name of the person before whom the oath was made.



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### HAND TALLYING BALLOTS REJECTED BY THE TABULATOR

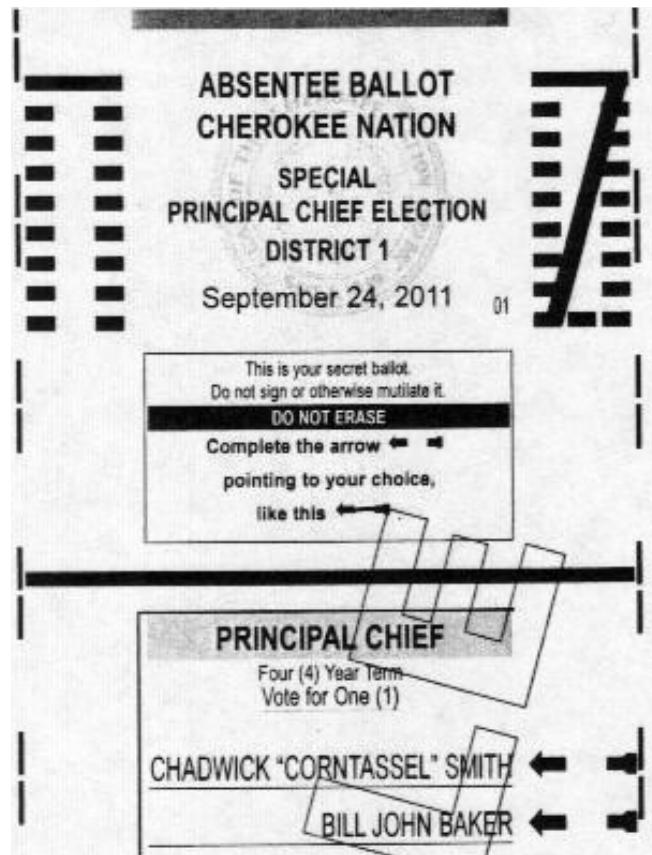
The ballot tabulation machine automatically scanned the ballots, printed out results, and rejected or “outstacked” ballots that it could not read because they had been marked incorrectly or otherwise damaged.<sup>49</sup> Fewer than 50 ballots were outstacked by the machine, and these were carefully reviewed by all the commissioners. In evaluating these ballots, the commissioners used a narrow definition of voter intent to decide for whom the vote was to be counted. This narrow interpretation resulted from the CNEC’s strict adherence to the statute on the issue, in addition to feedback the CNEC received from the Cherokee Supreme Court during the July 2011 evidentiary recount that took place during the controversy over the June election. Center observers noted the commissioners remained consistent in determining whether to accept or reject ballots.

A number of the hand tallied ballots were outstacked because the voter did not complete the arrow as required to signify for which candidate they were voting. The completion of the arrow was required in electoral regulations in order for the ballot to be counted. Illustration 1 provides an example of how the arrow on the ballot should be completed.

Although the counting process unfolded smoothly, for future elections, the Center suggests that the commission establish clear, written criteria for the acceptance or rejection of ballots prior to the commencement of counting, including determination of whether marks other than completion of the arrow will be accepted, and that amendments to the election law in this regard also be considered.

### CHALLENGED BALLOTS

The final stage of the counting was the evaluation of approximately 150 challenged ballots by the commission members. In instances in which a voter arrived to vote at the commission but had been issued an absentee ballot, commission staff advised that they would be able to cast a challenged ballot but that,



*Illustration 1: Example of how the arrow should be completed on the ballot*

depending on a determination by the commission, their ballot might not be counted. This was a correct interpretation of the Cherokee Nation election law, which states that a challenged ballot will only be counted if cast by a voter who has requested an absentee ballot and states that they did not receive their ballot in the mail.<sup>50</sup>

In light of the election law as written and the Sept. 26 court order from the federal court, there initially was some confusion regarding how challenged ballots would be evaluated; but once a procedural system was established, the process went smoothly. After consulting with their lawyers and rereading the federal court

<sup>49</sup> Ballots can be outstacked (i.e., are rejected by the machine and must be hand tallied) if they: reflect a vote for both candidates or neither candidate; are cast in colored ink or pencil; or have had the machine readable barcode defaced.

<sup>50</sup> Election Code, Chapter 6, Article 2, §78.



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Table 1: Overview of Acceptance of Challenged Ballots (CB)

	Date	Voter Casting CB	Place	Reason
Counted	Sept. 21–Oct. 8	Any citizen	CNEC headquarters	If absentee ballot was not received
	Sept. 24	Any citizen	At voter's designated precinct	If absentee ballot was not received or if voter was wrongfully excluded from the voters list at the polling station
	Sept. 17–Oct. 8	Freedmen	At voter's designated precinct or at CNEC headquarters	Any reason
Not Counted	Sept. 21–Oct. 8	Any citizen (excluding Freedmen)	At voter's designated precinct or at CNEC headquarters	If absentee ballot was lost by voter

orders, the Election Commission determined that the Sept. 26 federal court order required that they accept challenged ballots under the following conditions: (1) those cast by any Cherokee citizen from Sept. 21 onward, regardless of the reason why it was cast, provided it was cast at the CNEC's Tahlequah headquarters; (2) those cast by any Cherokee citizen on Sept. 24, if the voter did not receive his or her absentee ballot or was wrongfully excluded from the voters list; and (3) those cast by a Freedman on any of the 10 voting days between Sept. 17–Oct. 8. Table 1 summarizes the conditions under which challenged ballots would be counted.

Challenged ballots cast by non-Freedmen voters prior to Sept. 21 would be counted only if they were cast in accordance with the stipulations laid out in Cherokee law, i.e., the voter had to state that he or she requested an absentee ballot but did not receive it. The commission consistently applied these criteria to all challenged ballots.

The Election Commission made every effort to ensure that all ballots were treated equally and that no one was disenfranchised during the counting process. Ultimately the CNEC reviewed approximately 150 challenged ballots cast Sept. 17–Oct. 8. Although

they did reject a number of ballots, they consistently did so only if the ballots failed to meet the criteria that they had established for acceptance. At all times, the secrecy of the ballots was maintained to the extent possible. While the process was well-managed, written procedures would increase the efficiency of future review processes. In addition, The Carter Center urges the Tribal Council to work closely with the CNEC to amend the regulations regarding challenged ballots so that otherwise eligible voters are not needlessly disenfranchised by the limited circumstances in which challenged ballots can now be used.

### COUNTING OF FREEDMEN BALLOTS

The CNEC allowed Freedmen voters to cast challenged ballots prior to the receipt of the federal court order that required they be able to vote either by the standard absentee ballot procedure or in person at the various precincts. By the time the court order was received on Sept. 21, two and a half days of early voting already had taken place. As a result, a small number of challenged ballots cast by Freedmen voters were reviewed and counted on Oct. 11. In addition, the two federal court orders mandated that absentee



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ballots be sent to all registered Freedmen voters who had requested one and that, in cases where Freedmen had not received those ballots by Sept. 23, the CNEC had to send a second absentee ballot to them.

The CNEC accepted and counted all challenged ballots cast by Freedmen voters at the Election Commission in Tahlequah. All absentee ballots cast by Freedmen (except for those that did not bear the requisite notary seal and signature and/or the required voter signature) were counted. Where the absentee ballot database indicated that a Freedmen voter had returned two absentee ballots, Carter Center observers reported that the commissioners always accepted one of those ballots and rejected the duplicate. Center observers noted consistently that CNEC staff always treated the second absentee ballot cast by a voter as the duplicate. In cases in which Freedmen voters cast one or more absentee ballots and also had voted challenged ballots, the Center noted the commissioners accepted their challenged ballots but not their absentees, as the challenged ballots were scanned into the system prior to the absentee ballots.

### POLL WATCHERS

In addition to the Carter Center's observers, one poll watcher for each candidate was present to monitor the count on each of the three counting days; although on the final day of the count, Chad Smith's watcher left before the evaluation of the challenged ballots, stating that she had been instructed

by her candidate to leave since he had conceded. Commission members made a point to ensure that the watchers understood each part of the process as it occurred and answered any questions the watchers had about procedures. CNEC staff also requested watchers follow the movement of key election materials (i.e., ballots, challenged ballots) from the vault to the room in which ballot counting took place. The Center did note that at times it was difficult for watchers to observe notary review as the envelopes and handwriting on them were small or illegible. Sometimes observation by watchers of the notary review was inhibited because they had to observe over the shoulders of commissioners and counters in order to view the envelopes closely.

Throughout the counting process, the commission responded to questions from the watchers and observers and asked repeatedly whether they understood what they were seeing. Center observers ultimately found that poll watchers on each of the three days generally adhered to the code of conduct for watchers and remained throughout each day of the extra voting and counting processes.<sup>51</sup> Poll watchers maintained cordial interaction with one another throughout the process and appeared to remain focused on the procedures followed by the commission. Although one poll watcher filed a complaint with the commission regarding what he perceived to be unauthorized activity of the other party during extra voting, no other complaints were filed during the extra voting period.

<sup>51</sup> There was one exception when a watcher wrote down personal information about voters that the commissioners called out to verify voter information. However, once commission staff realized the watcher was taking down this information, they promptly advised him to stop doing so.



## CONCLUSIONS AND RECOMMENDATIONS

The recommendations that follow are based on the direct observation of Center observers during the special election for principal chief of the Cherokee Nation. The Center respectfully offers these recommendations to the Cherokee Nation in the hopes that these might help improve future elections.

### TO THE GOVERNMENT OF THE CHEROKEE NATION

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#### 1. Communicate with the CNEC when drafting election-related legislation.

In discussions held separately with both the CNEC and the Cherokee Nation Tribal Council, it became clear to The Carter Center that there exists

a communication gap between the CNEC and the Tribal Council regarding the creation of election-related legislation. The council appears to draft and promulgate such legislation without consulting the CNEC, the administrative body responsible for implementing the legislation. Therefore, the Center strongly encourages both the CNEC and the Tribal Council to have timely consultations about the content of election-related laws. This would ensure that the laws drafted by the Tribal Council are practical and properly worded, the role and responsibility of the CNEC remains clear, and administrative procedures are realistic and protect the rights of Cherokee citizens.

#### 2. Modify the current electoral code.

In reviewing the current Cherokee Nation electoral code, the Center noted areas that would benefit from enhanced language. In general, the code should be reviewed for ambiguous language that could render certain provisions susceptible to manipulation or multiple interpretations. The Center also made note of

provisions that could be integrated into the electoral code to make it more robust.

- **Require the CNEC to carry out voter education efforts.**

Though most voters appeared to understand the voting process, the Cherokee Nation would nonetheless benefit from having institutionalized voter education procedures in place.

As the administrative organ that oversees elections, the CNEC would be best placed to carry out voter education efforts. Accordingly, the Tribal Council should update the code to require the CNEC to take on this task and ensure proper budgetary provisions are in place that permit the CNEC to implement voter education

efforts that would help voters take full advantage of their registration and voting rights.

- **Ensure poll watchers can be present during all phases of the electoral process.**

Section 53(c) of the electoral code permits the CNEC to determine the number of watchers present at a given precinct. During the election, the Center noted that the CNEC permitted only one candidate watcher to be present each day, both at the commission in Tahlequah and in the polling stations. Nevertheless, in many instances, the Center felt candidates would have benefited from having more than one watcher present since polling and counting activities often took place in more than one room or in more than one part of the room. The Center would thus recommend the Tribal Council draft legislation that mandates the CNEC allow enough candidate poll watchers to be present so they can monitor all aspects of the process (from early voting through counting and any



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subsequent reviews)—provided their presence does not hinder the electoral process in any way.

- **Clarify what identification voters must present to vote on election day.**

The code does not specify what form of identification a voter must present to prove their identity. A variety of methods were observed to be acceptable throughout the election process, but they were inconsistently used across the Cherokee Nation. For purposes of promoting more streamlined and consistent identification of voters during the electoral process, the Tribal Council should consider specifying what forms of identification are acceptable.

- **Clarify the process for casting challenged ballots, particularly in regard to people who are noted to have requested absentee ballots.**

As the code currently is interpreted, a voter who requested an absentee ballot can cast a challenged ballot on election day. If the voter swears via an affidavit that they never received their requested absentee ballot, then the voter's challenged ballot normally will be counted. However, if they do not make this attestation, then the challenged ballot is not likely to be counted. It is clearly in a voter's interest to claim they never received their absentee ballot. That a voter may only cast a challenged ballot once they have uttered the "magic words" unfairly restricts the right to vote in a polling place to those familiar with the detail of the law. A revised electoral law could address this.

- **Ensure that adequate dispute resolution mechanisms are in place.**

The electoral code includes dispute resolution mechanisms for candidates who run for office. Section 37 notes people denied the ability to run for office can challenge that ruling with the CNEC with appellate remedy available to the CNSC.

Section 94, paragraphs G and I provide defeated candidates the right to call for a recount following an election and grants them the right to automatic appeal where a recount is not available. Article 5 of the code notes what challenges can be made regarding election-related issues. It explains in part that defeated candidates may file appeals related to events surrounding their attempt to run for public office.

Though the code protects candidates' rights by providing judicial remedies, it would be enhanced by providing judicial and appellate remedies for specific violation of the rights of citizens. Remedy should be available for citizens who have been denied the ability to register and feel they were wrongly denied this right. Additionally, voters who are told to vote a challenged ballot or who are advised their absentee ballot will not

likely count should have recourse to determine if the decision was made in accordance with the law.

- **Consider creating a single constituency for the principal chief.**

Carter Center observers noted confusion on the part of Cherokee voters regarding which district or at which polling station they should cast their ballots. In instances where voters arrived at the wrong polling station, they were either unable to vote or told they must cast challenged ballots, which in most cases would not be counted. A single constituency for the principal chief election would make the voting process less complicated and more convenient for voters, allowing voters to cast their ballots at any precinct, and might encourage increased voter participation. The single constituency design for principal chief would reduce instances in which voters are disenfranchised because they did not understand the process or because they were unable to get to their proper polling station.



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**• Regulate the use of absentee ballots.**

The use of absentee ballots can promote increased voter participation in the electoral process. Nevertheless, the casting of absentee ballots occurs in a largely unregulated environment, outside of the oversight of the CNEC or poll workers. This increases the potential for manipulation. To minimize the possible occurrence of fraud, the Center recommends that the requirements regarding absentee balloting be tightened so that it is primarily used by voters residing outside of the 14 counties. For residents within the 14 counties, the right to vote by absentee ballot should be restricted to those who are unable to make it to a polling precinct either because they will be away from home or are ill or otherwise incapacitated.

**TO THE CHEROKEE NATION  
ELECTION COMMISSION****3. Update the voters roll.**

It is not clear to The Carter Center at what frequency the voters roll for the Cherokee Nation is updated or with what frequency the CNEC checks the Cherokee Nation Registration Department's list of enrolled members, as it is permitted to do under Section 23(1) of the electoral code. Carter Center observers noted Cherokee citizens remarking that people on the list were known to be deceased or allegedly were ineligible to vote. The CNEC has procedures in place that permit family members to remove the names of deceased people from the registration list, and the electoral code itself prompts the list to be updated upon proper notice from the nation's Registration Department. Nonetheless, the Center encourages the CNEC to go further and recommends that the CNEC update the voters roll regularly to ensure that the list used during each election cycle is up-to-date. This would require the CNEC to ensure it remains in frequent communication with the Registration Department and makes use of its access to the

Registration Department's database so that it can maintain the most up-to-date voters list. Inevitably, there still would be some, although likely fewer, disputes regarding the presence of some names on the list. The CNEC should establish some means as well for such people to challenge the absence of their name on the list.

**4. Conduct a more robust voter education and outreach program.**

Center observers noted various areas of voter confusion during the election process, especially due to last-minute changes in procedures mandated by the federal government. Assuming the Tribal Council's implementation of appropriate legislation, the CNEC should conduct more robust voter education efforts throughout the Cherokee Nation in advance of elections. Ideally, voter education efforts implemented by the CNEC should focus on important election deadlines, the use of absentee and/or challenged ballots, the voter identification process, and other relevant voting procedures.

To implement such a voter education campaign, the CNEC could make more effective use of broadcast and print media as well as include more up-to-date voter information on the CNEC's website.

**5. Inform voters of the proper identification needed to vote.**

As part of voter education efforts, the CNEC should make clear to voters what forms of identification they can present to authenticate their identity and eligibility to vote. The electoral code permits poll workers to authenticate a voter's identity through several methods: personal knowledge by the poll worker or by consulting the voter's registration card, voter card, or driver's license. Throughout the election, Center observers noted that poll workers consistently used one of these methods to verify voter identity. Though the electoral code considers each of these methods

*The Center recommends  
that the CNEC update the  
voters roll regularly.*



## 2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

valid, the Center suggests that the CNEC consider requiring consistent use of at least one of these methods to ensure consistency in the voter identification process across the election process.

**6. Establish clear, written criteria for all aspects of the counting process—especially regarding challenged and outstacked ballots.**

In observing the counting and tabulation process, the Carter Center observers noted that the process was greatly slowed by the CNEC's absence of written procedures and a clear understanding of when challenged ballots should be accepted or rejected. The same hurdle arose when commissioners sought to determine voter intent on outstacked ballots—ballots that were rejected by the tabulator machine due to some error in how the ballot was completed. Though the CNEC ultimately reached consensus and applied their methodology consistently, the tabulation process would have occurred more efficiently had this been considered in advance of counting. The Center recommends that for future elections, the commission develop standard operating procedures and clear, written criteria for decision-making in each part of the count that can be shared in advance with everyone—CNEC staff, candidates, and watchers—before the count begins. This would include written criteria that make clear when challenged ballots can be accepted. Also included would be written procedures to help the CNEC determine whether to accept or reject ballots prior to commencement of counting, including determination of whether marks other than completion of the arrow will be accepted.

**7. Permit candidates to have poll watchers present during all phases of the electoral process, including counting and any subsequent review.**

As noted above in recommendation 2 to the Tribal Council, the CNEC should recognize the importance of candidate poll watchers being present to monitor all aspects of the electoral process—from registration to counting. At present, the limit of one watcher per candidate is overly restrictive since the election-related activities tend to take place in more than one location at the same time. Since the CNEC has the authority to determine the number of poll watchers present, it should consider permitting a sufficient number of watchers to be present such that they can adequately monitor all relevant phases of the election processes. In addition, poll

watchers should be able to ask questions and have them addressed, as long as they are not interfering in the voting process.

**8. Participate more actively in the data entry process for absentee ballots.**

After absentee ballots were assessed by CNEC staff for their validity, trained staff from Automated Election Services (AES) was tasked with scanning the absentee ballot bar code and associating a code with the ballot to note whether it had been accepted or rejected, noting on what grounds the ballot was rejected if this was the case. Although the staff from AES appeared to conduct themselves in an impartial and professional manner throughout the data entry process, the Center strongly encourages CNEC staff to take a more active role in entering data from the absentee ballots into the system. This would allow the

*The Center recommends the commission develop standard operating procedures for decision-making in each part of the count.*

2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

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CNEC to take ownership of the process and promote greater voter confidence.

The Center acknowledges the important role that CNEC members play in the counting process and recognizes their need to be present throughout much of the process. As such, the Center recommends that where commissioners are unable to participate in the data entry process, they should designate appropriate staff to take part in this process on their behalf.

#### **9. Advise appropriate authorities of the errors made by notaries.**

During the absentee ballot review process, commissioners had to determine whether to accept absentee ballots on the basis of whether the signature and notary procedures were properly followed. In instances where the notary failed to sign and/or stamp the

outer envelope, the ballot was rejected even if the voter had followed proper procedure by signing the ballot and taking it to be notarized. Center observers noted that in about 300 cases, the CNEC had to reject absentee ballots because the notary failed to properly sign and/or stamp the outer envelope for the absentee ballot. Since approximately 300 voters were disenfranchised by these errors, the Center strongly recommends that the CNEC contact the notaries and appropriate authorities to advise them of

these errors. Notaries have a duty to carry out their commission in accordance with the law. Those notaries who failed to do so should be notified promptly and admonished accordingly. In future elections, the CNEC might also consider verifying the credentials of notaries who certify absentee ballots.

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*The Center strongly encourages CNEC staff to take a more active role in entering data from the absentee ballots.*

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## TERMS AND ABBREVIATIONS

<b>BIA</b>	Bureau of Indian Affairs	<b>HUD</b>	Department of Housing and Urban Development
<b>CDIB</b>	Certificate of Degree of Indian Blood	<b>MoU</b>	Memorandum of Understanding
<b>CNSC</b>	Cherokee Nation Supreme Court	<b>TC</b>	Tribal Council
<b>CNEC</b>	Cherokee Nation Election Commission		



## ACKNOWLEDGMENTS

The Carter Center would like to thank a number of individuals and organizations that helped make the observation mission for the Cherokee Nation's 2011 special election for principal chief possible. First, the Center thanks the Cherokee Nation government for inviting The Carter Center to observe. The Center also is grateful to the Cherokee Nation Election Commission for their openness, support, perseverance, and hard work in what were unusually stressful circumstances. The Center acknowledges the diligence and patience of Election Commission staff, who worked long hours along with commission members and were always ready to answer questions and provide support in any way they could. The Center also appreciates the candidates Bill John Baker and Chadwick Smith, who took the time to meet with our team and share their views on the process.

The Carter Center is grateful for funding from: Mr. and Mrs. Lawrence J. Brown; Mr. and Mrs. Ross M. Cooper; Mr. Robert Hooks; Mr. and Mrs. William B. Neely; Ms. Cherida C. Smith; and Mr. and Mrs. N. Robert Stoll. Their gracious support allowed the Center to conduct an impartial assessment of the special election for principal chief.

Sincere thanks also go to the observers who diligently gathered the data for the report. In particular, the Center thanks Dr. Gordon Streeb, who led the Center's delegation on Sept. 24, and Duane Champagne and Suzan Harjo, who contributed their expert opinions to the mission. The dedication and effort put forth by them and by Traci Boyd, David Carroll, Travis Curtice, Avery Davis-Roberts, Yawei Liu, Mark Myers, Amir Naim, Chansi Powell, Thomas Smyth, and John Stremlau were crucial to the mission's success. In addition to observing, Traci Boyd provided crucial administrative support for the mission. The Center also thanks Thomas Smyth for his participation in observing as well as for the invaluable technical support he provided for the Center's data compilation systems.

Thanks are also due to the Atlanta-based Democracy Program staff, which had overall responsibility for the mission. The project was managed by Democracy Program Assistant Director Avery Davis-Roberts, and Democracy Program Director David Carroll provided oversight. This report was drafted by Amir Naim and Chansi Powell and edited by Avery Davis-Roberts and David Carroll.



# APPENDIX A

## INVITATION TO THE CARTER CENTER TO OBSERVE



**CHEROKEE NATION ELECTION COMMISSION**

PO Box 1188 Tahlequah, Oklahoma 74465-1188  
Phone: (918) 458-5899 1-800-353-2895 Fax: (918) 458-6101

**Brenda J. Walker, Vice-Chairperson**  
**Martha Calico, Secretary/Treasurer**  
**Patsy L. Eads-Morton, Commissioner**  
**Curtis L. Rohr, Commissioner**

August 12, 2011

Dr. David Carroll, Director  
Democracy Program  
The Carter Center

Dear Dr. Carroll;

On behalf of the Cherokee Nation Election Commission, we would like to extend an invitation to The Carter Center to observe our Principal Chief Election to be held on September 24, 2011. We realize that this invitation does not allow your organization a lot of time to prepare. If the notice is too short and the organization is unable to participate we would understand.

We look forward to hearing from you and if there are any questions or formal documents that need our attention please do not hesitate to contact our office. The Election Commissioners will be in the office on Tuesday, August 16, 2011 should you need to discuss any matters with them personally. We thank you for your time.

Sincerely,

Wanda Beaver

Wanda Beaver, Administrator  
Cherokee Nation Election Services



# APPENDIX B

## MEMORANDUM OF UNDERSTANDING BETWEEN THE CNEC AND THE CARTER CENTER

**Memorandum of Understanding  
Between  
The Cherokee Nation Election Commission  
And  
The Democracy Program of The Carter Center**

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The Cherokee Nation Election Commission  
and  
The Democracy Program of the Carter Center, Inc., a private, non-profit organization, incorporated  
under the laws of the United States (The Carter Center)

ACKNOWLEDGING the invitation of The Carter Center by The Cherokee Nation Election Commission to observe, in its entirety, the process of the September 24, 2011 special election for Principal Chief,

FURTHER ACKNOWLEDGING the Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers, adopted at the United Nations on October 27, 2005, concerning the role, conduct and obligations of election observers, which serves as a guiding document for all Carter Center election observation missions,

HAVE AGREED that The Carter Center shall be permitted to organize an election observation mission, including observation of early voting, short-term observers and observation of the postelection counting processes, in accordance with the terms and subject to the conditions contained in this Memorandum of Understanding.

**Article 1: Obligations of the Democracy Program of The Carter Center**

The Democracy Program of The Carter Center agrees to:

- a) Respect the laws of the state of Oklahoma, the Cherokee Nation and the independence of the Cherokee Nation Election Commission.
- b) At all times, conduct its activities impartially, objectively, transparently and independently of any other party, further to the Declaration of Principles for International Election Observation.
- c) Inform the Cherokee Nation Election Commission concerning any irregularities, technical deficiencies, or interference observed during the electoral process, in the fulfillment of the Center's commitments, and where appropriate, make recommendations for corrective and/or preventative responses.
- d) Provide the Government of the Cherokee Nation and the Cherokee Nation Election Commission with the final report of the Election Observation Mission findings.



## 2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

- e) Assure that Carter Center personnel, while in the fourteen counties of the Cherokee Nation, do not take part in activities inconsistent with the goals of this Memorandum of Understanding.

**Article 2: Obligations of the Cherokee Nation Election Commission**

The Cherokee Nation Election Commission agrees to:

- a) Guarantee to The Carter Center the benefit of all facilities and privileges required for the implementation of the election observation mission before, during, and post polling activities for the special election of the Principal Chief, subject to the terms of this agreement.
- b) Guarantee to the election observation mission during polling, and in the periods before and post-polling, the free and unencumbered movement of observers throughout the fourteen counties of the Cherokee Nation.
- c) Permit observers full access to the relevant bodies and actors of the electoral process.
- d) Guarantee to the election observation mission full access to the polling precincts, counting and vote compilation centers, and to all officials concerned with the electoral process, and to provide the election observation mission with all relevant information related to the organization, administration and execution of the elections, including information related to absentee voting, and the unofficial and official final results, and to respond to any supplemental request for information related to the exercise of the mission's functions.
- e) Guarantee to the election observation mission freedom to issue public statements and reports concerning its findings about election related processes and developments, and guarantee that no governmental, security or electoral authority will interfere in the work of the mission or the selection of individual observers.
- f) Exempt The Carter Center and its personnel from liability for all activities performed further to this Agreement, excepting liabilities attributed to any negligence, willful act or breach of this Memorandum of Understanding.

**Article 3: Effective Date**

This agreement takes effect on the date of the signature of the Parties and remains in effect until it is cancelled by the Parties herein in accordance with Article 4.

**Article 4: Termination of the Agreement**

This agreement may be cancelled at any time by mutual written consent of the Parties, or by means of prior written notice 30 days by either of the Parties.

**Article 5: Amendment to the Agreement**

This agreement may be amended or revised if all Parties so agree. Amendments shall take effect on the date of signature of the Parties.



THE CARTER CENTER

2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

**Article 6: Notice**

All correspondence relating to this Memorandum of Understanding should be addressed as follows:

**For the Cherokee Nation Election Commission:**

Brenda Walker  
Vice Chairperson, Cherokee Nation Election Commission  
22116 S. Bald Hill Road  
Tahlequah, OK 74464

Brenda June Walker

Wanda Beaver

Witness

9-7-11

Date

**For The Carter Center:**

Phillip J. Wise, Jr.  
Vice President, Operations  
The Carter Center  
453 Freedom Parkway  
Atlanta GA 30307

Roy Johnson  
Barbara Abramson

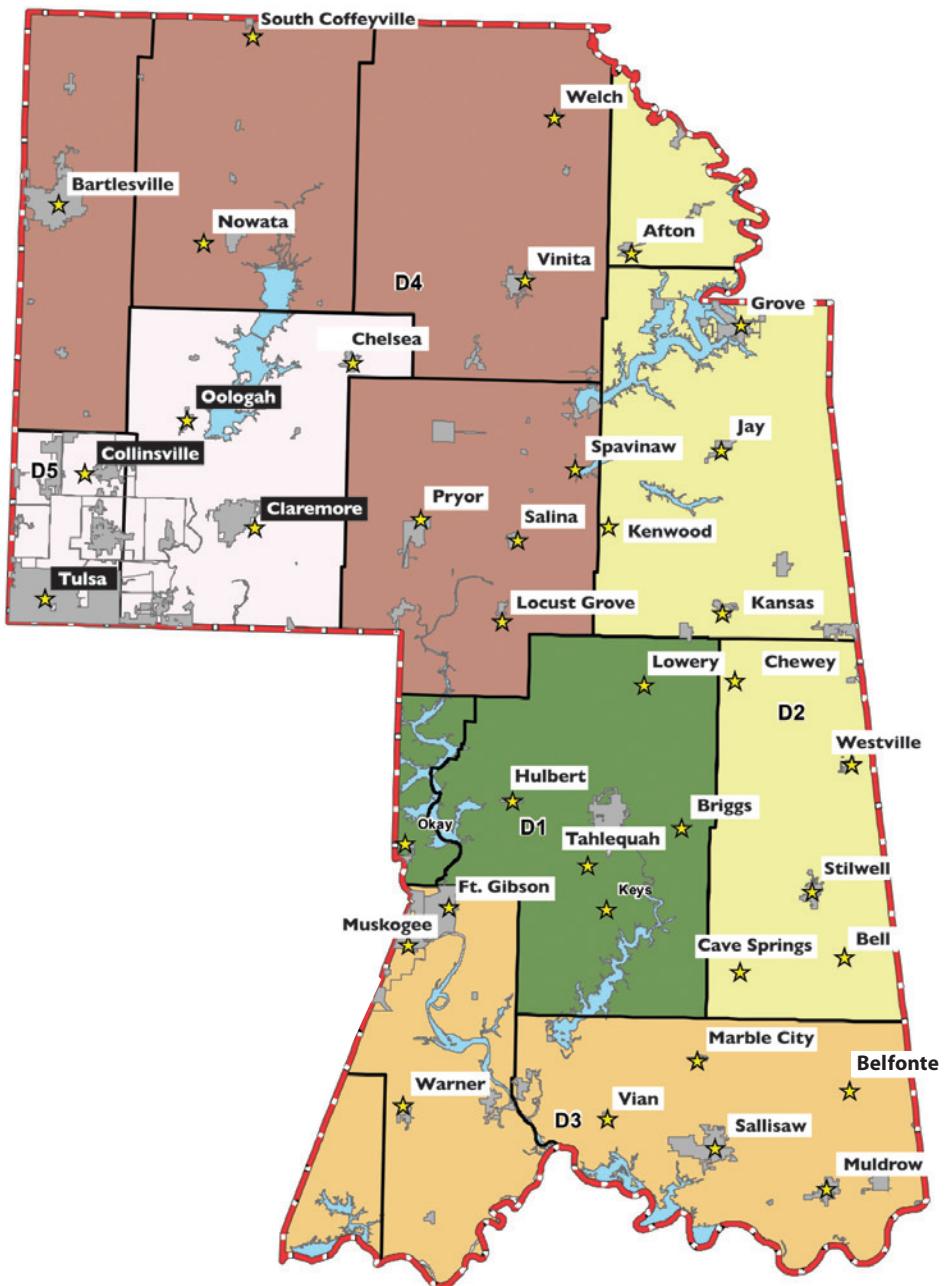
Witness

9/9/11

Date



## APPENDIX C MAP OF THE 14 COUNTIES AND POLLING STATIONS OBSERVED





## APPENDIX D

# DEPLOYMENT PLAN FOR SEPT. 24

Team 1	Team 2	Team 3
<b>TAHLEQUAH</b> (Sequoyah Schools old gym) 17091 S. Muskogee Ave Tahlequah, OK 74464	<b>BARTLESVILLE</b> (Keeler Hts. Community Bldg.) 1003 S Virginia Bartlesville, OK 74003	<b>CHELSEA</b> (Boys & Girls Club) 119 Ash St Chelsea, OK 74016
<b>KEYS</b> (High School cafeteria) 26622 S. 520 Rd Park Hill, OK 74451	<b>S. COFFEYVILLE</b> (Cherokee Nation Community Building) 215 Oklahoma St S. Coffeyville, OK 74072	<b>VINITA</b> (Tom Buffington Hts.) 900 McNelis Vinita, OK 74301
Election Commission Tahlequah	<b>NOWATA</b> (Senior Citizens Center) 238 N Maple St Nowata, OK 74048	<b>AFTON</b> (Community Service Center/City Hall) 201 SW 1st St Afton, OK 74331
	<b>TULSA</b> (Trinity Christian Church) 1055 N Garnett Tulsa, OK 74116	<b>GROVE</b> (Stonebrook Inn Hotel) 10400 Hwy 59 N Grove, OK 74344
	<b>COLLINSVILLE</b> (Library) 1223 W. Main Collinsville, OK 74021	<b>WELCH</b> (Gateway Assembly of God Church) 440 W 10th St Welch, OK 749369
	<b>CLAREMORE</b> (VFW) 1717 W. Dupont Claremore, OK 74017	<b>PRYOR</b> (AG Building Fairgrounds) Old Hwy 20 Pryor, OK 74361
	<b>OOLOGAH</b> (Community Center) 207 S Maple Oologah, OK 74053	



## 2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

Team 4	Team 5	Team 6
<b>JAY</b> (Senior Citizens Center) 816 Main St Jay, OK 74346	<b>MUSKOGEE</b> (Three Rivers Health Center) 1001 S 41st St E Muskogee, OK 74403	<b>BELL</b> (Bell School) Rt 5 Box 4470 Stilwell, OK 74960
<b>KENWOOD</b> (Nutrition Site) 4 Kenwood 13001 Salina, OK 74347	<b>FORT GIBSON</b> (Town Hall) 200 W. Popular Ave Ft. Gibson, OK 74434	<b>STILWELL</b> (Wilma P. Mankiller Health Center) Rt 6 Box 840 Stilwell, OK 74960
<b>KANSAS</b> (PD/Utility Dept) 150 S Cherokee St Kansas, OK 74347	<b>WARNER</b> (Middle School Event Center) 1012 5th Ave. Warner, OK 74469	<b>CAVE SPRINGS</b> (High School) Old Hwy 17 Bunch, OK 74931
<b>SALINA</b> (AMO Health Center) 900 N. Owen Walters Blvd. Salina, OK 74365	<b>OKAY</b> New Senior Citizen Center PO Box 744 Okay, OK 74446	<b>MULDROW</b> (Cherokee Community Center) 601 Main St Muldrow, OK 74948
<b>LOCUST GROVE</b> (City Hall) 109 E Ross Locust Grove, OK 74352	<b>LOWERY</b> (Lowery School Library) 21132 E. 640 Rd Tahlequah, OK 74464	<b>VIAN</b> (Police Department) 100 S Blackstone Vian, OK 74962
<b>SPAVINAW</b> (Police Dept/City Hall) 103 Lake Ave Spavinaw, OK 74366	<b>HULBERT</b> (Town Hall Bldg) PO Box 147 Hulbert, OK 74441	<b>SALLISAW</b> (First United Methodist Church) 2100 McGee Sallisaw, OK 74955
<b>CHEWEY</b> (Skelly School) Rt 1 Box 918 Watts, OK 74964	<b>BRIGGS</b> (New gym foyer) 17210 S. 569 Rd Tahlequah, OK 74464	<b>MARBLE CITY</b> (City Hall) 122 N Main St. Marble City, OK 74945
		<b>BELFONTE</b> (Belfonte School) 475751 St Hwy 101 Muldrow, OK 74948
		<b>WESTVILLE</b> (High School Cafeteria) Hwy 62 & Park St. Westville, OK 74965



# APPENDIX E

## CHECKLISTS USED BY THE CARTER CENTER MISSION

### EARLY VOTING

<b>EARLY VOTING CHECKLIST</b>					
<b>Observer Names:</b>	<b>Date:</b> / /	<b>Arr time :</b>	<b>Dept :</b>		
<b>INSTRUCTIONS</b>					
<p>Based on your observations, put mark (X or ✓) in the appropriate box on the right side of the page. Only put an mark in the "N/A" box if you cannot answer the question, or it is not relevant. If any complaints, problems, or irregularities occur provide details in the "Comments" section. Where possible, strive to verify the data yourself.</p>					
<b>OPENING &amp; SETTING UP</b>					
1	Did the commission open for early voting on time?			YES	NO
2	If 'NO' at what time did it open? By: <input type="checkbox"/> 9:15h <input type="checkbox"/> 10:00h <input type="checkbox"/> 12:00h <input type="checkbox"/> 14:00h <input type="checkbox"/> not at all				
3	Does the commission appear to be sufficiently staffed to manage early voting processes?			YES	NO
4	How many polling officials are women? _____			YES	NO
5	Is the commission physically accessible to persons with disabilities (using minimal assistance)?			YES	NO
6	Does the commission have the following polling materials? (tick each one they have ) <input type="checkbox"/> ballot forms <input type="checkbox"/> seals <input type="checkbox"/> voting screens <input type="checkbox"/> security stickers			YES	NO
7	Are any necessary polling materials missing? <i>If YES, what were they?</i> _____			YES	NO
8	What security measures has the commission put in place to safeguard the early voting process?			YES	NO
9	Are any security (or other personnel) assigned to guard the ballot machines and materials overnight?			YES	NO
10	Did the ballot machines and materials remain at the commission overnight?			YES	NO
<b>POLLING PROCEDURES</b>					
11	Did all commission staff understand their responsibilities and conduct their work according to the procedures?			YES	NO
12	Were any procedures in place to verify voters had not previously voted? <i>If YES what where they?</i> _____			YES	NO
13	Did commission staff verify all voters' eligibility by looking at the registration list?			YES	NO
14	Did commission staff cross out voters' names (or make some other demarcation) on the registration list to note the voter was present?			YES	NO
15	Did voters receive voter cards?			YES	NO
16	Were persons who did not hold valid voter cards allowed to vote? If YES, how many? _____			YES	NO
17	Were the names of persons holding a valid voter card crossed off on the registration list? If YES, how many? _____			YES	NO
18	Were voters instructed clearly on how to mark the ballot to indicate their choice?			YES	NO
19	Do the voting booths prevent others from seeing what selections a voter makes on his/her ballot?			YES	NO
20	Do most voters appear able to understand the entire voting process?			YES	NO
21	Are voters with disabilities assisted in voting by a person of their choosing?			YES	NO
22	Is anyone marking ballots for voters or telling voters how to vote (other than by assisting voters with disabilities)? <i>If Yes, who?</i> _____			YES	NO
23	What steps do polling officials take to indicate a spoiled ballot has been cancelled?  <i>Are there technical or logistical problems with any of the following? (If Yes, mark which and comment at end)</i>			YES	NO
24	<input type="checkbox"/> final registers <input type="checkbox"/> ballot papers <input type="checkbox"/> ballot machines <input type="checkbox"/> voting screens <input type="checkbox"/> seals <input type="checkbox"/> other _____			YES	NO
25	Is anyone other than the polling officials actively involved in the voting process? If Yes, who? <input type="checkbox"/> Local official <input type="checkbox"/> Elder or chief <input type="checkbox"/> Police <input type="checkbox"/> Military <input type="checkbox"/> Other _____			YES	NO
26	Who is voting early? _____			YES	NO
27	Based on your observations, was there a good number of women voting (at least 40%)?			YES	NO
28	Were provisions in place to allow Freedmen to cast challenged ballots?			YES	NO
29	Were there any major irregularities preventing Freedmen from casting their challenged ballots? If Yes, what were they?  <i>Are there any major irregularities? If Yes, please mark the irregularities you observed today and comment at the end:</i>			YES	NO
30	<input type="checkbox"/> Multiple Voting <input type="checkbox"/> Ballot Machine tampering <input type="checkbox"/> Underage Voting <input type="checkbox"/> Proxy voting <input type="checkbox"/> Other _____			YES	NO

(continues)



## THE CARTER CENTER

## 2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

EARLY VOTING (*continued*)

SECURITY ISSUES		YES	NO	N/A
31	Is polling being conducted in an orderly manner?			
32	Are people being intimidated in any way? If Yes, explain in comments section.			
33	Are people prevented from coming to vote in any way? If Yes, explain in comments section.			
34	Were there any incidents that disrupted the polling process in any way? If Yes, explain in comments section.			
35	How many of the following are present outside the commission for most of the day? Tribal Police _____ Other (who?) _____			
36	How many of the following are present inside the commission for most of the day? Tribal Police _____ Other (who?) _____			
37	Did any security forces/police interfere with polling in any way? If Yes please comment at the end			
OBSERVATION				
38	Were party observers present? If YES how many from which parties BJB supporters _____ CS supporters _____ other (please specify) _____			
39	Did any observers, political party or media interfere with polling in any way? If YES, please comment at the end.			
TRANSPARENCY				
40	Were you in anyway restricted in your observation of the process today? If YES, please comment at the end.			
41	Was any other accredited observer, political party representative or member of the media restricted from observing the process in any way?			
COMPLAINTS ( <i>Please write details in the comments section if there are any</i> )				
42	Did the commission receive any objections? If Yes how many_____			
43	If Yes to question 40, did the chairperson (or key arbiter) provide his/her decision in writing?			
CLOSING				
43	Were all people who were in line by 5:00pm allowed to vote?			
44	Were any people who arrived after 5:00pm allowed to vote?			
45	After the close of polling, did polling officials seal or shut down the ballot machine? Please record the seal numbers here: Machine _____			
46	Did polling officials collect all other sensitive materials (ballots, register, seal, ink) and seal them?			
47	Did polling officials complete a Daily Account of Ballot Papers Form today?			
48	How many ballots were issued today (ballots received minus spoiled and remaining ballots (= A-B-C))?			
OVERALL ASSESSMENT				
49	What is your OVERALL evaluation of the process at this commission today? Mark just one <b>1- Very Good</b> - No significant incidents or irregularities <b>2- Good</b> - A few incidents or some minor irregularities, but none that had a significant effect on the process <b>3 -Poor</b> - Incidents or irregularities that significantly affected the integrity of the process <b>4- Very Poor</b> - Incidents or irregularities sufficiently large to put the integrity of the process at this commission in doubt			
COMMENTS				
<p><i>Provide details regarding any of the questions above. In particular, please provide details of any complaints, problems, or irregularities that occurred today at the registration center that you observed. Enter the question number in the column on the left and your comments on the right</i></p>				



THE CARTER CENTER

2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

POLL OPENING

OPENING CHECKLIST CHEROKEE NATION 2011			
	Observer Team Number:	Date (month/day):	
	Town:	Arrival Time _____:	
	District: _____	County: _____	Departure Time _____:
	Polling Precinct Number: _____		<input type="checkbox"/> Urban <input type="checkbox"/> Rural
		YES	NO
		N/A	
OUTSIDE THE POLLING PRECINCT			
1	Was the environment around the polling precinct: <input type="checkbox"/> calm <input type="checkbox"/> somewhat calm <input checked="" type="checkbox"/> tense <input type="checkbox"/> violent ?		
2	Was the environment around the polling precinct: <input type="checkbox"/> orderly <input type="checkbox"/> somewhat orderly <input type="checkbox"/> disorderly <input type="checkbox"/> very disorderly ?		
3	Was the polling precinct environment free from campaign activities?		
4	Was a sign posted about the restriction of 'electioneering' within 300ft of the polling precinct?		
5	Was a 'vote here' sign posted clearly at the entrance of the polling precinct?		
6	Were sample ballots posted at the precinct entrance for entering voters to see?		
7	Was the polling precinct accessible to all voters with disabilities?		
INSIDE THE POLLING PRECINCT			
<i>Note: Question 8 will require you to speak directly to polling officials. Please do so only when this will not disrupt the voting process</i>			
8	How many ballots were received at the polling precinct for the Principal Chief election? _____		
9	Were only authorized persons inside the polling precinct? (i.e. - voters, polling officials, poll watchers, election commission members and/or law enforcement officers requested)		
10	Which of the following polling staff were present? <input type="checkbox"/> Judge <input type="checkbox"/> Clerk <input type="checkbox"/> Inspector <input type="checkbox"/> Sergeant-at-Arms <input type="checkbox"/> Other		
11	Did the set up of the polling precinct facilitate a smooth flow of voters?		
12	Was the precinct set up to protect ballot secrecy? If <b>NO</b> , please comment below.		
13	Were sufficient materials present? If <b>NO</b> , what was missing: <input type="checkbox"/> ballot paper <input type="checkbox"/> secrecy booth <input type="checkbox"/> opens <input type="checkbox"/> tabulators <input type="checkbox"/> voters list <input type="checkbox"/> challenged ballots?		
PROCEDURES			
14	Was the ballot tub turned upside down prior to the start of polling to show it was empty?		
15	Was the ballot tub properly locked using the ballot tub key? If <b>NO</b> , please comment below.		
16	Was the ballot tub properly connected to the ballot tabulator?		
17	After the ballot tabulator was plugged in, was a systems check run? If <b>NO</b> , please comment below.		
18	If the systems check was run, did a zero tape print afterwards that read "System is ready for voting?" If <b>NO</b> , please comment below.		
19	Was the zero tape attached to the tabulator and retained in one piece?		
20	Did the process of tabulator set-up occur without problem?		

(continues)



## 2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

POLL OPENING (*continued*)

21	If <u>NO</u> to 20, did polling officials phone the election commission? Explain below what happened.			
22	Were poll watchers able to correctly record the ballot tub seal numbers?			
23	Did the polling precinct open by 7:00am?			
24	If <u>NO</u> to 25, please check one of the following and note below what time the precinct opened: <input type="checkbox"/> 7:00 - 7:30 <input type="checkbox"/> 7:30 - 8:00 <input type="checkbox"/> 8:00 - 8:30 <input type="checkbox"/> 8:30 - 9:00 <input type="checkbox"/> after 9:00 <input type="checkbox"/> did not open			
25	If <u>NO</u> to 25 please check one of the following reasons that explains why the polling precinct opened late: <input type="checkbox"/> Polling staff lack of understanding of procedures <input type="checkbox"/> Insufficient/missing materials <input type="checkbox"/> Insufficient number of polling staff <input type="checkbox"/> Other			
<b>OTHER PERSONS PRESENT</b>				
26	Was the process free from interference (security personnel, party agents, others)? If <u>NO</u> , please comment below.			
27	Were security personnel present at the polling precinct?			
28	If <u>YES</u> to 29 did they appear to interfere with the opening process in any way? Please explain below.			
29	Were any poll watchers present? If <u>YES</u> , for which candidate? <input type="checkbox"/> Bill John Baker <input type="checkbox"/> Chadwick Smith			
<b>OFFICIAL COMPLAINTS</b>				
<p><i>Note: Question 32 may require you to speak directly to polling officials.</i>      <i>Please do so <u>only</u> when this will not disrupt the voting process</i></p>				
30	Were any formal complaints recorded? If <u>YES</u> , please explain.			
<b>OVERALL ASSESSMENT</b>				
<p><b>Instructions:</b> Put an 'X' next to the statement that best describes your assessment of the election environment and voting process for this polling precinct. If your response is "poor" or "very poor," it is important that you provide further explanation in the comments section.</p>				
<b>Very Good</b> - No significant incidents or irregularities				
<b>Good</b> - A few incidents or some minor irregularities, but none that had a significant effect on the integrity of the process				
<b>Poor</b> - Incidents or irregularities that significantly affected the integrity of the process				
<b>Very Poor</b> - Incidents of irregularities of such magnitude that the integrity of the process is in doubt				
<b>COMMENTS</b>				
<p><b>Instructions:</b> In the box below, please provide explanation for any question above to which you answered "YES or "NO" and were prompted to provide additional comment. Please also use this space to note any other comments you would like to provide. If additional space is required, please continue to the back of the form and/or attach additional sheets of paper to the report form.</p>				



THE CARTER CENTER

2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

POLLING

POLLING CHECKLIST CHEROKEE NATION 2011			
<p>SEAL OF THE CHEROKEE NATION JULY 1839 SEPT. 6, 1839 ROLL OF FREE FREEDOMS ASSOCIATION</p>	Observer Team Number:	Date (month/day):	
	Town:	Arrival Time :	
	District: County:	Departure Time :	
	Polling Precinct Number:	<input type="checkbox"/> Urban	<input type="checkbox"/> Rural
	YES	NO	N/A
OUTSIDE THE POLLING PRECINCT			
1	Was the environment around the polling precinct: <input type="checkbox"/> calm <input type="checkbox"/> somewhat calm <input checked="" type="checkbox"/> tense <input type="checkbox"/> violent ?		
2	Was the environment around the polling precinct: <input type="checkbox"/> orderly <input type="checkbox"/> somewhat orderly <input type="checkbox"/> disorderly <input type="checkbox"/> very disorderly ?		
3	Did the polling precinct remain free from campaign activities during the day?		
4	Was the polling precinct accessible throughout the day to all voters with disabilities?		
INSIDE THE POLLING PRECINCT			
<i>Note: Questions 5-10 will require you to speak directly to polling officials. Please do so <u>only</u> when this will not disrupt the voting process</i>			
5	How many voters are registered at this polling precinct? _____		
6	How many ballots were received at the polling precinct for the Principal Chief election? _____		
7	Was the precinct declared open at 7:00am by announcement?		
8	If <u>NO</u> , check one of the following to indicate when the precinct opened: <input type="checkbox"/> 7:00-7:30 <input type="checkbox"/> 7:30-8:00 <input type="checkbox"/> 8:00-8:30 <input type="checkbox"/> 8:30-9:00 <input type="checkbox"/> after 9:00 <input type="checkbox"/> did not open		
9	If <u>NO</u> to 8, please check one of the following reasons that explains why the announcement came late: <input type="checkbox"/> Polling staff lack of understanding of procedures <input type="checkbox"/> Insufficient/missing materials <input type="checkbox"/> Insufficient number of polling staff <input type="checkbox"/> Other _____		
10	Which of the following polling officials were present: <input type="checkbox"/> Judge <input type="checkbox"/> Clerk <input type="checkbox"/> Inspector <input type="checkbox"/> Sergeant-at-Arms		
11	How many of the polling staff were women? _____		
12	Were only authorized persons inside the polling precinct? (i.e. - voters, polling officials, poll watchers, election commission members and/or law enforcement officers requested).		
13	Were sufficient materials received to facilitate voting? If <u>NO</u> , what was missing: <input type="checkbox"/> ballot paper <input type="checkbox"/> secrecy booth <input type="checkbox"/> pens <input type="checkbox"/> tabulators <input type="checkbox"/> voters list <input type="checkbox"/> challenged ballots?		
14	Were voters able to move smoothly throughout the polling precinct?		
VOTING PROCESS			
15	Did all polling officials appear to understand their duties?		
16	Was the precinct set up to facilitate ballot secrecy?		
17	Were voter identification procedures followed properly? If <u>NO</u> , comment below.		
18	Was every confirmed registered voter asked to sign their name in the Precinct Voters Signature book after having their identity confirmed?		
19	Were all confirmed registered voters provided a ballot by the Clerk?		
20	Did the Clerk explain the voting process or show the voter the ballot marking instructions?		

(continues)



## 2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

POLLING (*continued*)

21	Did the majority of voters appear to understand the process for correctly casting their ballots and placing them in the ballot machines?			
22	Was the secrecy of the ballot otherwise respected throughout the polling process? If <u>NO</u> , please comment below.			
23	Was anyone whose name was not on the list allowed to vote?			
24	Were correct 'challenged ballot' procedures followed for these persons? (completing statement on challenged ballot envelope and inserting the envelope into a challenged ballot envelop and box)			
25	Were the procedures for assisted voting followed?			
26	Were disabled (or other voters) permitted to vote outside the polling station as per commission regulations?			
27	Were proper procedures followed in regard to handling spoiled ballots? (ballot returned to clerk and voter signs an affidavit before receiving & casting a new ballot)			
28	Was the voting process free from irregularities?			
29	If <u>NO</u> , please check all that occurred: <input type="checkbox"/> Multiple Voting <input type="checkbox"/> Ballot maching problems (please specify below) <input type="checkbox"/> Interruption of voting <input type="checkbox"/> Intimidation <input type="checkbox"/> Group Voting <input type="checkbox"/> Other			

## OTHER PERSONS PRESENT

30	Were security personnel present at the polling precinct during voting?			
31	If <u>YES</u> to 32, did they interfere with the polling process in any way? How? Please explain below.			
32	How many poll watchers were present? _____			
33	How many poll watchers were women? _____			
34	Which candidates had poll watchers at this precinct? <input type="checkbox"/> Bill John Baker <input type="checkbox"/> Chadwick Smith <input type="checkbox"/> None			
35	Were procedures regarding watchers followed?			
36	Were there any restrictions that prevented watchers from performing their duties? If <u>YES</u> , please comment below.			

## OBSERVATIONS OF POLL WATCHERS

37	Did you receive reports of problems occurring that you did not witness? If <u>YES</u> , please comment below.			
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## SECURITY ISSUES

38	Was anyone asked to leave the polling precinct? If <u>YES</u> , explain who and the reason(s) below.			
39	If <u>YES</u> to 40 was <input type="checkbox"/> physical or <input type="checkbox"/> verbal force used by security (or other) personnel to remove them?			

## OFFICIAL COMPLAINTS

40	Were there any formal complaints recorded? If <u>YES</u> , please comment.			
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## OVERALL ASSESSMENT OF VOTING PROCESS

**Instructions:** Put an 'X' next to the statement that best describes your assessment of the election environment and voting process for this polling precinct. If your response is "poor" or "very poor," it is important that you provide further explanation in the comments section.

**Very Good** - No significant incidents or irregularities

**Good** - A few incidents or some minor irregularities, but none that had a significant effect on the integrity of the process

**Poor** - Incidents or irregularities that significantly affected the integrity of the process

**Very Poor** - Incidents of irregularities of such magnitude that the integrity of the process is in doubt.

(continues)



THE CARTER CENTER

2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

POLLING (*continued*)

COMMENTS
<p><b>Instructions:</b> In the box below, please provide explanation for any question above to which you answered "YES or "NO" and were prompted to provide additional comment. Please also use this space to note any other comments you would like to provide. If additional space is required, please continue to the back of the form and/or attach additional sheets of paper to the report form.</p>



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2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

POLL CLOSING

CLOSING CHECKLIST CHEROKEE NATION 2011			
	Observer Team Number:	Date (month/day):	
	Town:	Arrival Time _____	
	District: County:	Departure Time _____	
	Polling Precinct Number:	<input type="checkbox"/> Urban	<input type="checkbox"/> Rural
	Yes	No	N/A
OUTSIDE THE POLLING PRECINCT			
1	Was the environment around the polling precinct <input type="checkbox"/> calm <input type="checkbox"/> somewhat calm <input type="checkbox"/> tense <input type="checkbox"/> violent ?		
2	Was the environment around the polling precinct <input type="checkbox"/> orderly <input type="checkbox"/> somewhat orderly <input type="checkbox"/> disorderly <input type="checkbox"/> very disorderly		
3	Was the polling precinct environment free from campaigning activities?		
4	Was the polling precinct accessible to all voters with disabilities?		
INSIDE THE POLLING PRECINCT			
<i>Note: Questions 6-8 will require you to speak directly to polling officials. Please do so <u>only</u> when this will not disrupt the voting process</i>			
5	How many polling staff were women? _____		
6	How many voters are registered at this polling precinct? _____		
7	How many ballots were received for the Principal Chief election? _____		
8	How many voters voted at this polling precinct? _____		
FINAL CLOSING PROCESS			
9	Did the polling Inspector announce the close of the polling precinct at 7pm?		
10	At 7pm, approximately how many voters were in line to vote? _____		
11	Were all voters who were in line at 7pm allowed to vote?		
12	Were all voters who arrived <i>after</i> 7pm turned away without voting?		
13	Did the Inspector open the Emergency Ballot Compartment of the tabulator to determine if any ballots were in it to be inserted into the tabulator?		
14	If <u>YES</u> , to 13 and ballots were found, were these ballots then inserted into the tabulator?		
15	Did any irregularities arise while the tabulator was being shut down? If <u>YES</u> , please comment below.		
16	Was the tabulator properly turned off and secured?		
17	Did the Clerk reconcile the number of ballots cast with total ballots used? If <u>NO</u> , please comment below.		
18	Were all spoiled and unused placed in the ballot transfer case? If <u>NO</u> , please comment below.		
19	Were the Challenged Ballot Envelopes placed in the Elections Return Envelope?		
20	Did the polling Inspector, Clerk and Judge seal and sign the ballot transfer case?		
21	Did the polling Inspector, Clerk and Judge seal and sign the election returns envelope?		
22	Please record the seal numbers on the box of voting material _____ and on the voting machine _____		

(continues)



## 2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

POLL CLOSING (*continued*)

23	Were all election materials, including ballot boxes and voting materials, stored securely and according to procedure?			
24	Was the process free from interference (security personnel, party agents, others)? If <b>NO</b> , please comment below.			
<b>OBSERVATIONS OF POLL WATCHERS</b>				
25	Did any poll watchers report seeing problems that you did not witness? If <b>YES</b> , please comment below.			
<b>26</b>				
26	Were any formal complaints recorded? If <b>YES</b> , please comment.			
<b>28</b>				
27	Were security personnel present at the polling precinct?			
28	If <b>YES</b> to 29 did they interfere with the closing process in any way? Please comment below.			
29	How many poll watchers were present? _____			
30	How many poll watchers were women? _____			
31	Which candidates had poll watchers present? <input type="checkbox"/> Bill John Baker <input type="checkbox"/> Chadwick Smith <input type="checkbox"/> None			
32	Were there any restrictions that prevented any poll watchers performing their duties? If <b>YES</b> , please comment below.			
<b>OVERALL ASSESSMENT</b>				
Instructions for this Section: Put an 'X' next to the statement that best describes your overall assessment of the election environment and voting process for this polling precinct. If your response is "poor" or "very poor," it is important that you provide further explanation in the comments section.				
<b>Very Good</b> - No significant incidents or irregularities				
<b>Good</b> - A few incidents or some minor irregularities, but none that had a significant effect on the integrity of the process				
<b>Poor</b> - Incidents or irregularities that significantly affected the integrity of the process				
<b>Very Poor</b> - Incidents of irregularities of such magnitude that the integrity of the process is in doubt.				
<b>COMMENTS</b>				
Instructions: In the box below, please provide explanation for any question above to which you answered "YES" or "NO" and were prompted to provide additional comment. Please also use this space to note any other comments you would like to provide. If additional space is required, please continue to the back of the form and/or attach additional sheets of paper to the report form.				



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## 2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

## COUNTING: PRECINCT RECONCILIATION

 <b>CHEROKEE NATION</b>	<b>Observer Team:</b>	<b>Team #:</b>		
	<b>Arrival Time:</b>	am   pm		
	<b>Departure Time:</b>	am   pm		
<b>PRINCIPAL CHIEF COUNTING PROCESS</b>				
<p><b>Instructions:</b> Read the question carefully and put an 'X' in the appropriate box. If you don't know the answer to a question, please put an 'X' in the 'Don't Know' (D/K) box. If the question is not relevant please put an 'X' in the 'not applicable' (N/A) box. The questions are formulated so that a 'YES' answer generally indicates that procedures are being followed, while a 'NO' answer indicates that there may be issues that require further comment. If you answered "NO" to any question, or irregularities occurred, it is important that you provide details in the 'comments section'.</p>				
		<b>Direct Observation</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> D/K <input type="checkbox"/> N/A		
<b>Precinct Counting and Reconciliation</b>				
1 At what time did the count begin? _____ pm				
2 When counting began did it appear that the ballot boxes were free from of tampering?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Did the Commission staff person open the tabulator and election materials in the presence of candidates or their representatives?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 Was the counting process free from efforts to link a particular ballot to a voter?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5 Did polling officials follow established and objective criteria for determining the intent of the voter?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6 Was the validity of ballots determined in an impartial and objective manner?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 Was vote counting transparent and observable by candidate's watchers?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8 Was the environment in which counting conducted orderly and peaceful?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9 Was the polling place free from the presence of unauthorized persons during counting?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10 Were all ballots accurately counted?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11 Did the counting team review the certificate of vote? (please record the information from the certificate and other details on the precinct tabulator data form)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12 Did the teams close the tabulator?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13 Were there any technical problems with closing the tabulator?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14 Was a precinct report completed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15 Was the counting process free from interference (including by the security personnel)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16 Was the counting process free from official complaints made to the Election Commission?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17 If complaints were issued were officials responsive to these complaints?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18 Did the election official, in the presence of candidates' watchers package and seal election materials according to procedures?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19 When did the count of precinct results end? _____ am   pm				
<b>Overall Assessment</b>				
<p><b>Instructions for this Section:</b> Put an 'X' next to the statement that best describes your assessment of the election environment and counting process. If your response is "poor" or "very poor," it is important that you provide further explanation in the comments section.</p>				
<input checked="" type="checkbox"/> <b>Very Good</b> - No significant incidents or irregularities				
<input type="checkbox"/> <b>Good</b> - A few incidents or some minor irregularities, but that had no significant effect on the integrity of the process				
<input type="checkbox"/> <b>Poor</b> - Incidents or irregularities that have the potential to affect the integrity of the process				
<input type="checkbox"/> <b>Very Poor</b> - Incidents of irregularities of such magnitude that the integrity of the process is in doubt.				
<b>Comments</b>				
<p><b>Instructions:</b> please provide details of any complaints or irregularities that occurred at the polling station that you observed on the back of this piece of paper. You must provide explanation for any observation question to which you answered "NO". If additional space is required, please continue to the back of the form and/or attach additional sheets of paper to the report form.</p>				



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## 2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

### COUNTING: WALK-IN AND DROP BOX ABSENTEE BALLOTS

 <p><b>CHEROKEE NATION</b></p>	<b>Observer Team:</b>	<b>Team #:</b>		
	Arrival Time:	am pm		
	Departure Time:	am pm		
<b>PRINCIPAL CHIEF COUNTING PROCESS</b>				
<p><b>Instructions:</b> Read the question carefully and put an 'X' in the appropriate box. If you don't know the answer to a question, please put an 'X' in the 'Don't Know' (D/K) box. If the question is not relevant please put an 'X' in the 'not applicable' (N/A) box. The questions are formulated so that a 'YES' answer generally indicates that procedures are being followed, while a 'NO' answer indicates that there may be issues that require further comment. If you answered "NO" to any question, or irregularities occurred, it is important that you provide details in the 'comments section'.</p>				
		<b>Direct Observation</b>		
	Yes	No	D/K	N/A
<b>Closing the Walk-in Absentee Ballot Tabulator</b>				
1	When was the walk-in absentee ballot tabulator closed? _____ am/pm			
2	Did the tabulator produce the appropriate reports?			
3	Were all ballots moved from the tabulator to the transfer case?			
4	Was the transfer case seal with tamper evident tape and secured in the vault?			
5	Were all closing procedures for the walk-in absentee ballot tabulator conducted in front of poll watchers?			
<b>Processing Absentee Ballots (Drop Boxes)</b>				
6	At what time did absentee ballot processing begin? _____ pm			
7	When ballot processing began did it appear that the absentee ballot drop boxes were free from tampering?			
8	Did the Commission staff person open the ballot box in the presence of the candidates' watchers?			
9	Were ballotpaks standardized and counted in stacks of 25?			
10	Was the count of the ballots verified by a separate team?			
11	How many ballot packs were in the ballot drop box? _____			
12	Were all ballotpaks checked for signature and notarization?			
13	Were ballotpaks that did not have a signature and/or notarization from other paks for review by the Commission?			
14	Did Election Commissions follow consistent and objective criteria for determining whether to accept or reject ballotpaks?			
15	Were procedures followed for tracking the REJECTED ballotpaks in the AutoVote system?			
16	Were REJECTED ballotpaks sealed, secured and returned to the vault?			
17	How many ballotpaks were REJECTED? _____			
18	Were procedures followed for tracking the ACCEPTED ballotpaks in the AutoVote system?			
19	Were accepted ballotpaks counted? What was the number of accepted ballotpaks? _____			
20	Were the ACCEPTED ballotpaks marked as accepted, sealed, secured and returned to vault?			
<b>General Questions</b>				
21	Was the secrecy of the ballot maintained throughout the process?			
22	Was absentee ballot processing transparent and observable by candidate's watchers?			
23	Was the environment in which counting conducted orderly and peaceful?			
24	Was the polling place free from the presence of unauthorized persons during counting?			
25	Was absentee ballot processing free from interference (including by the security personnel)?			
26	Was the counting process free from official complaints made to the Election Commission?			
27	If complaints were issued were officials responsive to these complaints?			
28	When did absentee ballot processing (drop box) end? _____ am/pm			
29	Did you receive any reports of irregularities in this process. If YES, please comment.			

(continues)



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## 2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

### COUNTING: WALK-IN AND DROP BOX ABSENTEE BALLOTS *(continued)*

Overall Assessment	
<b>Instructions for this Section:</b> Put an 'X' next to the statement that best describes your assessment of the election environment and counting process. If your response is "poor" or "very poor," it is important that you provide further explanation in the comments section.	
<input type="checkbox"/> Very Good - No significant incidents or irregularities	
<input type="checkbox"/> Good - A few incidents or some minor irregularities, but that had no significant effect on the integrity of the process	
<input type="checkbox"/> Poor - Incidents or irregularities that have the potential to affect the integrity of the process	
<input type="checkbox"/> Very Poor - Incidents of irregularities of such magnitude that the integrity of the process is in doubt.	
Comments	
<b>Instructions:</b> In the box below, please provide details of any complaints or irregularities that occurred at the polling station that you observed. You must provide explanation for any observation question to which you answered "NO". If additional space is required, please continue to the back of the form and/or attach additional sheets of paper to the report form.	



## THE CARTER CENTER

## 2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

## COUNTING: MAIL-IN ABSENTEE BALLOTS

 <b>CHEROKEE NATION</b>		<b>Observer Team:</b>	<b>Team #:</b>		
		<b>Arrival Time:</b> _____ am pm			
		<b>Departure Time:</b> _____ am pm			
<b>PRINCIPAL CHIEF COUNTING PROCESS</b>					
<p><b>Instructions:</b> Read the question carefully and put an 'X' in the appropriate box. If you don't know the answer to a question, please put an 'X' in the 'Don't Know' (D/K) box. If the question is not relevant please put an 'X' in the 'not applicable' (N/A) box. The questions are formulated so that a 'YES' answer generally indicates that procedures are being followed, while a 'NO' answer indicates that there may be issues that require further comment. If you answered "NO" to any question, or irregularities occurred, it is important that you provide details in the 'comments section'.</p>					
		<b>Direct Observation</b>			
		Yes	No	D/K	N/A
<b>Processing Absentee Ballots</b>					
1	At what time did absentee processing begin? _____ am/pm (circle date) 10/9 10/10 10/11				
2	When absentee processing began did it appear that the absentee ballot boxes were free from of tampering?				
3	Did the Commission staff person open the ballot box in the presence the candidates' watchers?				
4	Were ballotpaks standardized and counted in stacks of 25?				
5	How many ballot packs were in the ballot drop box? _____				
6	Were all ballotpaks checked for signature and notarization?				
7	Were ballotpaks that did not have a signature and/or notarization from other paks for review by the Commission?				
8	Did Election Commissions follow consistent and objective criteria for determining whether to accept or reject ballotpaks?				
9	Were procedures followed for tracking the REJECTED ballotpaks in the AutoVote system?				
10	How many ballot ballotpaks were REJECTED? _____				
11	Were REJECTED ballotpaks sealed, secured and returned to the vault?				
12	Were procedures followed for tracking the ACCEPTED ballotpaks in the AutoVote system?				
13	Were accepted ballotpaks counted? What was the number of accepted ballotpaks? _____				
14	Were the ACCEPTED ballotpaks from ballot drop box transfer case retrieved from the vault and the count of those ballotpaks confirmed against the activity report from the previous day?				
15	Were all ACCEPTED ballotpaks taken to the mail opening station for processing?				
<b>Opening Outer and Inner Envelopes</b>					
16	Were all ACCEPTED ballotpaks opened, and prepared for separating?				
17	Are any outer envelopes that contain a ballot WITHOUT and inner envelope given to Commission staff for placement in mailtray designated for that purpose?				
18	Did the Commission staff verify that all outer envelopes were empty?				
19	Once opened, are outer envelopes put aside and preserved according to procedure?				
20	Once the inner envelopes are opened, are ballots removed, and the inner envelopes preserved according to procedures?				
21	Are ballots counted and placed in stacks of 25?				
22	Is this count verified by a second team?				
23	At the end of the process, are all separated ballots sealed, secured and placed in the vault according to procedure?				
<b>General Questions</b>					
24	Was the secrecy of the ballot maintained throughout the process?				
25	Was absentee ballot processing transparent and observable by candidate's watchers?				
26	Was the environment in which counting conducted orderly and peaceful?				

(continues)



## 2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

COUNTING: MAIL-IN ABSENTEE BALLOTS (*continued*)

27	Was the polling place free from the presence of unauthorized persons during counting?			
28	Was the process conducted with accuracy?			
29	Was absentee ballot processing free from interference (including by the security personnel)?			
30	Was the counting process free from official complaints made to the Election Commission?			
31	If complaints were issued were officials responsive to these complaints?			
32	When did absentee ballot processing end? _____ am/pm (circle date) 10/9 10/10 10/11			
33	Did you receive any reports of irregularities in this process. If YES, please comment.			

## Overall Assessment

**Instructions for this Section:** Put an 'X' next to the statement that best describes your assessment of the election environment and counting process. If your response is "poor" or "very poor," it is important that you provide further explanation in the comments section.

**Very Good** - No significant incidents or irregularities

**Good** - A few incidents or some minor irregularities, but that had no significant effect on the integrity of the process

**Poor** - Incidents or irregularities that have the potential to affect the integrity of the process

**Very Poor** - Incidents of irregularities of such magnitude that the integrity of the process is in doubt.

## Comments

**Instructions:** In the box below, please provide details of any complaints or irregularities that occurred at the polling station that you observed. You must provide explanation for any observation question to which you answered "NO". If additional space is required, please continue to the back of the form and/or attach additional sheets of paper to the report form.



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**2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF**

**COUNTING: ABSENTEE BALLOT RECONCILIATION**

 <b>CHEROKEE NATION</b>		<b>Observer Team:</b> <input type="text"/> <b>Team #:</b> <input type="text"/> <b>Arrival Time:</b> <input type="text"/> am <input type="text"/> pm <input type="text"/> <b>Departure Time:</b> <input type="text"/> am <input type="text"/> pm
<b>PRINCIPAL CHIEF COUNTING PROCESS</b>		
<p><b>Instructions:</b> Read the question carefully and put an 'X' in the appropriate box. If you don't know the answer to a question, please put an 'X' in the 'Don't Know' (D/K) box. If the question is not relevant please put an 'X' in the 'not applicable' (N/A) box. The questions are formulated so that a 'YES' answer generally indicates that procedures are being followed, while a 'NO' answer indicates that there may be issues that require further comment. If you answered "NO" to any question, or irregularities occurred, it is important that you provide details in the 'comments section'.</p>		
<b>Tabulating Absentee Ballots</b>		<b>Direct Observation</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> D/K <input type="checkbox"/> N/A
1	At what time did the absentee tabulation begin? _____ 10/10 10/11	am/pm (circle date) 10/9
2	When tabulation began did it appear that the ballots were free from of tampering?	
3	Did the tabulator function correctly, and count the ballots accurately?	
4	What were the results of the absentee ballot tabulation? Bill John Baker _____ Chadwick Smith _____	
5	Was the tabulation process free from 'outstacked' ballot problems?	
6	If NO, why were the ballots rejected by the machine? Mismarked <input type="checkbox"/> Undervoted <input type="checkbox"/> Overvoted <input type="checkbox"/> Blank <input type="checkbox"/> Other <input type="checkbox"/>	
7	How many ballots were outstacked? _____	
8	Were outstacked ballots preserved for review by the Commission?	
9	Was the validity of ballots determined in an consistent, impartial and objective manner?	
10	Were outstacked ballots manually tallied?	
11	What were the results of the outstacked ballots? Bill John Baker _____ Chadwick Smith _____	
12	Were all manually tabulated ballots sealed, secured and returned to the vault according to procedure?	
13	Were all ballots counted by the machine sealed, secured and returned to the vault according to procedure?	
<b>General Questions</b>		
14	Was absentee ballot tabulation process transparent and observable by candidate's watchers?	
15	Was the environment in which counting conducted orderly and peaceful?	
16	Was the polling place free from the presence of unauthorized persons during counting?	
17	Was the process conducted with accuracy?	
18	Was absentee ballot tabulation free from interference (including by the security personnel)?	
19	Was the counting process free from official complaints made to the Election Commission?	
20	If complaints were issued were officials responsive to these complaints?	
21	When did absentee ballot tabulation end? _____ am/pm (circle date) 10/9 10/10 10/11	
22	Did you receive any reports of irregularities in this process. If YES, please comment.	
<b>Overall Assessment</b>		
<p><b>Instructions for this Section:</b> Put an 'X' next to the statement that best describes your assessment of the election environment and counting process. If your response is "poor" or "very poor," it is important that you provide further explanation in the comments section.</p>		
<b>Very Good</b> - No significant incidents or irregularities		
<b>Good</b> - A few incidents or some minor irregularities, but that had no significant effect on the integrity of the process		
<b>Poor</b> - Incidents or irregularities that have the potential to affect the integrity of the process		
<b>Very Poor</b> - Incidents of irregularities of such magnitude that the integrity of the process is in doubt.		
<b>Comments</b>		
<p><b>Instructions:</b> Please provide details of any complaints or irregularities that occurred on the back of this page. You must provide explanation for any observation question to which you answered "NO". If additional space is required, please continue to the back of the form and/or attach additional sheets of paper to the report form.</p>		



THE CARTER CENTER

## 2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

## COUNTING: CHALLENGED BALLOTS

 <b>CHEROKEE NATION</b>		Observer Team: _____	Team #: _____
		Arrival Time: _____	am pm
		Departure Time: _____	am pm
<b>PRINCIPAL CHIEF COUNTING PROCESS</b>			
<p><b>Instructions:</b> Read the question carefully and put an 'X' in the appropriate box. If you don't know the answer to a question, please put an 'X' in the 'Don't Know' (D/K) box. If the question is not relevant please put an 'X' in the 'not applicable' (N/A) box. The questions are formulated so that a 'YES' answer generally indicates that procedures are being followed, while a 'NO' answer indicates that there may be issues that require further comment. If you answered "NO" to any question, or irregularities occurred, it is important that you provide details in the 'comments section'.</p>			
		<b>Direct Observation</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> D/K <input type="checkbox"/> N/A	
<b>Processing Challenged Ballots (Precincts and Walk-In)</b>			
1	At what time did challenged ballot processing begin? _____ 10/10 10/11	am/pm (circle date) 10/9	
2	When challenged ballot processing began did it appear that the challenged ballot boxes were free from of tampering?		
3	Did the Commission staff person open the challenged ballot box in the presence the candidates' watchers?		
4	Does the number of ballots contained in the box match the Certificate of Vote for each precinct?		
5	Did Election Commissions follow consistent and objective criteria for determining whether to accept or reject challenged ballots?		
6	Are REJECTED challenged ballots marked rejected and returned unopened to the challenged ballot box?		
7	Is a reason for their rejection written on the challenged ballot?		
8	Are accepted challenged ballots removed from their outer and inner envelopes and the envelopes preserved in the challenged ballot boxes?		
9	Was the manual tabulation of the Challenged ballots accurate?		
10	Please record the number of accepted and rejected Challenged Ballots on the separate data form		
11	What were the results of the challenged ballot tabulation?  Bill John Baker _____ Chadwick Smith _____		
<b>General Questions</b>			
12	Was Challenged Ballot process transparent and observable by candidate's watchers?		
13	Was the environment in which counting conducted orderly and peaceful?		
14	Was the polling place free from the presence of unauthorized persons during counting?		
15	Was the process conducted with accuracy?		
16	Was absentee ballot tabulation free from interference (including by the security personnel)?		
17	Was the counting process free from official complaints made to the Election Commission?		
18	If complaints were issued were officials responsive to these complaints?		
19	When did absentee ballot tabulation end? _____ am/pm (circle date) 10/9 10/10 10/11		
20	Did you receive any reports of irregularities in this process. If YES, please comment.		
<b>Overall Assessment</b>			
<p><b>Instructions for this Section:</b> Put an 'X' next to the statement that best describes your assessment of the election environment and counting process. If your response is "poor" or "very poor," it is important that you provide further explanation in the comments section.</p>			
Very Good - No significant incidents or irregularities			
Good - A few incidents or some minor irregularities, but that had no significant effect on the integrity of the process			
Poor - Incidents or irregularities that have the potential to affect the integrity of the process			
Very Poor - Incidents of irregularities of such magnitude that the integrity of the process is in doubt.			
<b>Comments</b>			
<p><b>Instructions:</b> Please provide details of any complaints or irregularities that you observed on the back of this page. You must provide explanation for any observation question to which you answered "NO". If additional space is required, please continue to the back of the form and/or attach additional sheets of paper to the report form.</p>			



## APPENDIX F ELECTION RESULTS

### FINAL REPORT



### Cherokee Nation Official Election Results Special Principal Chief Election Saturday, September 24, 2011

#### Principal Chief

CHADWICK "CORNTASSEL" SMITH	9128	46.03%
BILL JOHN BAKER	10703	53.97%

#### Election Certification

We, the undersigned election officials of The Cherokee Nation, do hereby certify the above to be a true and accurate canvass of the votes cast in the election held on Saturday, September 24, 2011.

Chairperson: Brenda J. Walker  
Member: Brenda J. Walker

signed

Member: Cynthia L. Rose  
Member: Patsy Gads Morton  
Member: Martha Callicoo



THE CARTER CENTER

## 2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

### ABSENTEE SUMMARY REPORT



### Cherokee Nation Official Election Results Special Principal Chief Election Saturday, September 24, 2011

#### Principal Chief

CHADWICK "CORNTASSEL" SMITH	5651	50.59%
BILL JOHN BAKER	5519	49.41%

#### Election Certification

We, the undersigned election officials of The Cherokee Nation, do hereby certify the above to be a true and accurate canvass of the votes cast in the election held on Saturday, September 24, 2011.

signed

Chairperson: Brenda J. Walker  
Member: Brenda J. Walker

Member: Gretchen John  
Member: Patty Eds-Matton  
Member: Marta Calico



THE CARTER CENTER

2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF



Absentee Results

**Cherokee Nation**  
Official Election Results  
**Special Principal Chief Election**  
**Saturday, September 24, 2011**

EARLY	DISTRICT 1		BY MAIL		
Principal Chief			Principal Chief		
CHADWICK "CORNTASSEL" SMITH	312	31.23%	CHADWICK "CORNTASSEL" SMITH	326	28.60%
BILL JOHN BAKER	687	68.77%	BILL JOHN BAKER	814	71.40%

Election Certification

We, the undersigned election officials of The Cherokee Nation, do hereby certify the above to be a true and accurate canvass of the votes cast in the election held on Saturday, September 24, 2011.

Chairperson:

signed

Member:

Member:

Member:

Member:



THE CARTER CENTER

2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF



Absentee Results

**Cherokee Nation**  
Official Election Results  
**Special Principal Chief Election**  
**Saturday, September 24, 2011**

EARLY	DISTRICT 2	BY MAIL
Principal Chief		
CHADWICK "CORNTASSEL" SMITH	71	32.57%
BILL JOHN BAKER	147	67.43%

Principal Chief
CHADWICK "CORNTASSEL" SMITH
BILL JOHN BAKER

Election Certification

We, the undersigned election officials of The Cherokee Nation, do hereby certify the above to be a true and accurate canvass of the votes cast in the election held on Saturday, September 24, 2011.

Chairperson:

Andy Cooper

signed

Member:

Brenda J. Walker

Member:

Gretchen L. Folsom

Member:

Patsy East-Morton

Member:

Marta Calico



THE CARTER CENTER

2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF



Absentee Results

**Cherokee Nation**  
Official Election Results  
**Special Principal Chief Election**  
**Saturday, September 24, 2011**

EARLY	DISTRICT 3	BY MAIL
Principal Chief		
CHADWICK "CORNTASSEL" SMITH	84	49.41%
BILL JOHN BAKER	86	50.59%
Principal Chief		
CHADWICK "CORNTASSEL" SMITH	408	57.87%
BILL JOHN BAKER	297	42.13%

Election Certification

We, the undersigned election officials of The Cherokee Nation, do hereby certify the above to be a true and accurate canvass of the votes cast in the election held on Saturday, September 24, 2011.

Chairperson: Brianne G. Johnson  
Member: Brenda J. Walker

signed

Member: Leuter L. Ross  
Member: Patsy Eads Morton  
Member: Mallie Calico



THE CARTER CENTER

2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF



Absentee Results

**Cherokee Nation**  
Official Election Results  
**Special Principal Chief Election**  
**Saturday, September 24, 2011**

EARLY

DISTRICT 4

BY MAIL

**Principal Chief**

CHADWICK "CORNTASSEL" SMITH	28	53.85%
BILL JOHN BAKER	24	46.15%

**Principal Chief**

CHADWICK "CORNTASSEL" SMITH	309	45.04%
BILL JOHN BAKER	377	54.96%

**Election Certification**

We, the undersigned election officials of The Cherokee Nation, do hereby certify the above to be a true and accurate canvass of the votes cast in the election held on Saturday, September 24, 2011.

Chairperson:

Brenda J. Walker

signed

Member:

Curtis L. Riley  
Patsy Eagle-Morin  
Martha Calico

Member:

Member:



THE CARTER CENTER

2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF



Absentee Results

**Cherokee Nation**  
Official Election Results  
**Special Principal Chief Election**  
**Saturday, September 24, 2011**

EARLY

DISTRICT 5

BY MAIL

**Principal Chief**

CHADWICK "CORNTASSEL" SMITH	27	48.21%
BILL JOHN BAKER	29	51.79%

**Principal Chief**

CHADWICK "CORNTASSEL" SMITH	575	61.83%
BILL JOHN BAKER	355	38.17%

**Election Certification**

We, the undersigned election officials of The Cherokee Nation, do hereby certify the above to be a true and accurate canvass of the votes cast in the election held on Saturday, September 24, 2011.

signed

Chairperson:

Member: Brandi J. Weller

Member:

Member:

Member:



THE CARTER CENTER

2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

Absentee Results



**Cherokee Nation**  
Official Election Results  
Special Principal Chief Election  
Saturday, September 24, 2011

EARLY

AT LARGE

BY MAIL

**Principal Chief**

CHADWICK "CORNTASSEL" SMITH	76	35.85%
BILL JOHN BAKER	136	64.15%

**Principal Chief**

CHADWICK "CORNTASSEL" SMITH	3143	62.20%
BILL JOHN BAKER	1910	37.80%

**Election Certification**

We, the undersigned election officials of The Cherokee Nation, do hereby certify the above to be a true and accurate canvass of the votes cast in the election held on Saturday, September 24, 2011.

signed

Chairperson: Brandy A. Walker

Member: Gretie L. John  
Member: Patsy Calo-Morton  
Member: Matha Calico



THE CARTER CENTER

2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF



RESULTS BY DISTRICT

**Cherokee Nation**  
Official Election Results  
Special Principal Chief Election  
Saturday, September 24, 2011

DISTRICT 1

**Principal Chief**

CHADWICK "CORNTASSEL" SMITH	1128	28.70%
BILL JOHN BAKER	2802	71.30%

**Election Certification**

We, the undersigned election officials of The Cherokee Nation, do hereby certify the above to be a true and accurate canvass of the votes cast in the election held on Saturday, September 24, 2011.

Chairperson:

signed

Member: Bruce J. Walker

Member:

Member:

Member:



THE CARTER CENTER

2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

RESULTS BY DISTRICT



**Cherokee Nation**  
Official Election Results  
**Special Principal Chief Election**  
**Saturday, September 24, 2011**

DISTRICT 2

**Principal Chief**

CHADWICK "CORNTASSEL" SMITH	1082	30.76%
BILL JOHN BAKER	2436	69.24%

Election Certification

We, the undersigned election officials of The Cherokee Nation, do hereby certify the above to be a true and accurate canvass of the votes cast in the election held on Saturday, September 24, 2011.

Chairperson:  signed

Member:

Member:

Member:

Member:



THE CARTER CENTER

2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

**RESULTS BY DISTRICT**



**Cherokee Nation**  
Official Election Results  
**Special Principal Chief Election**  
**Saturday, September 24, 2011**

**DISTRICT 3**

**Principal Chief**

CHADWICK "CORNTASSEL" SMITH	1430	54.96%
BILL JOHN BAKER	1172	45.04%

**Election Certification**

We, the undersigned election officials of The Cherokee Nation, do hereby certify the above to be a true and accurate canvass of the votes cast in the election held on Saturday, September 24, 2011.

signed

Chairperson: Dr. Gail Smith

Member: Bruna J. Walker

Member: Gwinnette Rose

Member: Patsy Gabb Morton

Member: Ruthie Calico



THE CARTER CENTER

2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF



RESULTS BY DISTRICT

**Cherokee Nation**  
Official Election Results  
**Special Principal Chief Election**  
**Saturday, September 24, 2011**

DISTRICT 4

**Principal Chief**

CHADWICK "CORNTASSEL" SMITH	989	43.11%
BILL JOHN BAKER	1305	56.89%

Election Certification

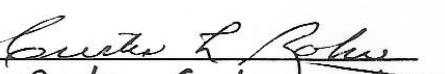
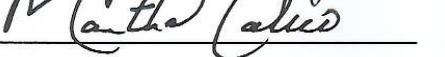
We, the undersigned election officials of The Cherokee Nation, do hereby certify the above to be a true and accurate canvass of the votes cast in the election held on Saturday, September 24, 2011.

Chairperson:

  
Brenda J. Walker

signed

Member:

  
Greta L. Baker  
  
Patsy Eads-Morin  
  
Martha Calico



THE CARTER CENTER

2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

**RESULTS BY DISTRICT**



**Cherokee Nation**  
Official Election Results  
**Special Principal Chief Election**  
**Saturday, September 24, 2011**

**DISTRICT 5**

**Principal Chief**

CHADWICK "CORNTASSEL" SMITH	1280	57.61%
BILL JOHN BAKER	942	42.39%

**Election Certification**

We, the undersigned election officials of The Cherokee Nation, do hereby certify the above to be a true and accurate canvass of the votes cast in the election held on Saturday, September 24, 2011.

Chairperson:

signed

Member: Brandy J Walker

Member: Clinton L Rose  
Member: Patsy Eado Morton  
Member: Martina Calico



THE CARTER CENTER

## 2011 SPECIAL ELECTION FOR CHEROKEE NATION PRINCIPAL CHIEF

### RESULTS BY DISTRICT



### Cherokee Nation Official Election Results Special Principal Chief Election Saturday, September 24, 2011

#### AT LARGE

##### Principal Chief

CHADWICK "CORNTASSEL" SMITH	3219	61.14%
BILL JOHN BAKER	2046	38.86%

#### Election Certification

We, the undersigned election officials of The Cherokee Nation, do hereby certify the above to be a true and accurate canvass of the votes cast in the election held on Saturday, September 24, 2011.

signed

Chairperson: Brenda J. Walker

Member: Brenda J. Walker

Member: Curtis L. John  
Member: Patsy Eric Minton  
Member: Marta Calico

# THE CARTER CENTER AT A GLANCE

**Overview:** The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and his wife, Rosalynn, in partnership with Emory University, to advance peace and health worldwide. A nongovernmental organization, the Center has helped to improve life for people in more than 70 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; improving mental health care; and teaching farmers to increase crop production.

**Accomplishments:** The Center has observed more than 85 elections in 34 countries; helped farmers double or triple grain production in 15 African countries; worked to prevent and resolve civil and international conflicts worldwide; intervened to prevent unnecessary diseases in Latin America and Africa; and strived to diminish the stigma against mental illnesses.

**Budget:** \$96.0 million 2011–2012 operating budget.

**Donations:** The Center is a 501(c)(3) charitable organization, financed by private donations from individuals, foundations, corporations, and international development assistance agencies. Contributions by U.S. citizens and companies are tax-deductible as allowed by law.

**Facilities:** The nondenominational Cecil B. Day Chapel and other facilities are available for weddings, corporate retreats and meetings, and other special events. For information, (404) 420-5112.

**Location:** In a 35-acre park, about 1.5 miles east of downtown Atlanta. The Jimmy Carter Library and Museum, which adjoins the Center, is owned and operated by the National Archives and Records Administration and is open to the public. (404) 865-7101.

**Staff:** 160 employees, based primarily in Atlanta.



THE  
CARTER CENTER



THE CARTER CENTER  
ONE COPENHILL  
453 FREEDOM PARKWAY  
ATLANTA, GA 30307  
(404) 420-5100 ♦ FAX (404) 420-5145

[WWW.CARTERCENTER.ORG](http://WWW.CARTERCENTER.ORG)