VOTING RIGHTS AND ELECTION ADMINISTRATION:
COMBATTING MISINFORMATION IN THE 2020 ELECTION

HEARING
BEFORE THE
SUBCOMMITTEE ON ELECTIONS
OF THE
COMMITTEE ON HOUSE ADMINISTRATION
HOUSE OF REPRESENTATIVES
ONE HUNDRED SIXTEENTH CONGRESS
SECOND SESSION

OCTOBER 6, 2020

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VOTING RIGHTS AND ELECTION ADMINISTRATION: COMBATTING MISINFORMATION IN THE 2020 ELECTION

TUESDAY, OCTOBER 6, 2020

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELECTIONS,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC.

The Subcommittee met, pursuant to call, at 1:00 p.m., via Webex, Hon. Marcia L. Fudge [Chair of the Subcommittee] presiding.

Present: Representatives Fudge, Lofgren, Aguilar, Butterfield, and Raskin.

Staff Present: Jamie Fleet, Staff Director; David Tucker, Senior Counsel and Parliamentarian; Peter Whippy, Communications Director; Natalie Young, Press Secretary; Stephen Spaulding, Senior Elections Counsel; Sarah Nasta, Elections Counsel; Kulani Jalata, Elections Counsel; Georgina Cannan, Elections Counsel; Daniel Taylor, General Counsel; and Brandon Jacobs, Legislative Clerk.

Chairwoman FUDGE. The Subcommittee on Elections of the Committee on House Administration will come to order.

I am happy to announce that we are joined today by Congressmen Butterfield from North Carolina, Mr. Aguilar from California, and Mr. Raskin from Maryland.

As we begin, I want to note, we are holding this hearing in compliance with the regulations for remote committee proceedings pursuant to House Resolution 965.

Generally, the Committee will keep microphones muted to limit background noise. Members will need to unmute themselves when seeking recognition or when recognized for their five minutes. Witnesses will need to unmute themselves when recognized for their five minutes or when answering a question.

Members and witnesses, please keep your camera on at all times. Even if you need to step away for a moment, do not leave the meeting.

At this time, I ask unanimous consent that all members have five legislative days to revise and extend their remarks and that any written statements be made part of the record.

Hearing no objections, so ordered.

Today, we are examining misinformation in the 2020 election, how the spread of false information harms voters, and what can be done to combat this and ensure Americans go to the polls armed with accurate information.
This year, we cannot discuss election misinformation without also recognizing the persistent misinformation being spread about the ongoing COVID–19 pandemic. Americans need accurate information about how to cast their ballot, about the pandemic, and, importantly, accurate information on how to cast their ballot in a manner that protects their health.

Election day may be four weeks from today, but voting is already well underway. Overseas and military ballots were sent out to thousands of voters a few weeks ago. Absentee ballots can be requested now and returned in the weeks ahead. More than 30 States are already mailing ballots to voters. Early in-person voting began in many States over the last two weeks, and more will do so in the days and weeks ahead. In fact, early voting begins in Ohio today.

The American people are voting and will be voting now through November 3. And, during all of this, the President and others are waging an insidious campaign to sow distrust in our electoral process by spreading false claims that vote-by-mail is rife with fraud, making unsubstantiated claims the election will be rigged, encouraging people to vote twice, which is illegal and immoral.

Additionally, U.S. intelligence agencies warn that Russia has continued its disinformation campaign and attempts to interfere in our election. In 2016, no group of Americans were targeted more by Russian Internet Research Agency disinformation than African Americans.

The American people deserve the truth. They deserve an election free from the real fraud of false information and voter suppression.

The truth is, millions of Americans, including the President and members of his administration, cast a ballot by mail every election cycle with exceedingly rare instances of fraud.

The truth is, as significantly more Americans prepare to cast their ballot from home this year than ever before, the American people must be prepared that we may not know the winner of the election on the night of November 3 and that this does not mean anything is wrong with the election. Election night results are never final results. Many States take days, if not weeks, to formally certify their election results. Many States also allow ballots that were mailed on election day but received in the days after to be counted.

The truth is that there is nothing nefarious; it is simply about counting ballots. The count must be accurate, and that takes time. Every validly cast vote should count. That is democracy. Votes mailed on election day are votes cast on election day, and we should count them, not spread fear and lie about a rigged election.

The misinformation being spread in the lead-up to this year’s election is a disservice to voters and a danger to our democracy and our democratic institutions.

The House passed the SHIELD Act in October 2019, which would address the spread of misinformation, including prohibiting the spread of false information about voting, but the Senate has refused to act.

It is our duty to ensure voters have all the necessary accurate information they need to cast their ballots freely, fairly, and safely during the pandemic and with confidence in our electoral system.
I thank all of our witnesses for being here today, and I look forward to hearing your testimony.

[The statement of Ms. Fudge follows:]
Chairperson Marcia L. Fudge  
Subcommittee on Elections  
Voting Rights and Election Administration: Combating Misinformation in the 2020 Election  
October 6, 2020  
Opening Statement

Today we are examining misinformation in the 2020 election, how the spread of false information harms voters, and what can be done to combat this and ensure Americans go to the polls armed with accurate information.

This year, we cannot discuss election misinformation without also recognizing the persistent misinformation being spread about the ongoing COVID-19 pandemic. Americans need accurate information about how to cast their ballot, about the pandemic, and, importantly, accurate information on how to cast their ballot in a manner that protects their health. Election Day may be four weeks from today, but voting is already well underway.

Overseas and military ballots were sent out to thousands of voters a few weeks ago. Absentee ballots can be requested now and returned in the weeks ahead. More than 30 states are already mailing ballots to voters. Early in-person voting began in many states over the last two weeks and more will do so in the days and weeks ahead. In fact, early voting began here in Ohio today. The American people are voting, and will be voting, now through November 3.

And during all of this, the President and others are waging an insidious campaign to sow distrust in our electoral process by spreading false claims that vote-by-mail is rife with fraud, making unsubstantiated claims the election will be rigged, encouraging people to vote twice, which is illegal, and more.

Additionally, U.S. intelligence agencies warn that Russia has continued its disinformation campaign and attempts to interfere in our election. In 2016, no group of Americans were targeted more by Russian Internet Research Agency disinformation than African Americans.
The American people deserve the truth. They deserve an election free from the real fraud of false information and voter suppression. The truth is, millions of Americans, including the President and members of his administration, cast a ballot by mail every election cycle with exceedingly rare instances of fraud. The truth is, as significantly more Americans prepare to cast their ballot from home this year than ever before, the American people must be prepared that we may not know the winner of the election on the night of November 3. And that this does not mean anything is wrong with the election. Election night results are never final results. Many states take days, if not weeks, to formally certify their election results.

Many states also allow ballots that were mailed on election day but received in the days after to be counted. The truth is that this is nothing nefarious. It is simply about counting ballots. The count must be accurate and that takes time. Every validly cast vote should count. That's democracy. Votes mailed on election day are votes cast on election day and we should count them, not spread fear and lie about a rigged election. The misinformation being spread in the lead up to this year's election is a disservice to voters and a danger to our democracy and our democratic institutions. The House passed the SHIELD Act in October 2019, which would address the spread of misinformation, including prohibiting the spread of false information about voting. But the Senate refused to act.

It is our duty to ensure voters have all the necessary, accurate information they need to cast their ballots freely, fairly, and safely during the pandemic, and with confidence in our electoral system. I thank all our witnesses for being here today and look forward to hearing your testimony.
The Ranking Member is unfortunately unable to join us today. I ask unanimous consent that his statement be made part of the hearing record.
Without objection, so ordered.
[The statement of Mr. Davis follows:]
I want to first apologize for being unable to attend in person, but I have constituents meetings that conflict with today’s hearing. I was only told a week ago about this hearing taking place during a district work period and was unable to rearrange my district schedule. It’s unfortunate this committee wasn’t able to hold this hearing or any other during the last two weeks Congress was in session.

But this committee constantly seems to be behind the eight ball. We’re having this hearing 28 days out from Election Day and last week the House once again passed sweeping election reforms without having any hearing at all.

Heroes 2.0 Act passed last week with 71 pages of election administration changes that, if law, administrators across the country would be required to implement in less than 30 days and after more than a million people have already voted in this country. If we would have had any kind of hearing on Heroes 2.0, I guarantee we would have had election administrators telling us that not only should the federal government not be mandating these kinds of changes, but that, given the timeframe, it would be impossible for them to implement. Unfortunately, we didn’t have a hearing and very few people who actually run elections have been
invited by the majority to weigh in on any of the election changes they continue to push.

Despite this, I’ve stood willing and ready to work with any member of this committee in a bipartisan way to address many of the issues being raised in testimony today and the issues we know election administrators are facing because of the pandemic.

In October 2019, I introduced the Honest Elections Act to prevent foreign actors from meddling in our nation’s elections by targeting them on their own soil. H.R. 4736 would update existing election laws, including the Foreign Agents Registration Act (FARA), the Federal Election Campaign Act (FECA), and the Help America Vote Act (HAVA). The bill also adopts a modern, common-sense approach for disclosing who has paid for online political ads, increases monitoring of spending by foreign nationals in elections, bans ballot harvesting, and prohibits the Election Assistance Commission funds from going to states allowing non-citizen voting. Unfortunately, it’s almost a year later and the majority on this committee has shown zero interest in working together on this issue.
Since the pandemic began in March, this committee has held just three hearings focused on election administration and marked up not one single election-related bill. During one of the most challenging cycles for our election administrators, this is unacceptable.

In July, I introduced H.R. 7905, the Emergency Assistance for Safe Elections Act, or the EASE Act, to help election administrators address issues they are facing because of the pandemic. The EASE Act would help election administrators recruit poll workers and ensure voters, if they choose, can vote safely in person. This bill would help states update their voter rolls as required by federal law. Helping states administer elections during these unprecedented times should not be a partisan issue and I would think these are provisions that my Democrat colleagues could get behind and work together on.

Lastly, I recently joined our Democrat colleague, Rep. Tulsi Gabbard, in introducing a bill to ban ballot harvesting. Rep. Gabbard and I are setting politics aside and protecting the integrity of our elections by working together to ban a practice that we know is ripe for fraud. As Rep. Gabbard puts it, our bill “makes sure that third-party, special interest groups don’t get between voters and the ballot box.”
There are plenty of issues that we could work on together to protect the integrity of our elections, as Rep. Gabbard and I have done, but unfortunately, this committee has politicized election policy from the day Democrats took back the House and have done everything they can to nationalize our elections.

Gridlock doesn’t help anyone and it’s certainly not what our constituents sent us here to do. I continue to stand ready and willing to work with my Democrat counterparts on legislation to protect our Democracy.
Chairwoman FUDGE. As I introduce the panel, each of you will be recognized for five minutes.

I will remind our witnesses that their entire written statements will be made part of the record and that the record will remain open for at least 5 days for additional materials to be submitted.

Another reminder to all our witnesses: There is a timer on the screen. Please be sure you can see the timer and are mindful of the five-minute limit.

Joining us today: Benjamin Hovland, a commissioner with the U.S. Election Assistance Commission and the Commission's current chair. Commissioner Hovland was confirmed by unanimous consent in the Senate on January 2, 2019. He previously served as acting chief counsel for the Senate Committee on Rules and Administration.

Welcome, sir.

Jena Griswold is Colorado's 39th Secretary of State. Secretary Griswold began her term on January 8, 2019. She is the youngest elected Secretary of State in the country. Secretary Griswold has practiced international anti-corruption law, worked as a voter protection attorney, and previously served as the director of the Governor of Colorado's D.C. office.

Welcome.

Inajo Davis Chappell is a member of the Cuyahoga County Board of Elections, having served since her appointment in April of 2007. She is a partner at Ulmer & Berne, LLP, in Cleveland and chairs the firm's nonprofit group and is my good friend.

Welcome.

Spencer Overton is the president of the Joint Center for Political and Economic Studies. Mr. Overton is also a tenured professor at the George Washington University School of Law. He previously served as Principal Deputy Assistant Attorney General in the Office of Legal Policy at the Department of Justice during the Obama administration.

It is interesting to note that we are holding this hearing during National Voter Education Week.

With that, I will now recognize our witnesses for their five minutes. We will begin today with Mr. Hovland.

You are recognized for five minutes.

STATEMENTS OF THE HONORABLE BENJAMIN HOVLAND, COMMISSIONER, U.S. ELECTION ASSISTANCE COMMISSION; THE HONORABLE JENA GRISWOLD, SECRETARY OF STATE, STATE OF COLORADO; INAJO DAVIS CHAPPELL, MEMBER, BOARD OF ELECTIONS, CUYAHOGA COUNTY, OHIO; AND SPENCER OVERTON, PRESIDENT, JOINT CENTER FOR POLITICAL AND ECONOMIC STUDIES

STATEMENT OF THE HONORABLE BENJAMIN HOVLAND

Mr. Hovland. Good afternoon. Thank you, Chairwoman Fudge and members of the Subcommittee. I appreciate this opportunity to testify before you today regarding the U.S. Election Assistance Commission's ongoing work in this important issue.

Combating misinformation and disinformation was one of the expected issues of the 2020 election, and the COVID–19 pandemic has only exacerbated the risk.
Following the 2016 foreign interference in our elections, there has been an increased focus and dedication to the security of our elections. The Department of Homeland Security’s designation of election infrastructure as critical infrastructure has helped to fortify and coordinate efforts between Federal, State, and local government agencies, as well as with private industry. This has led to a sea change in information-sharing and, coupled with the Help America Vote Act grant funding, has greatly improved the security posture of our elections.

While that commitment to securing our elections has continued, it is impossible to discuss the 2020 election without acknowledging the impact of the COVID–19 pandemic.

Since March, amid the ongoing debates about the health of our communities and our economy, election administrators have faced the difficult task of determining how to best adapt their practices and procedures to conduct safe, secure, accessible, and accurate elections.

At the EAC, we have pivoted substantially to focus our attention on how we can support State and local election officials as they make these tough decisions. The EAC has also distributed almost $1.2 billion in grant funding to the States since 2018. This includes $400 million from the recent CARES Act funds and additional election security funds authorized under HAVA. These resources have proven vital to improving election administration and addressing the COVID–19-related issues.

Election administrators have really risen to the challenge during these difficult times, but the public servants who administer elections can only do their best when it comes to limiting the impact of widespread misinformation and disinformation about our elections.

Political campaigns and interest groups are spending billions of dollars to influence Americans. Foreign adversaries are amplifying our divisions and mimicking traditional voter-suppression tactics to dissuade participation or provide inaccurate information about how voters can participate.

In the face of that, Americans must come together to protect our Nation, the electoral process, and voter confidence. Those who can should help encourage Americans’ confidence in our electoral process by highlighting the great work of our election administrators.

Additionally, supporting efforts like the National Association of Secretaries of State-driven #TrustedInfo2020 campaign are an integral part of ensuring Americans get the right information on how to participate this year.

Today, we are 28 days from election day. As Chairperson Fudge mentioned, military and overseas citizen, or UOCAVA, ballots have been sent out all across the country and around the world. A number of States have already begun early voting, and some registration deadlines have already passed.

The most important things we can focus on at this point are the basics: serving voters well and helping them to have a positive experience, whether they vote by mail or absentee ballot, early in person, or on election day.

Misinformation or disinformation can interfere with that. We must push back, not only against this intentionally misleading
disinformation, but also misinformation that may be well-intentioned or appropriate for citizens in one State or jurisdiction but not another. In the D.C. area, for example, voters are registered in one of two States or the District. And, of course, social media does not stop at the State line.

The reality is, the 50 States each run elections in their own unique way. The #TrustedInfo2020 effort that I mentioned earlier is about helping Americans get accurate information about election administration from their State and local election officials. This is the trusted source for each voter, which provides correct information on how to participate.

With all the noise that surrounds this election, it is crucial that we encourage individuals to think through how they plan to vote and drive them to trusted source information. Most Americans have the option to vote by mail or absentee ballot, early in person, or on election day.

We know from the Centers for Disease Control that limiting congestion in the polling places will help keep voting as safe as possible. Helping Americans get accurate information about their voting options and how they can participate this year ensures that voters have the opportunities to vote on or before election day.

Thank you again for the opportunity to testify today, and I look forward to your questions.

[The statement of Mr. Hovland follows:]
Good afternoon Chairperson Fudge, Ranking Member Davis, and members of the committee. I appreciate the opportunity to testify before you today regarding the U.S. Election Assistance Commission’s ongoing work and this important issue. Combatting misinformation and disinformation was one of the expected issues of the 2020 election and the COVID-19 pandemic has only exacerbated the risk.

Following the 2016 foreign interference in our elections, there has been an increased focus and dedication to the security of our elections. The Department of Homeland Security’s designation of election infrastructure as critical infrastructure has helped to fortify and coordinate efforts between federal, state and local government agencies, as well as with industry. This has led to a sea change in information sharing, and coupled with Help America Vote Act (HAVA) grant funding, has greatly improved the security posture of our elections. While that commitment to securing our elections has continued, it is impossible to discuss the 2020 election without acknowledging the impact of the COVID-19 pandemic.

Since March, amid the ongoing debates about the health of our communities and our economy, election administrators have faced the difficult task of determining how to best adapt their practices and procedures to conduct safe, secure, accessible and accurate elections. At the EAC, we have pivoted substantially to focus our attention on how we can support state and local election officials as they make these tough decisions. The EAC has also distributed almost $1.2 billion in grant funding to states since 2018, including $400 million in recent CARES Act funds and additional election security funds authorized under HAVA. These revenue sources have proven vital to improving election administration and addressing COVID-19 related issues.

The EAC is working tirelessly to meet the wide-ranging needs of both election officials and voters during this crisis. The increase in the EAC Fiscal Year 2020 budget has allowed us to bolster existing programs and develop new services, such as a cybersecurity division and hiring of more than 20 experienced staff. Through developing guidance, conducting public forums, and collaborating with federal partners, we continue to assist state and local officials to help America vote safely.
Election administrators have risen to the challenge during these difficult times. The public servants that administer elections can only do their best when it comes to limiting the impact of widespread misinformation and disinformation about our elections. Political campaigns and interest groups are spending billions of dollars to influence Americans. Foreign adversaries are amplifying our divisions and mimicking traditional voter suppression tactics to dissuade participation or provide inaccurate information about how voters can participate.

In the face of that, Americans must come together to protect our nation, the electoral process, and voter confidence. Those who can should help encourage Americans’ confidence in our electoral process by highlighting the great work of our election officials. Additionally, supporting efforts like the National Association of Secretaries of State driven #TrustedInfo2020 campaign are an integral part of ensuring Americans get the right information on how to participate this year.

Today, we are 28 days from Election Day. Military and overseas citizen (UOCAVA) ballots have been sent out across the country and around the world. A number of states have begun early voting, and some registration deadlines have already passed.

The most important things we can focus on at this point are the basics – serving voters well and helping them to have a positive experience whether they vote by mail or absentee ballot, early in-person or on Election Day. Misinformation or disinformation can interfere with that.

We must push back not only against this intentionally misleading disinformation, but also misinformation that may be well-intended or appropriate for citizens in one state or jurisdiction, but not another. In the DC area, for example, voters are registered in one of two states or the District. Of course social media does not stop at the state line.

The reality is, the 50 states each run elections in their own unique way. The #TrustedInfo2020 effort, that I mentioned earlier, is about helping Americans get accurate information about election administration from their state and local election officials. This is the trusted source for each voter, which provides the correct information on how to participate.

With all of the noise that surrounds this election, it is crucial that we encourage individuals to think through how they plan to vote and drive them to trusted source information. Most Americans have the option to vote by mail, or absentee ballot, early in-person, or on Election Day. We know from the Centers for Disease Control that limiting congestion in polling places will help keep voting as safe as possible. Helping Americans get accurate information about their voting options and how they can participate this year ensures that voters have opportunities to vote on or before Election Day.

Thank you again for the opportunity to testify today and I look forward to your questions.
Chairwoman FUDGE. Thank you very much, Commissioner, and appreciate your testimony.
We will now hear from Secretary of State Griswold.
You are now recognized for five minutes.

STATEMENT OF THE HONORABLE JENA GRISWOLD

Ms. GRISWOLD. Chairperson Fudge and Subcommittee members, thank you for your work on elections and for inviting me to this important hearing. My name is Jena Griswold, and I am Colorado's Secretary of State. I look forward to sharing my views on combating misinformation in the 2020 election.

As Colorado's top election official, I believe election security is one of our greatest national security risks. If foreign countries interfere with our elections, it undermines faith in the entire electoral process. When voters doubt the process, they are less likely to participate, which weakens the very nature of our democracy.

Today, I would like to briefly discuss the threats we are facing, what we are doing to combat them, and proposals for congressional action.

Now, the intelligence community and bipartisan Senate Select Committee on Intelligence concluded that Russia interfered in the 2016 election. We know that foreign enemies, primarily Russia, are again trying to influence how we vote and undermine confidence in our elections based on reports from the ODNI. And the FBI and CISA just released the most pointed warnings to date, noting foreign actors may try to undermine confidence in the results.

Foreign adversaries are right now, right this minute, meddling in our elections. We cannot allow this to continually happen.

In response, to ensure Colorado remains at the forefront of election preparedness and that Coloradans remain confident in our process, I created the Rapid Response Election Security Cyber Unit, known as RESCU, to combat misinformation and emerging cyber threats.

The RESCU team is coordinating with partners to increase resilience to foreign misinformation on the electoral process by implementing a public outreach effort to ensure Coloradans know to ignore the noise and seek reliable election information, ensuring my office can rapidly respond to misinformation on the electoral process by releasing accurate information, and ensuring county and nongovernmental partners work with us to roll out correct information. We are also working with DHS and the FBI on additional measures.

Following the election, the team will shift towards further increasing our cybersecurity defenses and resilience to foreign interference. The team will stand up a cross-State initiative to advance legislative and policy initiatives to counter foreign misinformation.

On this note, last winter, before COVID–19 shut down our State legislature, I proposed legislation to combat foreign disinformation in Colorado. The proposal, which I hope will become law, strengthens requirements to ensure paid election messages are not coming from foreign sources, stops campaign deepfake videos, prohibits campaigns from coordinating with foreign governments, and creates a private right of action to combat election misinformation close to the election.
We must ensure that foreign countries do not use social media platforms as a tool to suppress Americans’ votes. Colorado is leading on this, and our democracy demands it.

Congress also has an important role to play, from legislation, appropriations, and warnings to the public about foreign adversaries’ efforts. To tackle election misinformation, I recommend the following congressional actions:

First, Congress should establish a commission with bipartisan representatives from State governments to develop recommendations to ensure that what happened in 2016 and is happening right now never happens again.

Second, Congress should provide adequate funding to States for election cybersecurity, with a focus on increasing resilience to foreign misinformation.

Third, Congress should require the intelligence community to rapidly declassify foreign misinformation and work with bipartisan representatives from State and Federal Government to roll out this information to the American public.

And, fourth, Congress should consider legislation, like we are doing in Colorado, to combat deepfakes, election misinformation, and foreign coordination.

To this end, I also call on Congress to act to remove the artificial protections afforded to social media companies by Section 230 of the 1996 Communications Decency Act. Social media companies are not neutral platforms, and third-party content posted on their sites can promote ill-intentioned foreign activity. They should no longer be shielded from accountability. While social media can be a tool for good, adversaries can also use it to their advantage with precision never seen before.

In closing, I am grateful for this opportunity to testify today. I am optimistic that, with your leadership and partnership, we can counter foreign misinformation and ensure that every American has a democracy we can believe in.

Thank you.

[The statement of Ms. Griswold follows:]
Jena Griswold  
Colorado Secretary of State  
Before the Subcommittee on Elections  
Committee on House Administration  
United States House of Representatives  
“Voting Rights and Election Administration: Combatting Misinformation in the 2020 Election”  
October 6, 2020

Chairman Fudge, Ranking Member Davis, and members of the Subcommittee, thank you for your work on elections issues and for inviting me to this important hearing. My name is Jena Griswold and I am Colorado’s Secretary of State. I am responsible for overseeing and ensuring the integrity of our elections. I look forward to sharing my views on combating misinformation in the 2020 election.

As Colorado’s top election official, it is my view that election security is one of our most significant national security issues. If foreign countries are able to interfere in our elections, it undermines faith in the entire electoral process. When voters doubt the process, they are less likely to participate, which weakens the very nature of our democracy. The biggest threat facing our democracy right now is Americans losing faith that it works.

Today, I would like to briefly discuss:

- The threats we are facing;
- What we are doing to combat them; and
- Proposals for Congressional action.

**Threat**

The Intelligence Community and bipartisan Senate Select Committee on Intelligence concluded that Russia interfered in the 2016 election. We know that foreign enemies, primarily Russia, are at it again, trying to influence how we vote and attempting to undermine confidence in our elections, based on reports from the Office of the Director of National Intelligence.

Just last week, the Federal Bureau of Investigation and the Cybersecurity and Infrastructure Security Agency provided the most pointed warnings to date, noting foreign actors may try to undermine confidence in election results by:

- Spreading disinformation about the hacking and leaking of U.S. voter registration data;
- Creating fake websites to post fake election results; and
- Altering existing, legitimate websites with false information or results
Foreign adversaries are right now, right this minute, meddling in our elections. We cannot allow this to continually happen.

**Response**

In response, to ensure Colorado’s election system remains secure and all Coloradans retain confidence in our process, I created the Rapid Response Election Security Cyber Unit, known as RESCU, to help combat disinformation and emerging cyber threats.

Academic studies and our allies’ experiences demonstrate that mitigating foreign misinformation and disinformation requires ensuring citizens are aware of the threat, think critically about what they see on social media, and know where to find reliable information. That requires working with a range of partners in and outside of government.

As a result, the RESCU team is coordinating with partners across Colorado, increasing resilience to foreign mis and disinformation on the electoral process by:

- Implementing a public outreach effort to ensure Coloradans know to “ignore the noise” and seek reliable electoral process information from trusted sources;
- Ensuring my office can rapidly respond to foreign mis and disinformation on the electoral process by releasing accurate information; and
- Ensuring county and non-governmental partner share concerns information, and take steps to ensure Coloradans are equipped to correct information.

We are also working with other governmental partners such as the Department of Homeland Security and the Federal Bureau of Investigation on additional measures.

Following the election, the team will shift toward efforts to further increase our cybersecurity defenses. The team will also continue to increase our resilience to foreign influence and will stand up a cross-state initiative to advance legislative and policy initiatives to counter foreign mis and disinformation.

On this note, last winter, before COVID-19 shut down our state legislature, I proposed a legislative package designed to combat foreign disinformation in Colorado. The proposed legislative package, which I hope will be introduced:

- Strengthens requirements to ensure paid election messages are not coming from foreign sources;
- Stops campaign deep fake videos;
- Prohibits campaigns from coordinating with foreign governments; and
- Creates a private right of action to combat election disinformation close to the election.

We must ensure that foreign countries do not use social media platforms as a tool to perpetuate public falsehoods about candidates and elections in an attempt to suppress Americans’ votes. We must stop this fraud on the electorate; we must stop those who are trying to steal or suppress votes through increasingly sophisticated technology. Colorado is prepared to lead on this. Our democracy demands it.
Proposals

Enhancing election security requires working with key partners on a broad range of tools.

Congress has an important role to play, from overseeing law enforcement investigations to legislation, regulation, and warning the public about foreign adversaries' efforts. These actions are critical. State, local, and civil society partners must also play an important role.

To tackle this threat, I recommend the following congressional action:

1. Congress should establish a commission with bipartisan representatives from state governments to develop recommendations to ensure that what happened in 2016 - and is happening now - never happens again.

2. Congress should provide adequate funding to states for election cybersecurity, election emergency and counterterrorism response, and other security-related programs, with a goal of increasing resilience to foreign misinformation and disinformation.

3. Congress should require the intelligence community to rapidly declassify foreign misinformation and disinformation, and form a committee with bipartisan representatives from state and federal government tasked with providing recommendations on the best process to roll out this information to the American public. Our allies' experiences and academic studies show that "shedding light" on foreign misinformation is critical to countering it.

4. Congress should consider legislation, like we are doing in Colorado, to combat deep fakes, election misinformation, and foreign coordination. To this end, I also call on Congress to act to remove the artificial protections afforded to social media companies by Section 230 of the 1996 Communications Decency Act. Social media companies are not neutral platforms and third-party content posted on their sites can promote ill-intentioned foreign activity. They should no longer be shielded from accountability. While social media can be a tool for good, adversaries can also use it to their advantage with precision never seen before.

Closing

I am grateful for the opportunity to testify today.

I am optimistic that with your leadership and partnership, we can counter foreign misinformation and disinformation and ensure that every American is confident that their voice will be heard.

Thank you. I look forward to your questions.
Chairwoman FUDGE. Thank you.
Attorney Davis Chappell, you are recognized for five minutes.

STATEMENT OF INAJO DAVIS CHAPPELL

Ms. DAVIS CHAPPELL. Thank you to the Chair, Honorable Marcia Fudge, and to the other distinguished members of the United States House of Representatives on this Subcommittee. I appreciate the opportunity to speak.

In the 13 years I have served on the Cuyahoga County Ohio Board of Elections, including the last three Presidential elections, I have never witnessed the kinds of falsehoods being disseminated about the integrity of our elections process that I have been seeing in this Presidential cycle.

The lie that there is rampant voting fraud has been tamped down somewhat, but the campaign to discredit the integrity of our elections process is on the upswing, and it is shameful.

The latest untruths being circulated in this election cycle, around vote-by-mail being fraught with problems, have not diminished the numbers of voters requesting vote-by-mail ballots. It is a bona fide election fact that voters in Cuyahoga County, Ohio, have been voting by mail successfully since 2006.

Our Ohio Secretary of State, Frank LaRose, has published a number of materials this year highlighting the goals and tactics of the mis/disinformation campaigns we are seeing. These campaigns are, quote, picking divisive issues such as race, religion, and gender; planting fake news; amplifying messages via extreme fringe groups; organizing protests and so forth; using internet and social media to launch mass influence campaigns with a goal of subversion, civil unrest, and the creation of public discord. The campaigns are exploiting grievances, building distrust and cynicism, and ultimately discouraging voter participation.

Our Secretary has noted that there are a number of foreign bad actors—Russia, North Korea, China, Venezuela—engaging in this campaign. Sadly, however, much of this misinformation is being promoted by President Trump, the White House, and other domestic bad actors who have unfairly demonized the vote-by-mail process and, in the process, undermined public confidence.

As elections officials, we are committed to correcting misinformation and disinformation as best we can and in a number of ways. In response to the fabrications around the vote-by-mail process, the Cuyahoga County Board of Elections began implementing a new initiative to encourage voters to vote by mail to maximize their safety in this pandemic, and that initiative is called “Vote from Home.”

We are also trying to separate fact from fiction by delivering counter-messages showing that vote-by-mail is safe and secure. We rolled out voting myth-buster messages to debunk voting myths with real facts. And the myth-buster messages are posted on social media to speak to a variety of topics geared to giving voters accurate information about elections and the voting process. Samples of those messages were included with my written testimony.

Our Board of Elections has also ramped up efforts to connect with voter education and community outreach as a way to combat misinformation and disinformation efforts. We communicate regu-
larly with over 300 community partners, including municipalities, nonprofit organizations, and our library systems.

Although we only have three employees in our community outreach department, these individuals organize and present events that educate and engage voters. We have a robust website that provides information on all things voting, and we have vastly improved our social media presence on Facebook, Twitter, and LinkedIn. We are working to expand those capabilities.

One new program we are proud to implement is a voter engagement session held by a bipartisan team consisting of our Board of Elections director and deputy director on Facebook Live. The session is held twice a week at noon for 10 or 15 minutes to provide information and updates on the 2020 election, to address relevant deadlines, to answer questions and address erroneous information brought to our attention.

We post pertinent information on all social media outlets weekly and more often if we need to. And all of this is an effort to counter inaccurate and dangerous disinformation messaging being circulated in both traditional media as well as social media.

We have been thinking about ways Congress might help to help boards of elections combat misinformation. Additional funding to allow for more robust community outreach and voter education programming, hiring of additional staff to work with voters, and earmarking of dollars for improving social media capabilities would be welcome.

I am really hopeful the information that I shared with you today will help you as you consider ways to stop election misinformation and to restore voter confidence in our elections process.

Thank you for the opportunity to speak to you today. And it is appropriate that we are having this hearing on Voter Education Week, and I am pleased to be here to share. And I would be happy to answer any questions you have.

Thank you.

[The statement of Ms. Davis Chappell follows:]
To: Subcommittee on Elections of the Committee on House Administration

From: Inajo Davis Chappell, Esq.

Date: October 6, 2020

Re: Written Testimony on Challenges in Election Administration - Separating Fact from Fiction – Hearing on “Voting Rights and Election Administration: Combatting Misinformation in the 2020 Election”

Thank you to the Honorable Marcia L. Fudge, Chairperson of the Subcommittee on Elections, for the invitation and opportunity to testify today. Thanks also to the other distinguished Members of the United States House of Representatives who are present.

I am currently a member of the Cuyahoga County Board of Elections, where I have had the privilege of serving as a board member for 13 years, and for 6 of those years as immediate past board chair. I am also a former member and chair of the Ohio Board of Voting Machine Examiners. My testimony and comments today reflect my personal opinion and viewpoint. I am not here in any representative or official capacity as a member of the Cuyahoga County Board of Elections. I am a nongovernmental witness and, although I do not speak here today either for the Cuyahoga County Board of Elections or my fellow board members, my thoughts, conclusions and statements are informed by my experiences in election administration as a member of the Cuyahoga County Board of Elections and as an active voter in Ohio.

In the 13 years I have worked in elections administration (including 3 prior Presidential elections), I have never witnessed the kinds of falsehoods being disseminated about the integrity of our elections process that we are seeing this Presidential Election cycle. The lie that there is rampant voting fraud has been tamped down somewhat, as there has been no such evidence of voting fraud in our county—the largest voting district in Ohio with more than 850,000 registered voters. But, the campaign to discredit the integrity of our elections process is on the upswing, and it is shameful.

Despite our best efforts as elections officials to separate fact from fiction about voting and the elections administration process, we continue to hear statements that “the system is rigged,” and voting by mail is corrupt with great potential for voter fraud. But the latest untruths being circulated in this election cycle around vote by mail being fraught with problems have not diminished the numbers of voters requesting vote by mail ballots. By the end of September, 2020, our Board of Elections has seen almost 3 times the number of vote by mail ballots requested, as compared to the numbers in September, 2016. I attribute the surge in vote by mail requests to the unprecedented pandemic, and to the fact that this 2020 election is, arguably, the most significant Presidential Election in our lifetimes. It is a bona fide election fact that voters in Cuyahoga County, Ohio have been voting by mail successfully since 2006.

Notably, in June, 2020, Ohio Secretary of State Frank LaRose hosted a Webinar for elections officials that focused on Mis/Disinformation. He has also published both a video and 2-page Disinformation Overview in recognition of the severity of the elections misinformation problem.
These materials highlight the goals of a misinformation campaign and describe the focus of such campaigns as "picking divisive issues" (such as race, religion and gender), "planting fake news" along with "amplifying messages via extreme fringe groups," "organizing protests to incite disarray," "using internet and social media to launch mass influence campaigns" with the goal of subversion, civil unrest and the creation of public discord. The Ohio Secretary of State’s informational materials further point out that minority groups are targeted by these disinformation/misinformation campaigns to “exploit grievances,” “build distrust and cynicism toward the voting process,” and “discourage voter participation.” Finally, our Ohio Chief Elections Officer further correctly identifies foreign bad actors such as Russia, North Korea, China, and Venezuela, who are engaging in these disinformation campaigns.

Unfortunately, the misinformation and disinformation campaigns aimed to confuse and scare voters are also being accomplished by domestic bad actors. Much of the disinformation is actually, and sadly, being promoted by President Trump and the White House. President Trump and other domestic bad actors have unfairly demonized the vote by mail process and undermined public confidence in the manner in which vote by mail ballots are requested, issued, mailed, and returned for processing and tabulation. Voting by Mail is safe, and messaging to the contrary needs to stop. Election disinformation is all propaganda no matter its origin. Its purpose is also clear — disruption of the 2020 Presidential Election; erosion of public trust, voter confidence, and our democracy. Action must be taken to dismantle these disinformation campaigns and to assist boards of elections in fighting with counter messaging.

As elections officials, we are committed to correcting misinformation and disinformation as best we can and in a number of ways.

First, in response to the fabrications around the vote by mail process, we began and are implementing a new initiative to encourage voters to vote by mail to maximize voter safety. To that end, we have rolled out a “Vote from Home” program. I have submitted several pictures with my testimony that show the manner in which the Cuyahoga County Board of Elections is trying to separate fact from fiction; to show that voting by mail is safe and secure, despite recent public statements being made to discredit and undermine this method of voting. These pictures of our Myth Buster messages posted on social media speak to a variety of topics and are geared to give voters accurate information about elections and the voting process. All local boards of elections should be funded sufficiently to create messaging to counter disinformation activities.

Voter education and community outreach are critical in improving voter confidence and engagement. Our Board of Elections has ramped up efforts to connect with voters as way to combat misinformation and disinformation efforts. We communicate regularly with over 300 community partners, including municipalities, non-profit organizations, and our library systems. Although we have only 3 employees in our Community Outreach Department, these individuals organize and present at events that educate and engage voters. Despite the pandemic, our staff has conducted more than 221 events so far this year.

It is important to increase staffing and the number of these events so that voters are able to receive accurate information on voter deadlines, vote by mail, early voting, and the like. 3 staff members for 850,000 registered voters is hardly enough and I am certain all local boards of elections and
the voters they serve would benefit from additional resources to address the problem of election disinformation.

In addition to community outreach, our Cuyahoga County Board of Elections has a robust website that provides information on all-things-voting. We have vastly improved our social media presence and are working to expand these capabilities. We are currently active with Facebook, Twitter, and LinkedIn and are working to set up Instagram. Our Board of Elections utilizes the program “Hootsuite” -- a social media management platform—that gives us a kind of dashboard, and supports social network integrations for Twitter, Facebook, Instagram, LinkedIn and YouTube. Because of the privacy settings on many programs, we are not always able to identify every negative or false comment made regarding elections and voting but, if we are tagged in any of the applications, we can and do quickly respond. We have a dedicated staff member, who monitors all of the social media applications and handles posting to the various sites.

One new program we were proud to implement is a voter engagement session held by a bipartisan team, consisting of our Board of Elections Director and Deputy Director on Facebook Live. The session is held 10-15 minutes every Wednesday and Friday at 12 Noon to provide information and updates on the 2020 Election; i.e. relevant deadlines, answering questions, addressing any erroneous information brought to our attention. We post pertinent information on all social media outlets weekly (and more often, if necessary); all in an effort to counter the inaccurate and dangerous disinformation messaging being circulated in both traditional and social media.

In thinking about ways that Congress might act to improve elections administration and help local boards of elections combat misinformation, I would suggest that additional funding be authorized to allow for more robust community outreach and voter education programming, hiring of additional staff to work with voters, and earmarking of dollars for improving social media capabilities of local boards of elections.

In conclusion, thank you for convening this hearing and for allowing me this opportunity to testify. I appreciate the time you have given me to speak about ways we are trying to combat election misinformation/disinformation campaigns in Cuyahoga County, Ohio. I am hopeful the information I shared with you today will be helpful as you consider ways to stop election misinformation and to restore voter confidence in the elections process.
Chairwoman FUDGE. Thank you.
And let me just say that, this morning, a couple of members of my staff happened to be down by the Board of Elections and took videos of people lined up all the way around the block on the very first day of in-person voting.
President of the Joint Center, Attorney Spencer Overton, you are recognized for five minutes.

STATEMENT OF SPENCER OVERTON

Mr. OVERTON. Chairwoman Fudge and Subcommittee members, thank you so much for inviting me to testify.

My name is Spencer Overton. I am president of the Joint Center for Political and Economic Studies, which is America’s Black think tank. I am also a tenured law professor at George Washington University, where my research focuses on voter suppression.

Online disinformation is not simply dividing our Nation; foreign and domestic actors are using lies to specifically target and suppress Black votes right now. Just like wood and wind spread a wildfire, social media platforms are fueling the spread of lies that are undermining our democracy.

This crisis is not hypothetical. In 2016, an organization associated with Russian military intelligence erected fake accounts pretending to be African Americans, and they urged Black people to protest by not voting. The Russians directed 38 percent of their U.S. Facebook ad buys toward African Americans, even though Black folks are only 13 percent of the U.S. population.
Also in 2016, the Trump campaign divided millions of Americans into several categories, including a category the campaign itself called “Deterrence,” right? The campaign micro-targeted “Deterrence” voters with tailored social media ads discouraging them from voting.
Black voters were disproportionately singled out. For example, although African Americans account for only 22 percent of North Carolina’s population, they were 46 percent of the North Carolina voters labeled as “Deterrence.” Overall, the Trump campaign labeled 3.5 million Black voters for “Deterrence.”

The 2016 Presidential election marked the most significant decline in Black voter turnout in modern history.

And with that record, it is no surprise that these efforts are continuing in 2020. During the Democratic Presidential primary, the Russians targeted Black users with online disinformation about Senator Kamala Harris. In March 2020, Facebook and Twitter acknowledged that they removed a network of Russian-backed accounts originating in Ghana and Nigeria that targeted Black communities in the U.S.

And, just last month, the Department of Homeland Security revealed that Russia is attempting to promote false statements online that mail-in ballots are riddled with fraud. When some social media companies started to remove these lies, the Trump administration retaliated by issuing an executive order attempting to amend Section 230 of the Communications Decency Act.
You will remember that Section 230 gives a social media company the power to remove disinformation that is obscene, excessively violent, or otherwise objectionable without the risk of legal...
liability. The Trump administration proposal would preserve the power of platforms to remove obscene and excessively violent content but would eliminate their power to remove other objectionable content, like election disinformation.

If the Trump proposals were adopted, companies could risk legal liability for removing ads targeted at Black users, telling them lies like you can’t vote if someone in your household has committed a crime.

The private companies removing lies about our elections does not stifle free speech. This elevates civil rights in our democracy. Many of these platforms are not simply unmoderated community billboards, but instead they use carefully crafted algorithms to grab the users' attention and to maximize ad revenue. Just as the companies remove adult pornography without violating speech, they should remove false voting information.

Many of the world’s most profitable companies should not profit from discrimination against many of our most marginalized communities. Even though Mark Zuckerberg said, “Voting is voice, and it is the single most powerful expression of democracy,” he and other tech companies must take bolder action to end voter suppression.

So, while the Russians and the Trump campaign buy misleading ads targeted at Black voters to persuade them not to vote, the Trump administration pushes to rewrite Federal law so the platforms can’t remove disinformation about elections. We need companies to unequivocally stand up and remove all disinformation to prevent a repeat of 2016.

Now, I want to be clear: Online platforms have made progress, but they need to do much more. I look forward to talking about that in Q&A.

We have less than a month to work together to prevent the burning of our democracy. We need all hands on the bucket line.

Thank you, and I look forward to our discussion.

[The statement of Mr. Overton follows:]
TESTIMONY OF SPENCER OVERTON
President, Joint Center for Political and Economic Studies
Professor of Law, George Washington Law School

Before the
Subcommittee on Elections
House Administration Committee
U.S. House of Representatives

Hearing on
“Voting Rights and Election Administration:
Combating Misinformation in the 2020 Election”

October 6, 2020*

Overview

Inauthentic social media accounts, targeted digital advertising, and election misinformation do not
just “polarize” the American electorate or facilitate “foreign interference” with U.S. elections.
These tactics—utilized by both foreign and domestic actors—also target and suppress Black votes.

For example, while African Americans made up just 12.7 percent of the United States population,
in 2016 Black audiences accounted for over 38 percent of U.S.-focused Facebook ads purchased
by the Russian Internet Research Agency and almost half of the user clicks. The Russian social
media accounts generally built a following by posing as being African American-operated and by
paying for ads that social media companies distributed largely to Black users. Near Election Day,
the accounts urged African Americans to “boycott the election.”

Another example—in September 2020 British investigative journalists reported that the 2016
Trump campaign disproportionately categorized African Americans as voters who should be
couraged not to vote with tailored and microtargeted social media ads—a category the Trump
campaign labelled as “Deterrence.” For example, African Americans accounted for 15% of
Michigan’s population but 33% of the voters in Michigan that the Trump campaign labelled
“Deterrence.” African Americans represented 22% of North Carolina’s population, but 46% of
the voters in the state that the Trump campaign affixed with the label “Deterrence.” Overall, 3.5
million African Americans were categorized by the Trump campaign as “Deterrence.”

* Exchanges with Matthew Berzok, Danielle Citron, Yosef Getachew, Larry Norden, Dan Tokaji, David Toomey,
Ian Vandewater, and Paul Waters helped develop the ideas in this written testimony. Sheya Jabouin provided
invaluable research assistance.
Disinformation targeted at Black voters on social media platforms has continued in the 2020 cycle. During the Democratic presidential primary, the Russian Internet Agency targeted African American users with an attack on Senator Kamala Harris. In March 2020, Facebook and Twitter acknowledged that they removed a network of Russian-backed accounts that originated in Ghana and Nigeria that targeted Black communities in the U.S. In September 2020, the Department of Homeland Security indicated that Russia is attempting to “undermine public trust in the electoral process” by promoting false statements online that “mail in ballots are riddled with fraud and susceptible to manipulation” and “voters would not receive their mail ballot in time to cast their vote.” The Russian proxy sites “highlighted reduced in-person polling places in large cities due to the pandemic and the long lines this caused,” and claimed this combination would “disproportionately suppress voting among African-Americans and expose them to the spread of COVID-19.” Russian intelligence agencies are also “amplifying misleading statements from President Trump, mostly about the dangers of mail-in ballots,” by promoting screenshots of his Twitter posts or quoting and amplifying his misleading messages.

Of late, the Trump Administration has issued an executive order, proposed federal legislation, and petitioned the Federal Communications Commission in an attempt to narrowly construe Section 230 of the Communications Decency Act to expose social media companies to the risk of legal liability in retaliation for companies moderating objectionable content by President Trump and his followers. These retaliatory threats deter social media platforms from removing disinformation and only amplify the ongoing targeted discrimination against Black voters.

While the Trump Administration claims content moderation by private social media companies stifles free speech, the First Amendment was supposed to be a check against government—not against private entities. As non-state actors, social media companies currently have the freedom and crucially the power to prevent disinformation that results in voter suppression. In short, the Trump Administration is seeking to use the power of the U.S. government to increase the false and misleading social media posts that lead to an increase in voter suppression and polarization. While the status quo is alarming, empowering the Trump Administration to punish companies for removing disinformation, deceptive information about voting practices, discriminatory tactics, and other objectionable content would be an unacceptable attack on our democracy.

Social media companies that purport to “advance free speech” by allowing disinformation that suppresses votes willfully ignore the effect of their policies on Black communities. While many of these companies would have you believe they are simply offering an online version of “Speaker’s Corner,” they are not non-profit organizations designed exclusively to promote citizen discourse. They are, in fact, some of the world’s most profitable companies that earn their revenues based on advertisers’ engagement with viewers. Far from being unmoderated venues where citizens express their ideas, these platforms are highly structured entities that seek to optimize the number of ads viewers consume so they can increase revenue.

To treat discriminatory ad distribution designed to enhance corporate profits that steers voter suppression ads toward Black communities as “neutral” ignores the non-neutral harms and disparities that result from the content moderation standards of the platforms. It is not “neutral” for the world’s most valuable companies to impose the costs of discrimination onto many of the
nation's most economically and politically marginalized communities for their own financial gain. Platforms should not treat as "neutral" content that has a non-neutral impact.

While online platforms have made progress since 2016 in preventing disinformation, they must do much more. While the companies may claim they were caught unaware of the magnitude of the impact of the voter suppression schemes on Black communities in the 2016 election, they cannot be allowed to make the same mistakes in 2020. Many companies need a more robust definition of voter suppression, and need to enforce standard content rules against politicians (politicians can currently post or buy ads on Facebook that spread disinformation and racial division).

Also, less than a month before Election Day—as many Americans have already started to vote—the American public has no real knowledge about the enforcement of the disinformation policies adopted by companies or their effectiveness. We lack a full understanding of the true foreign and domestic disinformation threats before us. Currently, the public generally receives information from a company only when the company decides to respond to the publication of data from independent investigations by journalists and researchers.

A 28-year-old Abraham Lincoln stated his address “The Perpetuation of Our Political Institutions” before an audience in Springfield, Illinois:

> At what point shall we expect the approach of danger? By what means shall we fortify against it? Shall we expect some transatlantic military giant, to step the Ocean, and crush us at a blow? Never!—All the armies of Europe, Asia and Africa combined, with all the treasure of the earth (our own excepted) in their military chest; with a Buonaparte for a commander, could not by force, take a drink from the Ohio, or make a track on the Blue Ridge, in a trial of a thousand years.

> At what point then is the approach of danger to be expected? I answer, if it ever reach us, it must spring up amongst us. It cannot come from abroad. If destruction be our lot, we must ourselves be its author and finisher.\(^1\)

Lincoln could not foresee a world in which foreign actors could invade the United States not through military force, but through the Internet. We face a crisis where domestic and foreign actors enhance and foment existing internal divisions with the goal of destabilizing our democracy and our nation.

All Americans must oppose these attempts—but in addition to the companies—local, state, and federal officials have important roles to play to prevent disinformation. State and local election officials should develop and implement procedures to ensure the availability of accurate information. Congress should require regular briefings from intelligence officials about disinformation, and enact legislation to prevent deceptive practices and to explicitly deter platforms from targeting ads along racial lines in violation of federal and state civil rights laws.

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Part I of this written testimony details online disinformation used to target and suppress Black votes by foreign and domestic actors like the Russian Internet Research Agency and the 2016 Trump campaign. Part II describes disinformation targeted at Black voters in the 2020 election cycle. Part III explains how the Trump Administration’s attempts to rewrite Section 230 of the Communications Decency Act discourage social media companies from content moderation and facilitate online disinformation and voter suppression. Part IV asserts that social media platforms must do more to prevent disinformation during the 2020 election season, and it also summarizes recommendations for federal, state, and local officials.

I. Foreign and Domestic Actors Target Disinformation at Black Audiences Online to Suppress Votes

Both foreign and domestic actors—like the Russian Internet Research Agency and the Trump campaign—have used online disinformation to target and suppress Black votes.3

For example, on Election Day 2016, the operators of the Williams & Kalvin Facebook page—ostensibly two Black men from Atlanta who ran a popular Facebook page focused on Black media and culture—paid for and posted a Facebook ad. The ad proclaimed: “We don’t have any other choice this time but to boycott the election. This time we choose between two racists. No one represents Black people. Don’t go to vote.”4 (See Exhibit A below).

The creators of the Election Day ad discouraging Black voting selected as audiences the Facebook microtargeting advertising categories of users interested in “Martin Luther King, Jr.,” “African American Civil Rights Movement (1954-68)”; and “African American history or Malcolm X.”5 A video with the same message appeared on the Williams & Kalvin YouTube account and was also promoted on the Williams & Kalvin Twitter account.

After the November 2016 election, an investigation revealed that the Williams & Kalvin Facebook, Twitter, and YouTube accounts were fake accounts set up and operated by the Russian Internet Research Agency (the “Russian Agency”). The Williams & Kalvin Facebook page started operating at least as early as January 2016.6 Many of its posts showcased Black achievements,

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2 “Misinformation” is “false information that is spread, regardless of intent to mislead. . . .” Disinformation is “deliberately misleading or biased information; manipulated narrative or facts; propaganda. . . . disinformation is knowingly spreading misinformation.” “Misinformation” vs. “Disinformation”: Get Informed on the Difference, DICTIONARY.COM (last visited October 3, 2020).

3 REINER DIRLETA ET AL., THE TACTICS & TROPPES OF THE INTERNET RESEARCH AGENCY 12, 87-88 (2019). (“While other distinct ethnic and religious groups were the focus of one or two Facebook Pages or Instagram accounts, the Black community was targeted extensively with dozens . . . .”)


5 Id.

6 See Benjamin Fearnow, Williams & Kalvin, Pro-Trump Facebook Shills Reportedly Worked for Kremlin, Accounts Removing, INT'L BUS. TIMES (Oct. 10, 2017, 1:51 PM), (noting the “parscale” account for Kalvin Johnson last posted in 2015); Issie Lapowsky, House Democrats Release 3,500 Russia-Linked Facebook Ads, WIRED (May 10, 2018, 10:00 AM).
Black dignity, and other positive affirmations of Black community. Over time, regular posts on police violence, disproportionate levels of incarceration, disparate treatment in news media, and other structural inequalities had allowed Williams & Kalvin to establish a significant following among and credibility with Black users.

Fake social media accounts and targeted digital advertising did not just “polarize” the American electorate. They did not simply facilitate “foreign interference” with U.S. elections. These tactics also targeted and suppressed Black votes.

While African Americans make up just 12.7% of the U.S. population, 37.04% of the unique Facebook pages believed to be created by the Russian Agency were focused on Black audiences, and these pages attracted 35.72% of the followers of the pages created by the Russian Agency. Of the twenty U.S.-focused audience segments that the Russian Agency targeted on Facebook, just two segments — “African American Politics and Culture” and “Black Identity and Nationalism” — accounted for over 38% of the ads purchased, 46.96% of the user impressions, and 49.84% of the user clicks. The Russian Agency paid Facebook 1,350,489 rubles (about $20,257) for 1,087 different ads for these two Black audience segments. The ad campaign resulted in 15,815,597 user impressions (users seeing the ad) and 1,563,584 user clicks (users engaging with the ad).

Similar trends occurred on other platforms. Of all of the U.S.-focused Russian Agency-generated YouTube content, 96% was related to the Black Lives Matter movement and police brutality. The Russian Agency Instagram account with the most interactions was @blackstagram, with

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7 See Josh Russell (@josh_emerson), Twitter (Oct. 9, 2017, 7:36 AM), https://twitter.com/josh_emerson/status/917798476616653777 (initiating a Twitter thread of archived posts from disabled social media accounts of Williams & Kalvin).


9 Renee DiResta et al., The Tactics & Tropes of the Internet Research Agency 12, 87-88 (2019) (“While other distinct ethnic and religious groups were the focus of one or two Facebook Pages or Instagram accounts, the Black community was targeted extensively with dozens . . . .”).

10 See id. at 21 (calculating a total percentage of Black pages at 37.037%, based on numbers indicating that the “Facebook data provided posts from 81 unique pages” (the numerator) and that “[overall, 30 targeted Black audiences” (the denominator); ACS 2012-2017 Five Year Estimates, U.S. Census Bureau (2017), indicating a Black population in the United States of 12.7%); see also Philip N. Howard et al., Computational Propaganda Research Project, The IRA, Social Media and Political Polarization in the United States, 2012-2018, at 6 (indicating that Facebook provided data on 3,393 individual ads published from 2015-2017 that it believed originated from the Russian Agency to the U.S. Senate Select Committee on Intelligence, and the U.S. House Permanent Select Committee on Intelligence released details on 3,517 of such ads).

11 See Renee DiResta et al., The Tactics & Tropes of the Internet Research Agency, at 21 (“The Facebook data provided included posts from 81 unique Pages . . . . Overall, 30 targeted Black audiences and amassed 1,187,810 followers; 25 targeted the Right and amassed 1,446,588 followers, and 7 targeted the Left and amassed 689,045 followers. The remaining 19 were a sporadic collection of pages with almost no posts and approximately 2000 followers across them.”).

12 See Philip N. Howard et al., Computational Propaganda Research Project, The IRA, Social Media and Political Polarization in the United States, 2012-2018, at 23 tbl.4 (providing raw numbers of the twenty audience segments on Facebook targeted by the Russian Agency, including the two audience segments of “African American Politics and Culture” and “Black Identity and Nationalism”).

13 See id.

14 Renee DiResta et al., The Tactics & Tropes of the Internet Research Agency, at 16.
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While the Russian Agency also created pages and ads that were targeted at and delivered to conservative groups in the United States, those pages warned of voter fraud and encouraged audiences to vote. In contrast, the messages on Black-oriented pages either ignored the election, discouraged African Americans from voting, or encouraged African Americans to vote for a third-party candidate unlikely to win. Even though disinformation was targeted at different groups and the goal may have been to sow division, the impacts were divergent—the voices and votes of many groups were mobilized and encouraged to participate, whereas Black votes were suppressed.

Domestic political actors like the 2016 Trump campaign have also used the creation of psychological profiles on individual voters, microtargeting, and disinformation to discourage Black voters from casting ballots.

According to a datafile of over 200 million American voters used by the 2016 Trump campaign and the firm Cambridge Analytica recently obtained by British journalists, in 16 battleground states the Trump campaign separated millions of Americans into one of eight "audiences" for targeting of ads with distinct messages on platforms like Facebook (see Exhibit B). The groups

13Id at 27 (showing that the number one Russian Agency account in terms of interactions was @blackstagram__ , with 303,663 followers and over 28 million interactions (over 27.8 million likes and over 450,000 comments).  
14See PHILIP N. HOWARD ET AL., COMPUTATIONAL PROPAGANDA RESEARCH PROJECT, THE IRA, SOCIAL MEDIA AND POLITICAL POLARIZATION IN THE UNITED STATES, 2017-2018, at 26 ("[T]he IRA focused their political messaging on Twitter on two targets above others: conservative voters and African Americans.").  
15RENEE DIRESTA ET AL., THE TACTICS & TROPS OF THE INTERNET RESEARCH AGENCY, at 83 ("[T]he strategy for Right-leaning groups appears to have been to generate extreme anger and suspicion, in hopes that it would motivate people to vote; posts darkly hinted at . . . vote fraud."); YOUNG MIK.I, PROJECT DATA, UNCOVER: STRATEGIES AND TACTICS OF RUSSIAN INTERVENTION IN US ELECTIONS: RUSSIAN GROUPS INTERRUPED IN ELECTIONS WITH SOPHISTICATED DIGITAL CAMPAIGN STRATEGIES, at 8, 10 (indicating that the Russian Agency "deliberately targeted nonwhite voters, particularly African Americans, by promoting their racial/ethnic identity, then suppressing their votes when closer to the elections . . . No evidence suggested that the same type of voter suppression strategy was also employed on the other side of the political spectrum, however").  
16See RENEE DIRESTA ET AL., THE TACTICS & TROPS OF THE INTERNET RESEARCH AGENCY, at 83 ("The Black-targeted content . . . largely ignored the election until the last minute, instead continuing to produce posts on themes about societal alienation and police brutality. As the election became imminent, these themes were then tied into several varieties of voter suppression narratives: don’t vote, stay home, this country is not for Black people, these candidates don’t care about Black people."); PHILIP N. HOWARD ET AL., COMPUTATIONAL PROPAGANDA RESEARCH PROJECT, THE IRA, SOCIAL MEDIA AND POLITICAL POLARIZATION IN THE UNITED STATES, 2017-2018, at 18 ("Messaging to African Americans sought to divert their political energy away from established political institutions by preying on anger with structural inequalities faced by African Americans, including police violence, poverty, and disproportionate levels of incarceration. These campaigns pushed a message that the best way to advance the cause of the African American community was to boycott the election and focus on other issues instead . . . This accounts for the majority of content in the dataset that targeted this group.").  
included base voters for each candidate likely to turn out (Core Clinton, Core Trump), disengaged voters for each candidate (Disengaged Clinton, Disengaged Trump), voters who could be ignored because they were least likely to turn out (Deadbeat), persuadable swing voters (Persuasion), and Trump voters who needed encouragement to ensure they would turn out (GOTV).\textsuperscript{21}

The eighth group—Clinton voters who could discouraged from voting—was labelled “Deterrence.”\textsuperscript{22} A disproportionately large percentage of voters in the Deterrence category were Black. For example, African Americans were 32\% of Georgia’s population but 61\% of Georgia voters labelled Deterrence, 15\% of Michigan’s population but 33\% of the state’s voters labelled Deterrence, 22\% of North Carolina’s population but 46\% of the state’s “Deterrence” voters, and 5.4\% of Wisconsin’s population but 17\% of the state’s “Deterrence” voters.\textsuperscript{23} Overall, 3.5 million African Americans were categorized by the Trump campaign as Deterrence.\textsuperscript{24}

The Trump campaign spent over $44 million on Facebook ads alone between June and November 2016,\textsuperscript{25} and posted “six million different versions of highly targeted messages that were pumped directly into the feeds of target voters across America, helped by a Facebook employee embedded within the Trump campaign.”\textsuperscript{26} There is no public record of which ads the Trump campaign targeted at Black voters, and Facebook has not disclosed this information. According to the British journalists, Cambridge Analytica indicated in a confidential document the Trump campaign spent $55,000 on a Facebook ad targeted at African Americans in Georgia alone that had a video of Hillary Clinton appearing to label young Black men as “superpredators.”\textsuperscript{27}

The 2016 presidential election marked the most significant decline in Black voter turnout on record — falling from 66.6\% in 2012 to 59.6\% in 2016.\textsuperscript{28} Black turnout declined between 2012 and 2016 in most key swing states, including but not limited to Georgia (-4.2 points), Ohio (-7.5 points), Michigan (-12.4 points), North Carolina (-7.1 points), and Wisconsin (-12.3 points).\textsuperscript{29}

UK Channel 4 suggests a correlation between the number of voters marked “Deterrence” and the decline in Black turnout. For example, the investigation examined Ward 116 in Milwaukee, which

\textsuperscript{22} Revealed: Trump Campaign Strategy to Defer Millions of Black Americans from Voting in 2016. CHANNEL 4 NEWS UK (Sept. 28, 2020) (video, at 3:44).
\textsuperscript{23} Revealed: Trump Campaign Strategy to Defer Millions of Black Americans from Voting in 2016. CHANNEL 4 NEWS UK (Sept. 28, 2020) (landing page, as well as video 4:38-4:56).
\textsuperscript{24} Revealed: Trump Campaign Strategy to Defer Millions of Black Americans from Voting in 2016. CHANNEL 4 NEWS UK (Sept. 28, 2020).
\textsuperscript{25} Sarah Frier, Trump’s Campaign Said It Was Better at Facebook. Facebook Agreed. BLOOMBERG (Apr. 2, 2018, 3:22 PM EDT).
\textsuperscript{26} Revealed: Trump Campaign Strategy to Defer Millions of Black Americans from Voting in 2016. CHANNEL 4 NEWS UK (Sept. 28, 2020).
\textsuperscript{27} Revealed: Trump Campaign Strategy to Defer Millions of Black Americans from Voting in 2016. CHANNEL 4 NEWS UK (Sept. 28, 2020).
\textsuperscript{28} Jens Manuel Krogstad & Mark Hugo Lopez, Black Voter Turnout Fell in 2016, Even as a Record Number of Americans Cast Ballots. Pew Res. Ctr. (May 12, 2017).
had 1140 potential voters (80% of whom were African American). In Ward 116, 44% of the voters were marked as "Deterrence" (636 voters). Overall, turnout in Ward 116 fell from 75% in 2012 to just 56% in 2016. The investigation observed similar trends in many other wards. Political scientists, however, find it difficult to quantify the precise impact of voter deception through online targeted ads on election outcomes relative to other possible factors.

Today’s foreign and domestic coordinated digital voter suppression campaigns grow out of a history of continuously evolving tactics to suppress Black votes to maintain or acquire political power. Just as communications has evolved over time to embrace new technologies and social contexts, so has voter suppression. For example, following the 1870 ratification of the 15th Amendment prohibiting restrictions on the right to vote on account of race and the federal withdrawal of troops from the South, White Southern politicians created poll taxes, literacy tests, and other voting regulations that denied most African Americans the right to register and vote without explicitly mentioning race, while using “grandfather clauses” to exempt many Whites from being disenfranchised by these hurdles. In 1961, after federal courts ordered Dallas County, Alabama county registrars to stop requiring potential voters to interpret the federal constitution, county registrars simply added a new test that required that potential voters demonstrate an understanding of the state constitution. (Indeed, the preclearance provisions of the Voting Rights Act were so effective because they addressed the evolving nature of voter suppression). In 2013, the North Carolina legislature enacted a series of voting restrictions that the Fourth Circuit later invalidated, finding that they “target African Americans with almost surgical precision . . .”

Today’s coordinated digital voter suppression campaigns compound contemporary offline efforts to suppress Black votes. In 2020, for example, coordinated robocalls to almost 12,000 Detroiter (the city is over 78% Black) falsely asserted that voting by mail would result in a voter’s personal information being used by police to resolve warrants, by credit card companies to collect debts, and by the CDC to “track people for mandatory vaccines.”

31 See, e.g., RENEE DIRESTA ET AL., THE TACTIC & TROPUS OF THE: INTERNET RESEARCH AGENCY, at 38 (“When we talk about the ‘impact’ of the Russian influence operation, most conversations focus on whether the Russian Agency operation swayed voters and swung the Presidential Election in 2016. The answer is, we can’t tell from this data.”) (emphasis omitted); Scott Shane and Sheera Frenkel, Russian 2016 Influence Operation Targeted African-Americans on Social Media, N.Y. TIMES (Dec. 17, 2018) (“Black voter turnout declined in 2016 for the first time in 20 years in a presidential election, but it is impossible to determine whether that was the result of the Russian campaign.”) (emphasis omitted).
II. In the 2020 Election, Foreign and Domestic Actors are Targeting Disinformation at Black Voters

Disinformation targeted at Black voters on social media platforms has continued in the 2020 election cycle. In March 2020, Facebook and Twitter acknowledged that they removed a network of Russian-backed accounts that originated in Ghana and Nigeria that targeted Black communities in the U.S. Just like the voter suppression campaign in 2016, the accounts posed as being operated by people in the United States (e.g., California, Florida, Louisiana, New York, New Jersey, North Carolina) and attempted to build an audience with Black Americans with posts focusing on Black history, Black excellence, and “content about oppression and injustice, including police brutality.”34 (See Exhibit C below). The network consisted of 85 Instagram accounts (which had about 263,000 followers), 49 Facebook accounts, 69 Facebook Pages, and 71 Twitter accounts (which had 68,000 followers). In addressing the matter, Twitter acknowledged that in the 2018 midterms the vast majority of voter suppression and disinformation campaigns were domestic rather than foreign.

In August 2020, Twitter deleted an account that included a photo of a young Black man who claimed to be a former Black Lives Matter protester who purported to denounce the movement as Marxist and become a Republican.35 In September, the Department of Homeland Security found that Russian proxy websites “amplified public narratives….such as claims that voters would not receive their mail ballot in time to cast their vote.”36 The Department of Homeland Security emphasized that the Russian proxy websites “highlighted reduced in-person polling places in large cities due to the pandemic and the long lines this caused, claiming this would disproportionately suppress voting among African-Americans and expose them to the spread of COVID-19.”37 The focus on race seems to continue in part because it facilitates engagement. According to a recent study, presenting as a Black activist is the “most effective predictor of disinformation engagement by far.”38

In an analysis of 31 posts linked to Russian Internet Research Agency earlier this year, University of Wisconsin professor Young Mie Kim found that just as in the 2016 election cycle, during the

34 See Clarissa Ward, Katie Polglase, Sebastian Shukla, Gianluca Mezzofiore, and Tim Lister, Russian election meddling is back—in Ghana and Nigeria—and in your feeds, CNN (Apr. 11, 2020); Tony Romm and Craig Timberg, Facebook, Twitter Suppressed Russian-linked Operation Targeting African Americans on Social Media, WASH. POST (Mar. 12, 2020); Taylor Hammaker, Russian Trolls Are Outagenging to Africa to Stoke U.S. Racial Tensions, TECH CRUNCH (Mar. 12, 2020).
35 Craig Timberg & Isaac Stanley-Becker, Black Voters Are Being Targeted by Disinformation Campaigns, Echoing the 2016 Russian Playbook, WASH. POST (Aug. 27, 2020) (“Twitter deleted an account featuring a profile photo of a young Black man claiming to be a former Black Lives Matter protester who switched allegiances to the Republican Party.” The account, @wentDemosRep…tweetted, “I joined the BLM protests months ago when they began. They opened my eyes wide! I didn’t realize I became a Marxist…I’m done with this trash. I’ll be registering Republican.”).
37 See id.
38 Deen Freelon, Michael Bousseta, Chris Wells, Josephine Lakoto, Yiping Xia, and Kirsten Adams, Black Trolls Matter: Racial and Ideological Assumptions in Social Media Disinformation, SOCIAL SCIENCE COMPUTER REVIEW, April 7, 2020 (separating Black-presenting accounts from non-Black liberal accounts, and finding that “presenting as a Black activist—to be the most effective predictor of disinformation engagement by far.”).
2020 election cycle the Russians were impersonating Americans\textsuperscript{39} and were targeting “both sides of the ideological spectrum to sow division.”\textsuperscript{40} The Russian Agency’s social media campaigns “exploit sharp political divisions already existing in our society” and “often create an ‘us vs. them’ discourse, feeding fear to activate or demobilize those who consider an issue personally important.”\textsuperscript{41} Professor Kim did not identify any posts that discouraged African Americans from voting, perhaps because this type of voter suppression occurs just before elections.\textsuperscript{42} Professor Kim did find, however, that during the Democratic presidential primary the Russian Internet Agency targeted African Americans with an attack on Senator Kamala Harris (see Exhibit D below).\textsuperscript{43}

In her review of the recent posts, Professor Kim found that the Russian Agency’s posts focused on “racial identity/conflicts, anti-immigration (especially anti-Muslim), nationalism/patriotism, sectarianism, and gun rights” (see Exhibits E, F, and G).\textsuperscript{44} Disinformation about elections on Facebook and WhatsApp (which is owned by Facebook) in 2020 has also been significant among the Latina/o community.\textsuperscript{45}

Federal intelligence officials also indicated that Russia is currently interfering in 2020 elections through disinformation, and on June 18, 2020 the head of security policy at Facebook testified before Congress that the company disabled 1.7 billion fake accounts between January and March 2020 and had taken down “18 coordinated networks seeking to manipulate public debate, including three networks originating from Russia, two from Iran and two based here in the United States.”\textsuperscript{46}

In July 2020, the Director of the U.S. National Counterintelligence and Security Center issued a statement indicating that Russia is using “internet trolls and other proxies” to “spread disinformation in the U.S. that is designed to undermine confidence in our democratic process.”\textsuperscript{47}

\textsuperscript{39} Young Mie Kim, Brennan Center, New Evidence Shows How Russia’s Election Interference Has Gotten More Brazen (Mar. 5, 2020) (“The IRA . . . mimicked existing names similar to domestic political, grassroots, and community groups, as well as the candidates themselves. For example, the IRA mimicked the official account of the Bernie Sanders campaign, “bernie2020,” by using similar names like “bernie.2020 . . . .”). See id. (“The IRA targets both sides of the ideological spectrum to sow division. This strategy is unique to Russian election campaigns, making it different than conventional persuasive-oriented propaganda or other foreign countries’ election interference strategies.”).

\textsuperscript{40} See id.

\textsuperscript{41} Young Mie Kim, Brennan Center, New Evidence Shows How Russia’s Election Interference Has Gotten More Brazen (Mar. 5, 2020) (“Among the posts we captured in September 2019, I did not notice any messages that promoted election boycotts or defections yet, perhaps because those types of voter suppression campaigns usually occur right before the elections, thus it was too early to observe them.”).

\textsuperscript{42} See id. (“In another example, the IRA targeted African Americans for heavy attacks on Sen. Kamala Harris.”).

\textsuperscript{43} See id.

\textsuperscript{44} See id.

\textsuperscript{45} Sabrina Rodriguez & Marc Caputo, “This is F---ing Crazy: Florida Latinos Stamped by Wild Conspiracy Theories, Politico (Sept. 14, 2020) (highlighting the prevalence of election disinformation targeting Florida’s Latin American and Hispanic community, particularly on Facebook and WhatsApp -- an “encrypted messaging system . . . widely popular among Latin Americans and other immigrant communities in the U.S.”).


\textsuperscript{47} Press Release, Office of the Director of Nat’l Intelligence, Statement by NCSC Director William Evanina: Election Threat Update for the American Public, (Aug. 7, 2020) (“[F]oreign states’ -- particularly China, Russia, and Iran -- "continue to use covert and overt influence measures in their attempts to sway U.S. voters’ preferences and perspectives, shift U.S. policies, increase discord in the U.S., and to undermine American people’s confidence in our democratic process.”).
Specifically, the Department of Homeland Security indicated that Russia is attempting to "undermine public trust in the electoral process" by promoting false statements online that "mail in ballots are riddled with fraud and susceptible to manipulation." In September 2020, FBI Director Christopher Wray testified to the House Homeland Security Committee that "We certainly have seen very active — very active — efforts by the Russians to influence our election in 2020. . . to sow divisiveness and discord, and I think the intelligence community has assessed this publicly, to primarily to denigrate Vice President Biden . . . ." Russian intelligence agencies are "amplifying misleading statements from President Trump, mostly about the dangers of mail-in ballots," by promoting screenshots of his Twitter posts or quoting and amplifying his misleading messages. In addition, China, Iran, Saudi Arabia, and domestic White supremacists have also parroted Russia’s strategies to stoke division in the United States using social media.

Despite the continued prevalence of political disinformation, Americans have strong feelings against it. According to surveys by Gallup and the John S. and James L. Knight Foundation conducted in December 2019 and March 2020, the vast majority of U.S. adults—81 percent—believe that social media companies should never allow intentionally misleading information on elections and political issues. Of various types of content surveyed, the only other content that larger groups of respondents believed should never be allowed on social media were child pornography and intentionally misleading health and medical information.

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50 David E. Sanger & Zolan Kanno-Youngs, "The Russian Trolls Have a Simpler Job Today. Queen Trump," N.Y. TIMES (Sept. 22, 2020), (indicating that Russian intelligence agencies are finding it much easier to spread disinformation to American voters because they can simply amplify "misleading statements from President Trump, mostly about the dangers of mail-in ballots.").

51 Mark Scott & Steven Overly, "Silicon Valley Is Losing the Battle Against Election Misinformation," POLITICO (Aug. 4, 2020, 4:30 AM).

52 FREE EXPRESSION, HARMFUL SPEECH AND CENSORSHIP IN A DIGITAL WORLD; KNIGHT FOUNDATION AND GALLUP, INC., 6 (Jun. 16, 2020), The survey, which was commissioned by the Knight Foundation, was of just over 1600 U.S. adults in December 2019 and just over 1400 U.S. adults in March 2020.
III. The Trump Administration’s Proposals to Rewrite Section 230 Facilitate Online Disinformation and Voter Suppression

Unfortunately, President Trump recently issued an executive order attempting to narrowly construe the protections of Section 230 of the Communications Decency Act in retaliation for Twitter enforcing its content moderation guidelines against the President. This executive order during an election season discourages social media companies from content moderation, and poses a distinct threat to democracy. If social media companies are chilled from moderating disinformation (as the executive order seeks), the result will be precisely as hostile actors wish—the suppression of votes, discord, and unrest.

In response to concerns about the transmission of COVID-19 during in-person voting, many states have expanded vote-by-mail options, and on May 26, 2020 at 5:17 am, President Trump tweeted the following in two tweets:

There is NO WAY (ZERO!) that Mail-In Ballots will be anything less than substantially fraudulent. Mail boxes will be robbed, ballots will be forged & even illegally printed out & fraudulently signed. ... The Governor of California is sending Ballots to millions of people, anyone ... living in the state, no matter who they are or how they got there, will get one. That will be followed up with professionals telling all of these people, many of whom have never even thought of voting before, how, and for whom, to vote. This will be a Rigged Election. No way.

Later that day, Twitter attached a “Get the facts about mail in-ballots” notice to the President’s tweets, which Twitter hyperlinked to a notice indicating the President’s claim was “unsubstantiated” according to news outlets, and that experts indicate “mail-in ballots are very rarely linked to voter fraud.” Twitter did not remove the President’s tweets.

In response, President Trump tweeted “Twitter is completely stifling FREE SPEECH, and I, as President, will not allow it to happen!” The following day he tweeted:

Republicans feel that Social Media Platforms totally silence conservatives [sic] voices. We will strongly regulate, or close them down, before we can ever allow this to happen. We saw what they attempted to do, and failed, in 2016. We can’t let a more sophisticated version of that ... happen again.

Two days after his original tweet, President Trump issued a retaliatory “Executive Order on Preventing Online Censorship,” which attempted to narrowly construe the Section 230 of the Communications Decency Act to discourage social media companies from removing disinformation from their platforms—undermining the very goal of the law.

Section 230 of the Communications Act of 1934 (also known as Section 230 of the Communications Decency Act) explicitly gives a social media provider the power to remove (in the words of the statute) “obscene...harassing, or otherwise objectionable” information. This obviously includes disinformation that causes real harm, and it reflects Congress’s intent to empower platforms to engage in content moderation without fear of legal liability.

To be crystal clear about the aims of the drafters of the provision, Section 230 proclaims that platforms will not “be held liable on account of . . . any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected.” Congress then knew that federal agencies could not clean up the internet without the help of interactive service providers and they sought that help by providing a legal shield for companies that over- and under-filtered information posted by users.

As a result of the Trump Administration’s executive order directing its agencies to further its “narrow purpose of the section”—that is, the section related to active moderation that might result in a significant amount of information removed or blocked—the National Telecommunications and Information Administration petitioned the Federal Communications Commission for a rule interpreting “otherwise objectionable” as limited to “any material that is similar in type to obscene, lewd, lascivious, filthy, excessively violent, or harassing materials.” The Justice Department proposed a similar change though legislative amendment by replacing “otherwise objectionable” with “unlawful.”

This effort to narrow the scope of information that social media providers can remove or delete without fear of liability has an obvious goal—to prevent monitoring. This goal is inconsistent with the very words and the purpose of Section 230. The executive order seemingly gives the National Telecommunications and Information Administration or the Federal Communications Commission authority to change the words and meaning of the statute. This the agencies cannot do. The effort by the Trump Administration is clearly designed not to change the law, but rather to deter companies from engaging in moderation, which is their right as private actors. It is also fair to suggest that this governmental effort may even violate the First Amendment rights of tech companies.

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60 NTIA Rulemaking Petition at 38.
61 Department of Justice’s Review of Section 230 of the Communications Decency Act of 1996, U.S. DEPARTMENT OF JUSTICE (last visited October 4, 2020) (indicating that “the Department supports replacing the vague catch-all ‘otherwise objectionable’ language in Section 230(c)(2) with ‘unlawful’ and ‘promotes terrorism’”). See also Danielle Keats Citron & Mary Anne Franks, The Internet and Speech Machine and Other Myths Confining Section 230 to Speech Reform, U. CHI. L. FORUM (forthcoming) (discussing proposals to reform Section 230 on the theory that platforms should be neutral vis-à-vis online content).
The Trump Administration’s proposed narrowing of “otherwise objectionable” would discourage social media companies from content moderation, which would worsen online experiences for many Americans. It would undermine democracy if social media companies could not freely remove disinformation unless this material was undisputedly “obscene, lewd, lascivious, filthy, excessively violent, harassing” or “unlawful.” Many attempts to use online disinformation to discourage voter participation through deception, suppress votes of particular racial groups, and deceive voters about election procedures are not clearly “obscene, lewd, lascivious, filthy, excessively violent, harassing” and do not always undisputedly violate a law. Such disinformation is deeply harmful to free and fair elections, and it is precisely the sort of online pollution that Congress wanted platforms to remove on their own without any fear of liability.

For example, platforms are currently free to remove disinformation such as “you cannot vote if someone in your family has committed a crime,” “voting is on Wednesday,” or altered video without liability under the “objectionable” standard. But platforms could not necessarily remove this same content without fear of liability if the legal shield only applied to the removal or filtering of “obscene, lewd, lascivious, filthy, excessively violent, harassing” or “unlawful” content.

Narrowing the standard for the removal of online content—which NTIA and the executive order cannot actually do without further action by Congress—would result in social media companies failing to take down fake accounts and posts that provide false information about voting, discourage voting by communities of color, and facilitate racial polarization. The Trump Administration’s proposals only promote the likelihood of disinformation, discrimination, and suppression—and effectively undermine democracy. Those proposals are corrosive along several lines—they threaten legislative change that the Executive Branch cannot itself actually do while chilling companies from removing destructive content due to the threat of potential litigation.

While the President claims content moderation by private social media companies stifles free speech, nothing could be further from the truth. Indeed, the First Amendment stands as a check against government censorship—which the executive order and the NTIA petition actually threatens. The First Amendment does not apply to restrict private entities, which themselves have free speech rights. As non-state actors, social media companies currently have the freedom and crucially the power to prevent disinformation that results in voter suppression under an otherwise.

60 Danielle Citron, Physical Platforms’ Power Over Speech Should Not Go Unchecked, KNIGHT FOUNDATION (Jan. 16, 2020) (“Legally mandated platform neutrality would jeopardize—not reinforce—free speech values. Social media companies could not ban spam, doxing, threats, harassment, nonconsensual pornography or deep fakes. They could not combat cyber mob attacks that chase people offline. They could not mitigate the damage wrought by sexual-privacy invasions by filtering or blocking them... Empirical evidence shows that cyber harassment has chilled the intimate, artistic and professional expression of women and people from marginalized communities.”).

61 In asserting that Twitter and Facebook provide “an important forum for the public for others to engage in free expression and debate,” the President’s Executive Order compares the platforms to shopping malls in citing Prune Yard Shopping Center v. Robins, 447 U.S. 74, 85-89 (1980); Exec. Order on Preventing Online Censorship, Sec. 4 (May 28, 2020). In Prune Yard, however, the U.S. Supreme Court did not find that the First Amendment of the U.S. Constitution gave叶leters the right to leaflet in shopping malls, but instead that a state right of access for leafleters to leaflet did not amount to a taking of a mall’s private property under the 5th and 14th Amendments of the U.S. Constitution. Indeed, another U.S. Supreme Court case has explicitly held that a mall owner may bar leafleters from distributing handbills at a mall without violating the First Amendment of the U.S. Constitution because the mall is not a state actor. Lloyd Corporation, Ltd. v. Tanner, 407 U.S. 551, 569 (1972).
The "objectionable" standard—but the proposal to effectively narrow the statutory language would hinder such content moderation.

To give government the power to control information through ad hoc content moderation during an election season is more dangerous to our democracy and our constitutional values than private entities engaging in content moderation. The Trump Administration's attempts to curtail Section 230 would chill social media companies from moderating disinformation and preventing voter suppression. In this instance, Twitter was targeted and criticized by a powerful governmental actor (the President)—not for removing the President's content—but rather for engaging in its own speech. Twitter responded with more speech, which it has every right to do. The company responded to the President's narrative against a well-established form of voting that would make voting easier and safer for millions of Americans during a pandemic. Litigation is now pending in the U.S. District Court for the District of Columbia challenging the President's executive order.

Thomas v. Collins, 324 U.S. 516, 545 (1945) ("every person must be his watchman for truth, because the forefathers did not trust any government to separate the true from the false for us."); See Center for Democracy & Technology v. Donald J. Trump, Case No. 20-1456, U.S. Dist. Ct. (DC), June 2, 2020.
IV. Social Media Platforms Must Do More to Prevent Disinformation During the 2020 Election Season—Both as Ballots are Cast and Counted

Disinformation on social media presents a real danger to racial equity, voting rights, and democracy. Under Section 230, social media companies currently have the authority in the United States to moderate content to prevent disinformation, civil rights violations, and voter suppression. They must use this authority.

Granted, Facebook, Google, Twitter, and other social media companies have made progress and developed specific content moderation guidelines to reduce the spread of false or misleading information about voting in elections, other false or misleading information, and other objectionable content. Facebook, for example, has made progress by conducting a civil rights audit and through policy improvements documented in that audit, such as an expanded definition of voter suppression, a policy against “don’t vote” ads, a full-time team focused on protecting U.S. elections, 35,000 content moderators, and a center that provides accurate information on how to vote. More recently, Facebook has reported that it will remove posts that state people will get COVID-19 if they vote, has banned ads that delegitimize election outcomes, and will flag posts that attempt to declare victory before all ballots are counted. Google purports to have provided new features in search so people can access information on how to register and vote, reduced microtargeting categories for election ads, and is providing more transparency on political ads. Twitter has banned all political ads, prohibits false claims on how to participate and content that could suppress participation, prohibits false affiliations, and labels or removes “misleading information intended to undermine public confidence in an election.”

66 Community Standards, Facebook (last visited June 22, 2020) (indicating that content may be removed and accounts may be disabled when users threaten violence, attack people based on protected characteristics such as race or religion, impersonate others by creating fake accounts, and engage in coordinated inauthentic behavior, and that false news will not be removed but significantly reduced in distribution); Community Guidelines, YouTube (last visited June 22, 2020) (prohibiting accounts established to impersonate others, prohibiting threats of violence, and prohibiting content that incites hatred on the basis of protected categories such as sex and religion); The Visitor Rules, Twitter (last visited June 22, 2020) (prohibiting threats of violence, harassment, or harassment based on a protected characteristic such as sex or religion, suppression of civic participation, misleading information about civic participation). While most companies would say they have basic best practices, to the extent they do not they should adopt such practices and enforce them. See Ian Van de Walle, Brennan Center, Digital Disinformation and Voter Suppression (Sept. 2020) (recommending that social media platforms: “1. Proactively provide information about how to vote . . . 2. Maintain clear channels for reporting disinformation . . . 3. Take down false information about voting but preserve the data (and impose more severe consequences on repeat offenders such as account deletion). . . 4. Protect official accounts and websites (of election officials “against hacking and spoofing”). . . 5. Push corrective information to specific users affected by disinformation”).

67 Preparing for Elections, Facebook (last visited Oct. 3, 2020); Community Standards, Facebook (last visited June 22, 2020).


Much more, however, must be done. First, platforms must consistently enforce the election integrity policies they have in place. For example, Twitter placed a warning label on one of President Trump’s tweets spreading inaccurate information about mail-in-voting procedures, but has not taken action on similar tweets he has posted on the platform. Second, platforms must expand their policies and strategies to fully address the real challenges of color face by online disinformation. While the companies may claim they were caught unaware of the magnitude of the impact of the voter suppression schemes on Black communities in the 2016 election, the same thing could happen in 2020. The current state of affairs is unacceptable.

For example, Facebook could have a more comprehensive definition of voter suppression, could prohibit any content that attempts to threaten voters from participating, and could be much more transparent and accountable in providing to outside groups data on voter suppression networks it identifies. Facebook could also enforce its standard content rules against politicians, who can currently post or buy ads that spread disinformation and racial division. Also, there are questions about whether existing moderators—many of whom are lower-wage, hourly, highly-stressed out contract workers—are sufficient. While 35,000 content moderators seems weighty, Facebook has over 2.7 billion monthly active users—which works out to one content moderator per 77,000 users.

Another problematic example—Facebook has claimed that federal civil rights laws do not apply to the company—that the company can legally accept money to utilize their algorithms and users’ personal data to target employment and housing ads away from Black and Latino users, and toward White users. This argument is akin to the Holiday Inn suggesting that civil rights laws do not prohibit them from placing guests of color in the least favorable rooms and denying them access to the breakfast buffet based solely on their race. While the company later settled the lawsuit, research suggests it still uses algorithms that deliver employment ads along discriminatory lines.

Sources:

- [Twitter](https://twitter.com/TwitterSafety/status/1265838831663075341)
- [Rolling Stone](https://www.rollingstone.com/politics/politics-news/rigged-fraud-scam-cheat-trump-against-vote-by-mail-1044177/)
- [The Verge](https://www.theverge.com/2019/2/24/18461571/facebook-president-trump-twitter-label)
- [Statista](https://www.statista.com/statistics/837881/number-of-active-facebook-users-worldwide/)
- [Brody](https://www.lawyerscommittee.org/about/our-case/FB-Ad-Targeting-Case/)
- [ACLU](https://www.aclu.org/)
- [ProPublica](https://www.propublica.org/article/facebook-ads-can-still-discriminate-against-women-and-older-workers-despite-a-civil-right-settlement)

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73 https://twitter.com/TwitterSafety/status/1265838831663075341; https://twitter.com/realDonaldTrump/status/1265838831663075342; https://www.rollingstone.com/politics/politics-news/rigged-fraud-scam-cheat-trump-against-vote-by-mail-1044177/ 74 FACEBOOK, FACEBOOK, ELECTIONS AND POLITICAL SPEECH, Sept. 24, 2019. 75 Casey Newton, The Trauma Floor: The Secret Lives of Facebook Moderators in America, THE VERGE (Feb. 25, 2019). 76 J. Clement, Number of Monthly Active Facebook Users Worldwide as of 2nd Quarter 2020, STATISTA, August 10, 2020 (last visited Oct. 4, 2020). 77 See Notice of Motion & Motion to Dismiss First Amended Complaint for Defendant at 2, Onoja v. Facebook, Inc., No. 16-cv-06440-EJD (N.D. Cal. Apr. 3, 2017) (“Advertisers, not Facebook, are responsible for both the content of their ads and what targeting criteria to use, if any. Facebook’s provision of these neutral tools to advertisers falls squarely within the scope of CDA immunity.”). 78 In 2019, Facebook settled several legal actions and agreed to make significant changes to prevent advertisers for housing, employment, or credit, from discriminating based on race, national origin, ethnicity, age, sex, sexual orientation, disability, or family status. Summary of Settlements Between Civil Rights Advocates and Facebook, Housing, Employment and Credit Advertising Reform, ACLU (Mar. 19, 2019). 79 Piotr Sapiezynski et al., Algorithms that “Don’t See Color”: Comparing Bases in Lookalike and Special Ad Audiences (Dec. 17, 2019) (unpublished manuscript), (finding that the Facebook Special Audiences tool, which does not consider race, creates audiences that have nearly the same level of racial bias as the standard Lookalike audience); Ava Kofman & Ariana Tobin, Facebook Ads Can Still Discriminate Against Women and Older Workers, Despite a Civil Rights Settlement, PROPUBLICA (Dec. 13, 2019, 5:00 AM).
A third example—despite a recent ban on praise, support, and representation of White supremacy and White nationalism, White supremacists continue to circumvent Facebook’s policy. While some platforms claim they are advancing “free speech” by allowing disinformation, in doing so, they ignore the effect of the content on Black and other communities. For many Americans, online tools are the primary platforms for political identity, social relationships, professional networking, and other opportunities. To treat discriminatory ad distribution that steers voter suppression ads toward Black communities as “neutral” ignores the non-neutral harms and disparities that result from the content moderation standards of the platforms. It is not “neutral” for the world’s most valuable companies to profit from or externalize the costs of discrimination onto many of the nation’s most economically and politically marginalized communities. Platforms should not treat as “neutral” content that has a non-neutral impact.

Unfortunately, immediately after announcing its civil rights audit, Facebook announced a conservative bias audit, which falsely equated bigotry against protected classes on Facebook with anti-conservative bias. This approached civil rights as a partisan issue, instead of as an issue of values.

As a bipartisan group of election experts recommended in April 2020:

Leaders in social media, election officials, government leaders, and others should promote the equal protection voting norm, enshrined in the Voting Rights Act and the Fourteenth and Fifteenth Amendments, which ban targeting voters based on race or ethnicity in an effort to suppress or dilute their vote. Social media companies have a unique responsibility to prevent the use of their platforms for efforts that would suppress votes through the spread of misinformation about voting.

All of the companies should provide much more transparency about coordinated disinformation schemes, and provide civil rights organizations data about these schemes in real time to assess threats. For example, although we have been talking about the Russian Internet Research Agency’s targeting and suppression of voting by Black users for years, in September 2020 we just learned that the 2016 Trump campaign was disproportionately categorizing Black voters for “Deterrence” targeted ads on Facebook. While platforms have policies about preventing disinformation, the American public has no real knowledge about the enforcement of those policies or their effectiveness.

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83 FACEBOOK, STANDING AGAINST HATE, Mar. 27, 2019.
85 2019 Fortune 500, FORTUNE (showing that Alphabet (the parent company of Google), Amazon.com, Apple, Facebook, and Microsoft are all among the top 6 U.S. companies in market value); see also Jack M. Balkin, 2016 Sidney Askin Distinguished Lecture on Big Data Law and Policy: The Three Laws of Robotics in the Age of Big Data, 78 OHIO ST. L.J. 1217 (2017) (analagizing the harms caused by algorithms to nuisance in analyzing the “socially unjustified use of computational capacities that externalizes costs onto innocent others”); Olivier Sylvain, Intermediary Design Decisions, 50 CONN. L. REV. 203, 207-08 (“Profits, of course, are not unlawful ... But profits in this context also are the spoils of a legal regime that effectively absolves online intermediaries from finding the harmful third-party user content that they host and repurpose for commercial gain. They are the benefits of a legal protection that almost no other entity in other legislative fields enjoys.”).
effectiveness in preventing disinformation, and generally only receives information about coordinated disinformation schemes in the company’s response to the publication of data from independent investigations by journalists and researchers.

Various platforms—including Facebook, Twitter, and YouTube—have been very effective at preventing other objectionable content—such as adult pornography. Unfortunately, some of these companies do not seem to have internalized the threat disinformation poses to the health of our democracy—perhaps because they believe that advertisers will not pay to support adult pornography but will tolerate disinformation about elections that suppresses Black votes. The comparative lack of effectiveness in protecting racial equity and the voting rights of all Americans seems to reflect not a lack of capacity, but a lack of will.

Local, state, and federal officials also have important roles to play to prevent disinformation. State and local election officials should deter online disinformation by developing procedures to publicize corrective information, publicize official sources of accurate information, prevent hacking of official websites, actively monitor for disinformation, and engage in community outreach. Congress should require that intelligence officials give regular briefings about incidents of disinformation, should enact the Deceptive Practices and Voter Intimidation Prevention Act, and should amend Section 230 of the Communications Decency Act to explicitly acknowledge that Section 230 does not provide a defense to federal and state civil rights claims arising from online ad targeting.

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84 See A Country in Crisis: How Disinformation Online Is Dividing the Nation, Hearing Before the Subcomm. on Communications and Technology and Consumer Protection and Commerce of the U.S. House Comm. on Energy and Commerce, 116th Cong. (2020) (statement of Hany Farid, Ph.D., at 5 ("If online content providers prioritized their algorithms to value trusted information over untrusted information, respectful over hateful, and unifying over divisive, we could move from a divisiveness-fueling and misinformation-distributing machine that is social media today, to a healthier and more respectful online ecosystem. If advertisers, that are the fuel behind social media, took a stand against online abuses, they could withhold their advertising dollars to insist on real change.").
85 Ian Vandewalker, Brennan Center, Digital Disinformation and Voter Suppression (Sept. 2020).
87 See Spencer Overton, State Power to Regulate Social Media Companies to Prevent Voter Suppression, 53 U.C. Davis L. Rev. 1793, 1830-31 (2020) (proposing explicit carve out in light of fact that social media platform ad targeting and delivery along racial lines makes a material contribution to a civil rights legal violation); 47 U.S.C. § 230(e)(1)(5) (2019) (explaining that Section 230 immunity does not apply to violations of federal criminal law, intellectual property law, the Electronic Communications Privacy Act of 1986 and similar State laws, and federal sex trafficking law).
Conclusion

Foreign and domestic actors used online disinformation to target and suppress Black votes in the 2016 presidential election, and this has continued in the 2020 election cycle. The Trump Administration’s proposal to narrowly construe Section 230 of the Communications Decency Act makes the problem worse by deterring companies from removing disinformation. While online platforms have made progress since 2016 in preventing disinformation, they must do much more, and local state, and federal officials also have important roles to play. Delay is not an option—failure to act puts our very democracy at risk.
Exhibits

Exhibit A

Exhibit A was posted by the operators of the Williams & Kalvin Facebook page on Election Day 2016, and the Facebook ad was targeted at the advertising categories of those interested in “Martin Luther King, Jr.”; “African American Civil Rights Movement (1954-68)”; and “African American history or Malcolm X.” A video with the same message appeared on the Williams & Kalvin YouTube account and was also promoted on the Williams & Kalvin Twitter account.

88 Power to the People! We have to grow up, We have to wise up. We don’t have any other choice this time but boycott the election. This time we choose between two racists. No one represents Black people. Don’t go to vote. Only this way we can change the way of things.... See More

Exhibit B

Exhibit B consists of pictures of a datafile created by the 2016 Trump Campaign to separate millions of Americans into one of eight “audiences” so that they could target tailored ads to each audience on social media platforms like Facebook. A disproportionately large number of African Americans were labelled “Deterrence”—Clinton voters who should be encouraged not to vote with targeted social media ads. Overall, 3.5 million African Americans were categorized by the Trump campaign as Deterrence.

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Exhibit C

Exhibit C is from a Facebook page that claimed to be operated by someone in Florida and was removed because it was actually a Russian-backed Ghanaian operative that was targeting African Americans in January of 2020.91

Roots Revival
January 21

America’s descent into a fascist police state continues. Someone needs to take that Senator out. It’s ideas like this that completely make us lose faith in our government’s ability to do anything at all.

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Exhibit D

Exhibit D is from Instagram in September 2019, was targeted at Black audiences, and was removed for links to the Russian Internet Research Agency.92

Police & prosecutors framed my friend @JamalTrulove for a murder he had nothing to do with.

He was sentenced to 50 years in prison.

Guess who the District Attorney was?

Kamala Harris.

Cost him years if his life & San Francisco $13.1 million.

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92 YOUNG MIE KIM, BRENNAN CENTER, NEW EVIDENCE SHOWS HOW RUSSIA'S ELECTION INTERFERENCE HAS GOTTEN MORE HISTORIC (Mar. 5, 2020).
Exhibits E, F, and G are from Instagram in September 2019, and were removed for links to the Russian Internet Research Agency.\textsuperscript{93}

\textbf{Exhibit E}

\textbf{Exhibit F}

\textsuperscript{93} YOUNG MIE KIM, BRENNAN CENTER, \textit{New Evidence Shows How Russia’s Election Interference Has Gotten More Brazen} (Mar. 5, 2020).
Exhibit G

KEEP COUNTRY AND STAY REDNECK
Biography

Spencer Overton is the President of the Joint Center for Political and Economic Studies, which was founded in 1970 and is America’s Black think tank. He is also a tenured Professor of Law at George Washington University in Washington, DC.

Spencer is the author of the book *Stealing Democracy: The New Politics of Voter Suppression* (W.W. Norton) and several academic articles and popular commentaries on voting rights, race, and public policy, including *State Power to Regulate Social Media Companies to Prevent Voter Suppression*, 53 U.C. Davis Law Review 1793 (2020). In 2020, he testified before the Communications and Technology and the Consumer Protection and Commerce Subcommittees of the U.S. House Committee on Energy and Commerce on disinformation online, submitted answers to Additional Questions for the Record for that hearing, and submitted comments to the Federal Communications Commission opposing the Trump Administration petition’s to prod the FCC to adopt rules that would discourage online platforms from removing disinformation that suppresses Black votes and other objectionable material.

Spencer’s work as a commissioner on the Carter-Baker Election Commission and the Commission on Presidential Nomination Timing and Scheduling shaped the modern voter ID debate, and resulted in Iowa restoring voting rights to 98,000 returning citizens. He was also a part of a group of commissioners that worked to successfully move more diverse states like South Carolina and Nevada to the beginning of the modern Democratic presidential primary process.

Spencer led the 2008 Obama transition team’s Election Assistance Commission agency review group, and during the Obama Administration he served as Principal Deputy Assistant Attorney General in the Office of Legal Policy (the “think tank” of the Department of Justice). In that position, he partnered with White House officials to lead the Administration’s policy efforts on democracy issues, including conceptualizing and/or implementing policies related to the Military and Overseas Voter Empowerment Act, the National Voter Registration Act, and the Voting Rights Act.

Spencer has also practiced law at the firm Debevoise & Plimpton, clerked for U.S. Court of Appeals Judge Damon J. Keith, and graduated with honors from both Hampton University and Harvard Law School.
Chairwoman Fudge. Thank you very, very much.
It is now time for our Members to ask their questions.

Let me just say, you will notice that there are no Republicans on this call. And I would suggest that, by their absence, they have either decided that they are not concerned about this topic or, at best, they don’t care to be involved in this discussion.

So, with that, I would now recognize Mr. Butterfield, who is traveling, as you can see, but this issue was important enough for him to, from his automobile, be a part of this discussion.

Mr. Butterfield, you are recognized for five minutes.

Mr. Butterfield. Thank you very much, Madam Chair. And it is good to see all of my Democratic colleagues here today. I, too, am disappointed that my Republican colleagues did not see the wisdom in participating in this conversation today.

But we have heard from the witnesses, and thank you to all of the witnesses for your testimony.

Let me just start with the gentleman from the Election Assistance Commission, Mr. Hovland.

Mr. Hovland, thank you for all that you do for our country.

I need to extend the conversation more about the misinformation and disinformation subject. I think Dr. Overton touched on it just a moment ago, and it is so critically important.

What resources, what initiatives are States and local election officials utilizing to combat such misinformation and disinformation? What resources are the States using and local cities and counties using?

Mr. Hovland. Thank you, Congressman Butterfield. I appreciate the question.

Obviously, again, when we talk about trusted sources and the #TrustedInfo2020 effort, that is all about getting people to their State or local election official.

I mentioned the CARES Act funding in my testimony earlier. Certainly, we heard from a lot of States that they were going to at least use a portion of that funding to work on voter education. And that is a huge issue this year.

Certainly, as different States are administering different processes, we heard from several of the witnesses, you know, we are going to see a record-setting use of mail or absentee ballots this year——

Mr. Butterfield. Yeah.

Mr. Hovland [continuing]. But that is——

Mr. Butterfield. But do the States have the resources? Do the States have the resources that they need?

Mr. Hovland. We held a hearing where we were doing primary lessons learned, and, between that and a number of other conversations, we have consistently heard about the need for additional funding.

Obviously, elections are under-resourced traditionally. The Federal funding that has come through has made a big difference, but there is absolutely a need for more. And we consistently hear from election officials about the need for an annual funding stream, a regular funding stream that allows for them to point——

Mr. Butterfield. Well, I can tell you, the States that I am most familiar with, resources are desperately needed.
Let me go over to Dr. Overton.

Thank you so very much, sir, for your testimony, and thank you for all the incredible work that you do on behalf of Black America every day.

And you talked a moment ago about social media and how harmful misinformation can be. What is the role of social media in nefarious efforts to misinform and suppress voting in Black communities? You said that they are doing better, but are they really doing better?

Mr. Overton. Yes, Congressman Butterfield, just, first of all, I want to just acknowledge, I know your father played a pivotal role in furthering voting rights. I know he would be proud of you and your many contributions to voting rights——

Mr. Butterfield. Thank you.

Mr. Overton [continuing]. In terms of changing Wilson and its at-large system and the Voting Rights Act. So thank you.

In terms of these companies, they need to do a lot more. They need to step up to the plate. There are a few things they are doing in terms of content moderation, but they need to do more in terms of a more rigorous definition of voter suppression. They need more transparency so that we know what is really happening with enforcement, are they effective in terms of their enforcement. So there are several things that they need to be doing to step up their game.

And let me just say this. We have to press them, because they are key in terms of preventing voter suppression. They are getting a lot of pressure from this administration, and they need to know that people are paying attention and holding them accountable to prevent voter suppression.

Mr. Butterfield. Well, I certainly think the State and local election officials have a role to play in all of this. What recommendations can you make to State and local election officials to ensure, to guarantee that Black and Brown voters are not misinformed?

Mr. Overton. Yes. I think the Brennan Center put out a very good document on this, and I would refer people to go there. Basically, it is providing the accurate information that exists here and being a trusted source of information.

We have heard some of these recommendations from our fellow witnesses. And I think that is key, in terms of a critical place to go, where there is accurate information, and ensuring it is public and available.

Mr. Butterfield. And in the final 30 seconds, Dr. Overton, what can voters do to guarantee that their votes are not discarded?

Mr. Overton. Well, number one, they need to recognize that what they see online may be false. So they need to pay attention to that. That is number one.

Number two, if they are voting by mail, one of the big issues we see are ballots rejected because there was something that wasn’t filled out. And they need to just pay attention in terms of voting by mail.

And then the most important thing is, they have to participate. Don’t be discouraged by what is happening. Participation is critical.

Mr. Butterfield. Thank you. I will spread that throughout my district, “Pay attention.”
Mr. OVERTON. Thank you.

Mr. BUTTERFIELD. Thank you, Madam Chair. I yield back. Thank you.

Chairwoman FUDGE. Thank you very much, Mr. Butterfield.

We have now been joined by the Chairperson of the full Committee, Zoe Lofgren from California.

Madam Chair, you are recognized.

The CHAIRPERSON. Well, I thank you very much, Madam Chairwoman. I just wanted to hop on for a few minutes to listen to this incredible panel and also to thank you for your leadership as chair of the Elections Subcommittee and the members who have joined you today.

I wish that our colleagues across the aisle had joined us, and maybe they still will. That would be important, because it should not be a partisan issue, the idea of every American being able to cast their vote freely and to have that vote counted as cast, which is just the bottom line for America.

So what you are doing today is important, in terms of shining a spotlight on what the issues are, but also telling each and every one of us, as community leaders, as voters, what we can do to make sure that that goal, every American citizen gets the chance to cast their vote.

So thank you so much for doing this. I am going to hop off in a minute to another obligation, but I didn’t want to pass up the opportunity to listen and to thank you once again for the leadership you have shown.

Chairwoman FUDGE. Thank you so much, Madam Chair, for joining us. We very much appreciate it. And I appreciate you joining us.

I will now recognize Mr. Aguilar of California.

Mr. Aguilar, you are recognized for five minutes.

Mr. AGUILAR. Thank you, Chairwoman Fudge, for your steadfast leadership on voting rights and for the Committee’s focus on this topic.

As I have said in this Committee before, our goal should be to remove the barriers that prevent Americans from voting. And, right now, that means making sure that it is safe in the midst of a pandemic.

And one safe and effective form that we know, that our speakers talked about, was utilizing mail-in ballots, which allow Americans to vote safely from their homes. And despite claims by the minority on this Committee—and, again, I wish they were here to defend themselves about this topic—there is no significant risk of voter fraud associated with mail-in balloting. These claims could also misinform millions of Americans as they create their plan to vote.

Elections experts across the political spectrum agree that voting fraud is exceedingly rare. Whether you want to trust the Brennan Center for Justice or The Heritage Foundation’s database tracking voter fraud, the results are the same. The actual fraudulent vote-by-mail votes cast over the past two decades are minuscule, and there is no legitimate concern over voter fraud. It is more likely for Americans to get struck by lightning than to commit voter fraud, and voter fraud is rarer than winning the Mega Millions.
Misinformation about voting by mail is dangerous and could cause millions of Americans to alter their plan, and that would be a mistake in exercising their right to vote. And that is why House Democrats have passed numerous bills through this Committee and through the full House to help Americans vote safely, accurately, and without fraud during this pandemic. And we need to continue to do that.

My question would be to Mr. Overton.

We have seen the growing misinformation targeting communities of color specifically. Social media posts from foreign state actors, including Iran and Russia, have attempted to change the political opinions of minority voters, to depress voter turnout.

We have seen this despicable information and disinformation campaigns from fellow Americans. On October 1, two Americans were charged with conspiring to intimidate voters in violation of election law. These two individuals sent thousands of robocalls to African-American communities in at least five States, telling these residents that voting by mail in the upcoming election was subject to their arrest, debt collection, and enforced vaccination.

So what can we do to fight this misinformation campaign from foreign actors and even our own fellow citizens?

Mr. OVERTON. Congressman Aguilar, thank you so much for that question. And what is really important about your question is it illustrates the evolving nature of voter suppression, right?

So we have had robocalls happen in the past. They happened in this election, as you mentioned, in Michigan and really across the country. In Michigan, 12,000 Detroit residents were targeted with these robocalls to basically discourage them from voting. They were impersonating, trying to pretend that they were someone from the community here, in terms of the speaker, et cetera. And we see that same thing with regard to social media. So this is kind of an evolution in terms of platforms with regard to social media.

In terms of specific steps, again, people have to recognize, individuals have to recognize that there is a lot of misinformation that is out there. And trust credible sources. Go to your elections officials websites and get accurate information. They need to, as you said—your language—develop a plan to vote. That is incredibly important. Have a plan and go ahead and go out and vote now. So don't be discouraged.

There are so many people who would say—as you know, in 2016, they said, hey, let's protest all this that is going on, let's protest this racism and not vote. That was an attempt to basically suppress voters of color. Folks can't fall into that trap. They have to get good information, and they have to participate.

Mr. AGUILAR. And as more and more voters are voting early—I think the numbers are over a million people have already voted, and Chairperson Fudge, you know, mentioned in her own communities, how people are already voting—I am concerned. I am concerned that right now is the time these disinformation campaigns are going to ramp up their efforts, because many people know that their political interests are not served when more people exercise their right to vote. So that is what concerns me and what we have to be on the lookout for.

Chairwoman FUDGE. Without objection, so ordered.

[The information follows:]
Study Finds ‘Single Largest Driver’ of Coronavirus Misinformation: Trump

Cornell University researchers analyzing 38 million English-language articles about the pandemic found that President Trump was the largest driver of the “infodemic.”

Mentions of President Trump made up nearly 38 percent of the overall online “misinformation conversation” about the virus, researchers said.
Credit...Erin Schaff/The New York Times

By Sheryl Gay Stolberg and Noah Weiland
Sept. 30, 2020

WASHINGTON — Of the flood of misinformation, conspiracy theories and falsehoods seeding the internet on the coronavirus, one common thread stands out: President Trump.
That is the conclusion of researchers at Cornell University who analyzed 38 million articles about the pandemic in English-language media around the world. Mentions of Mr. Trump made up nearly 38 percent of the overall “misinformation conversation,” making the president the largest driver of the “infodemic” — falsehoods involving the pandemic.

The study, to be released Thursday, is the first comprehensive examination of coronavirus misinformation in traditional and online media.

“The biggest surprise was that the president of the United States was the single largest driver of misinformation around Covid,” said Sarah Evans, the director of the Cornell Alliance for Science and the study’s lead author. “That’s concerning in that there are real-world dire health implications.”

The study identified 11 topics of misinformation, including various conspiracy theories, like one that emerged in January suggesting the pandemic was manufactured by Democrats to coincide with Mr. Trump’s impeachment trial, and another that purported to trace the initial outbreak in Wuhan, China, to people who ate bat soup.

But by far the most prevalent topic of misinformation was “miracle cures,” including Mr. Trump’s promotion of anti-malarial drugs and disinfectants as potential treatments for Covid-19, the disease caused by the coronavirus. That accounted for more misinformation than the other 10 topics combined, the researchers reported.

They found that of the more than 38 million articles published from Jan. 1 to May 26, more than 1.1 million — or slightly less than 3 percent — contained misinformation. They sought to identify and categorize falsehoods, and also tracked trends in reporting, including rises in coverage.

For example, on April 24, a day after Mr. Trump floated — and was ridiculed for — the idea that disinfectants and ultraviolet light might treat Covid-19, there were more than 30,000 articles in the “miracle cures” category, up from fewer than 10,000 only days earlier. Mr. Trump drove those increases, the study found.

To those who have been watching Mr. Trump’s statements, the idea that he is responsible for spreading or amplifying misinformation might not come as a huge shock. The president has also been feeding disinformation campaigns around the presidential election and mail-in voting that Russian actors have amplified — and his own government has tried to stop.

But in interviews, the Cornell researchers said they expected to find more mentions of conspiracy theories, and not so many articles involving Mr. Trump.

Public health experts know that clear, concise and accurate information is the foundation of an effective response to an outbreak of infectious disease. Misinformation around the pandemic is “one of the major reasons” the United States is not doing as well as other countries in fighting the pandemic, said Dr. Joshua Sharfstein, a vice dean at
the Johns Hopkins Bloomberg School of Public Health and a former principal deputy commissioner at the Food and Drug Administration.

“There is a science of rumors. It’s when there is uncertainty and fear,” said Dr. Shariefstein, who teaches on public health crisis communications. In the absence of treatments or vaccines, he said, honest and consistent messaging is essential.

“This is what we need to save lives,” he said. “If it’s not done well, you get far more infections and deaths.”

The Cornell Alliance for Science, which spearheaded the study, is a nonprofit devoted to using science to enhance food security and improve environmental sustainability. One of its aims is to promote science-based decision-making. Dr. Evangela and a Cornell colleague, Mark Lynas, partnered with media researchers at Oaxion, a company that performs media analysis, to conduct the study. Dr. Evangela said the study was being peer reviewed by an academic journal, but the process was lengthy and the authors withdrew it because they felt they had compelling public health information to share.

The researchers sought to identify all mentions of misinformation in “traditional media” — including in The New York Times and other major news outlets. They included fact-checking articles that corrected misinformation in their total tally. But fact-checking articles accounted for only 16.4 percent of those that included misinformation, “suggesting that the majority of Covid misinformation is conveyed by the media without question or correction,” the authors wrote.

The study found that conspiracy theories, when lumped together, accounted for 46 percent of the misinformation mentions. Among those theories was one that emerged in early April suggesting that Dr. Anthony S. Fauci, the director of the National Institute of Allergy and Infectious Diseases and a respected voice on the pandemic, was exaggerating deaths or was a beneficiary of pharmaceutical company efforts to find treatments and vaccines. To look for such stories, they examined social media hashtags, including #FireFauci and #FauciFraud.

The researchers identified more than 11,000 misinformation articles involving Dr. Fauci, as compared with more than 295,000 involving miracle cures. There were more than 40,000 articles that mentioned the purported Democratic hoax, and more than 6,000 mentioning hot soup, which was the topic of a video that made the rounds on social media in the winter.

Sheryl Gay Stolberg is a Washington Correspondent covering health policy. In more than two decades at The Times, she has also covered the White House, Congress and national politics. Previously, at The Los Angeles Times, she shared in two Pulitzer Prizes won by that newspaper’s Metro staff. @SherylNYT

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A version of this article appears in print on Oct. 1, 2020, Section A, Page 9 of the New York edition with the headline: President Perpetuates Falsehoods, Study Finds.
THE ATTACK ON VOTING: How President Trump’s false claim of voter fraud is being used to disenfranchise Americans.

By Jim Rutenberg
Sept. 30, 2020

On an October morning four years ago, eight young staff members at the Indiana Voter Registration Project in Indianapolis were planning their final steps before a closely contested presidential election. In recent weeks they had registered 45,000 new voters, most of whom were Black and Latino, and they were on track to enlist 10,000 more before Election Day. Their work had gone smoothly for the most part, but several canvassers had submitted applications with names that appeared to have been made up or drawn from the phone book, most likely to create the appearance that they were doing more work than they had actually done. That was illegal — submitting a false registration is a felony under Indiana law — and also frustrating. A made-up name was not going to help anyone vote. The staff members stopped using the suspect canvassers, but they couldn’t simply trash the faulty registrations: State law required them to file every application they collected, even if they had false names or serious mistakes. So they carefully identified all the applications with potentially false names, along with several hundred more with incorrect addresses or other simple errors, so that local election clerks would know they might present a problem.

Despite their efforts at transparency, though, Indiana’s secretary of state, Connie Lawson, used these faulty registrations as evidence of wrongdoing. She warned all the state’s county elections clerks that a group of “nefarious actors” who were going “by the name of the Indiana Voter Registration Project” had “forged voter registrations.” It was a gross exaggeration, but the project hired a lawyer to visit local election board offices and assure registrars that they were following the proper procedures. Craig Varoga, a longtime Democratic operative who runs Patriot Majority USA, which funded the Indiana project, told reporters that the fraud claims were false. Lawson was a close ally of Mike Pence, the state’s former governor who was then Donald Trump’s running mate. “We believe she is using government resources,” Varoga said, “to discredit and impugn the entire process.”

But the staff members did not expect anything like what came that October morning. Around 10:45, five unmarked state police cars and a mobile cybercrime unit quietly approached their building. A staff member heard a knock on the back door. Within minutes, troopers were rounding up the staff members inside the office, announcing that they had a warrant to search all their computers, cellphones and records. When one staff member, a young Black man, refused to give up his phone, the troopers handcuffed
him — for “acting like a hoodlum,” he later said in a sworn affidavit. Within a couple of hours, the police were heading out the door with computers and phones as a television news crew captured the scene.

Pence seized on the investigation in interviews. “Voter fraud, Dana, is real,” he told the CNN correspondent Dana Bash. “We’re dealing with it in the state of Indiana right now. We have literally thousands of instances of fraudulent voter registration.” This claim was a misrepresentation, but it was of a piece with similar claims circulating around the country. The Pennsylvania State Police raided a Democratic firm that it said was suspected of producing fraudulent registrations. Conservative activists released a report titled “Alien Invasion in Virginia,” claiming that more than a thousand “noncitizens” there were poised to vote illegally. A video from Project Veritas’s right-wing video ambush artist James O’Keefe III caught a Democratic operative seemingly discussing a hypothetical “huge, massive voter-fraud scheme” in Wisconsin, as Sean Hannity described it. Some of the claims were simply nonsensical. Roger Stone, Trump’s longtime adviser, tweeted a fictitious document that purported to reveal a Democratic plan to attack American voters with mind-controlling “pulsed ELF electromagnetic emissions” and impose martial law, adding only, “If this is real: OMG!!”

None of these stories held up under examination: The Pennsylvania authorities never followed the raid with a case; there were no official findings of illegal voting by noncitizens in Virginia; a Wisconsin attorney general’s investigation failed to uncover a “massive voter-fraud scheme.” In Indiana, a judge dismissed charges against a manager at the Indiana Voter Registration Project, and prosecutors dropped the cases against nine of its former canvassers after they agreed to pay fines and confirm as true the charges against them. Two of the former canvassers did plead guilty to making false statements on government forms and received sentences of community service and probation.

But all those headlines about voter fraud — amplified daily on Facebook and Twitter — served a purpose: They laid the groundwork for a legal challenge. The Trump campaign had a team of election lawyers standing by to dispute election results throughout the country, and the Republican National Lawyers Association had readied a self-described “Navy SEAL-type” operation to fight similar cases. In the event of a Republican loss, they would need a story, and fraud was it. The truth appeared to be a secondary concern at best.

Victory did little to change their stance. Shortly after his inauguration, President Trump told a bipartisan group of senators that his narrow loss in New Hampshire was due to voter fraud. Thousands of out-of-state voters apparently voted illegally, he said, after they were bused in to New Hampshire from Massachusetts. After Trump’s rant was leaked to reporters, the ABC anchor George Stephanopoulos asked the senior presidential adviser Stephen Miller if he really believed that to be the case. The practice of busing in illegal, out-of-state voters was “widely known” in New Hampshire, he said. But he declined to provide evidence, adding that “voter fraud is something we’re going to be looking at very seriously.”
Lithonia, Ga.: Eunice Walden, 64, waited in line with her grandson to vote in the 2018 midterm elections, only to find that she had been purged from the voter rolls. In recent years, Americans have faced a growing variety of obstacles put up by Republican officials to fight voter fraud, a problem that is largely nonexistent. Credit: Wulf Bradley for The New York Times

As the 2020 presidential election nears, it is becoming clear that the Trump administration and the Republican Party are not just looking at but heavily investing in the largely nonexistent problem of voter fraud. A New York Times Magazine investigation, based on a review of thousands of pages of court records and interviews with more than 100 key players — lawyers, activists and current and former government officials — found an extensive effort to gain partisan advantage by aggressively promoting the false claim that voter fraud is a pervasive problem. The effort takes its most prominent form in the president’s own public statements, which relentlessly promote the false notion that voter fraud is rampant.

This story did not originate with Trump. It has its roots in Reconstruction-era efforts to suppress the votes of newly freed slaves and came roaring back to life after the passage of the Voting Rights Act. But it is reaching an apex now, as a president who lost the popular vote in 2016 and is currently trailing in the polls harnesses the reality-warping powers of social media and the resources of at least four federal agencies to undermine faith in an election he could very well lose.

Voter fraud is an adaptable fiction, and the president has tailored it to the moment. Even as the coronavirus pandemic poses a grave obstacle to his re-election, the crisis is providing him an opportunity to do what no other president has done before him: use the full force of the federal government to attack the democratic process, suppress the votes of American citizens and spread grievance and suspicion among his followers. Recently, perhaps predictably, the president has begun to suggest that because of his
professed distrust in the election process, he will not agree to a peaceful transition of power.

It is remarkable, but not at all accidental, that a narrative built from minor incidents, gross exaggeration and outright fabrication is now at the center of the effort to re-elect the president. As we approach an election in which the threat of voter fraud is being used as a justification for unprecedented legal and political interventions in our democratic process, it is important to understand what this claim actually represents: It is nothing short of a decades-long disinformation campaign — sloppy, cynical and brazen, but often quite effective — carried out by a consistent cast of characters with a consistent story line. Even the Indiana Voter Registration Project remains in play. "In my own state of Indiana in 2012," Pence said on Fox News in July, "literally, there was a group of people that were prosecuted for falsifying ballots." He had the year wrong and the facts wrong. But the Indiana case was nevertheless proof, he said, that "the reality of voter fraud is undeniable."

The modern era of voter-fraud claims began on a November morning in 2000, inside a drab office building in downtown Miami — home of the Miami-Dade County election supervisor. Al Gore was contesting the results of the Florida presidential vote count, which showed a very small margin in favor of George W. Bush. Up against a court-imposed deadline, the Miami-Dade canvassing board voted to recount 10,750 ballots that had been rejected by its electronic machines, letting the 643,250 others stand, a decision that, at the time, seemed as though it could tip the vote to Gore.

With a Republican protest growing inside and around the building, the election board had moved its counting to a room on the 10th floor, away from the crowd. Stone, who helped guide Trump’s first, short-lived bid for the presidency during the 2000 primaries, has proudly promoted himself as an organizer of the demonstration, which involved several young white male rising stars of the conservative-operative ranks. The group stormed the counting room in a crashing human wave of clenched fists, pleated khakis and button-down shirt collars. Banging on doors and walls, they chanted, "Stop the fraud!"

The effort was obviously in bad faith — reporters called it the Blue Blazer Riot, the Bourgeois Riot and the Brooks Brothers Riot — but the board was sufficiently intimidated. It suspended the count less than a quarter of the way through, when it had shown a net gain of nearly 160 votes for Gore. It would never resume. If the rest of the ballots had broken the same way, Gore would have gained more votes than Bush’s final winning margin in Florida of 537. The success of the Brooks Brothers Riot confirmed that a fraud claim — even an unconvincing one — could help determine a chaotic, contested election.
Kensington, Md.: In 2017, Eliud Bonilla, 57, found his name and address in a report called “Alien Invasion II.” Published by a group led by a member of a White House commission on election integrity, the report falsely accused Bonilla and more than a thousand others of registering to vote illegally. Credit...Gabriella Demczuk for The New York Times

The incident heralded a new approach to an old technique. Powerful Americans have long deployed the claim of fraud to disenfranchise powerless Americans. White-supremacist poll watchers emerged in the Reconstruction era, along with poll taxes designed to prevent supposed repeat voting and other methods to suppress Black voters. The Voting Rights Act of 1965, the crowning achievement of the civil rights movement, did away with these “tests or devices,” as it called them, but its passage also set in motion a historic realignment of the parties, largely along racial lines. The Republican Party became increasingly white, even as white Americans represented a shrinking portion of the electorate.

After the messy outcome in Florida, the Bush administration quickly moved to embrace the new cause of what his administration called “election integrity.” The Justice Department’s civil rights division, established by the Civil Rights Act of 1957, had long worked to protect Black and Latino citizens from intimidation at the polls. Now, though, it would begin working toward what conservative legal thinkers were calling “colorblind” enforcement, recruiting a new generation of right-leaning lawyers with hard-edged views about voter fraud and the need to protect against it. They included the lawyer J. Christian Adams — who would go on to co-publish the 2016 “Alien Invasion in Virginia” report through his Indianapolis-based Public Interest Legal Foundation, or PILF — and Hans von Spakovsky, a Georgia elections official and PILF board member who was also on the scene as a Bush recount observer in Florida.

The new team made history by bringing a successful Voting Rights Act case on behalf of white citizens in Mississippi, claiming that the Black leadership of a majority Black county had employed illegal voting schemes to dilute the votes of the white minority. When career voting rights lawyers at the department recommended blocking a new voter-identification law in Georgia — on the grounds that the law threatened to disproportionately restrict the voting rights of poorer citizens, who were also
disproportionately Black and Hispanic — von Spakovsky and like-minded officials overruled the.

(A judge later ruled that the law was discriminatory.)

But the voter-fraud effort was not limited to the civil rights division. When Attorney General John Ashcroft pushed United States attorneys to bring more voter-fraud cases, prosecutors struggled to find deliberate schemes, in many cases sweeping up people who made mistakes on forms or misunderstood eligibility rules. And congressional and inspector-general investigations later unearthed documents revealing that the Bush Justice Department, in consultation with the White House, had abruptly fired multiple United States attorneys after they refused to accede to pressure to hew to partisan political considerations, including, in three instances, declining to bring voter-fraud-related cases.

In October 2008, as another presidential election neared, several F.B.I. field offices began investigating the Association of Community Organizations for Reform Now, or ACORN, which, among other community services, was then engaged in one of the largest national voter-registration drives in the country. The group, which mostly served poor neighborhoods, many of them nonwhite, had tenuous ties to Barack Obama, who was one of three attorneys who represented it in a 1995 voting rights suit. Like the Indiana authorities in 2016, the F.B.I. was investigating canvassers who provided fraudulent registrations, in this case to ACORN. And like Mike Pence in 2016, John McCain, the Republican presidential candidate, took the opportunity to portray voting rights activists not as the victims of a minor fraud but as the perpetrators of a major one, asserting that ACORN was on the verge of “destroying the fabric of democracy.”

The F.B.I. investigations led to no major federal indictments, but among some conservatives, “ACORN” quickly became the one-word explanation for nefarious forces that propelled a Black man to the presidency. O’Keefe reinforced the narrative when he released videos purporting to show ACORN staff members offering advice to O’Keefe, who presented himself as a pimp seeking advice on how to secure a loan for a brothel, the profits from which he could use to fund a political campaign. The highly edited videos offered no evidence of illegality, but the scandal on top of the investigation ultimately forced ACORN out of existence.

Even as McCain lost the race, the ACORN “scandals” helped usher in the largest curtailment of voting rights since the 1960s. As the reactionary Tea Party wave swept Republicans into statehouses, restrictive new laws took hold across the country, all in the name of combating “fraud.” Many states rolled back early voting, which had been vital to successful “Souls to the Polls” efforts by Black churches. Kansas and other states passed restrictive new voter-ID or “proof of citizenship” laws, whose new burdens fell harder on nonwhite voters, who were statistically less likely than white voters to have the necessary paperwork. Those laws came even faster after 2013, when the Supreme Court, led by Chief Justice John G. Roberts Jr., a Bush appointee, gutted the most powerful enforcement mechanism of the Voting Rights Act. “Our country has changed,” Roberts concluded in his opinion for the majority, “and while any racial discrimination in voting is too much, Congress must ensure that the legislation it passes to remedy that problem speaks to current conditions.”
**Trump filed his** paperwork for the 2020 election on the day he was inaugurated, and within weeks he started an effort that would be central to the campaign: forming his Presidential Advisory Commission on Election Integrity. The purpose of the commission, as Trump explained on Twitter, would be to collect evidence of the widespread voter fraud that had robbed him of a popular-vote win and suggest actions that he could take as president to prevent it from happening again.

Pence would be its chairman, but the real work would fall to its vice chairman, Kris Kobach. As the Kansas secretary of state, Kobach had created some of the harshest immigration and election policies enacted during the Obama years, including proof-of-citizenship requirements for voter registration. Kobach had his eyes on higher office, but a shot at the No. 2 spot in Trump's Homeland Security Department was blocked by its new head, John Kelly. Now he had found a home.

The right staffing would be essential to success. Pence had assigned two senior aides to help Kobach run the commission, Andrew Kossack and Mark Pauletta. Kossack, who would be the commission's executive director, had been Pence's revenue commissioner in Indiana and knew his way around bureaucracy. Pauletta, Pence's chief counsel, was a conservative legal ace who had served with distinction in Republican political and congressional theaters: He helped run the opposition-research effort against Anita Hill during the Senate confirmation hearings of Justice Clarence Thomas; was part of the war room that the McCain campaign set up to defend Sarah Palin in 2008; and led the investigative team of the House Committee on Energy and Commerce during the Enron and Martha Stewart investigations.

They quickly engaged with the two leading proponents of the voter-fraud narrative, the former Bush Justice Department lawyers Adams and von Spakovsky, who would advise on research and personnel. The commission needed commissioners, of course, and the team initially picked three conservative veterans of the partisan voting wars. The first was Lawson, the Indiana secretary of state. The second was Christy McCormick, a Bush-era Justice Department lawyer who was then a Republican member of the Election Assistance Commission, the federal agency responsible for distributing federal election money to states and setting national guidelines on security and registration standards. She had made her bones with Trump by publicly questioning the intelligence reports on Russian election interference while speaking out against the Obama administration's post-election steps to secure the national voting infrastructure. Rounding out the initial three Republican board members was Ken Blackwell, a former Ohio secretary of state whose partisan approach to voting rules during the 2004 presidential election was widely credited with delivering the state to George W. Bush.

To satisfy a tradition of balanced presidential commissions, they would also need some Democrats. For von Spakovsky, this was a concern from the start. "There isn't a single Democratic official that will do anything other than obstruct any investigation of voter fraud," he warned in an email. But the commission leaders found two safe-seeming bets: Bill Gardner, who as New Hampshire's secretary of state had supported stricter voter-ID laws, and Matthew Dunlap, who as Maine's secretary of state had bonded with Kobach at national conventions. "We'd sit at dinner, and we'd talk about various leads of the
thirty-aught-six — which is best for elk, which is best for moose," Dunlap told me this summer.

**Atlanta:** In 2018, Phoebe Einzig-Roth, 20, was eager to cast her first vote. But Einzig-Roth, who was born in New York City, was told that she was not a citizen of the United States and could not vote, even after she showed three forms of identification, including her passport card. Credit...Wulf Bradley for The New York Times

Over time, Dunlap came to believe that either he was being used as a figurehead or the commission wasn’t doing anything, because he heard little else after he was named. But behind the scenes, von Spakovsky, Adams, Kobach and the vice president’s aides were in regular contact and were soon planning a public meeting to showcase the latest research on voter fraud. All the commissioners would be present at the meeting, which was set to take place in New Hampshire that September.

Among the findings was a report from the Government Accountability Institute — a conservative think tank founded by Stephen K. Bannon, Trump’s former campaign chief, and the conservative writer and political consultant Peter Schweizer. Much of the funding for the institute came from Robert and Rebekah Mercer, the billionaire political activists who had also backed Bannon’s website, Breitbart News. Schweizer introduced Paletta to the report’s author, and Paletta helped arrange his testimony, internal commission emails showed. (Schweizer and Paletta had other common concerns. It was Schweizer who would go on to write a book raising questions about Joe Biden’s son Hunter and his actions in Ukraine; it was Paletta who would help devise the Trump administration’s legal rationale for withholding congressionally approved aid from Ukraine as Trump pressured its new government to investigate the Bidens. Through a spokeswoman, Paletta said he had not maintained contact with Schweizer after his work on the commission.)

A central claim of the report was that some 8,500 people voted twice in 2016. The evidence was shaky, though — one prominent political scientist, Paul Gronke of Reed College, called the research “sloppy and misinformed.” But days before the meeting, Pence’s office came across information that could make for a blockbuster announcement, giving Trump exactly what he was looking for: An analysis of voter rolls
by the New Hampshire secretary of state’s office found that 6,540 people who had registered to vote on the day of the 2016 election had presented out-of-state driver’s licenses, yet only 1,014 of them had switched their licenses over to New Hampshire in the months since. Kossack alerted Kobach and Pauletta in an email, suggesting that the rest appeared to be out-of-state residents who could have swung the election. Hours later, Kobach published a column on Breitbart’s website, declaring that, in all likelihood, the New Hampshire election “was stolen through voter fraud.”

When Gardner, New Hampshire’s secretary of state, heard Kobach’s description of the findings at the meeting, though, he immediately objected. The discrepancy could be explained by the simple fact that residents of other states are allowed to vote in New Hampshire if they are effectively living there, as thousands of out-of-state college students most certainly were. When Kobach asserted that perhaps the legitimacy of the election would never be known, Dunlap was incredulous. “Making this equation that somehow people not updating their driver’s license is an indicator of voter fraud would be almost as absurd as saying that if you have cash in your wallet, that’s proof that you robbed a bank,” he said, drawing laughter from the audience.

From that point on, Dunlap said, he was shut out. The commission had come to view him as “a saboteur,” as Adams put it to me, and Dunlap came to see Kobach and his cohort as “voter-fraud vampire hunters” who treated any rare example of actual fraud, no matter how accidental or inconsequential, as proof of its ubiquity. Stonewalled by the committee, Dunlap decided that he would need to take more extreme steps. That November, with the help of the nonpartisan watchdog group American Oversight, he sued his own commission, demanding that it share its records and stop excluding him from commission business. He would ultimately obtain 8,000 pages of pages of emails and plans and post them publicly on his Maine secretary of state website.

The documents showed that there was a much larger project in the works. In several meetings, Kobach, von Spakovsky, Adams, McCormick and the vice president’s office had discussed the creation of a gargantuan database of government-held information to search national voter rolls and find irregularities. Such list matching, as the practice is known, is the means by which states regularly analyze their voting rolls to ensure that they do not contain dead people or people who have moved out of state. But when data matching is done poorly, it can be a prolific source of false claims about supposedly invalid voters and can cause wrongful cancellations of large numbers of legitimately registered citizens. In the wrong hands, there could be no more powerful engine of voter suppression.

Kobach had built out a prototype for such a database as Kansas secretary of state. His Interstate Voter Registration Crosscheck system matched first and last names and birthdays of registered voters across nearly 30 states. But it had serious flaws. One study showed that Kobach’s program would cause 300 wrongful terminations for every double registration it might prevent; another study found that nonwhite voters—who are more likely to share the same names than white voters—are far more likely to be flagged in its data. The entire program was ultimately suspended because of litigation.
Now the commission was planning a sprawling federal version of Kobach’s Crosscheck system. Its Republican members wanted access to government data from the Department of Education, the Internal Revenue Service, the Department of Homeland Security, Citizenship and Immigration Services, public-assistance services and the federal court system, as well as from all 50 states. All of it would feed into what was to be the mother of all voter-fraud reports. The premium data it was seeking to use could have helped lead to more accurate voting rolls, with hundreds of data scientists and a long period of study, Charles Stewart III, a political scientist at the Massachusetts Institute of Technology who provides expert analysis for voting rights cases, told me. But with the resources the commission had and the time frame on which it was working, he said, the final product promised to be “a total dumpster fire” of sensational charges based on flawed data matching. (A spokeswoman for Kobach said the commission would have handled voter data responsibly and that any match would have been “a starting point for additional investigation.”)

The Dunlap documents revealed a project with high hopes. Before any of this data had even arrived, the commission’s staff prepared a draft version of a report with a section titled: “Evidence of Election Integrity and Voter Fraud Issues.” There were subcategories labeled, with anticipation, “False registrations (deceased individuals, fictitious identities, etc.)” and “Noncitizen registration.” Blank spaces were left to be filled in later. The draft report also called for unspecified changes to be made to the Help America Vote and National Voter Registration Acts, the two most important federal laws since the Voting Rights Act, devised to further expand access to voting and enhance security measures. And it proposed unspecified new methods for “investigating and prosecuting election crimes.”

By January 2018, with Dunlap winning early decisions and with lawsuits over state data requests progressing, Trump made an abrupt announcement. “Rather than engage in endless legal battles at taxpayer expense,” he said, he would be shutting down the committee. But the larger project would live on elsewhere. The president had asked a different agency — the Department of Homeland Security — “to review these issues and determine next courses of action.”
Pooler, Ga.: In 2018, Atlas Gordon, 43, was told after waiting for three hours at his longtime polling place that he was actually registered elsewhere and that the other station was already closed. No provisional ballots remained. Gordon, who hadn’t changed his registration, was unable to vote. Credit...Colby Deal/Magnum, for The New York Times

Voter registration may have seemed like an odd fit for the Department of Homeland Security, but within days, the Kobach commission’s work had found an enthusiastic reception in the department’s border, immigration and trade policy office. The office had a hand in developing many of the nativist policies promoted by Trump’s lead immigration adviser, Stephen Miller: the president’s “big, beautiful wall,” family separation, “extreme vetting.” Now it would help lead the department onto new terrain.

The focus, according to emails produced in a public-records lawsuit filed by the Brennan Center for Justice at New York University with a legal group called Protect Democracy, would be on blocking another perceived threat from Latinos. Among those who picked up the remit, emails show, was a policy analyst named Ian M. Smith. In a column for The Daily Caller, Smith had described Hispanic immigration as a threat to “America’s historic character.” He had also been, according to a copy of his résumé obtained by American Oversight, an intern for Hans von Spakovsky at the Heritage Foundation, where he “drafted reports and memoranda on voting and election law.”

In a January email, Smith revealed that his team was working on ideas for a national voter-identification requirement as part of the project. At first glance, such a requirement might seem reasonable enough, but voter-ID requirements can be tailored to create disproportionate burdens on historically disenfranchised groups. A 2018 survey by the Public Religion Research Institute and The Atlantic found that Black and Hispanic people were three times as likely as white people to say that they had been told at polling stations that they lacked the proper identification. Even when Black citizens do have government-issued ID, states may deliberately reject it. In one version of its voter-ID law that was struck down in the courts in 2019, North Carolina had excluded
from its list some forms of ID held disproportionately by Black residents, including all but a small number of government-employee cards.

Dunlap told me that, from the emails, Smith appeared to be working on the same “harebrained” proposal that had come up while he was on the commission, one that would require all voters to present “Real ID” cards in order to cast a ballot. Real ID cards, a Homeland Security Department innovation dating to 2005, will be required for entry at federal facilities and to board commercial flights starting late next year. In order to obtain one, people must present an array of documents proving their citizenship. Requiring such a test in order to vote, Dunlap said, “would be a game changer.”

Smith, whose involvement in the voting project has not been previously reported, would not last long enough at the department to see it through. The department forced him to resign later that year, after The Atlantic obtained several emails revealing his friendly interactions with prominent white nationalists and neo-Nazis and his acceptance of an invitation to a “Judenfrei” (Jewish-free) dinner. (Smith declined to comment in detail about his resignation or his work on the project.)

The department emails also give a hint of an even more ambitious plan to expand Kobach’s crosschecking. Several exchanges involved questions about the department’s position on providing state election officials with access to its Systematic Alien Verification for Entitlements, or SAVE, database, which tracks the status of immigrants. After Florida sued for access to the database in 2012, the Obama administration agreed to share the data with states on a limited basis. Now Republican state officials were clamoring for more extensive access to identify undocumented immigrants who were supposedly illegally registered on voter rolls. Its potential utility had been mentioned in internal communications of the Kobach commission. Heavily redacted emails from January and February 2018 appear to show Department of Homeland Security officials discussing whether the department had legal clearance to grant it. A message from an official with its civil rights division urged safeguards for those “who could be disenfranchised based on erroneous determinations.”

Adams, for his part, was about to discover the consequences of bad data. In April 2018, the League of United Latin American Citizens filed suit against Adams's group on behalf of several Virginians who accused PILF of defaming them in its 2016 “Alien Invasion in Virginia” report or its 2017 sequel, “Alien Invasion II.” PILF and a related group called the Virginia Voters Alliance had identified them as being among thousands of “noncitizens” who had registered to vote in Virginia and, in many cases, did vote, committing “felonies upon felonies.” The plaintiffs, however, were American citizens.

The reports were based in part on lists of people that local election officials had removed from voting rolls because they had indicated on driver’s-license renewal forms or other state records that they were not citizens. Emails released in the discovery process show that one election official had warned PILF that such lists could be unreliable: Actual citizens appeared to sometimes answer questions about their citizenship on renewal and application forms incorrectly. In another email, an associate said that he had found some specific cases in which a supposed noncitizen did seem to be a citizen.
But Adams and others on the project weren’t concerned. In one email, the PILF spokesman Logan Churchwell wrote that even if the lists turned out to be inaccurate, it would create even more questions about how Virginia was handling its voter rolls. “We still have the opportunity to convert pushback into official confusion to justify our call for top-down overhaul,” Churchwell wrote to Adams. “The fog of war favors the aggressor here.” Discussing the second report on Tucker Carlson’s show on Fox News in 2017, Adams said, “This is the real foreign influence in American elections.” In a settlement in July of last year, PILF agreed to apologize and strike exhibits featuring the names of people who were in fact citizens and did not commit felonies.

In late August, Adams told me that PILF deserved credit for showing that Virginia was removing voters from rolls based on flawed conclusions about their citizenship. In Adams’s view, liberal bias was causing reporters to overlook serious problems in state registration lists that groups like his were identifying. “This is all in earnest,” he said. “We’re not doing this because we’re trying to help somebody win an election. The stuff we’re finding ought to concern everybody.”

Yet the sensationalistic particulars of voter fraud that were thriving online and on Fox News were withering in the evidentiary fluorescence of the courts. In Kansas, a federal judge struck down Kobach’s proof-of-citizenship law, ruling that “the magnitude of potentially disenfranchised voters” could not be “justified by the scant evidence of noncitizen voter fraud.” (She also questioned the value of one of his expert witnesses, von Spakovsky, citing his “misleading evidence” that was “largely based on his preconceived beliefs about this issue.”) A federal judge decided against the plaintiffs in a suit that Adams helped bring to compel Broward County to winnow its rolls more aggressively, saying the argument relied in part on a “misleading” analysis.

The 2018 midterm elections did see one bona fide large-scale ballot-fraud effort. A political operative in North Carolina ran a complicated scheme in which he requested hundreds of ballots on behalf of unwitting voters and then intercepted them and filled them out for the candidate he was working for: the Republican congressional candidate Mark Harris. Election officials spotted the suspicious activity shortly after the vote, refused to certify the results and conducted a new election. Trump never posted on Twitter about this rare actual instance of fraud.

The North Carolina case had nothing to do with “ghost voters” or “double voters” or undocumented immigrant voters. Yet the hunt to rid voting rolls of these supposed specters was increasingly becoming the primary focus of conservative efforts. Between Georgia, Ohio and Texas alone, at least 160,000 people had been wrongfully blocked, scheduled for removal or removed from voter-registration lists in 2018 and 2019. Those marked for ejection were disproportionately Black and Latino. The states said these were simple mistakes. But Nina Perales of the Mexican American Legal Defense and Educational Fund, which in 2019 sued to stop a Texas purge of purported noncitizens that ensnared 98,000 voters, saw something else at play: “They’re trying to freeze the electorate in place,” she told me, “by preventing new folks from getting on the voting rolls.”
Waskom, Texas: Belén Ifíguez, 23, was one of nearly 100,000 voters flagged by the Texas secretary of state as a possible “noncitizen” registered to vote. Ifíguez, a naturalized citizen, subsequently joined a lawsuit against the state that reached a settlement in April 2019. Credit...Zerb Mellish for The New York Times

The coronavirus introduced a menacing new element of disruption to the coming presidential election. This April, as shutdowns and fear of exposure meant that voting by mail would be used by more Americans than ever before, David C. Williams quietly stepped down from his seat on the board of governors of the United States Postal Service, where he had served for nearly two years after having spent the previous 13 years as the service’s well-regarded inspector general. A week later, the board announced its selection of a new postmaster general, Louis DeJoy.

The appointment was curiously timed. DeJoy’s predecessor, Megan Brennan, an Obama holdover who worked her way up from the letter-carrier ranks, had announced her resignation in October. The board had been using two separate search firms in its methodical approach to choosing her successor. DeJoy, the longtime chief executive of a major logistics company that held several Postal Service contracts, was not on either firm’s list. He did not go through the normal vetting process, Williams would later assert, citing that irregularity as one reason for his resignation, as well as his personal reservations about DeJoy’s qualifications. Yet DeJoy had a clear conflict of interest: He still held a major stake in the firm that had bought his company and employed him for several years, which itself still had Postal Service contracts and stood to gain from a privatization plan that Trump was promoting. (In a statement, the Postal Service said that the Postal Inspection Service conducted a background check of DeJoy after he was offered the position but before he started and that DeJoy has recused himself from all decisions involving his old firm.)

DeJoy’s recommendation originated with the chairman, Robert M. Duncan. Duncan and DeJoy hailed from the same world of high-dollar Republicanism, and a Postal Service spokesman said they knew each other socially. Duncan is on the board of the Senate Leadership Fund, a super PAC linked to Mitch McConnell, the Senate majority leader; as the Republican National Committee chairman in 2008, he echoed the McCain
campaign, warning that Democrats would benefit from "voters that do not exist." DeJoy was a longtime Republican fund-raiser who had given lavishly to Republicans in recent years. An invitation for a big-donor event he held for Trump at his home had lamented "the extreme and unreasonable challenges" Trump faced, including from "federal employees," The News & Observer of Raleigh had reported. The raw commingling of political interests was unusual for the Postal Service. But the service was entering unusually political territory.

Just a few weeks earlier, an election for the Wisconsin Supreme Court revealed the newly pivotal role that mail-in voting would play in American elections during a pandemic. The winner of the race would have influence over a suit to force a planned purge of 200,000 from voter rolls, which had been paused because of concerns about data errors.

With Covid-19 cases surging, Gov. Tony Evers, a Democrat, issued strict stay-at-home orders. By then, the Centers for Disease Control and Prevention had released urgent guidance directing election officials to move toward "voting methods that minimize direct contact with other people and reduce crowd size at polling stations." The first of its specific recommendations: "Encourage mail-in methods of voting if allowed in the jurisdiction."

Democrats quickly sued to suspend the state's strict requirements that mail-in votes arrive by 8 p.m. on Election Day. They won an initial six-day extension for mail ballots, but in response to a late Republican appeal, the Supreme Court ruled on the election's eve that no ballot would be counted that didn't have a postmark from Election Day or earlier. In a smaller victory for Democrats, it let stand the order to extend the counting period.

**Milwaukee:** The medical director at a psychiatric hospital in Wisconsin, Roger Luhn, 60, did not want to risk exposing his patients to the coronavirus by voting in person in the 2020 primaries. He requested an absentee ballot, but it never arrived.
Credit...Lyndon French for The New York Times
Local data compiled over the following weeks showed that in several towns, the conservative incumbent won the in-person vote but the liberal challenger prevailed in the mail. Democratic officials said that at least 92,000 people who asked for ballots didn’t receive them in time to mail them back by Election Day. According to the Wisconsin Elections Commission, some 5,500 voters sent ballots that were postmarked after Election Day — too late to be counted under the Supreme Court’s new terms. At the same time, the extended counting deadline appeared to have saved nearly 80,000 people whose ballots had arrived after Election Day from disenfranchisement.

Here was a test that made one thing clear: For mail voting to work, time was an important X factor. Voters needed time to obtain and send ballots, the Postal Service needed time to deliver them and election officials needed time to count them. And more of them were likely to be Democrats. There were variables that Trump could control, in no small part through the Post Office.

With that realization, questions about DeJoy’s hiring began to take on added urgency, and Senator Chuck Schumer drafted a letter to Duncan, requesting a full and extensive accounting of DeJoy’s selection and any possible hand the White House might have had in it. He promptly received a letter from the Postal Service’s board secretary, Michael Elston, denying his request for information. (A White House official, who would speak only on the condition of anonymity, said the president was not directing internal decisions at the Postal Service.)

As it happened, Schumer had bumped up against Elston before, when Schumer helped lead the investigation into the Bush administration’s politically motivated firings of the United States attorneys. Elston was a senior Justice Department political appointee at the time and resigned under pressure. A later internal investigation determined that he had consulted on the firing plans and was “close to the line” of intimidation in his apparent efforts to keep the fired attorneys from speaking out. One witness in another investigation, this one in the Senate, also connected him to a questionably timed voter-fraud case against four workers for ACORN during the 2006 midterm elections. During the Trump era, Elston was elevated to board secretary, which meant he helped handle the logistics of DeJoy’s nomination. (After DeJoy’s nomination, Duncan assigned Elston to the postmaster general’s office to serve as an adviser, a Postal Service spokesman said, adding that he would have no role in mail operations.) About a week after DeJoy’s appointment, the Postal Service announced that another senior official was resigning, the deputy postmaster general, Ronald Stroman. Adams tweeted: “Good news from the swamp: Ronald Stroman — deputy postmaster general who was working at cross purposes with @realDonaldTrump on #VoteByMail got booted, the hard way.”

Stroman told me that he wasn’t pushed out. “My leaving had more to do with the independence of the Postal Service,” he said. He said he had also developed a more fundamental disagreement with the Trump administration’s approach to the department over all, which included a proposed privatization scheme. Before he left, Stroman had been implementing a yearlong plan to improve the mail balloting system. As the coronavirus began its rapid spread, he came to realize that his plan was “nowhere near sufficient, given the volume we’re going to see, and you have states that just do not
have the infrastructure or history of dealing with significant numbers of absentee ballots." He was confident that they could get up to speed for November, but the Postal Service was going to have to continue to prioritize the work under its new management, and states were going to need far more resources to build out their vote-by-mail capabilities.

The $2 trillion Cares Act emergency-funding bill passed in March included $400 million for elections. Democrats had proposed federal requirements for states to effectively make mail-in ballots available to all voters for any reason and the extension of early voting, something closer to the $4 billion experts believed was necessary. Republicans, citing their opposition to federal mandates, treated those provisions as nonstarters. In the divisive Trump era, the $400 million was a result of a rare moment of shared purpose, and Senator Amy Klobuchar of Minnesota, the senior Democrat on the Rules Committee, which is responsible for the election money, had reason to be optimistic that Republicans would release more money in future relief bills. For one thing, she told me in July, the Rules Committee’s Republican chairman, Senator Roy Blunt of Missouri, had said publicly that he would work to get more money to states, and that as a former secretary of state, he understood the need.

Klobuchar had important allies on the Republican side in secretaries of state like Kimberly Wyman of Washington, who oversees one of the nation’s only vote-by-mail election systems. In Wyman’s determination, $400 million was a fair start, but it was woefully insufficient on its own.

“It’s not even knocking on the door of what these states are going to need,” Wyman told me. More money was vital to securing the most important element in achieving a clear-cut election outcome: the speed with which it can be determined. The longer a result remains in doubt, the more time there is to question the legitimacy of the entire election.

States that did not have all-mail elections — all but five — simply didn’t have the equipment necessary to quickly count the number of mail ballots they were going to be receiving. They required more high-speed sorters and envelope splicers and printers.

But as June became July and July became August, there was no sign that Senate Republicans would agree to release more money. A senior Democratic staff member with knowledge of the negotiations lamented to me that Republicans were opposing more financing with claims that fraudsters were going to show up at election offices with “bags of ballots.” The staff member, speaking on condition of anonymity, told me, “They’re starting to churn the Republican misinformation machine — that it lends itself to fraud, and it’s just not true.” It was beginning to dawn on Democrats that even if they did secure more money, it would have to pass through the Office of Management and Budget, which during Paoletta’s tenure had already set a precedent of holding back congressionally approved funds in the Ukraine scandal.

Republicans still had at least one compelling reason to more fully finance mail-in voting — the undeniable public-health imperative to switch to absentee balloting, recommended by the administration’s own top health agency. But quietly, in early
summer, the C.D.C. changed its guidance on voting. Its elections web page no longer specifically mentioned mail-in voting as a safer alternative to in-person voting. The changes, which have not been previously reported, addressed mail ballots only in a brief section about possible dangers associated with them, suggesting that workers allow mail to sit for a few hours before handling it “to further reduce risk” and to carefully disinfect all machinery that comes into contact with it. Its final point: “Mail-in voting can make it more difficult for voters with disabilities to exercise their right to vote.” This was misleading. Mail voting is the primary means of voting for many people with disabilities. At that point, though, the White House was already moving to take over all government communications about the coronavirus.

Then came news that the new leadership at the Postal Service was cutting back on overtime and ending delivery shifts as scheduled, rather than when all the daily mail was delivered, leading to delays throughout the system. Union officials reported that sorting machines were being removed from post offices at unusual rates. Now the central mechanism of the vote-by-mail system was being badly hobbled — by executive action and congressional inaction. (A Postal Service spokesman said the cutbacks in overtime were part of a longstanding cost-saving effort.)

When Congress headed off for its summer recess with no deal on money for voting or the Postal Service, Trump told reporters. “They need that money in order to make the Post Office work, so it can take all of these millions and millions of ballots,” he said. “Now, if we don’t make a deal, that means they don’t get the money. That means they can’t have universal mail-in voting. They just can’t have it.” His Democratic opponent, Joe Biden, told CNN, “He doesn’t want an election.” Republicans played down Trump’s statements. And the Postal Service said sorting machines were removed only for lack of use; it said it was confident that it was prepared for the election. But Stanley Bastian, a federal judge in Washington, who would temporarily block DeJoy’s postal changes before the election, ruled, “At the heart of DeJoy’s and the Postal Service’s actions is voter disenfranchisement.”

Michigan, Pennsylvania and other states began pursuing ways to make up for the Postal Service delays and the lack of financing, easing deadlines and installing special ballot drop boxes throughout their counties. The Trump campaign, PILP and Judicial Watch filed or supported suits to block those moves. They cited one reason above others: fraud. “Defendants have sacrificed the sanctity of in-person voting at the altar of unmonitored mail-in voting,” a suit filed by the Trump campaign this June against counties in Pennsylvania read, “and have exponentially enhanced the threat that fraudulent or otherwise ineligible ballots will be cast and counted.”

The judge in that case was skeptical and demanded proof in August. The campaign struggled to provide any. But now it was primarily making its case on social media, where no proof was needed at all.
**Milwaukee:** Patti Sherman-Cisler, 63, requested an absentee ballot for the April Democratic primary and for the general election for a new member of the State Supreme Court but did not receive it in time. Concerned about exposure to the coronavirus, she decided she could not vote in person. Credit...Lyndon French for The New York Times

**Early on Sunday,** Aug. 23, before a morning round at the Trump National Golf Course, Trump paused to communicate to the nation, writing another social media post in what had become a barrage of baseless and false attacks on the integrity of the election system. "So now the Democrats are using Mail Drop Boxes, which are a voter security disaster," read the president’s posts on Facebook and Twitter. "A big fraud!"

Twitter deployed its system to block disinformation about voting, prefacing the post with a warning: "This Tweet violated the Twitter rules about civic and election integrity.” Facebook let the post stand, though it did affix a link to the message directing users to visit its new Voting Information Center.

The center featured several articles promoting basic voting facts. One was about mail voting. "Voting By Mail (Absentee) Can Be Safe and Easy," read the headline in August. The post enumerated the standard verification features that mail ballots tend to have but did not directly address false statements about their vulnerability to fraud. (And "can be safe" was hardly a ringing endorsement.)

"Mark seems to be unwilling to put Facebook’s thumb on the scale about what constitutes voter suppression," Vanita Gupta, president of the Leadership Conference on Civil & Human Rights, told me early this summer, referring to Mark Zuckerberg, the chief executive of Facebook. Gupta was the head of the Justice Department’s civil rights division during Obama’s second term. Now, as the leader of a group representing more than 200 of the nation’s civil rights organizations — including the N.A.A.C.P., the A.C.L.U. and Voto Latino — she was among the few outside leaders with whom Zuckerberg was regularly consulting.
As she saw it, her concerns were up against strong countervailing forces at the top of the company. Zuckerberg had his own absolutist view of free speech in mass media, which always had some regulatory limits in the pre-internet era. His aversion to acting as an “arbiter of truth” had by now been well established. He had also hired from both sides of the political aisle in Washington, in part to convince conservatives that any efforts to crack down on political misinformation would not be aimed specifically at Republicans.

Civil rights groups in Gupta’s coalition had kept a wary eye on one Republican hire in particular: Joel Kaplan, the Facebook vice president for global policy. Kaplan was a veteran of the George W. Bush administration and served as a Bush recount observer in Miami-Dade in 2000. He has acknowledged that he was present at the Brooks Brothers Riot — which he has described as peaceful — but has demurred over the years about his own role in the actual protest. (“While I was there,” he said in a 2003 Senate confirmation hearing, “I was not, to my recollection, a participant.”)

Some civil rights groups had been calling for Kaplan’s ouster since he appeared at the side of his friend (and former Bush colleague) Justice Brett Kavanaugh during Kavanaugh’s contentious Senate confirmation hearings in 2018. Now partisan equivocation seemed to be at play in Facebook’s hesitancy to block Trump’s false statements about mail voting — which had the effect of implying an equivalence between his lies about mail voting and true statements about its well-established viability. “This is rooted more philosophically for Mark, in this notion that Facebook should protect free speech, and a failure to understand what voter suppression looks like today,” Gupta told me in one of several interviews over the spring and summer. This wasn’t an academic issue, Gupta said: In 2018, after she and other civil rights leaders had consulted on an independent audit of its content policies, Facebook created a rule that any post that obviously threatened to suppress votes would be removed.

The action hinged on whether the content fell under Facebook’s definition of “suppression,” which was fairly narrow. For instance, Trump’s post alleging that ballot drop boxes were vulnerable to extensive fraud was similar to the argument his attorneys were making in the lawsuit in Pennsylvania, which wasn’t resolved. In their meetings with Gupta, Zuckerberg and his leadership team would point to such litigation to argue that a claim was in dispute and therefore could not be removed.

What they were failing to understand, Gupta told me, was that the allegation was not only false (and its placement in legal filings didn’t make it less so); it was also more than subtly suppressive. “It confuses voters about what is legitimate and what isn’t,” she told me. ‘More people will say, ‘Forget it, we’re going to vote in person.’ That could result in not voting at all if Covid comes back.” Polls showed that Trump’s voters were far less concerned about the pandemic and would be therefore less hesitant to vote in person. That was also in part attributable to Facebook; despite its efforts to block misinformation about the coronavirus, content depicting it as a hoax was still abundantly present. (The disinformation video “Plandemic” drew nearly 2.5 million shares, likes and comments on Facebook before the platform removed it last spring, a Times analysis found.)
Facebook was also, Gupta said, playing directly into Trump’s strategy of “sowing the seeds to delegitimize an election he could lose.” During a meeting with Wisconsin Republicans in November, a senior Trump adviser gave a hint about how important social media could be to the campaign’s legal strategy to contest election results if the need arose.

The adviser, Justin Clark, had been describing the effects of a judge’s decision to lift a longstanding ban that kept the Republican National Committee from monitoring polls on Election Day for any irregularities. In 1982, a judge issued the ban after finding that the party illegally used its monitors to intimidate Black voters during Tom Kean’s Republican campaign for New Jersey governor. (Roger Stone was an adviser on that campaign.)

Now, Clark said, the party could use its war chest and vast national network to detect “cheating” by Democrats — in other words, fraud — which could feed lawsuits. “How many times do you have an issue in a county that is just egregious and terrible but it never gets the attention it deserves, because the media won’t report it?” Clark said.

“We’ve got a guy who is committed to this, who is able to short-circuit media attention on stuff and just say things.” Social media was the shortest circuit. “Having a presidential candidate — and president — on the Republican side who is talking about the mechanics of voting and potential fraud is something we’ve never had in my lifetime,” Clark told me in late September. “It’s something that’s helpful in highlighting a lot of this stuff and bringing it into the light.”

In late August, Gupta said, events seemed to weigh differently on Zuckerberg. Facebook began to plan contingencies to reduce or remove content in which one side or another claimed victory before any results were finalized. Facebook’s Voting Information Center updated its article on absentee mail-balloting, adding a stronger statement that “Voter Fraud Is Extremely Rare Across Voting Methods.” And Zuckerberg and his wife, Priscilla Chan, in an effort to make up for the money Congress wasn’t sending, donated $300 million to fund election-infrastructure development across the country. But as the election approached in late September, Gupta remained uneasy. If Facebook couldn’t enforce its policies, she said, it “would mean disaster for democracy.”

**On Wednesday, Sept. 2**, Attorney General William P. Barr went on CNN and issued a series of patently false statements about voting. Given his standing as the nation’s most senior law enforcement official, his words also carried an implicit threat. He said there had been several studies that found that mail voting was “fraught with the risk of fraud and coercion,” but he named only one of them, a 2005 report on voting by Jimmy Carter and James Baker III, which actually recommended “further research on the pros and cons of vote by mail.” (A later panel on voting, presided over by Bob Bauer, a Democrat, and Benjamin Ginsberg, a Republican, in 2014 endorsed vote by mail, stating that “fraud is rare.”)

Barr told his interviewer, Wolf Blitzer, that the Justice Department had prosecuted a man in Texas for collecting and filling out 1,700 ballots for the candidate of his choice. The case in question was actually brought locally in Dallas County, and the local
prosecutor described it as “tiny” — amounting to charges over a single fraudulent ballot. Barr said that foreign intelligence services could manipulate mail voting and that the national voting rolls were too inaccurate to support an extensive fraud-free mail vote. (Jeffrey A. Rosen, the deputy attorney general, told a panel the week before Barr’s CNN appearance that “we continue to think that it would be extraordinarily difficult for foreign adversaries to change vote tallies.”)

Democrats and civil rights lawyers were watching Barr carefully. No official in Trump’s entire cabinet had as much potential power to affect the election as Barr did. He oversaw the F.B.I., which could start voter-fraud investigations; the United States attorneys, who could bring voter-fraud cases; and the civil rights division, whose lawyers oversaw the enforcement — or lack of enforcement — of the Voting Rights Act.

New Kent, Va.: Abby Jo Gearhart, 41, also found her name in the 2017 “Alien Invasion II” report, along with her address and phone number. She joined a lawsuit that led to an eventual settlement. Credit...Gabriella Demczuk for The New York Times

Barr had his own conservative pedigree on civil rights. As a young lawyer in Ronald Reagan’s Office of Policy Development, Barr co-wrote a memo articulating the rationale animating the movement to roll back civil rights over the decades to come: “We want a colorblind society,” it read. “We do not, for that very reason, embrace the kind of social engineering that calls for quotas, preferential hiring and the other approaches that do nothing but aim discrimination at other racial groups.” Around the same time, Justice John Roberts, then an assistant to the attorney general, was using a similar argument to fight a congressional move to strengthen protections for historically disenfranchised voters in the Voting Rights Act, arguing that it would “establish essentially a quota system for electoral politics.” (Roberts ultimately lost the argument.)

Almost as soon as the Senate confirmed Barr as attorney general in February 2019, he exhibited a willingness to push the department into the service of Trump’s political interest. He had misleadingly played down the findings in Robert Mueller’s report on Russian interference in the 2016 presidential election. He challenged federal prosecutors on the campaign-finance case against the president’s former fixer, Michael
Cohen, even though Cohen had pleaded guilty. And after a jury found Roger Stone guilty of lying to Congress, witness tampering and obstruction, Barr withdrew his own department’s tough sentencing recommendation and submitted a lighter one. Stone had said in interviews that the conviction was undermining the work he planned to do to get Trump re-elected. (Trump commuted his sentence in July.)

In the months before Barr’s CNN interview, the department had been making quieter moves on voting. In the spring, it poked into two court fights over mail-in ballots — in Alabama and South Carolina — in filings called “statements of interest.” Statements of interest tend to have no direct bearing on cases, and the filings escaped news coverage. But they are important markers that let judges know where the federal government stands on laws it is authorized to enforce (in these cases, the Voting Rights Act).

The department was not challenging the plaintiffs’ primary arguments that the pandemic had created emergency conditions that required temporary changes. Rather, it was disputing a secondary argument that the three groups bringing the cases, the A.C.L.U., the Southern Poverty Law Center and the Alabama State Conference of the N.A.A.C.P., introduced in their original filings: that the usual requirements that absentee-ballot applications include witness signatures and photocopies of official ID were disproportionately onerous for Black and Hispanic voters during the pandemic — akin to the Jim Crow-era “tests and devices” that the Voting Rights Act made illegal. The message was clear. The Justice Department didn’t want the fight to take place on Voting Rights Act grounds. It was making it all about fraud.

Barr’s mendacity during the Blitzer interview made a lot of news. But there was something else Barr said that much of the coverage missed. Blitzer asked Barr if the president could legally make good on his recent threat to send “sheriffs, law enforcement and U.S. attorneys” to polling stations on Election Day. Barr answered, “If there was a specific investigative danger that we detected some problem and risk — yes.”

He had, of course, just enumerated several “investigative dangers.”

The Biden campaign’s legal team spent the summer gaming out every possible scenario for how Trump could challenge a losing election result. Some of his top advisers were veterans of the voting wars. His longtime side, Ron Klain, was Gore’s lead strategist during the Florida recount. Bob Bauer, a senior adviser on the team, served on the 2014 voting panel and was Obama’s top lawyer in 2008, when the F.B.I.’s ACORN investigations hit.

At the time, Bauer denounced Republican attempts “to draw the law enforcement process into their attack politics” and called for a special-counsel investigation. In 2020, he was facing a worst-case — and, he still thought, unlikely — scenario involving a Republican president drawing a quasi-military force and extralegal process into his attack politics.

Over the summer, Trump ordered tactical agents at the Department of Homeland Security to combat protesters and rioters in Seattle, Portland, Chicago and Washington.
The agents were attached to D.H.S. subsidiaries, including Bortac, the Border Patrol's SWAT-unit equivalent. They were neither badges nor insignia as they attacked protesting citizens with chemical agents and even pulled some into unmarked vans.

Biden had been warning for months that Trump would seek to "steal this election," as he put it in June. Among the campaign's prospective scenarios was one in which Trump declared that the threat of fraud was so grave that he had to send military-style troops to polling stations. The legal odds were against it. The Posse Comitatus Act generally prohibits using the military for domestic law enforcement. The Voting Rights Act has strict prohibitions against voter intimidation. And the U.S. criminal code allows troops at polls only to counter "armed enemies of the United States." The question, as Bauer saw it, was whether Trump might try to use a flimsy legal justification for a Department of Homeland Security voting-day deployment. "We're planning for every nutty thing they can try to do," Bauer told me.

Roger Stone, newly free of his own legal concerns, provided one such possible justification in an interview in September with the conspiracy-monger Alex Jones: "If someone will study the president's authority in the Insurrection Act and his ability to impose martial law if there's widespread cheating," Stone said, "he will have the authority to arrest Mark Zuckerberg, to arrest Tim Cook, to arrest the Clintons, to arrest anybody else who can be proven to be involved in illegal activity." The government had once used the Insurrection Act to deploy federal troops to protect Black students arriving at newly desegregated schools and to protect newly freed formerly enslaved Black citizens from Ku Klux Klan attacks during Reconstruction. Now, Stone said, Trump could invoke it to protect all voters from fraud. "The ballots in Nevada on election night should be seized by federal marshals and taken from the state — they are completely corrupted," he said, arguing that the entire Nevada vote would be fraudulent because the state had approved a plan to send ballots to all voting-age citizens and "they are already flooded with illegals." In any other year, under any other president, Stone's rhetoric on an internet-based conspiracy show could be dismissed out of hand. But he had the president's ear, and the attorney general had intervened in his favor only months earlier.

Barr will be the one to provide Trump with any legal justification, and his rhetoric indicated that he was amenable. "He's got a choice to make here," Bauer told me in late September. "Is he actually, beyond his rhetoric, going to support completely unsustainable legal actions, which are going to fail but are going to have a lot to say about how his legacy is viewed by history?" Bauer just wasn't sure how much of the authoritarian rhetoric was only for show, perhaps in a bid to scare Democrats and depress their vote. In a sense, he said, taking it too seriously could play into Trump's hands, giving air to Trump's "wholesale rhetorical assault on the Democratic process." Nonetheless, Bauer said, the campaign had pre-emptive options to head any extralegal moves off in court, which he declined to share in detail. Bauer believed that in parroting some of Trump's more outlandish rhetoric, Barr had already undercut the government's standing before the federal bench.
Barr does have the right to dispatch line attorneys to help monitor polling stations. The Department of Justice has done that regularly since the passage of the Voting Rights Act to make sure jurisdictions complied with it. Trump had his own campaign lawyers ready to bring those challenges, too. Had the Kobach commission finished its work, any lawyers working on Trump’s behalf would have had a huge database from which to make claims — claims that, if recent history had been a guide, would have collapsed in court over time. But in contested elections, charges only need to hold up for long enough. As it happened, Adams’s group had created a private version of that database at PILF, covering 42 states.

**Milwaukee:** Emily Suarez Del Real, 35, was nearly six months pregnant with Armand, above, when the Wisconsin primaries approached and the pandemic forced Americans into lockdown. A schoolteacher, Del Real never received her absentee ballot. Despite her safety concerns, she voted in person. Credit...Lyndon French for The New York Times

In mid-September, PILF released a report called “Critical Condition,” alleging that some 350,000 dead people were on national voting rolls and that tens of thousands were registered more than once, posing a threat to the mail-in voting system. Although at any given moment voter rolls will of necessity contain the names of dead people — no one calls the election board when someone dies — PILF suggested that the report could serve as a basis for “criminal and civil law enforcement investigations.”

Biden had his own allies. Affiliated outside groups like Priorities USA are readying their own legal teams for a litigious November and December. The Democrats will be rowing alongside major civil rights groups that were also watching the election closely, including the A.C.L.U., the Southern Coalition for Social Justice, Fair Fight Action, the Brennan Center and Common Cause. Donors had flooded those groups with money.

But conservatives had a plan for that, too. **In Wisconsin,** several civil rights groups reported that a man who interviewed their members for a supposed documentary had ties to Project Veritas. In North Carolina, civil rights groups — including the local branch of Common Cause — said an impostor following the Veritas playbook sought to
infiltrate their offices. And in New Hampshire, Project Veritas struck its version of gold — one of its operatives found a Democrat who admitted to voting twice in 2016 by posing as a woman. “Voter fraud is real,” O’Keefe tweeted, and on Sept. 24, he posted a video on social media, promising that his biggest exposé on voter fraud was imminent and would serve as an answer to all the doubters.

That same day, the Justice Department had its own answer: Investigators with the F.B.I. and a U.S. attorney’s office were looking into “potential issues” with nine military mail-in ballots that were discarded at the local election office in Luzerne County, Pa. In a breach of protocol, a Justice Department news release revealed that seven of the votes were cast for Trump. Burr had personally briefed Trump, who referred to the investigation on a talk-radio program before the department announced it, portraying it as a fraudulent plot to rob him of votes. The local election board reported a simpler story: A new worker had incorrectly trashed the ballots, and its fail-safes had quickly identified the problem.

The strategy was now in full view: Flood every state, every television news network, every newspaper and news feed with manufactured evidence of fraud to suppress Democratic votes before Election Day — and to knock them out of state-by-state tallies in the courts and counting rooms afterward. In September, Trump's power to affect the outcome reached a new level when Justice Ruth Bader Ginsburg died and Mitch McConnell lined up the votes for a fast confirmation of the Supreme Court’s sixth conservative member. Increasingly, longtime election experts were seeing “a pathway for something other than voters choosing the next president,” said Richard Hasen, a professor at the University of California-Irvine School of Law who writes the widely read Election Law Blog.

The movement to convince the country that voter fraud is a present danger to democracy has itself become a present danger to democracy. It has melded fully into the president’s re-election campaign. The argument is now that the only way Trump can lose this election is through sweeping voter fraud that benefits his opponent; any outcome in which he doesn’t win, therefore, can be considered illegitimate. This, Trump says, is why he refuses to commit to a peaceful transfer of power: Only fraud can beat him, and fraud is everywhere.

But unlike four years ago, when his campaign laid the groundwork for a similar argument, Trump is now aiming the full force of the United States government — its lawyers, its Postal Service, even its armed officers — at a false threat that has been used to disenfranchise American citizens since the darkest days of the republic. He is doing it in the service of one goal: to maintain his own grip on power.

“When you see them cheating with those ballots, all of those unsolicited ballots, those millions of ballots, you see them, any time you do, report them to the authorities,” he said at a late September election rally in Toledo, Ohio. “The authorities are waiting, and watching.”
Jim Rutenberg is a writer-at-large for The Times and the Sunday magazine. He was previously the media columnist, a White House reporter and a national political correspondent. He was part of the team that won the Pulitzer Prize for Public Service in 2018 for exposing sexual harassment and abuse. @jmrutenberg

A version of this article appears in print on Oct. 4, 2020, Page 28 of the Sunday Magazine with the headline: The Attack on Voting.
Chairwoman FUDGE. Thank you, Mr. Aguilar.

Mr. AGUILAR. Thank you.

Chairwoman FUDGE. Mr. Raskin, you are now recognized for five minutes.

Mr. RASKIN. Madam Chair, thanks for your great leadership in calling this hearing and making sure that we are staying laser-focused on the integrity and fairness of this election.

I want to go to my friend, Spencer Overton, first. Welcome, Professor.

President Trump has been engaged in a lot of propagandistic disinformation already about the election, calling it a fraud, a scam, a hoax, millions of fake ballots, and all of that stuff. This itself discourages and depresses voting; it demoralizes voters.

It also provides a smokescreen and a fog of propaganda for State legislatures that may be trying to depress turnout and may be trying to discredit what could be a landslide popular vote, based on the polls today, for Joe Biden and replace the popular vote with electors that have been appointed directly by the State legislature.

So this question of propaganda disinformation is very important in terms of us trying to preserve the integrity of popular democracy in the States in this Presidential election.

I wonder if you would comment about Facebook. I know Twitter has implemented a ban on all political ads on its platform. Google has said that it will ban political ads, ads that are referencing the election and candidates, after November 3 through January 6.

Facebook has said something interesting, which is it will ban false and misleading ads from October 27 to November 3. But we know that there could be just a slew of propaganda coming on Facebook after the election to try to cast doubt on the election results, falsely portraying Trump as the winner where he is not the winner and so on.

Would you comment on what Facebook has done so far? And I wonder specifically if you think that Facebook should continue its ban on false and misleading information after November 3, all the way up until the electoral college votes are cast and counted in January in Congress.

Mr. OVERTON. Yes. Thank you so much. Just first of all, I have to acknowledge, you have had such a strong commitment to democracy in terms of including eliminating the wealth primary that prevents so many good candidates from entering democracy, and your strong support for restoring voting rights to returning citizens. I am a fan of your writings, in terms of your scholarship. So thank you so much.

Congressman Raskin, Facebook needs to do a number of things. Number one, they certainly have to prohibit politicians—right now, they have basically a dual standard here in terms of politicians and allowing politicians to promote false and misleading misinformation. And they need to ensure that, before the election and after the election, when the ballots are being counted, that there is no false and misleading information.

They also have to strengthen their definition of voter suppression.

They would also say that that they have 35,000 content moderators. Okay, but they also have 2.7 billion monthly active users
around the world. So that works out to about 1 moderator per
77,000 users.
And so there are a number of things they have to step up to the
plate on. And, again, part of it is between now is November 3, but
that period after November 3, as you hold up, is also critical.
Mr. RASKIN. Thank you.
And, Ms. Griswold, Facebook has been used as a powerful instru-
ment of disinformation and racial and ethnic propagandistic vio-
ence that has caused civil unrest and even mass atrocities in coun-
tries like Sudan, Myanmar, Ethiopia, and so on.
Would the commission that you are suggesting also be working
on making sure that we don’t get propaganda towards the goal of
creating violence in the streets, which seems to have been, you
know, coached all the way to the top, even including President
Trump at the debate telling the racist and violent organization
Proud Boys to stand back, and stand by?
Ms. GRISWOLD. Congressman, that is exactly right. I think we
need a commission to really move forward to make sure that this
attack on our Nation’s democracy from foreign adversaries does not
continually happen every election. So that goes from homegrown
misinformation, to the scanning of election infrastructure, to
disinformation that we are seeing.
And those comments about the Proud Boys have real effect. As
a Secretary of State responsible for ensuring that Americans from
all communities have access to the polls, I think it is very impor-
tant to say that voter suppression is often systemic racism. And
when you have the leader of the free world calling on neo-Nazis in
the election process, that is voter suppression. When you have the
President calling on law enforcement, which is a tactic straight out
of the Jim Crow South, that is voter suppression.
So I do think that, number one, we have to tackle misinformation
and foreign countries’ interference, but, number two, I hope we con-
tinue a conversation after November about what it means to be an
American citizen and what access every American citizen has.
In Colorado, we have accessible elections. Every American de-
serves to have a mail ballot, access to early voting, online voter
registration, and same-day voter registration, just like Coloradans,
true realize what it means to be a citizen in this country.
Mr. RASKIN. Thank you.
Madam Chair, my time is up, but could I request unanimous con-
sent for two articles to be entered into the record? One is a Sep-
tember 8 Washington Post piece entitled “Republicans Have Insuffi-
cient Evidence to Call Elections Rigged”; and a September 28 arti-
cle from the Washington Post entitled “Cambridge Analytica Data-
base Identified Black Voters as Ripe for Deterrence.”
Chairwoman FUDGE. Without objection, so ordered.
[The information follows:]
Opinions

Republicans have insufficient evidence to call elections ‘rigged’ and ‘fraudulent’

Vote-by-mail ballots are shown in sorting trays at the King County elections headquarters in Renton, Wash., south of Seattle, on Aug. 5. (Ted S. Warren/AP)

Opinion by Benjamin L. Ginsberg

September 8, 2020 at 6:12 p.m. EDT

Correction

An earlier version of this piece incorrectly stated the percent of possible cases of illegal voting. This version has been updated.

Benjamin L. Ginsberg practiced election law for 38 years. He co-chaired the bipartisan 2015 Presidential Commission on Election Administration.
Legions of Republican lawyers have searched in vain over four decades for fraudulent double voting. At long last, they have a blatant example of a major politician urging his supporters to illegally vote twice.

The only hitch is that the candidate is President Trump.

The president, who has been arguing that our elections are “rigged” and “fraudulent,” last week instructed voters to act in a way that would fulfill that prophecy. On Wednesday in North Carolina, he urged supporters to double vote, casting ballots at the polls even if they have already mailed in absentee ballots. A tweet claiming he meant only for people to check that their ballots had been received and counted sounded fine — until Trump renewed his original push on Thursday evening in Pennsylvania and again Friday at a rally.

The president’s actions — urging his followers to commit an illegal act and seeking to undermine confidence in the credibility of election results — are doubly wrong. They impose an obligation on his campaign and the Republican Party to reevaluate their position in the more than 40 voting cases they’re involved in around the country.

These cases are part of a torrent of 2020 voting litigation that pits Republicans’ belief that election results won’t be credible without state law safeguards against Democrats’ charges that many such rules are onerous and designed to suppress the votes of qualified citizens inclined to vote Democratic.

The president’s words make his and the Republican Party’s rhetoric look less like sincere concern — and more like transactional hypocrisy designed to provide an electoral advantage. And they come as Republicans trying to make their cases in courts must deal with the basic truth that four decades of dedicated investigation have produced only isolated incidents of election fraud.

These are painful conclusions for me to reach. Before retiring from law practice last month, I spent 38 years in the GOP’s legal trenches. I was part of the 1990s redistricting that ended 40 years of Democratic control and brought 30 years of GOP successes in Congress and state legislatures. I played a central role in the 2000 Florida recount and several dozen Senate, House and state contests. I served as counsel to all three Republican national party committees and represented four of the past six Republican presidential nominees (including, through my law firm, Trump 2020).

Each Election Day since 1984, I’ve been in precincts looking for voting violations, or in Washington helping run the nationwide GOP Election Day operations, overseeing the thousands of Republican lawyers and operatives each election on alert for voting fraud. In every election, Republicans have been in polling places and vote tabulation centers. Republican lawyers in every state have been able to examine mail-in/absentee ballot programs.
The president has said that “the only way we can lose ... is if cheating goes on.” He has asserted that mail-in voting is “very dangerous” and that “there is tremendous fraud involved and tremendous illegality.”

The lack of evidence renders these claims unsustainable. The truth is that after decades of looking for illegal voting, there’s no proof of widespread fraud. At most, there are isolated incidents — by both Democrats and Republicans. Elections are not rigged. Absentee ballots use the same process as mail-in ballots — different states use different labels for the same process.

The Trump 2016 campaign, of which I was not a part, could produce no hard evidence of systemic fraud. Trump established a Presidential Advisory Commission on Election Integrity in 2017 to expose all the fraud he maintains permeates our elections. He named the most vociferous hunters of Democratic election fraud to run the commission. It disbanded without finding anything.

The Heritage Foundation Election Fraud Database has compiled every instance of any kind of voter fraud it could find since 1982. It contains 1,296 incidents, a minuscule percentage of the votes cast. A study of results in three states where all voters are mailed actual ballots, a practice at the apex of the president’s outrage, found just 372 possible cases of illegal voting of 14.6 million cast in the 2016 and 2018 general elections — 0.00025 percent.

The president’s rhetoric has put my party in the position of a firefighter who deliberately sets fires to look like a hero putting them out. Republicans need to take a hard look before advocating laws that actually do limit the franchise of otherwise qualified voters. Calling elections “fraudulent” and results “rigged” with almost nonexistent evidence is antithetical to being the “rule of law” party.

Many of the GOP’s litigation concerns are meritorious in principle. But the president’s inflammatory language undercuts the claim that Republicans seek merely to uphold statutory safeguards needed to validate the results’ credibility.

Republicans need to rethink their arguments in many of the cases in which they are involved — quickly. Otherwise, they risk harming the fundamental principle of our democracy: that all eligible voters must be allowed to cast their ballots. If that happens, Americans will deservedly render the GOP a minority party for a long, long time.
Cambridge Analytica database identified Black voters as ripe for ‘deterrence,’ British broadcaster says

Trump campaign says it did not use the information in 2016

A Cambridge Analytica database disproportionately identified Black voters as ripe for “Deterrence” in psychological profiles prepared for Donald Trump’s 2016 campaign, according to a report from Britain’s Channel 4 News. The new cache of materials could add detail to allegations about Cambridge Analytica’s role in the campaign, particularly in efforts to harness Facebook’s powerful ad technologies to dissuade Black voters from supporting Hillary Clinton. (John Minchillo/AP)

By Craig Timberg and Isaac Stanley-Becker
September 28, 2020 at 6:00 p.m. EDT
A database built by Cambridge Analytica, the Republican-aligned firm that unraveled over allegations of improper use of Facebook data, disproportionately identified Black voters as ripe for “Deterrence” in profiles prepared for Donald Trump’s 2016 campaign, according to a report Monday from Britain’s Channel 4 News.

The president’s reelection campaign called the segment “fake news,” and an aide who handled data in 2016 said the material went unused by the campaign.

Still, the evidence the British broadcaster says it has uncovered is likely to intensify concerns about voter suppression and the opportunities afforded by Facebook to narrowly segment and target portions of the electorate.

The material revives debates over the extent to which the voter profiles touted by Cambridge Analytica were actually used to sway the vote in 2016. The firm was founded in part by the Trump campaign’s onetime chief executive, Stephen K. Bannon, and collapsed in 2018 after news reports detailed its improper use of Facebook data in analyzing voters and other allegations of impropriety.

The new cache of materials could add detail to allegations about Cambridge Analytica’s role in the campaign, particularly in efforts to harness Facebook’s powerful ad technologies to dissuade Black voters from supporting Hillary Clinton, the Democratic nominee. Four years later, turnout among similar communities may help decide the Nov. 3 contest.

The tactics described in the Channel 4 report are legal, and the sorting of voters into categories for the purposes of political messaging has been a routine — and all but unregulated — part of campaign tactics for years.

A database of nearly 200 million American voters, obtained by Channel 4, sorted likely Democratic voters into several categories, such as “Core Clinton” or “Disengaged Clinton.” The database put 3.5 million African Americans into a third category called “Deterrence,” in an apparent bid to single them out for messages designed to dissuade them from voting, the report said.

The file spanned 16 states, according to the news channel. In crucial battlegrounds, Black voters made up a disproportionate share of those marked for “Deterrence” — 17 percent in Wisconsin despite making up just 5.4 percent of voters, and 33 percent in Michigan while accounting for 15 percent of the voting population.

The margin in these states, which Trump won in 2016, was exceptionally narrow. Trump bested Clinton in Michigan by 11,000 votes. Meanwhile, Black turnout fell in Michigan and Wisconsin by more than 12 points, estimates suggest.

The database, in Channel 4’s telling, was “used by Donald Trump’s 2016 presidential campaign” — an allegation the campaign denied.
“This machine was built in part by a team from the now-notorious company Cambridge Analytica, working hand in glove with a team from the Republican National Committee,” the segment further claimed. Channel 4 did not say how it had obtained the database.

Tim Murtaugh, a spokesman for Trump’s reelection campaign, dismissed the report as “fake news,” adding in a statement that Trump’s record gave him a “relationship of trust with African American voters.” The Republican National Committee, meanwhile, “has not seen the documents Tim Murtaugh described by the British broadcaster, said Paris Dennard, the party’s senior communications adviser for Black media affairs. He added, “that is not our data.”

Matt Braynard, who served as the Trump campaign’s data director in 2016, said his team did not use the categorizations featured in the report, relying instead on material from the party and from the firm L2 Political. He also said, “Deterrence doesn’t mean suppression and it doesn’t mean deterrence from voting. It just means deterrence from voting for Hillary Clinton.” James Barnes, a former Facebook employee embedded with Trump’s team, said he had “no exposure to a ‘deterrence’ segment in 2016.”

Trump’s 2016 campaign paid Cambridge Analytica $5.9 million, according to Federal Election Commission data tallied by the Center for Responsive Politics.

Wisconsin state Sen. Lena Taylor, a Democrat from Milwaukee featured in the Channel 4 News report, called the revelations “shocking” in an interview with The Washington Post. “It just makes me feel disgusted what the president of the United States did to disenfranchise the citizens of our most important thing, which is our democracy.”

Cambridge Analytica’s former director of business development, Brittany Kaiser, called the new findings consistent with her understanding of how Cambridge Analytica and Republicans targeted Black voters in 2016. She provided an internal company document describing a similar sorting of Democrat voters into categories, including “Deterrent,” from that year.

The document also showed $55,000 spent in Georgia targeting African American voters with advertising, including the Clinton “Superpredator” video.

“This comes as no surprise,” said Kaiser, who did not work on the Trump campaign but received detailed briefings about it while still working for Cambridge Analytica. She wrote about the voter-suppression issues in her 2019 book “Targeted: The Cambridge Analytica Whistleblower’s Inside Story of How Big Data, Trump, and Facebook Broke Democracy and How It Can Happen Again.”

“I’ve been screaming my head off about this for years,” Kaiser said.

More than half of the voters the database marked for “Deterrence” messages were Black, Asian or Latino, with particularly high percentages in predominantly Black neighborhoods in key areas such as Pennsylvania, Wisconsin and Florida, according to
Channel 4 News. It quoted voters in predominantly Black areas of Milwaukee and elsewhere expressing frustration that they had been targeted in this way.

The Channel 4 report also showed evidence that the database sorted American voters into categories based on psychological analyses provided by Cambridge Analytica, using terms such as “Individualist,” “Thinker” and “Adventurer” as shorthand indicating what kind of political messaging might be most effective in reaching them.

David Carroll, an associate professor of media design at the New School in New York who has waged a multiyear battle to learn what information Cambridge Analytica had assembled on him, said he found the evidence of Republican voter suppression presented by the Channel 4 report “unambiguous.”

“At the minimum you have to admire it as a diabolically effective campaign tactic,” Carroll said. “They’re just using free speech, even if it is misleading.”

The Channel 4 report also criticized Facebook for its role in delivering ads designed to discourage voting in 2016 and for being the original source of information apparently used to help segment Americans into categories. Facebook has maintained that the information was improperly obtained, in violation of its policies.

“Since 2016, elections have changed and so has Facebook — what happened with Cambridge Analytica couldn’t happen today,” said Facebook spokesman Andy Stone. “We have 35,000 people working to ensure the integrity of our platform, created a political ads library to make political advertising more transparent than anywhere else, and have protected more than 200 elections worldwide. We also have rules prohibiting voter suppression and are running the largest voting information campaign in American history.”
Chairwoman FUDGE. I will now recognize myself for five minutes. To both of the ladies on the panel—we will start with Ms. Davis Chappell—what do you say to the people who say, “Oh, there is no voter suppression, look at the long lines around your building today”? What would you say to them?

Ms. DAVIS CHAPPELL. Oh, voter suppression can be seen in those lines, can be seen in the messages, but also can be seen in the way that we have, in Ohio, frankly, restricted their ability to vote. We have burdened the right to vote. There are constitutionalists that would say we have put structures in place to burden their right. We have one drop box—I know this is about messaging today, but it is also about voter suppression. We have one drop box for delivery of a ballot, in a tiny parking lot next to our administrative building, for 850,000 voters.

Chairwoman FUDGE. Wow.

Ms. DAVIS CHAPPELL. It makes absolutely no sense at all. We have one location, under State law, where voters can come—must come to vote in person. It makes no sense. We need a more robust manner in which folks can participate—vote centers.

I mean, I would tell people not to be discouraged, though, and they do need to take part and take their job seriously, but we have an obligation, as boards of elections, to make it easier for folks to cast their ballots. I find it so interesting because people will say, oh, we have to have only one drop box—a drop box doesn’t know whether the ballot is a Democratic ballot, a Republican ballot, an independent”—it doesn’t make any sense.

But I want people to be encouraged. We do need to tackle social media, but we need blocking and tackling tools for voter engagement. And that is in person. And this pandemic has created a problem.

I will say, the Board of Elections—and then I will defer to my female colleague—we have had 220 in-person—voting—I am sorry—Zoom kinds of calls, but voter engagement sessions that we were able to do with three staffers.

We need funding and earmarking for a more robust voter engagement and voter education program for boards of elections so we can counter, as best we can, all of the other messages that are being put out.

Thank you.

Chairwoman FUDGE. Really quickly before we go to the Secretary, with the numbers that we are seeing now across the country—and certainly Secretary Griswold, her State has been doing this a very, very long time—how do we count all these ballots without the resources? I mean, what do we do if we get hundreds of thousands of mail-in ballots that have to be fed into a machine? What do you do?

And just quickly, because I want to jump to Secretary—

Ms. DAVIS CHAPPELL. Yes.

We have been able to vote by mail successfully in Cuyahoga County. We are processing them, not tabulating ballots. We are readying them to be processed. But we have said, we err on the side of accuracy, not speed.
We are going to have lots of issues in terms of the volume, which is a good thing, but we will accurately count every ballot that is cast.

Chairwoman FUDGE. Thank you.

And, Madam Secretary, I know that you actually sued the Postal Service because they were giving out misinformation to your residents. Tell us how you handle these situations.

Ms. GRISWOLD. Well, Madam Chairwoman, I think it is really important, as Secretary of State, to push back against false election information and try to get voters correct information.

And that is right, we sued the United States Postal Service and won a restraining order about a postcard with wrong information for Colorado voters; and also sued on a multi-State litigation and got a restraining order also to make sure that the Postal Service does not make operational changes. And we won both of those restraining orders.

But I do think that it highlights the need for national standards. The idea that we have misinformation trying to undermine vote-by-mail, which is the most responsible way to vote during a pandemic, can harm Americans' lives.

And Colorado is proof of how wonderful a good election model can work. We have the highest percentage of active voters registered. We also lead the Nation in turnout. We are usually number one or number two in participation. Vote-by-mail also makes us more secure. Russia, a foreign adversary, cannot hack a piece of paper. And, lastly, it boosts participation. We saw an increase of participation when we adopted vote-by-mail for all by 9 percent, including by 13 percent among Black voters, 10 percent among Latino voters, and 16 percent among young voters.

So I do think—and would love to see the further expansion of Colorado's election model. It works. And every American deserves the same type of access that Coloradans have.

Chairwoman FUDGE. Thank you.

And I am going to close with this question, and we will start with you, Commissioner.

What, if any one thing, do you believe Congress can do, outside of resources? We know what kind of battle that is, even though we put the resources in two bills that have not been enacted, obviously. What one thing would you think that Congress can do to assure the American people that we are doing the best we can to make sure that their ballots count, and that the system is safe?

Mr. HOVLAND. Thank you, Chairwoman Fudge. Absolutely, you know, this is critical particularly 28 days out.

I think, you know, one of the real privileges of my job is that I get to travel around the country in normal times and see these behind-the-scenes processes, see what election officials are doing and all the checks and balances that go into the process.

Certainly, as leaders in your community, Congress has an ability to both tell voters about that and, again, as we have echoed a lot today, the importance of having a plan, understanding your process, understanding how to participate.

One thing I have been proud of: We partnered with the Cybersecurity Infrastructure and Security Agency on a product called the
“Three P’s of Voting” and basically saying to voters, you need to be prepared, participating, and patient. And that really is about checking your voter registration, making sure you are updated, knowing how you want to vote this year. Again, I mentioned the several different options that most Americans have, whether by mail or absentee ballot, early, in person or ultimately on election day, figuring out what is the best for you as an American, how to engage in the process.

And then that “patient” piece we hit on a little bit earlier, but that is knowing that election night results are always unofficial. You know, that is something the media usually does, where they make calls. But, you know, to the degree that secretaries or chief election official websites—you see election night reporting, those are always unofficial results. There is a canvass and certification process that happens after election day, and I have been saying that is where election officials dot the i’s, cross the t’s, and double-check the math. That is where you make sure the numbers are right, where you count every American’s vote.

And I think helping people understand more of that process and, again, knowing that their State and local election officials are the trusted source and where they should get that information is crucial.

Chairwoman FUDGE. Thank you very much.

Ms. Davis Chappell.

Ms. DAVIS CHAPPELL. Yes, Madam Chair. I would just encourage—you guys are trusted servants. I would encourage you to use your bully pulpit, to use your platforms to reach out to your constituents and to give them the assurance that they definitely need to be confident that their local elections administrators are doing their jobs and to help us debunk a lot of these myths.

People listen to you guys, and I think it is really important that, to the extent that you can get messaging out on your websites and in person, it will be very helpful to the voting population and to all of your constituents, be helpful to all of the elections administrators. That would be the biggest thing.

Thank you.

Chairwoman FUDGE. Thank you.

Ms. Griswold.

Ms. GRISWOLD. Thank you, Madam Chairwoman.

I would say, number one, I am extremely confident in our elections in Colorado, even with all the noise. And the first thing I would suggest is make sure that all of you are using your platform to push out the message: Ignore the noise, find your trusted source of election information, make a plan to vote, and if you have access to a mail ballot, vote a mail ballot. It is the best way to vote during a pandemic and allows us to social distance and have our voice heard.

But, second, I think we have to continue this conversation after November, because there is an attack on everyday people and our democracy. I grew up working-class, on food stamps, up in a cabin in rural Colorado. And I will tell you, there are so many people like me—normal, everyday Americans—who are losing faith in our democracy, either because of the voter suppression tactics we see, the misinformation, or special interests, or corruption.
So I really encourage that, as we move past November, that we need to focus on democracy reform holistically. I led the largest democracy reform at the State level in the Nation last year to fight against special-interest campaign finance reform, voting rights reform. And all of these tenets of democracy reform relate to each other.

So I look forward to seeing what you all do in the coming months and then the coming years, and I am always happy to help from Colorado.

Chairwoman FUDGE. Thank you.

And last but not least, certainly, Mr. Overton.

Mr. OVERTON. Chairwoman Fudge, thanks so much for your work authoring the VoteSafe Act and for your field hearings that give voice to real voters.

Congress, Members of Congress, they need to use their platform to both encourage people to vote and ensure that there is good information out there, both before the election and after the election.

President Trump’s misinformation about vote-by-mail has actually been promoted by the Russians. They take screenshots of his tweets and they, using their fake accounts, promote them around to basically discourage people from participating and to encourage them to lose faith in our system. So there has to be a counter to that.

Also, tech companies need to be held accountable to ensure that they are removing disinformation. Again, as I mentioned, with the 230 debate, the Trump administration is working the refs by discouraging them from removing disinformation, and there needs to be a loud counter-voice just ensuring that they are taking down and removing disinformation.

And then, finally, as Secretary Griswold said, being prepared to immediately reform democracy in January, you know, that is critical here, whether it is H.R. 1, which is a great start, updating the Voting Rights Act, D.C. statehood. You will remember, I was at the beginning of the Obama administration in 2009. Obviously, the Affordable Care Act was important, but, you know, my take is that we really should have done more to prioritize democracy here and including all Americans. So I would urge you to prioritize the inclusion of all Americans in terms of democratic reforms.

Chairwoman FUDGE. Well, thank you all so very much.

And let me tell my colleagues, I know that this is a very busy time for all of us, as we are all on the ballot, and I know it is difficult to find some time to get away.

I thank all of the witnesses. I know each of you has a very busy schedule as well, as elections have already started, voting has started in all of your various jurisdictions.

And, Mr. Commissioner, I know how busy you all are.

But I would just say this: In the absence of my friends, I am going to predict today that the American people are so discouraged by the attacks on our democracy that they are going to vote in bigger numbers than anyone can imagine. I believe that Americans have a real sense of fundamental fairness; they have a sense of what it means to believe in and support the Constitution. And what they believe is that elections do matter.
And so I know that your job is going to be cut out for you, because you are going to be inundated with ballots from now—for the next month, you are going to be inundated. And we are going to show our colleagues and the President of the United States, there is nothing you can do to kill this democracy. It is bigger than you, it is stronger than you, it is more resilient than you are. And we are going to win this election, the people are going to win the election, because we are going to exercise our right to vote no matter what obstacle you put in our way, no matter what roadblock you put in our way. We are going to do what this country has always done, do what is right.

And so I want to thank you all and encourage you to know that we are fighting for you. We do the best we know how. I send out something, I think, every day about voting. But know we are on your side. And if we ever can get in a position where we can do the things we need to do for you, we will. I give you my word.

Commissioner, know that if this election goes the way I want this election to go, we will be coming to you with the resources to give to all of these States to do this the right way and to not be afraid to cast their ballot, not be afraid to be intimidated because somebody says, “I am going to send poll watchers to watch you.” This is the end.

Thanks, everybody. I appreciate you so, so much. Have a great rest of your day.

And without objection, this hearing is adjourned.

[Whereupon, at 2:05 p.m., the Subcommittee was adjourned.]