

ADMINISTRATION OF UPCOMING ELECTIONS

HEARING

BEFORE THE

COMMITTEE ON RULES AND
ADMINISTRATION

UNITED STATES SENATE

ONE HUNDRED SEVENTEENTH CONGRESS

SECOND SESSION

THURSDAY, MAY 19, 2022

Printed for the use of the Committee on Rules and Administration



Available on <http://www.govinfo.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

WASHINGTON : 2022

COMMITTEE ON RULES AND ADMINISTRATION

SECOND SESSION

AMY KLOBUCHAR, Minnesota, *Chairwoman*

DIANNE FEINSTEIN, California
CHARLES E. SCHUMER, New York
MARK R. WARNER, Virginia
PATRICK J. LEAHY, Vermont
ANGUS S. KING, JR., Maine
JEFF MERKLEY, Oregon
ALEX PADILLA, California
JON OSSOFF, Georgia

ROY BLUNT, Missouri
MITCH McCONNELL, Kentucky
RICHARD SHELBY, Alabama
TED CRUZ, Texas
SHELLEY MOORE CAPITO, West Virginia
ROGER WICKER, Mississippi
DEB FISCHER, Nebraska
CINDY HYDE-SMITH, Mississippi
BILL HAGERTY, Tennessee

ELIZABETH PELUSO, *Staff Director*
RACHELLE SCHROEDER, *Republican Staff Director*

C O N T E N T S

	Pages
OPENING STATEMENT OF:	
Hon. Amy Klobuchar, Chairwoman, a United States Senator from the State of Minnesota	1
Hon. Roy Blunt, a United States Senator from the State of Missouri	3
Leigh M. Chapman, Acting Secretary of The Commonwealth, Pennsylvania Department of State, Harrisburg, Pennsylvania	5
R. Kyle Ardoin, Louisiana Secretary of State, Louisiana Department of State, Baton Rouge, Louisiana	7
Damon Hewitt, President and Executive Director, Lawyers' Committee for Civil Rights Under Law, Washington, DC	9
Wesley Wilcox, Supervisor of Elections, Marion County, Ocala, Florida	10
Tammy Patrick, Senior Advisor, Democracy Fund, Washington, DC	12
PREPARED STATEMENT OF:	
Leigh M. Chapman, Acting Secretary of The Commonwealth, Pennsylvania Department of State, Harrisburg, Pennsylvania	36
R. Kyle Ardoin, Louisiana Secretary of State, Louisiana Department of State, Baton Rouge, Louisiana	50
Damon Hewitt, President and Executive Director, Lawyers' Committee for Civil Rights Under Law, Washington, DC	55
Wesley Wilcox, Supervisor of Elections, Marion County, Ocala, Florida	79
Tammy Patrick, Senior Advisor, Democracy Fund, Washington, DC	81
QUESTIONS SUBMITTED FOR THE RECORD:	
Hon. Amy Klobuchar, Chairwoman, a United States Senator from the State of Minnesota to Leigh M. Chapman, Acting Secretary of The Commonwealth, Pennsylvania Department of State, Harrisburg, Pennsylvania	92
Hon. Angus S. King, Jr., a United States Senator from the State of Maine to R. Kyle Ardoin, Louisiana Secretary of State, Louisiana Department of State, Baton Rouge, Louisiana	94
Hon. Amy Klobuchar, Chairwoman, a United States Senator from the State of Minnesota to Damon Hewitt, President and Executive Director, Lawyers' Committee for Civil Rights Under Law, Washington, DC	95
Hon. Amy Klobuchar, Chairwoman, a United States Senator from the State of Minnesota to Tammy Patrick, Senior Advisor, Democracy Fund, Washington, DC	97
Hon. Angus S. King, Jr., a United States Senator from the State of Maine to Tammy Patrick, Senior Advisor, Democracy Fund, Washington, DC	99

ADMINISTRATION OF UPCOMING ELECTIONS

THURSDAY, MAY 19, 2022

UNITED STATES SENATE
COMMITTEE ON RULES AND ADMINISTRATION
Washington, DC

The Committee met, pursuant to notice, at 10 a.m., in Room 301, Russell Senate Office Building, Hon. Amy Klobuchar, Chairwoman of the Committee, presiding.

Present: Senators Klobuchar, Blunt, Warner, Merkley, Padilla, Ossoff, Cruz, Fischer, and Hagerty.

OPENING STATEMENT OF HONORABLE AMY KLOBUCHAR, CHAIRWOMAN, A UNITED STATES SENATOR FROM THE STATE OF MINNESOTA

Chairwoman KLOBUCHAR. Good morning. I call to order this hearing of the Rules Committee on the Administration of Upcoming Elections. I would like to thank Ranking Member Blunt and our colleagues who are here, with more to come, for being here.

Our witnesses, who I will introduce shortly, are Acting Secretary of the Commonwealth of Pennsylvania Chapman, I want to thank you. You have a few things going on, I believe. Damon Hewitt, who is the President and Executive Director of the Lawyers' Committee for Civil Rights Under Law. Tammy Patrick, the Senior Advisor for Elections at Democracy Fund. We are also going to hear from two witnesses who will be introduced by Senator Blunt. I thank you for being here. Louisiana Secretary of State Ardoin and Wesley Wilcox, Supervisor of Elections for Marion County, Florida.

In 2020, we saw election officials across the country rise to the challenge of holding elections in a global pandemic, and we thank every one of you for that. Thanks in large part to the work of the local election officials and volunteers and everyone who took part, we had more options for Americans to cast a ballot. Because of that, more Americans voted than ever before in the middle of a global pandemic. It is kind of an extraordinary fact for our democracy and certainly a tribute to the work of local elections officials.

At the time, the Department of Homeland Security declared the 2020 election the most secure election in our country. Now election officials are working to prepare for and administer this year's mid-term elections. Ten states have already held primary elections, and dozens more will do so through the summer. As we know, one of our witnesses, Secretary Chapman, just held Pennsylvania's primary on Tuesday.

With voting already underway, we have heard of a number of challenges facing election administrators, including the spread of

misinformation, disinformation that continues to take a toll on both election officials and voters. Election after election, millions of Americans see inaccurate or misleading information about elections and the voting process on social media, and it is hurting our democracy. At the same time, investing in election security, including cybersecurity, continues to be a priority for many election officials, as intelligence officials warn that our elections remain a target for foreign adversaries.

We also continue to hear about the need for a reliable stream of Federal funding for elections so officials can make improvements and keep pace with new technology. Newer challenges are emerging as well. Like the paper supply challenge, the shortages that we have heard are impacting Secretary Ardoin and other officials trying to secure needed election supplies.

This Committee has also discussed the rise in threats and harassment targeting election officials from both parties. I appreciate Senator Blunt holding that hearing with me. They increased in 2020.

At our last hearing in October, former Republican Philadelphia City Commissioner Al Schmidt testified about threats that he and his family had received, including a message that said, "Tell the truth or your three kids will be fatally shot", with the names of his 7 year old son and his 11 year old and 14 year old daughters and a photo of their home.

Now, in some Colorado counties, election officials facing attacks that they helped steal the last election have done active shooter training and gotten bulletproof vests. It is no surprise that a study from the Brennan Center found one in five election officials are unlikely to serve through 2024. I hope that is none of you. In light of these challenges, we must support the election officials working on the front lines of our democracy.

This Committee has taken steps to work toward solutions. I have introduced legislation with Senator Padilla, Ossoff, and Merkley to put in place new protections for the election administrators who count and certify ballots.

Based on a recent legal opinion, Senator Blunt and I have called on the Election Assistance Commission to ensure that Help America Vote Act funds can be used for physical security and social media threat monitoring, which we expect will—they will do shortly and is crucial given the dramatic rise in threats.

In addition, yesterday with Senator Warren and several other Members of this Committee, Feinstein, King, Merkley, and Padilla, we introduced a new bill to provide significant Federal funding to support election administration and election security. More must be done. I look forward to hearing from our witnesses about how we can best ensure election administrators have the support that they need.

Finally, I want to note that in many states, when voters cast a ballot this year, they will be confronted with new laws, making it harder to vote. That is why I continue to believe that we need basic Federal standards so all Americans can vote in the way that works best for them.

Thank you again to our witnesses. I would also like to acknowledge, Senator Blunt, that our Chief Clerk, Cindy Qualley, who is

with us for her last hearing today, and we want to thank Cindy for her service.

[Clapping.]

Chairwoman KLOBUCHAR. Senator Blunt?

OPENING STATEMENT OF HONORABLE ROY BLUNT, A UNITED STATES SENATOR FROM THE STATE OF MISSOURI

Senator BLUNT. Well, thank you, Chairwoman Klobuchar, for holding this hearing, and our witnesses for joining us today. Senator Padilla and I are the two former Secretaries of State on this panel, so we particularly want to recognize our colleagues who are here today, Secretary Chapman and Secretary Ardoin, for being here, as well as everybody else on the panel. As a former election administrator, both as the Secretary of State, and Mr. Wilcox as a local election authority before that.

I know what it takes to run elections, and for more than 200 years, states have been responsible for elections. State and local election officials work tirelessly, often managing multiple elections in a year, working through the difficult logistical challenges that elections bring.

As all of our election officials know, some of those challenges are even greater in the small turnout elections when you are dealing with a school board and a local election and the water district and maybe other things in addition to that.

Thanks for all of our election officials and the largely volunteer people that come forward and make these elections work. Our role in the Congress is to support states in their administration of elections and give them assistance they need to innovate and serve the needs of their citizens.

Today's hearing builds on a hearing I chaired, and really two hearings I chaired in 2018 and 2020 with Senator Klobuchar by my side on those hearings as we then and now have an opportunity to hear from election officials that are on the front lines of elections and others who are watching those front lines and giving advice, hear the highlights of the work they are doing, and learn more about what is happening as election officials prepare for this year's elections.

While the 2020 elections brought an unprecedented set of new challenges to election officials, especially those that were uniquely based on the pandemic that we were facing and an increase of threats to election workers, the issues facing election officials that had been prevalent for years are still there.

Cybersecurity remains a top concern for election officials. Our foreign and domestic adversaries have sought to sow distrust in our elections by attacking election infrastructure and spreading misinformation online. I often hear from election officials who would like increased and improved information sharing from their Federal counterparts or people who know things at the Federal level that state and local administrators need to know.

Our state election administrators have access to more and better information than they ever have before but look forward to hearing your concerns about how that could continue to improve. States must also continue the important work of recruiting, training, and retaining poll workers, many of whom do this as basically a volun-

teer activity. It is pretty easy to unvolunteer if this is an activity you decide you do not want to be a part of. I look forward to hearing what our witnesses are doing about steps they have taken to encourage more people to play an active role in elections by serving as poll workers.

The supply chain issues, as Senator Klobuchar mentioned, are also affecting elections like they are affecting much of the rest of the economy. With primary elections ongoing and the November general election rapidly approaching, it is vital that states have all the necessary supplies to ensure every voter has an opportunity to cast a ballot.

Today, this Committee has an opportunity to come together in a bipartisan way to hear from officials about lessons learned over the past several years, how they are preparing to administer elections this year, and how, if possible, Congress can help the states better achieve their goals.

I want to thank my colleagues, some of whom are with us virtually and paying attention that way, and I want to thank our witnesses for being here today, and I look forward to a productive discussion.

Chairwoman KLOBUCHAR. Thank you very much and thank you for your being such a good colleague, Senator Blunt. Our first witness is Leigh Chapman, Acting Secretary of the Commonwealth of Pennsylvania. Previously, she served as Executive Director of Deliver My Vote and held senior roles at the Leadership Conference on Civil and Human Rights. She earned her bachelor's degree from the University of Virginia and law degree from Howard University.

Our second witness is Damon Hewitt, President and Executive Director of the Lawyers' Committee for Civil Rights Under Law. He has more than 20 years of civil rights, litigation, and policy experience, including over a decade at the NAACP Legal Defense Fund. He earned his degree, a bachelor's degree from Louisiana State and a law degree from the University of Pennsylvania.

Tammy Patrick is also with us. She is a Senior Advisor to the elections program at Democracy Fund and an elections administration expert who served on the Presidential Commission on Election Administration under President Obama, as well as the Maricopa County Elections Department in Arizona. She is the—an Adjunct Professor at the University of Minnesota's Humphrey School of Public Policy, where she teaches courses for the certificate in election administration. Of course, we are very proud of our election system in Minnesota. Highest voter turnout in the country, need I go on? She earned her bachelor's degree from Purdue University.

Senator Blunt will now introduce our other two witnesses, I will swear in our witnesses, and we will proceed to testimony, and we will go in the order that you are seated. Go ahead, Senator Blunt.

Senator BLUNT. Well, thank you, Senator. If you brag more about the Minnesota turnout, you would just be repeating yourself. It is a good thing to brag about and I am glad you are able to do that.

I am glad again, all five of our witnesses are here today. Let me quickly introduce Secretary of State Kyle Ardoin from Louisiana and Mr. Wesley Wilcox, the Supervisor of Elections for Marion County, Florida. Secretary Ardoin has served as Louisiana Secretary of State since 2018, previously serving as the first Assistant

Secretary of State in Louisiana for eight years prior to that. A long time being near this job and doing this job. He also currently serves as the President of the National Association of Secretaries of State and on the Election Infrastructure Subsector Coordinating Council.

Mr. Wilcox has served as the Supervisor of Elections for Marion County, Florida since 2012, another decade of service in this job. He possesses more than 30 years of experience in the election industry. Currently serves as the President of the Florida Supervisors of Elections Association and as Chairman of the Election Infrastructure and Information Sharing and Analysis Center Executive Committee. We look forward to what all five of you have to say today.

Chairwoman KLOBUCHAR. If the witnesses could now stand and please raise your right hand. Do you swear that the testimony you will give before the Committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Ms. CHAPMAN. I do.

Mr. ARDOIN. I do.

Mr. HEWITT. I do.

Mr. WILCOX. I do.

Ms. PATRICK. I do.

Chairwoman KLOBUCHAR. Thank you. You may be seated. We will proceed to your testimony and will recognize each witness for five minutes. Go ahead, Secretary Chapman.

OPENING STATEMENT OF LEIGH M. CHAPMAN, ACTING SECRETARY OF THE COMMONWEALTH, PENNSYLVANIA DEPARTMENT OF STATE, HARRISBURG, PENNSYLVANIA

Ms. CHAPMAN. Wonderful. Well, thank you, Chairwoman Klobuchar, Ranking Member Blunt, and other esteemed Members of the Senate Rules Committee for allowing me to offer remarks regarding the state of elections in the Commonwealth of Pennsylvania.

I am Leigh Chapman, Acting Secretary of State of Pennsylvania and I was appointed to this role by Governor Tom Wolf on January 8th of this year. As Pennsylvania's Chief Election Officer, my role is to ensure that elections are secure and accessible and that every eligible voter in Pennsylvania can register, cast their ballot, and have it counted. I was asked today to speak to you regarding the current elections landscape in my state.

First, I will provide a brief update on Tuesday's primary election. After that, I will share three concerns that are front of mind at the Department of State of Pennsylvania. You know, those three concerns are, one, the time for pre-canvassing mail ballots, two, misinformation and disinformation surrounding elections, and three, the need for a robust, consistent funding of elections.

Pennsylvania's primary election on Tuesday was successful with minimal issues. As of this morning, we have 50,000 ballots left to be counted. There were just a few counties who experienced unique issues, at least one which has been widely reported by the media.

On Tuesday morning in Lancaster County, when election officials began pre-canvassing mail ballots, which is the process of reviewing the outer envelope and removing the inner secrecy envelope

containing the ballot and tabulating but not recording votes, they discovered that an estimated 22,000 ballots could not be read by the scanner due to an incorrect barcode.

Teams are now hand marking new ballots, which entails one person reading out the markings from the original ballot, a second person marking the new ballot, while a third observes to ensure the remarked ballot is accurate before it is scanned and counted. This is a transparent process involving both political parties, and as of this morning, there are 3,800 ballots left to remark.

This leads to the first concern. The incident in Lancaster County reinforces a request made by the Department of State and all the county election officials in Pennsylvania that the State Legislature extend the time for pre-canvassing of mail in and absentee ballots. An earlier start to pre-canvassing may have alerted Lancaster County to the barcode issue sooner than the morning of Election Day.

Even where no problem presents, at least 15 days of pre-canvassing would free election workers to focus on the many other obligations they have on Election Day. It would align Pennsylvania with the 37 other states that allow for pre-canvassing of ballots and it would permit officials to publicly release unofficial results sooner, similar to states like Florida that was able to call the 2020 general election on election night because of pre-canvassing.

That leads to my next point, which is that county and state election officials continue to bear the burden of addressing misinformation and disinformation regarding the integrity of our elections.

It is especially disturbing that some disinformation has come from those with a sworn duty to defend our democratic process. The November 2020 election in Pennsylvania, like every election since, was free, fair, and secure.

Allegations of illegal activity in Pennsylvania's 2020 Presidential election have been repeatedly dismissed in more than two dozen Federal court cases and debunked by independent fact checkers. Repeating this falsehood over and over harms our democracy and voters' confidence in our elections process.

Finally, and most significantly, counties consistently expressed another need for adequate consistent funding from the state and Federal Government. In Pennsylvania, counties bear virtually all costs to run elections at every level. The need for more consistent funding was especially apparent in 2020.

In addition to the pandemic, counties were required to upgrade voting systems to incorporate a verifiable paper ballot and implement mail in voting for millions of voters. For some counties, there was virtually no way they could have counted mail ballots without significant financial investment for equipment and additional manpower.

Despite some assistance from the Federal Government, many counties still face a discrepancy between available resources and their needs. It was only because of nonprofit grants that many counties were able to purchase automatic envelope openers, scanners, and mail sorters to process ballots.

We thank the Chairwoman and her co-sponsors for introducing legislation that would create a permanent stream of funding for elections and support that effort. We also ask that Members of this

Committee support any proposal that would shore up elections infrastructure and access to the ballot. Thank you for the opportunity to participate in this important conversation, and I welcome any questions that you may have.

[The prepared statement of Ms. Chapman was submitted for the record.]

Chairwoman KLOBUCHAR. Very good. Thank you. Thank you for your good work. Secretary Ardoin?

OPENING STATEMENT OF R. KYLE ARDOIN, LOUISIANA SECRETARY OF STATE, LOUISIANA DEPARTMENT OF STATE, BATON ROUGE, LOUISIANA

Mr. ARDOIN. Chairwoman Klobuchar, Ranking Member Blunt, and distinguished Members of this Committee, good morning, and thank you for having me. I am Kyle Ardoin. I serve as Louisiana's 44th Secretary of State.

I am especially pleased to be speaking before you today because Louisiana has a unique experience in election preparation. Not only did we have to deal with the challenges of COVID-19, as did my colleagues across the country, but in 2020, we were faced with the running of a Presidential election in the aftermath of tropical storms Cristobal and Beta, and hurricanes Laura, Marco, Delta and Zeta, the last of which made landfall in Louisiana a mere six days prior to the Election Day.

In 2021, we were faced with another major storm in hurricane Ida, which devastated parts of our state just six weeks prior to our statewide elections. Thankfully, we were able to execute all of these elections due to the hard work of our election staff across the state and in cooperation with other state agencies. However, this year's Federal election presents a new challenge: the supply chain backlog that has and will continue to affect paper supplies across the country.

Let me be clear, this crisis—this is a crisis that demands immediate attention and bipartisan action. It is not an exaggeration to say that if this situation is not handled, it could lead to a serious erosion in the confidence in our elections. In Louisiana alone, we had to contact every paper producer in North America, not just the United States, to ensure we will have the supplies we need.

Louisiana uses a much smaller amount of paper than other states for elections. In the 2020 Presidential election, 7 percent of the 2.1 million votes cast in Louisiana were by paper. If we had to piecemeal the supplies we need to execute the election, how will other states with greater needs manage? In the most recent midterm election in 2018, the EAC's election administration and voting survey stated that over 42 million mail ballots were transmitted across the country.

Additionally, over 85 percent of the Nation's jurisdictions used paper or a paper component in their voting system. Furthermore, we must consider that states need paper supplies for mail ballots, mail ballot envelopes, voter instructions, or poll books, and may need special types of paper to comply with their state's law.

In 2017, the Department of Homeland Security declared election infrastructure as, "critical infrastructure." Then-Secretary of Department of Homeland Security Jeh Johnson said, "the designation

makes it clear, both domestically and internationally, that election infrastructure enjoys all the benefits and protections of critical infrastructure that the United States Government has to offer.”

That is why I have asked the Federal Government to activate the Defense Production Act to ensure that paper suppliers prioritize election related materials ahead of November’s election. I also believe that there are other innovative ways to ensure ample supply for state and local jurisdictions, including the use of tax incentives to urge paper suppliers to prioritize election based supplies.

The persistent supply chain issues are also affecting other aspects of our election administration efforts, especially as it relates to the transportation of election supplies and machines. In 2021, the vehicle shortage forced Louisiana to seek delivery trucks in states as far away as Georgia.

With four months remaining until the Federal 45 day UOCAVA ballot deadline and less than six months until Election Day, there can be no delay for action. Additionally, we are continuing to work on shoring up our cybersecurity defenses against bad actors, both foreign and domestic.

A recent advisory from the cybersecurity authorities in the United States and our allies have warned that we should expect, “malicious cyber actors, including state sponsored, advanced persistent threat groups, to step up their targeting.” The advisory specifically warned that these groups or individuals should be targeted, managed—should be—would be targeting managed service providers or MSPs.

I have long spoken out about the need for MSPs to be open and transparent with their Government partners, and in Louisiana, we championed legislation to require more accountability from MSPs that operate within our state. Without clear communications between MSPs and the jurisdictions they service, we cannot effectively fight those that wish to do so—wish to harm us.

In a world that is increasingly interconnected and with our enemies seeking to undermine our elections, it is more important than ever that we work together, public, private entities, local, state, and Federal Governments across agencies to protect critical infrastructure.

These challenges are in addition to the aging population of poll workers, false information, and threats to election officials and staff. However, working as partners, we can devise solutions to these pressing issues. We have no choice but to succeed. The American people expect and deserve no less. Thank you very much.

[The prepared statement of Mr. Ardoin was submitted for the record.]

Chairwoman KLOBUCHAR. Thank you very much. Next up, Mr. Hewitt.

OPENING STATEMENT OF DAMON HEWITT, PRESIDENT AND EXECUTIVE DIRECTOR, LAWYERS’ COMMITTEE FOR CIVIL RIGHTS UNDER LAW, WASHINGTON, DC

Mr. HEWITT. Good morning, Chairwoman Klobuchar, Ranking Member Blunt, Members of the Senate Committee on Rules and Administration. My name is Damon Hewitt, President and Execu-

tive Director of the Lawyers' Committee for Civil Rights Under Law. Thank you for the opportunity to testify today.

As I begin, I want to lift up the victims of the massacre in Buffalo, New York, who were killed this weekend. They were killed by a white supremacist who drove three hours to deliberately hunt down and kill explicitly black people who were shopping for groceries.

As we learn more about that killer's terroristic attack, the deadliest mass shooting in America this year, we know that it was fueled by lies, misinformation, and disinformation. That makes it in many ways parallel to what we are seeing in the election and voting context.

I am here to warn you of another effect of these lies, the rapid deterioration of our democracy, and unprecedented threats of violence and intimidation against election officials, black communities, and other communities of color all around this country.

As President of the Lawyers' Committee, I lead an organization that uses legal advocacy to ensure that we fight for racial justice. We fight inside the courts, outside the courts, but we fight to ensure that black people and other people of color and every American has the voice, opportunity, and power to make the great promises of our democracy real and not illusory.

As part of this work, we convene the Election Protection Coalition, the Nation's largest nonpartisan voter protection effort, and the 866-OUR-VOTE hotline, voter assistance hotline, which is also nonpartisan.

Through that hotline, hundreds of thousands of voters call for information and assistance and to report problems in election administration, including problems with paper ballots, problems with mail in ballots, and even intimidation at the polls or even online or through the airwaves.

Our work gives us unique insights into patterns at the state and local level. Too often what we are seeing is the erosion of election infrastructure and the democratic process, all based upon fallacies and misrepresentations and lies designed to divide us. My message for this Committee is simple: election laws that perpetuate attacks and harassment and impose criminal penalties or hefty fines on election administrators just trying to do their jobs are wrong.

Voting laws and practices that impose unnecessary hurdles on voters, especially voters of color, in order to exercise their fundamental rights are also wrong. This is a vicious cycle. Undermining and harassing election workers also harms voters, and making it harder for voters to cast a ballot harms election workers by making their already difficult jobs that much harder, especially in the context of the last few years.

What we learned in 2020 is that democracy works when you let it. We saw incredible energy and participation across party lines. Yet Legislatures have now introduced and enacted a wave of restrictive voting bills. Ironically, in response to those record levels of participation, throughout the 2021 year and beginning of this year, we have seen bills that are banning drop boxes, restricting early voting hours, shortening the window to request absentee ballots, threatening new criminal and financial penalties against elec-

tion administrators, and privileging partisan poll watchers, granting them sometimes unfettered access to the polls.

Now, many of these laws were passed in spite of universal, bipartisan opposition from election administrators around the country who warned legislators that the laws would have a chilling effect on election workers themselves and ultimately make it harder for voters to cast a ballot. In many instances, sadly, state lawmakers failed to heed the election administrator's warnings, and the impacts of these changes will come to light during this year's primary and midterm elections.

In fact, in some states, they already have. These egregious laws are doing a number of things. They are heightening levels of racial discrimination, creating an environment rife with it. They are weaponizing the power of criminal law to sweep aside neutral and nonpartisan election administrators, functionally disenfranchising voters in the process.

Furthermore, they are giving those who want to sow violence, doubt, and misdirection, and the election process is giving them political camouflage for their threats and their attacks. Put simply, these laws undermine our democracy and its promise.

This week marks the 65th anniversary of Dr. Martin Luther King Jr.'s famous speech, "Give Us The Ballot" where he warned us about those who gained prominence and power by the dissemination of false ideas and deliberately appealing to the deepest hate responses within the human mind. Dr. King reminded us that while these individuals by no means represent the majority of Americans, the false ideas they spread often grow louder when those who disagree with them remain silent because of fear of political or economic reprisals.

I said earlier that democracy is a promise. Democracy is also a choice. We have a choice when it comes to election administration. We can either strengthen democracy and make it easier to vote and administer elections, or we can make it harder.

As policymakers, you can make a choice, a choice in favor of democracy. During these unprecedented times, I urge this Committee and the full Senate, the world's greatest deliberative body, to not just speak out loudly against the misinformation and lies, but to stop it in its tracks through legislation and any means that you can. Thank you.

[The prepared statement of Mr. Hewitt was submitted for the record.]

Chairwoman KLOBUCHAR. Thank you so much, Mr. Hewitt. Next up—we are just discussing votes and other things if we look kind of distracted here. Next up, Mr. Wilcox. Thank you.

OPENING STATEMENT OF WESLEY WILCOX, SUPERVISOR OF ELECTIONS, MARION COUNTY, OCALA, FLORIDA

Mr. WILCOX. Good morning, Chairwoman Klobuchar, Ranking Member Blunt, and Members of the Committee. I am Wesley Wilcox, Supervisor of Elections for Marion County, Florida, and President of the Florida Supervisors of Elections Association.

I have more than 30 years' experience in the election industry, and I am nationally certified. Most of us, at least here on the table and on the Committee, will likely recall the 2000 general election.

Admittedly, it was not our finest hour. In the 20 years since, Florida and many other states have made great improvements, culminating in an administratively accurate and successful 2020 general election.

Florida offers a no excuse vote by mail option that has proven to be quite popular, especially during the pandemic. As mentioned earlier by Secretary Chapman, one of the things that set Florida apart in 2020 is the fact that vote by mail ballots are processed in the weeks prior to the election. This process allows us to publish nearly complete vote by mail totals on election night.

In addition, if there is an issue with a mail ballot signature, we have time to contact the voter, providing them an opportunity to cure their ballot. Several years ago, we also added an in-person early voting option to meet the needs of our extremely diverse population.

Elections are best administered at the state and local level. A 2-week early voting period offered in Miami Dade County with 1.5 million voters is probably not needed for a small county such as Lafayette, with only 4,500 voters.

Decentralized elections are also a positive from a National Security perspective, making it more difficult for bad actors attempting to compromise the system since there is no central point of attack. Florida also has well-developed laws and procedures for recounts, post-election audits, providing clear guidelines and procedures.

There have also been significant efforts in raising the professionalism of election officials. Since the year 2000, over 1,300 election professionals across the country have received their National Certified Elections and Registration Administrator, CERA, designation, with 119 of those from Florida. Our FSE Association developed a nationally awarded Florida Certified Election Professional, FCEP, program.

This program consists of core courses plus renewal courses and 120 hours of content instructed by industry experts. Since its inception in 2009, we have had over 800 participants with 245 of those obtaining their master certification.

In recent years, election security has become a top priority. Partnerships with local, state, and Federal agencies have been strengthened. As mentioned earlier, in 2017, the Department of Homeland Security designated elections as critical infrastructure and the Center for Internet Security formed the Elections Infrastructure Information Sharing and Analysis Center, EI-ISAC, of which I am actually the vice chair of that executive board.

Through the EI-ISAC, election officials have access to resources and tools for implementing cybersecurity best practices. Florida has used HAVA dollars to fund our election security grant programs, which have been extremely beneficial across the state. Despite these vast improvements and strong partnerships, grave concerns remain for me and my colleagues. Florida was touted as the gold standard and model for voting in the 2020 election, but lately the accolades have waned and high fives for a job well done have ceased.

Instead, they have been replaced by threats of violence against us or our families. Accusations of rampant voter roll irregularities. Allegations of voter fraud or voter suppression and inundation of

public records requests. My colleagues and I continue to defend the accuracy of our 2020 election and our cherished democracy, which remains under a relentless and unprecedented barrage of falsehoods.

Misinformation has made our jobs more difficult, as we battle on the front lines defending our democracy. Several of my tenured colleagues have retired or have announced their impending retirement due to these unceasing false narratives. Even the days of wanting to be an election worker for your own civic duty have been replaced with fear and polling place disruptions.

We have spent over two decades professionalizing our conduct of elections, and now in a short period of time, our institutions are being undermined by falsehoods that continually weaken voter confidence in our elections. The challenges facing our elections are daunting.

In normal times, election worker recruitment is difficult, but today it is nearly impossible. Elections officials across the Nation will need record amounts of paper this fall for our ballots and other supplies, and they have all been affected by the paper shortages.

Lest we all forget, the 2022 election is taking place after the decennial census, with its resulting redistricting, a challenging operation even in the best of times.

Finally, many of us are also facing new state election laws, resulting in demanding court cases and requiring substantial voter education. Election law changes are the most successful when there are a collaborative effort between the election administrators and legislative bodies. We remain dedicated to impartial administration of Florida's election laws and conducting fair, honest, and accurate elections. Our goal is to make it easy to vote and hard to cheat. Thank you again for the opportunity to testify today on this important topic.

[The prepared statement of Mr. Wilcox was submitted for the record.]

Chairwoman KLOBUCHAR. Thank you very much. Ms. Patrick?

**OPENING STATEMENT OF TAMMY PATRICK, SENIOR ADVISOR,
DEMOCRACY FUND, WASHINGTON, DC**

Ms. PATRICK. Chairwoman Klobuchar, Ranking Member Blunt, Members of the Committee, and honored guests, it is a privilege to provide testimony on the status of election administration and the preparedness for this election cycle. My name is Tammy Patrick and I currently serve as the Senior Advisor to the Elections Team at the Democracy Fund. As an Adjunct Professor at the Humphrey School of Public Policy at the University of Minnesota, I have worked in the election administration field for almost 20 years and spent 11 of those years in Maricopa County, Arizona, most of them as the Federal compliance officer. I, too, am CERA certified, as Supervisor Wilcox mentioned.

I have the great fortune of knowing many state and local election officials, as well as many across the country who are working across the aisle and across the myriad of facets of our election systems to ensure that officials have the tools and resources that they need to serve their voters well.

As a representative of the Election Center to the United States Postal Service's Mailers Technical Advisory Committee, a bit of a mouthful, for over a decade, I have forged relationships that have aided the improvement of our postal system to better deliver democracy to the American voter.

Today, I would like to share with you what I am hearing and seeing unfold for the primaries and the forthcoming November mid-term elections. My written testimony covers seven different topics; for my prepared comments, however, I would like to focus on just one topic, paper and supply chain issues, echoing what Secretary Ardoin's sentiments are. This is new in both the scope and the scale of what we are seeing.

My comments are derived directly from recent communications with election officials and service industry providers. Each section provides direct comments from election administrators and professionals, an overview of the issue, and then the impact it is having now in the field of election administration.

"Needs: paper! Some folks have stockpiled paper, but overall ballot paper for November is a major concern," from a local election official.

Another local election official, "Paper shortage issues have mitigated—was mitigated because we contract with a vendor who responded by purchasing paper early. We did have to increase what we pay, however, to our vendor."

Yet from a service industry provider, "The supply chain issues continue with dates getting further and further pushed out. Additionally, more allocations are in play. For example, recently our supplier just delivered part of an order we placed months ago and cannot fulfill the rest. We are searching and are having to pay higher prices for paper sizes larger than what is needed and then cut them down to size so we have the ability to keep moving out the work."

Paper supply chain concerns began surfacing in the 2020 elections. The origin of the paper supply for election materials is mostly domestic, coming from North American mills, as Secretary Ardoin mentioned, in both the United States and Canada.

When the international supplies became problematic, other markets, however, turned to these domestic sources to fill their gap. This reduction in supply occurred at the same time as the increased demand for corrugated paper to fulfill the spike in online shopping during the pandemic.

We have not had a new paper mill open in the United States since the 1980's, and the existing mills could not simultaneously continue their traditional paper production and take on the corrugated manufacturing. Many of them opted to change production to the more lucrative corrugated product.

Ballot and envelope printers and vendors began seeing these issues in late 2021 and started to ask their election official customers to get their orders in early. In order to take care of their customers, they placed their paper orders well in advance of normal schedules. Standard turnaround times have gone from a few weeks to many months in order to fulfill, and it is now common for orders to be incomplete. Partial shipments, back orders, and outright cancellations are becoming typical.

This is creating a disparate impact on jurisdictions. Those who use a vendor or service provider may be in better shape, but only if that vendor preordered paper stock, the order was fully satisfied, and the jurisdiction got their order in early enough. Election officials, which have traditionally printed and created their own materials in house, are now finding it very difficult to obtain items and are turning to these same vendors who are already strapped serving their existing customer base. Service providers and vendors are now having to turn customers away and those customers are leaving empty handed.

An additional impact is felt in those states that have had changes to their election policies and laws that negate their ability to use existing inventory of materials. New registration requirements, ballot application changes may necessitate throwing away existing paper products and require reprinting in an already strained market.

Not all states and election offices will be impacted equally by the paper shortages. States that offer online and automatic or automated voter registration and those that utilize electronic poll books to check in voters will not be as hard hit as those relying on paper registration and roster forms.

To be very clear, the paper shortage is pervasive. It is across all materials required to conduct an election, and simply limiting options for voters to an in-person solution is not viable.

States that have all vote by mail regimes as well as those that offer mainly in-person, are having issues. It is not just ballot paper, but also paper used for postcards, poll worker training materials. It is for everything.

The paper shortage further impacts election administration timelines. Unless this shortage is remedied, statutorily required election mailings and notices may not go out on time. The condensed timeframe and resources leave no room for error, and we know that errors can occur in printing. Given the shortage, there may not be available stock to reprint if an error occurs and states need to contemplate how they will handle that situation if it arises.

Despite the utmost gravity of the paper and supply chain shortage, there is one silver lining. I always try and conclude something positive. A service provider recently told me—

Chairwoman KLOBUCHAR. We try as well. Go ahead.

Ms. PATRICK. I know. It is hard in these times. But one thing that came out of it as a vendor told me that they were working with the state, they could not get the normal paper for their voter registration materials, and they were encouraged to redesign to fit the paper sizes that they had. It was a decades old form that they were able to revise using best practices and plain language and make their materials easier to comprehend for voters. It is the perfect example of how election administrator professionals work. They are continually deprived of resources and services but try to find the best solution available since the election must go on.

[The prepared statement of Ms. Patrick was submitted for the record.]

Chairwoman KLOBUCHAR. Okay. Thank you. Thank you so much, Ms. Patrick. I was looking at Secretary Ardoin. I think he is happy that I have not just the Mississippi River that that connects Min-

nesota and Louisiana from the beginning to the end, but also trying to get at this paper issue.

Thank you very much. I am going to start with you, I think, Secretary Chapman. Do you agree that election workers need additional Federal protections and resources to ensure safety as well as administrate elections?

Ms. CHAPMAN. Yes. In Pennsylvania, we have 67 counties, and one consensus that we have from most county election directors and county commissioners is the need for additional robust funding to administer elections. Just as an example, before 2020, it costs around \$20 million to run in an election statewide in Pennsylvania. Since then, that cost, at least to the department, has skyrocketed.

We spent around \$60 million just as a department alone, and that does not include county costs in 2020. We, you know, implemented mail in voting in 2019. That increased the costs for counties. You know, they had to buy scanners and tabulators and new equipment to fulfill that need.

We have had over around 6 million voters in the Commonwealth of Pennsylvania who have used mail in voting since it was passed in 2019. That need for both the Federal Government and also the State Government to partner to support our elections is something critical to support county election administrators and their needs.

Chairwoman KLOBUCHAR. I would think cybersecurity, of which we have assisted on the Federal level, but we know that that is needed. How about the threats against election workers? Are you continuing to see that in your state?

Ms. CHAPMAN. Unfortunately, we are, and it is a concern that we are taking seriously. You mentioned partnering with Federal partners. We actually had a meeting with DHS CISA and other Federal partners a few weeks before the primary election with all 67 county election directors to talk about how to report threats, how to mitigate threats. You know, we have had very good partnerships with our law enforcement partners, but it is something that we are concerned about.

You know, election officials are your neighbors, they are your friends, they are your families. They are really just trying to do their job to make sure that every vote is counted, that every voter has the opportunity to exercise their fundamental right to vote so they really should not be threatened. It is a shame that that is happening.

Chairwoman KLOBUCHAR. Thank you for saying that so well, because I know you have had issues in your state, and it is one of the reasons that Senator Warren and I and a number of people on this Committee have put together this package for election funding.

Mr. Hewitt, I have pushed the social media companies to improve their policies for election related disinformation, make sure these policies are enforced. While we saw some improvements in 2020, there is still so much progress to be made. What kind of disinformation do you think was particularly harmful in 2020?

Mr. HEWITT. Well, thank you for the question, Senator Klobuchar. What we saw being harmful was the kind of disinformation that steered people away from trying to vote via certain means or sometimes at all. For example, there are a couple of

individuals whom we have sued civilly, and they have also been prosecuted, who set up a series of thousands of robocalls to voters.

They used a narrator who had a voice appearing to sound as if she were an African-American woman. That was the intent. She may well have been, but the voice on a robocall said, if you vote by mail, the information will be used to track you down to execute outstanding warrants by the police. It will be used to track you down to give the information to creditors for outstanding debts, and it will be used by the CDC to require mandatory vaccinations.

You think about fears in the black community, about police misconduct, about economic insecurity, about the Tuskegee experiment, right. Trying to hit all of those pressure points to have a chilling effect on voting by mail, which for some people was a safe and effective means of casting a ballot, especially then and also now. We saw that through the airwaves.

We have sued civilly. We have put Facebook Meta, the other companies on notice as well. But we need more help. We need more help from Congress.

Chairwoman KLOBUCHAR. Okay, very good. I was not aware of that. Thank you for sharing that chilling story. Ms. Patrick, as a member of the Postal Service Working Group on Election Mail, do you anticipate any significant mail processing and delivery issues this year? Just answer in one minute so I can get to my colleagues.

Ms. PATRICK. Thank you, very quickly. One of the biggest challenges will be the continued utilization of the extraordinary measures that were put in place in 2020, and most specifically, knowing whether or not ballots will be kept locally because ballots kept locally are not postmarked or scanned and can create some issues and challenges for the voters in having their ballots be accepted.

Chairwoman KLOBUCHAR. Okay. As you know, we recently passed on a bipartisan basis postal reform to try to help with some of this. I will end with you, Secretary Ardoin. You have raised concerns about supply chain issues that would impact election officials' ability to get sufficient paper for election materials. Senator Blunt and I have agreed that supplies are needed, and I have urged the Election Assistance Commission to support.

We both have state and local officials confronting these issues. As President of the National Association of Secretaries of State, have you discussed these issues with other Secretaries and are you aware of any strategies that can be helpful in getting election officials needed supplies?

Mr. ARDOIN. We have discussed these issues on our elections—weekly elections calls, Senator. What we—what has been urged is through the Sector Coordinating Council, which is a private sector of the GCC Governing Coordinating Council under CISA, they have urged since the beginning of the year a lot, every jurisdiction to order their paper as soon as possible and to make certain that they order enough in order to be able to deal with the issues that we have seen just recently in Pennsylvania.

I will tell you that in my state, we do a lot of deck checks, as we call them, quality checks to make certain that the printer is doing the job that they are supposed to do. But when you catch a mistake and supplies are at risk, it may jeopardize the ability for folks to utilize that.

I think what we are going to promote in Louisiana specifically is that, as you know, we had 2.1 million voters vote in person—I am sorry, in the Presidential election, and 93 percent of those voted in person, and we are going to continue to encourage those to vote in person so that there is enough supply for those individuals who need to vote by mail or absentee to be able to utilize that service.

Chairwoman KLOBUCHAR. Thank you very much. Senator Blunt.

Senator BLUNT. Mr. Wilcox, quickly, let us go back to the whole idea of pre-canvassing, which means you can open the absentee or the mail in envelope. What else do you do? I do not have much time here so quickly give us a sense of what you do before Election Day and when you actually count in the pre-canvassing environment.

Mr. WILCOX. Yes, Senator, thank you. We actually, as vote by mail is returned to us, we are able to validate signatures. Starting about three weeks before the election, we will actually open the envelopes and run the ballots themselves through the tabulation machines, processing them, but not releasing any of the results.

We know how many we have ran through so that on election night, when 7:00 p.m. goes—comes in, the only vote by mail that we are dealing with are those that literally were dropped at our door the last 15 or 20 minutes. It allows us that huge advantage of reporting the results in a timely manner.

Senator BLUNT. Do you have a curative process where if there is not a signature or you wonder about the signature, you try to do something about that, or do you reject that ballot?

Mr. WILCOX. Yes, sir. We do have a cure process. As soon as we receive a vote by mail ballot back from a voter, and there is any question concerning the signature, we at that point in time attempt to notify the voter via United States Postal. If we have got an email address, we are going to do that. Any other means, letting them know that the signature on their vote by mail ballot may be in question.

Senator BLUNT. That processing is done in a bipartisan way, just like elections are administered in a bipartisan way?

Mr. WILCOX. Yes, sir, it is. Yes.

Senator BLUNT. Is anybody aware of that count as it occurs, except the knowing of the fact that the ballot was counted?

Mr. WILCOX. We know turnout at that point in time and that is all we know. You can ask me two weeks before the election, and I can tell you that, you know, I have had 37,000 ballots cast and that can either be in a vote by mail or early voting—

Senator BLUNT. The counties have, you said three weeks, do they have the discretion to start when they think they need to start?

Mr. WILCOX. Yes, sir. You know, the Miami-Dade's of the world, they are going to start three weeks. Lafayette County that has 4,500 voters, they may start only one week prior to the election. Yes, we as administrators and canvassing board members have that discretion to fit our personal needs.

Senator BLUNT. Secretary Chapman, did you or your predecessor either want to ask the Legislature to give you more pre-canvassing ability?

Ms. CHAPMAN. We have, and all 67 counties are in support of it. That is why it is Thursday, our election was Tuesday, and there

is still 50,000 ballots left to be counted because election officials are not able to start the pre-canvass until 7:00 a.m. on Election Day.

Senator BLUNT. All right. What do you do on pre-canvassing, Secretary?

Mr. ARDOIN. Thank you, Senator. As a result of the hurricanes in 2020, we initiated an emergency process. We have an emergency process in our state that I and the Governor can act and then the Legislature—I have to present a plan to the Legislature.

We did provide for that. We have provided for, I believe it was four days prior to the election to start the ballot processing, but not the counting. Counting starts on Election Day.

Senator BLUNT. Is the Legislature always in session, or do you have to present that some time before the Election Day?

Mr. ARDOIN. I have to present it before the election and I have to present it to the two committees with jurisdiction on both sides, and then those committees approve it, and then it goes to a mail ballot of the vote—

Senator BLUNT. When you have a hurricane six days before the election, do you wind up changing polling places?

Mr. ARDOIN. We do emergency changes. Yes, sir.

Senator BLUNT. Do you think you would have the same ability to do those emergency changes if there was a set of Federal guidelines?

Mr. ARDOIN. No, sir.

Senator BLUNT. How about you, Mr. Wilcox? What do you think you would lose if there was a Federal structure as opposed to a state by state structure?

Mr. WILCOX. As mentioned earlier, I am in strong support of local and state control of election because we you know, the things that work for the State of Florida work very well in the State of Florida.

But if we add a Federal legislation, I do not know how you could get a Florida and a Colorado and possibly a Louisiana and fit us all into the same box. We in Florida had decided and worked through what works best for our Miami Dades, our Lafayettes, and everybody in between so that it fits, and we have those optional pieces to make it for our particular jurisdiction.

Senator BLUNT. Secretary Chapman, what do you think was the problem with these 20,000 ballots that were not able to be counted on Election Day? Was this a printing error in printing the barcode or—and why wouldn't that have come up in some kind of pretest of the system?

Ms. CHAPMAN. Yes. That was Lancaster County. It was one county. It was a vendor issue with, you know, mis-printing the barcode. When, at 7:00 a.m., when the county started pre-canvassing, they discovered this error that the scanner was not reading the barcode, so that is why they are hand marking the ballot. If we had ample pre-canvass time like Florida, that would have definitely been caught earlier.

Senator BLUNT. Right. On the paper issue, you know, we do not want this to become the new—our next baby formula issue. When you have elections on Election Day, you need to be prepared for them. I think we are both and this whole Committee is very interested in that. Thank you, Chairwoman.

Chairwoman KLOBUCHAR. Okay. Next up, Senator Warner online and Senator Cruz and Senator Padilla. Okay. Senator Warner.

Senator WARNER. Thank you, Madam Chair. Let me just say at the outset, I think we all are a little concerned with some of the folks who have been election deniers who are being nominated around the country, some as recently as this week.

I do think, you know, I have been working on a bipartisan basis, and I know that Chair has done some great work on at least making sure we get the Electoral Count Act reform.

I really do hope, whether it comes out of the Chairwoman in the Rules Committee's efforts or out of this bipartisan effort that we get that Electoral Count Act reform legislation to the President as quickly as possible.

I think I am going to start my questions with Ms. Patrick. I know you have just recently been at an event, kind of current state of play within the postal services. Can you talk a little bit about, if you do not have good coordination between the state and the postal system, how that can interfere in the election? In particular, I believe there are certain states that their vote by mail ballots actually cannot even be processed by the Post Office's sorting machines. Is that accurate as well?

Ms. PATRICK. Thank you so much for the question, Senator. Part of the challenge is that many of the materials that are being produced by election officials do not follow standards and best practices, and they are not automation compatible. What that means is that they are not able to flow through the normal mail stream and have to be manually processed.

They are either too big or there is so much content and text on the envelopes that they get slowed down in the system and they do not follow those best practices, so those are big challenges. The other big challenge that really conflicts with, quite frankly, common sense is that we have 19 states that allow for a voter to request a ballot within the timeframe that the Postal Service says the mail should be returned.

They recommend ballots be mailed back seven days before the election. Nineteen states allow for a ballot to be requested even up to and including the Monday before Tuesday's election. That is just not possible for the Postal Service to deliver it in that timeframe.

Senator WARNER. Well, I appreciate that. I mean, I know—I think some of the extraordinary measures that took place in 2020, making sure that you do not change drop boxes, change Post Office locations, change mail locations in the weeks leading up, that you have appropriate sweeps, and making sure, again, that absentee ballots are treated as first class mail.

You know, I am working with Rob Portman on a number of these issues on a, you know, fairly isolated but fairly targeted set of reforms to make sure that those Americans who choose to vote by mail are not inhibited and prohibited.

I do think while we cannot mandate, you know, a single type of ballot, there ought to be some level of incentives so that those ballots that are vote by mail, of some level standard size, may even be of a different color again, so that Post Office workers can easily sort and make sure that those ballots are appropriately processed.

Mr. Hewitt, I thought your comments about some of these misinformation, disinformation stories are pretty chilling. I would point out to my colleagues that literally today there is a meeting taking place in Washington about misinformation and disinformation that includes parliamentarians from some House Members are going, but members of the British Parliament, Canadian members of parliament, members from Australia, New Zealand, and a number of other European countries.

This misinformation, disinformation plague is happening across democracies everywhere, often times supported by foreign adversaries. Not necessarily where they have got to create the foreign bots that are spreading misinformation, oftentimes it is just amplifying misinformation, disinformation that may have been originated, for example, here in America.

But it is ongoing, and it is a problem, even if DHS, with their roll out on their recent board, did it pretty ineptly, this is a problem that we cannot move away from. Ms. Chapman, I guess what I want to ask you is, you talked about in your testimony, misinformation, disinformation directed toward voters.

What about misinformation, disinformation that might be directed toward election workers, local elected officials, and others? How do we guard against that taking place where suddenly you have got election workers believing misinformation that may candidly affect their ability to do their job as an election official? Are you seeing that start to take place?

Ms. CHAPMAN. You know, in Pennsylvania right now, I think the largest bit of misinformation and disinformation we are seeing is around the elections process itself. Around, for instance, secure ballot drop boxes and whether or not, you know, voters can drop off their ballot, which they can. It is not really directed at the election workers per se, but more about the process of voting in elections. At the Department of State, you know, we work very closely with our counties on an education campaign so we can be transparent about what the process is to register to vote, to cast their ballot, and also the options voters have to return that ballot as well.

Senator WARNER. Well, I guess, again, I know my time is up, but I thank the Chair and the Ranking Member. I know they worked hard together to try to protect election workers from threats and abuse.

I do think the sophistication of some of the misinformation, disinformation, I do think we have to look at those election workers themselves being victims of some of this misinformation, disinformation. How we sort through this is going to take us all putting our heads together. Thank you, Chair Klobuchar.

Chairwoman KLOBUCHAR. Thank you very much, Senator Warner. Senator Cruz.

Senator CRUZ. You know, much of our discussions about elections today would make George Orwell blush. Democrats have routinely taken to decrying what they call misinformation and disinformation by which they mean any information that is politically inconvenient for Democrats.

That was illustrated most powerfully by President Biden's minister of truth, this new appointee to lead a so-called disinformation board, a Government board who has been a wild eyed partisan her

entire life, who has repeatedly amplified things that were in fact disinformation.

Things like the bogus and fraudulent Steele dossier, she was happy to amplify. She has also advocated silencing and censoring things that were unquestionably true, like Hunter Biden's laptop, which was politically inconvenient to Democrats at the time of the election.

You know, just a moment ago, the Senator from Virginia made a reference to election deniers, which is yet another interesting bit of nomenclature that Democrats have adopted. I find it interesting that that apparently now Democrats are denouncing Hillary Clinton. They are denouncing Stacey Abrams because Hillary Clinton and Stacey Abrams both maintain the election was stolen from them.

Stacey Abrams apparently thinks she is still the Governor of Georgia and that no election occurred. The hypocrisy that our Democratic friends bring to this issue is truly stunning. Now, Mr. Wilcox, a year ago, 21 Democrat Senators sent Attorney General Garland a letter about the "barrage of threats and abusive conduct from those seeking to interfere with the certification of the 2020 election or overturn the results."

Now, of course, no election officials should be subjected to threats. But many threats to election officials and public officials more generally are not limited to one side of the aisle. We see Democrats across the country making false claims of voter suppression.

For example, President Biden has called Georgia's common sense election law, "Jim Crow in the 21st century." This rhetoric deliberately racially, divisive, incendiary rhetoric can have real consequences. Can you speak, Mr. Wilcox, to how this type of rhetoric and misinformation from the left affects our elections?

Mr. WILCOX. I think misinformation, regardless of left or right, is bad for our election institution. You know, my concern and my colleagues' concern as elections professionals is the accuracy, the security, and the ability to vote. Once again, I go back to our statement earlier. We want to make it easy to vote and hard to cheat. However that is accomplished is what we want as elections administrators.

Senator CRUZ. The last major bipartisan examination of voter fraud was the Carter Baker Commission. This was a bipartisan commission. It was chaired by former Democrat President Jimmy Carter and former Republican Secretary of State James Baker.

They produced a report. That report concluded that voter fraud was real. It was a problem. It was persistent and it needed to be combated. It also put forth a series of recommendations in terms of how to fight voter fraud, things—common sense ideas that the vast majority of Americans support, like photo ID for voting.

You need photo ID to get on an airplane, to drive a car. You need photo ID to get a beer or if you are a teenager, to get into a movie. Yet, our Democrat friends routinely filibuster and oppose any efforts to have photo IDs, despite the fact that the overwhelming majority of Americans support them.

Carter Baker Commission also talked about one of the most frequent sources of voter fraud is mail in ballots. That mail in ballots

historically have invited fraud. Now, I will say, unfortunately, we are seeing Democrats across the country pushing for universal mail in balloting. It is almost as if Democrats took the Carter Baker Commission, read the recommendations on how to stop fraud, and inverted them.

Let us do the opposite. Whatever would stop fraud, let us do the opposite and let us do more of the conduct that produces fraud. You know, we are sitting here in Pennsylvania. We still do not know who won the Republican nomination for Senator because we are still waiting on ballots coming in.

Many states manage to actually conduct their elections on the day of elections, and yet Democrats keep moving in the direction of election chaos. Secretary Ardoin, some of the witnesses here have criticized laws like Texas's SB1 because it slows the expansion of nontraditional voting methods like mail in voting. Can you tell this Committee about the security concerns and fraud concerns potentially posed by mail in voting?

Mr. ARDOIN. Yes, Senator. The concern in Louisiana that we have found is that the concern is that we cannot quickly enough process the ballots to make certain that the absentee requests are from the individuals that are actually asking for the ballots.

We have to compare signatures, which requires additional equipment for us to be able to electronically do that. Right now, we are doing it eyeball, in person. That slows down the process of being able to get individuals their ballots. The concern is which we passed a law with regards to ballot harvesting.

Our concern was that political campaigns, political parties, and nonprofits, 501(c)(3)'s and 501(c)(4)'s, and political action committees could manipulate the process, and we did not want to have that happen in the Presidential election.

We passed bipartisanly that piece of legislation in a Republican led Legislature, and it was signed into law by a Democratic Governor. We did not have the issues that we have seen around the country that a lot of harvesting was done in terms of turnout for an election.

Because of that, we feel more confident where we are. We make certain that we promote in-person voting. We had 2.1 million votes cast in 2020, and of that, 93 percent of those were in-person. People did not mind standing in lines. It was at the height of COVID for early voting.

We have seven days of ten hours of voting for early voting, and we have for Federal elections a 14 hour voting day. We believe we have given our citizens ample time to vote in person. With this shortage of paper, we believe that we should be promoting in-person voting as much as possible. It is also the best way for the voter to make certain that their vote was accurately count—cast and counted.

Senator CRUZ. Well, thank you.

Chairwoman KLOBUCHAR. Thank you. Thank you, Senator Cruz. I am going to turn this hearing in general over to Senator Merkley. Senator Padilla is up next. I know Senator Ossoff is here. I did want to thank the witnesses because I am going back to vote. You have been incredible. I will note, I hope you saw the spirit that Senator Blunt and I bring to this issue.

We had disagreements on the Freedom to Vote Act that I strongly believe we should pass, but we agree that there should be some Federal funding for elections. We have worked together on that in the past. We believe, as we have stated, that election officials, local election officials should be protected and should not be the subject of threats and violence. We believe in our democracy and a fair administration of our elections.

With that spirit—and we believe in trying to fix the paper shortage for the Secretaries of State, Secretary Ardoin. There are many other things we agree on as well, but we bring that spirit to this hearing as we go forward into another election.

I just want to thank all of you for raising these very important issues. Thank you very much, Senator Padilla, former Secretary of State of the great and large State of California. You are next. Thanks.

Senator PADILLA. Thank you, Madam Chair. I think in a similar spirit, I will resist the temptation to engage or escalate partisan rhetoric in this hearing out of respect for the topic at hand, out of respect for the professionalism of the witnesses that are before us, and out of respect, frankly, for the American people, everybody observing this hearing.

Mr. Wilcox, I have heard you say a couple of times now, not many have put the question yet, the catch phrase I have heard far too often here were we just want to make it easier to vote and harder to cheat. Sounds good. It is a great soundbite, and it is not your fault, but I have heard it far too often in this Committee as a pretext, frankly, from some of my colleagues who—look, I agree we should be making it easier to vote and harder to cheat. If you look at the policies, if you look at data, we have gotten the hard to cheat part down because voter fraud in America is exceedingly rare.

What I get frustrated by is my colleagues forget about the first part, the easier to vote part because there are proven practices that are secure but can afford eligible voters more opportunities to conveniently register, stay registered, and actually cast their ballot, have their ballot counted.

It is not directed at you, but just sort of a level set for anybody observing this conversation because I agree. You have all touched on it. Election security and ballot access should not be mutually exclusive. They should not be mutually exclusive. I do not think they are. As the former Secretary of State of California proud of the California model, I think it is exhibiting on how we can do it right.

Every voter in America deserves the same protections, the same options for participating in our democracy. Now, there is a lot to unpack in the hearing here today. Appreciate the concerns that have been raised about poll workers, recruitment, retention, training, safety. But I am not going to ask a question about that.

We have talked about that. We will continue to talk about that vote by mail, an expansion to vote by mail, including the security steps in assuring the integrity of vote by mail like signature verification, opportunities to cure.

I will not get into detail because we have in previous hearings, and we will continue to have the conversation. Even the values and merit of ballot drop boxes as an additional option for voters to re-

turn their ballot. The merits of in-person early voting opportunities that can be done securely and offered additional options for voters to participate. I will have a second question on election disinformation, but I will talk about security for a second.

Not cybersecurity and not staff training, not voting systems and the guidelines and security standards for voting systems that we should continue to elevate, and not just the merit of paper ballots, but a different angle on the supply chain question that has been raised specifically about paper.

Now, a voter watching at home may say, well, wait a minute, can't you just go to the Office Depot or the local printer and pick up some reams of paper and print ballots? Not voter information guides, not—specifically paper as it pertains to printing of ballots.

Let me direct it to Ms. Patrick, and one of the Secretaries, if you want to tell me afterwards, some of the technical requirements that people should be aware of in terms of printing of ballots that voters should be aware of to reinforce their faith in the process, including certification of ballot printers.

Ms. PATRICK. Thank you, Senator. It is a joy to testify before you again. I would say that one of the things to remember is that the sophistication of our tabulation equipment is very high. Because of that, we need a high quality of paper.

Because we need to make sure that it is pristine paper, it does not have filaments, it does not have other things that can capture the light and in some way misrepresent a voter's mark as an errant mark, what have you. You cannot just go down to Staples or Office Depot and use any sort of paper.

You have to have a specific type of paper that is of high quality and that has always and traditionally been obtained here in North America from the North American mills. That is part of the tension, is that it is a very unique paper product. It is a high quality paper product. In this time when the mills have turned their processing over to corrugations, it is becoming more and more difficult to obtain.

Yesterday at the National Postal Forum, many of the providers were telling me that even though they have, you know, 26 thousand-pound rolls, that will blow through in about an 1.5 or 2 hours in their processing plants. It is of great need.

Senator PADILLA. Right. As a former Secretary of State, I invite people to search their state's websites and see the public information on what the criteria is for the quality of paper, the certification process, who those certified printers are, and to make themselves less vulnerable to misinformation like we are looking for bamboo filaments here. I will just leave it at that. I think that that is critical.

Again, for voters to know. It is not just about how clear the print job is to circle the bubble—fill in the bubble or draw an arrow or something like that. But the technology on the backend used to accurately count their ballots. I know my time is up. A question, an ongoing conversation on disinformation.

For all the concerns that have been raised, I think there is a unique additional challenge of combating let alone trying to prevent disinformation and its impact on voters who prefer a language

other than English, of which there are many, not just in California, but across the country.

Either of the Secretaries, can you speak for a minute just on concerns or recommendations on how to battle disinformation for linguistically diverse voters?

Ms. CHAPMAN. Sure, I can take that. Thank you for that question. In Pennsylvania, you know, we, of course, follow Section 203 of the Voting Rights Act. Actually, this is the first election where Philadelphia will provide voting materials in Chinese.

We have been working at the Department of State to support Philadelphia County, also statewide, to make sure that all of our voter education information is translated into Chinese, that we are reaching voters where they are, that we are partnering with stakeholder groups.

But we also go above and beyond just the languages that we are required to provide language assistance in and, you know, try to also provide it to the most common spoken languages within the Commonwealth.

There is still more work to be done, but we are definitely on the right track to make sure that we are providing education information in every language possible.

Senator PADILLA. Thank you. To Secretary Chapman, and before turning back over to the Chair, just to acknowledge my experience as Secretary of State in California was the best way to battle the bad information that is out there is to try to get ahead of it with accurate information. We know that misinformation, disinformation does not just exist on social media, but is predominantly on social media.

From other hearings and other Committees that we have had in Congress, the safety measures in place by social media platforms helpful, certainly not enough. That is in English, and languages other than English leaves a hell of a lot more to be desired. We have our work cut out for us. Thank you, Mr. Chair.

Senator MERKLEY. Thank you. Thank you very much. We so appreciate your experience as Secretary of State and bringing that to bear on these election issues. I thought I would turn first to you, Mr. Hewitt. One of the challenges I have seen over time is that there is a number of ways to manipulate Election Day.

That is, if you want an area to vote, you can create smaller precincts. If you do not want them to vote, you create larger precincts so there is a bigger crowd at the voting place. You do not want people to vote, you can change the location of the precinct voting place. You can put it where there is no parking.

We have also seen occasions where people put out information that was misinformation about where the Election Day precinct place was located, actually even seen occasions where people put out information about the Election Day. Sorry you missed it, versions, or, oh, hope you vote next week, the week after the actual Election Day to mislead people.

All of these are challenges on Election Day. Are you familiar with those types of efforts to manipulate Election Day to make it easier for people in some precincts or some counties to vote versus other precincts?

Mr. HEWITT. We certainly have seen those, Senator Merkley, throughout the country. Now, I want to distinguish what you may call kind of the single precincts, which you may call mega precincts, from some other context where it makes sense.

In my home State of Louisiana, after Hurricane Katrina, we saw mega precincts out of necessity because so many polling sites were destroyed, right. Schools, other places, what have you. That was a necessity. It is much different to constantly change. What we know is all it takes sometimes is a few minutes or maybe an hour of misdirection when people are voting, especially because around the country people tend to vote on Tuesdays, unlike Louisiana, where we have Saturday elections for state elections.

It just takes a little bit of an ounce of misdirection to frustrate the entire democratic process for voters to go elsewhere. I would be remiss if I did not say, Senator Merkley, and add that in a regime of pre-clearance and the previously covered jurisdictions, those kinds of changes would have been caught by and large if they were reported timely, as it should be, and submitted for pre-clearance or if they were raised by advocates and so forth.

Senator MERKLEY. Thank you. Thank you. Ms. Patrick, one of the statistics that struck me about Georgia was that in the last election, so this is before any election law change, that the waiting time in predominantly black precincts, that is where there is 80 percent or more of the voters were black versus waiting time in predominantly white precincts, in which 80 percent or more of the voters were white, the waiting time was eight to ten times as long, the average waiting time, as in the predominantly white precincts. You are familiar with that statistic?

Ms. PATRICK. I am, Senator.

Senator MERKLEY. Is it—is that correct?

Ms. PATRICK. It is correct. I think it is also important to take into consideration the distinction between urban and rural jurisdictions and some of the constraints that occur with election administration in those situations. But there is definitely a disparity across the country that still exists, particularly when voters are restricted in the options that they have in order to vote.

Senator MERKLEY. Ms. Patrick, in Oregon, we have had vote for mail for a couple of decades. Our expert from Louisiana, Secretary of State from Louisiana said they were having trouble verifying the authenticity of the request for the absentee ballot by examining the signatures.

Now, before my state had vote by mail where we sent a ballot to everyone, we had—upon request—we had no such difficulty. If we could figure it out in Oregon more than two decades ago, is not it possible for every jurisdiction to figure out how to issue an absentee ballot with integrity?

Ms. PATRICK. Two decades ago, Senator, I was also securing and signifying or verifying signatures in Maricopa County. We had over 2 million registered voters. The majority of them voted by mail. There are absolutely procedures and policies in place all across the country that any jurisdiction can adopt and they are widely shared among the states and local officials.

Senator MERKLEY. Well, I would invite any election officials who are having difficulty figuring out how to compare signatures or

verify request for absentee ballot, we are happy to give a seminar in my state. We have been a leader on vote by mail, or Ms. Patrick, I am sure, can set up that type of seminar.

Furthermore, when the ballot is returned, we have the integrity of comparing the signature on the ballot envelope to the signature on record. If there is a difference in the signatures, the voter is contacted and said, hey, come down and verify your ballot. Does that system work pretty well?

Ms. PATRICK. It does, Senator. I would say that it is not only good customer service, it is a security measure. Very often when we talk about curing, and we talk about it as good customer service, but it is a security measure to find out why is that signature missing? Why is the signature different?

In my thousands of voters I called in almost over a decade, I never had an instance where I uncovered a fraudulent signature. I found that voters were wearing a cast, they had had a stroke, they were aging, and their signatures had changed. But it was good to know why, in fact, that signature was omitted or was different.

Senator MERKLEY. I can tell you that after coming to the Senate, my signature changed because I only sign things occasionally in my previous life and now I do it every day, and so I am waiting for that call that my signature no longer matches, and I need to come down and verify it. Mister—Senator Hagerty is with us and is next in line.

Senator HAGERTY. Thank you, Senator Merkley. Thank you to all of our guests today. I would like to start out with you, Mr. Hewitt and talk about the Georgia voting laws. Last year, you characterized changes to Georgia's election laws as, "limiting access to early voting."

Yet we are currently in the third week of early voting in Georgia, and they are seeing record early voting. In fact, early voting is up 217 percent from the last midterm election, and it is even up 155 percent from the 2020 Presidential primary. I want to ask you, Mr. Hewitt, do you still think that the new Georgia law limits access to early voting?

Mr. HEWITT. Thank you, Senator. Look, we are still analyzing the numbers that are coming in, but what we know is that anything that requires voters en masse to have to change to now find alternative ways to voting, whether restricted from being able to do what they once did or what they were accustomed to doing is inherently problematic.

We think there are still some challenges with mail voting as well in Georgia and elsewhere, but here is the thing. The frame for us, and this is, you know, if you want to talk about the lawsuit, we can talk more here and offline as well, we claim as we have intentional discrimination. We have to ask ourselves, tell the story. Why is this happening? Why are these laws changing? Just because people are finding a way beyond you know—

Senator HAGERTY. Do you ask the same question about why the laws were changed, the rules were changed in 2020, or does this only apply to 2021?

Mr. HEWITT. When the laws are changed to make it harder to vote, that is what the key question is, why—

Senator HAGERTY. The evidence does not support that it is harder to vote. In fact, the evidence supports that far more people are voting early. I am having a hard time with this line of logic.

Mr. HEWITT Your argument proves too much, and I will suggest just because more people—you are just—you are telling me you are giving me stats about more people being able to vote. What we are not looking at is, how was that happening? Why is that happening?

It is not as if the law that was changed was designed to make it easier for people to vote, to encourage more people to vote. In fact, it was designed to clamp down on a particular means of voting. The argument is actually proving my case.

Senator HAGERTY. I do not see the logic at all. I do not see how—the logic follows through, the data does not support it. In fact, the Georgia Secretary of State's office says that it expects this record turnout to continue.

I am frankly very shocked to hear you continue to maintain this position. I would like to go to you, Ms. Patrick. You speak in your testimony about misinformation as being unintentionally false information, disinformation is deliberately misleading information, and malinformation is information that is used out of context.

The 2021 Georgia voting law expanded early voting, requiring 17 days of early voting, at least two Saturdays, and it gave counties the option to offer Sunday early voting. Ms. Patrick, would it constitute misinformation or disinformation then to say that the Georgia voting law reduced access to early voting?

Ms. PATRICK. The definitions that I included in my testimony are from CISA, from the Cybersecurity Infrastructure Security Agency's website, and their "misinformation is false but not created or shared with the intention of causing harm."

The "disinformation is deliberately created to mislead, harm or manipulate a person, social group, organization or country". Then the "malinformation is based on fact but used out of context in an effort to mislead, harm, or manipulate."

I think every particular statement would need to be reviewed to see which one of those categories it falls under if it does fall under any of those individual categories.

Senator HAGERTY. Well, I would like to ask you again then. You just cited the definition of those statements. Does the Georgia 2020 voting law, 2021 voting law, which expanded early voting, requires 17 days of early voting, at least two Saturdays, and gave counties the option to offer Sunday early voting, is it misinformation or disinformation to say that that law reduced access to early voting?

Ms. PATRICK. My understanding of that law, Senator, is that that is only one facet of the law. To state that the law in its totality falls into one or only one of these categories based on just one small faction of the law, I do not feel that I am qualified to make such a statement.

Senator HAGERTY. Let me go to another statement then. Again, this is pertaining to the Georgia election law. The 2021 Georgia election law did not change the law allowing counties to have polls open between 7:00 a.m. and 7:00 p.m. The law did not change that. Yet, President Biden claimed, and I am going to read the quote, "it is sick, deciding that you are going to end voting at 5 o'clock. Among the outrageous parts of this new state law, it ends voting

hours early so working people cannot cast their vote after their shift is over.” That is the end of the quote from the President. This law does not end voting at 5:00 p.m.

Even The Washington Post gave that statement four Pinocchios, which is a whopping falsehood. Ms. Patrick, would you characterize this statement by President Biden as misinformation or disinformation or malinformation?

Ms. PATRICK. I never try to ascribe motivations to individual statements by anyone, Senator.

Senator HAGERTY. Is motivation required in all of those definitions?

Ms. PATRICK. I would say it is not, but what I would continue with my sentence to finish is that I would not ascribe motivations. If I took it on its face, it is not exactly accurate from what you are telling me. I am not a specialist in Georgia’s law or the most recent law.

Senator HAGERTY. Well, the difference between 5:00 p.m. and 7:00 p.m. does not require expertise and special expertise. I think it is whether it is true or not.

Ms. PATRICK. What I was trying to finish, my apologies, is that if the statement is incorrect, these categories then take the next step to say, why is that information being shared, and it is ascribing motivation. Is the individual saying something that is false because they believe it to be false and they are saying it for a purpose to spread that misinformation?

Are they saying something that is incorrect and false because they are unaware that is incorrect and false? That is where I do not feel that I am in a position to be able to qualify what that category is, because I do not know what the motivation was or the understanding of the individual.

Senator HAGERTY. The doublespeak here is shocking, but the motivation I think is clear, it is to inflame. I think it is shameful. I end my time but I turn back—yield back the floor. Thank you, Mr. Chair.

Senator MERKLEY. Our Ranking Member.

Senator BLUNT. Thank you, Senator Merkley. Let me just ask a couple of questions about cybersecurity. If that was covered while I was gone, we will just repeat whatever those answers may have been.

Particularly the two current election authorities, Secretary Ardoin and Mr. Wilcox, what have your states done between, say, 2018 and now to try to both secure the system and create a stronger impression that both the voter system and the voter registration system is less subject to any interference than people might have been led to believe?

Mr. ARDOIN. Thank you, Senator, for that question. What Louisiana has done is, we have a centralized management system with no remote access from vendors. We have a third party that is monitoring all behavior on our—attacks on our website to see if there is any certain behavior and to mitigate those attacks immediately. That is a 24/7 process. We own our own transmission lines, and we monitor those, even if they are not being used, every single day of the year and all hours of the day.

Additionally, we work with our local partners in order to provide them the latest information we have. I will tell you, Senator, if we could get more substantive information and more quickly disseminated information with regards to activity that is out there, we would be better served, both as state and local level.

Because many times when we are called into higher security level clearance briefings, we are finding out information that we have already read in news outlets.

Senator BLUNT. Right. You are saying this is something the Federal Government could definitely do and do by just designating somebody in your office and maybe other election offices around the state to be cleared to get information that somebody in the Federal Government thinks could be a problem for your state or that jurisdiction.

Mr. ARDOIN. We do have individuals in each of our offices, including the chief elections officer, that are designated for this information. The issue is—

Senator BLUNT. Getting it?

Mr. ARDOIN [continuing]. getting it because it has to go through ODNI, FBI, CIA—it has to go through a process of declassification to a level that we can get. By the time it goes through that, I guess it is sanitized, I think is the terminology. The problem is by the time it gets down to that, we have already heard about it.

Senator BLUNT. Got it. Mr. Wilcox.

Mr. WILCOX. I concur with the Secretary. We have done a lot of the same type of security, cybersecurity procedures that he mentioned. We have done them at the local level as well, based on our needs in the State of Florida.

The vast majority of us have implemented these different types of cybersecurity suites. The Federal Government was extremely beneficial with the granting that allowed us to—through their funding of CISA and EI-ISAC and allowing us to do some cybersecurity things that we could not have done all 67 in the State of Florida on our own. That has been wonderful. The other part of this is education.

We have been able to—we have to understand that in a jurisdiction that has a small number of registered voters, the supervisor there is the data base administrator, he or she is the vote by mail coordinator. They are the person that does early voting there. They do all of these things and having them become a cybersecurity expert is a major challenge.

But we have been able to educate our membership and bring the entire level. We are able to use terminology today, phishing or whaling or any of these that we all now currently understand that three years ago we did not have that.

Senator BLUNT. Do those small counties have somebody to turn to at the state election authorities office or—?

Mr. WILCOX. Yes, sir. In the State of Florida, the Secretary of State's Office has put together what is called a cyber navigator program, where they have five to seven different individuals with different pieces of the state to where anyone that lives in that district can contact their cyber navigator to help them respond on—or even RFPs, request for proposal for security type things and best prac-

tices to ensure all of our jurisdictions are at least at a minimal level.

Senator BLUNT. Yes. Secretary Chapman, do you have the same concerns about not getting the information as quickly as you need to get it from the Federal Government on cyber and other similar issues?

Ms. CHAPMAN. There are key members of our staff that do have their security clearances and we are in constant communication with Department of Homeland Security. We, you know, receive that information on an expedited basis, so.

Senator BLUNT. Then, are you able to constantly communicate it to other people around the state who need to know?

Ms. CHAPMAN. Yes. With the counties. We actually have biweekly meetings with counties. If anything is related to a particular county, then we speak with them right away. Our Federal partners and our state partners are very strong when it comes to cybersecurity.

Senator BLUNT. I think my last question, Ms. Patrick, on the urban, rural—you mentioned urban precincts and rural precincts, and I was not quite sure how that related to the waiting in line, but I am assuming one of the ways that you wait—that it relates to that is usually rural precincts have a lot fewer people that are going to vote there because they have to travel a lot further to get there, and so by definition, there would almost always be less waiting in those precincts. Was that the point you were trying to make?

Ms. PATRICK. That is certainly part of it, Senator. The other, as I am sure you remember from your days as an official, when you have an urban population, they are often more transient. They move more frequently. Given whatever the existing voter registration regime is in that state, you can slow down the line by virtue of not having an updated voter registration.

Now you are a provisional voter, provisional ballot. Depending on whether or not the state has automatic or automated or online voter registration, it can slow down the process, particularly in jurisdictions where they either move more frequently—and I would say that one caveat and distinction between the rural and urban is when you talk about voters in Indian Country or in reservation lands, there the challenge is the addressing system itself because it is sorely lacking in this country.

Senator BLUNT. Right. I think there are also election authorities looking for better ways than signature verification to determine how to process a ballot unless someone has reason to question. Are you doing that at either one of any of your three states, Mr. Wilcox?

Mr. WILCOX. Yes, we are in the State of Florida. We do have some automated signature verification, basically the same technology that the banking industry uses with validating checks. We are using that in some of our jurisdictions in the State of Florida.

Senator BLUNT. Mr. Ardoin.

Mr. ARDOIN. We are not using automated at this time, Senator, because we are in the process of determining what type of new voting system that we will be moving to. We have mostly touch screen or touch voting DREs, direct recording electronic voting machines.

Our mail absentee voting program has not expanded itself as most states have, just because our voters are used to voting in per-

son. We had the highest number ever in Louisiana during the Presidential election, but it did not—it was only 7 percent of our voters voted by absentee ballot.

Senator BLUNT. Well, one of my personal thoughts on voting in person, as opposed to five weeks earlier is you know a whole lot more about the campaign and the candidate and the issues, and I have always thought moving that decision earlier makes it hard for candidates to figure out how they are going to communicate with you, what they think the campaign is all about.

But there is not a lot of sympathy for candidates in this process. I do get that. I will say on the voting location, you know, if you do have a significant populated urban location, as I am sure all of you have figured out, one thing you can do if you have got room in that—at that location is to divide the precinct on big Election Days alphabetically or some other way to where you have more opportunities and you do not have more locations than you need on all other elections if it is not a travel problem.

Now, my favorite comment anybody ever made to me when I was a local election official about my poor judgment in moving a voting location was when one of the party committee women came to me and said, you could not have possibly put this voting location in a worse place. It is too far for me to walk and too close for me to drive.

I totally failed to meet the standard of having it where it met either of those standards. Chairman, thank you for letting me ask a second round of questions.

Senator MERKLEY. Thank you very much, Senator, in bringing your experience to bear, because not everyone has had that personal experience of being engaged in those issues. I did want to ask Secretary Chapman in Pennsylvania, you have just gone through a primary election, and did you have vote by mail in that election?

Ms. CHAPMAN. Yes.

Senator MERKLEY. Did you have any difficulty in figuring out how to send out absentee ballots or ballots for vote by mail to citizens of Pennsylvania?

Ms. CHAPMAN. No.

Senator MERKLEY. Do you use signature match verification as a way to make sure that the ballot is being mailed in by the same person whose name is on the ballot?

Ms. CHAPMAN. We check for the signature and date, yes.

Senator MERKLEY. Have you had a large number of cases where individuals essentially voted somebody else's ballot?

Ms. CHAPMAN. No.

Senator MERKLEY. Have you had any? Have you prosecuted any people for that?

Ms. CHAPMAN. We do not prosecute. That is something the Attorney General does, but no.

Senator MERKLEY. No. Okay. I am just checking because so far, I have had the chance to ask many Secretary of States around the country. It all comes down to you are more likely to be struck by lightning to find a case that somebody deliberately voted somebody else's ballot.

We have come up with cases where people moved and they had an early primary in one state and they had a later primary in an-

other state, and they thought, citizen of a new state. Maybe I can vote in two primaries. Were not sure if that was legal, if we have cases like that, but that is not an intentional voter fraud situation.

I remain very concerned about changes that are making it much harder to vote. I was noting that in Georgia between 2012 and 2018, 214 voting precincts were eliminated, and when they were eliminated, people had to figure out where to go in order to vote because their old precinct location was eliminated.

Then Georgia changed the law so that if you go to the wrong precinct voting place, which is much more likely after the old voting place is eliminated, you cannot vote at that location.

You have to travel to the new location, which means quite a lot of difficulty in figuring out where that is and making sure—there is just—in that Georgia law, there is provision after provision after provision, including doubling or cutting in half the time that you have to apply for early voting or for an absentee ballot. You can just count them off, more than a dozen.

I think we should all be working together to make it easier to vote. Yes, I hear advocates who are defending things that make it harder to vote saying this makes it easier to vote. Well, let us just have an honest discussion about changes in law that are designed to make it more difficult, because that is the wrong way to go and not to use fake issues of fraud as a justification for trying to trying to disenfranchise people.

There is no way in any state it should be ten times as long to wait in a predominantly black precinct as it is in a predominately white precinct. That is institutionalized racist discrimination and it needs to end. It is our responsibility to make sure that there are fair laws around this country.

It was the year 1891 that the Act came from the House that said we are going to make sure, following the end of reconstruction, that we are going to have fair opportunity to register, fair opportunity to vote, and integrity in counting those votes across the entire country. That bill, unfortunately, was filibustered here in the Senate and killed a leading to 75 years in which black Americans were disenfranchised before the 1965 Voting Rights Act.

It is our responsibility to continue to address this challenge. I thank Ranking Member Blunt and Chair Klobuchar for holding this hearing. We need to keep working on this critical issue central to a democratic republic. I appreciate the election officials bringing their experience to bear here today and their strategies, sharing their strategies to improve the administration security of elections.

I commend Mr. Hewitt and Ms. Patrick for being strong advocates for election workers and voters and for their ongoing work, including testifying today to ensure voters can make their voices heard in our democracy.

The testimony that we have heard today makes clear that we must continue to work together to overcome the challenges voters and election workers are facing this year, including ensuring that state and local Governments have access to Federal resources, that election workers are safe and feel safe, and that voters across the country can easily cast their ballots.

I look forward to continuing to work with my colleagues on this Committee to provide election officials and voters across the coun-

try with the support needed for a successful year of midterm elections.

The hearing record will remain open for one week. All Members who wish to submit questions for the record have one week to do so. With that, we are adjourned. Thank you.

[Whereupon, at 12:48 p.m., the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED



United States Senate Rules Committee
May 19, 2022 Hearing on Administration of Elections
Acting Secretary Leigh M. Chapman,
Pennsylvania Department of State

Thank you to Chairwoman Klobuchar, Ranking Member Blunt, and other esteemed members of the Senate Rules Committee for allowing me to offer remarks regarding the state of elections administration in Pennsylvania.

I am Leigh Chapman, Acting Secretary of the Commonwealth of Pennsylvania. I was appointed by Governor Tom Wolf on January 8, 2022. As Pennsylvania's Chief Election Officer my role is to ensure that elections are secure and accessible and that every eligible voter in Pennsylvania can register, cast their ballot, and have it counted.

As you know, Pennsylvania's primary was this Tuesday, May 17, 2022. Pennsylvania has 8.7 million registered voters. For the May 2022 primary, approximately 900,000 mail-in ballots were requested, and as of the morning of Election Day, May 17, 2022, counties reported nearly 650,000 ballots returned—about 70 percent of the requested ballots. Polls

closed at 8 pm on Election Day, at which time counties were able to begin the process of receiving and canvassing returns from polling locations. In Pennsylvania, counties cannot begin pre-canvassing mail ballots until 7 a.m. on Election Day, which coincides with their busiest days of the year. We expect to have unofficial results for all races in the next few days.

You should know that Pennsylvania has made significant strides to modernize its election systems and election administration processes in the past several years and that 2020 was an unprecedented year in Pennsylvania elections. First, all counties implemented new voting systems that maintain a voter-verifiable paper record of each vote cast. The General Assembly, in a bipartisan effort, enacted legislation—Act 77 of 2019—that provided up to \$90 million in funding for the new voting systems so Pennsylvania could join the majority of states that had already implemented voting systems that are capable of meaningful post-election audits and that provide a verifiable paper record to confirm the accuracy of election outcomes. Second, along with funding for the new voting systems, Act 77 also enacted sweeping election reforms that gave Pennsylvanians more voting options and expanded access to the ballot. The 2020 Primary was the first election where millions of Pennsylvanians were given the option to vote by mail without having to provide an excuse. Adding this voting option

turned out to be very well-timed, and almost prescient, as the commonwealth and nation were gripped by a global pandemic in March 2020. No-excuse mail-in voting provided voters with a safer alternative to voting in person during the pandemic. As a result, demand for the new mail-in voting option increased quickly and dramatically.

Since then, the Department of State has continued efforts to modernize and improve its election systems and processes. The Department recently implemented an enhancement to the Pennsylvania Statewide Uniform Registry of Electors (SURE) system to support walk-in ballot requests, also known as counter-voting transactions, in response to concerns voiced by county election offices. This update allows county staff to use a small single label printer to immediately print a unique ballot label for a voter who requests an absentee ballot or mail-in ballot in person and directly issue them a ballot, rather than requiring the ballot to be processed in a batch and printed on a standard desktop printer. This cuts down on voters' wait time when applying for a mail ballot in person.

Additionally, the Department is moving forward with a full replacement of the SURE system. This modernization effort will not only provide additional functionality that will assist counties and voters in the process, but also adds a variety of measures that will enhance the security

of the SURE Registry, including, but not limited to, multifactor authentication of users and the ability to immediately deliver routine software patches to users' systems. Part of the first phase of the new SUREVote system, a revamped election night reporting module, was beta tested during the primary election on Tuesday. Phase 1 is election-night reporting (ENR) and election management. The Department has been testing the new SUREVote system alongside the existing legacy SURE system as we work to implement Phase 1 of transitioning to the new system. In late February, the Department tested the election management module with the assistance of seven counties: Bradford, Dauphin, Erie, Lancaster, Lehigh, Lycoming, and Philadelphia. Phase 2 of SURE modernization includes the voter registration and voter list maintenance functions, and Phase 3 includes updates to election management and voting by absentee and mail-in ballot. Finally, Phase 4 will include campaign finance and lobbying disclosure functions. We are currently expecting all four phases of modernization to be complete by 2023.

Despite the significant progress we have made to modernize Pennsylvania elections, election administrators in the state still face significant threats and challenges. One of the biggest threats to our elections and to democracy in general is misinformation and disinformation.

Whether intentional or unintentional, both reduce voters' confidence in the electoral process, and in turn, discourage participation. Let's use the example of drop boxes.

As stated earlier, the state legislature enacted bipartisan election reforms to the Pennsylvania Election Code in 2019 when it added no-excuse mail-in voting as an option for voters to cast a ballot. Voters are permitted to return a mail ballot by mail or by hand delivering it to the county board of elections. To facilitate the mass return of mail ballots, counties established secure drop boxes at designated locations for the convenience of voters that cannot reach their county board of elections office during normal business hours. Under current Pennsylvania law, only the voter is permitted to hand-deliver their voted mail ballot to the county board of elections, with an exception for voters with a disability who can designate an agent in writing to return their ballot. As with many significant legislative changes, the public needs - and will continue to need - ongoing education regarding the technical requirements for mail-in voting, especially as the process differs from traditional, in-person voting.

Although mail-in voting started as a bipartisan effort, it has become a partisan flash point. Rather than acknowledge the possibility of voter confusion and the need for additional education, some have attributed voter

error to malicious, intentional attempts to subvert the integrity of the electoral process—voter fraud. Thus, there are some, even some of those who voted to enact the reform, that say mail-in voting, and more recently drop boxes, are a vehicle to promote voter fraud and cannot be trusted. I disagree. Drop boxes are a secure way to drop off a mail ballot into the custody of county election officials. To be clear, there is no evidence that mail-in ballots or drop boxes promote voter fraud.¹ In each of the federal and state actions challenging the outcome of the 2020 Presidential election in Pennsylvania, the first general election where millions of Pennsylvanians voted by mail, courts wholly rejected the allegations of widespread irregularities because those allegations lacked any evidence. The November 2020 election was free, fair and secure, with no widespread voter fraud.

When there are allegations of voter fraud, the Department refers those to the appropriate law enforcement agency for investigation. While the Department does not investigate fraud, our procedures for mail-in voting incorporate protections designed to identify irregularities before

¹ In her 2009 book, *The Myth of Voter Fraud*, University of Rutgers-Camden Professor Lorraine Minnite defines the terms as the “intentional, deceitful corruption of the electoral process by voters.” Voter fraud is impersonation a voter, ineligible voters registering to vote, double voting, tampering with ballots. Voter error is not fraud.

ballots are counted. These protections are effective. The outside envelope of each mail-in ballot is assigned a unique barcode which is connected to the specific voter's file. Further, once a mail ballot has been submitted, the barcode is scanned, and it goes through an initial review process, all of which occurs before any mail ballots are removed from their secrecy envelopes for counting. During this initial review process, county election officials review the voter information on the mail ballot envelope and ensure the voter is on the list of absentee and mail-in voters. The names of voters who request a mail-in ballot are moved to the back of poll books and those entries include indicia noting that the voter either requested a mail ballot or returned their voted ballot, as the case may be. While we do have a process for those who have applied to vote by mail to vote in person; that process requires them to either surrender their unvoted mail ballot and outer envelope at their polling location or vote provisionally. When the department is made aware of any allegations of voter fraud the department refers them to the appropriate law enforcement agency. The Department of State does not investigate or prosecute voter fraud. We have not been presented with any credible evidence of "ballot trafficking" or "ballot harvesting."

Voter error requires additional public education regarding what is still a relatively new process for many of the millions of Pennsylvania voters.

The public discourse surrounding these drop boxes, under the guise of preventing voter fraud, raises concerns that voters will be deterred, or even intimidated, while exercising their lawful right to cast a ballot. For example, one county's district attorney announced that he will have detectives surveil drop box locations because security video from the 2021 election purportedly showed hundreds of voters dropping off more than one ballot. The District Attorney has acknowledged to the press and to me personally that there was no evidence that the drop boxes have been used to tamper with votes or cast fraudulent ballots. I have been in communication with the DA and expressed my concerns that the presence of law enforcement in this context could deter voters from lawfully casting a ballot. We support measures to secure drop boxes to prevent tampering and destruction of ballots and have provided guidance to the counties on the best practices for managing drop boxes. We will not support actions that cause voters to doubt the election systems in place or actions that interfere with eligible voters exercising their right to vote.

While there are several reforms that the Department would propose to modernize our election laws, I'll focus on a few. One reform that would

go a long way towards squelching disinformation about mail-in balloting is also consistently requested by county election officials for administrative reasons: the ability to pre-canvass mail-in and absentee ballots ahead of Election Day. During pre-canvassing, officials compare the voter information on the outer ballot envelope to ensure that the voter is on the list of absentee and mail-in voters and verify that the voter signed and dated the outer envelope and then they remove the secrecy envelope from the outer envelope. Under current law, pre-canvassing cannot begin until 7 am on Election Day—which even before widespread mail-in voting, was the busiest day of the year for election workers. In 2020, the nation waited days for Pennsylvania's results. That delay created an opportunity for speculation and conjecture regarding the process, including accusations of fraud or other nefarious activities. Extending the pre-canvassing period increases the likelihood that election officials can post election results as close to the close of the polls as possible. This reform also alleviates the pressure experienced by county and local election officials on Election Day as they are trying to pre-canvass thousands of mail-in ballots while in-person voting is underway throughout their counties.

Other reforms that the Department of State identified as areas of possible improvement include: a process by which voters can cure minor

technical deficiencies in ballots. Again, as mail-in voting becomes part of the culture of voting in Pennsylvania, voters still make technical mistakes. The requirements for completing a mail-in ballot are nonetheless important and, if not followed, could result in a voter's ballot being invalidated. For instance, under current legal precedent, voters must sign and date the declaration on the outside envelope which contains the voters' information, and if they do not, the ballot will not be counted. In its current form, the Election Code does not set forth a process for qualified voters to cure these minor errors.

Finally, and most significantly, counties consistently express another need: adequate, consistent funding from the state and federal government. In Pennsylvania, counties bear virtually all the cost to run elections at every level. While counties have long needed more support, the circumstances of 2020 exposed the gaping flaws in the current funding model. In addition to the pandemic, new threats and new election law required counties to upgrade their systems and machines.

The federal government recognized the urgent need for resources in election administration and in March 2020, Congress passed the CARES Act, which included \$400 million in emergency election funding, of which \$14.2 million was allocated to Pennsylvania. The Department distributed \$6

million of CARES Act fund to the counties through block grants, which were allocated based on the number of registered voters as of April 13, 2020. Pennsylvania counties received an additional \$1.1 million for return postage on mail in ballots for 2020 general election, except for 2 counties that did not participate. The Department used remaining funds for an outreach and education campaign, and personal protective equipment and supplies to be used at polling places for the 2020 primary election. Much of the CARES Act funding was spent in advance of the November 2020 General Election.

In addition to the CARES Act funding, many counties had received funding from the Help America Vote Act (HAVA). Although the funds were to last into 2022, many counties expended those funds prior to the November 2020 General Election.

Nonprofits stepped in at the eleventh hour, providing grants to the state and making grants available to any county interested in applying for additional funds. In the case of the Department of State, we vetted grants to the Department using established procedures and statutory requirements. County officials from both major parties have acknowledged that those grants filled a critical gap which if not filled, could have proven

disastrous. Although the Department made all counties aware of this opportunity and encouraged them to apply, not all counties chose to do so.

The efforts of these third-party non-profit organizations to ensure that the public could safely access the ballot in 2020 has become another point of contention, as two bills pending in the state legislature would ban such funding in the future. In hearings and in media reports discussing the legislation, counties indicated that the third-party funds permitted them to acquire PPE for public-facing staff, increase poll worker pay, hire additional staff needed to process mail-in ballots, and acquire capital needed to process the thousands of mail-in ballots that voters returned to counties. As a current Philadelphia Commissioner, Seth Bluestein, a Republican, testified to the state legislature regarding Philadelphia's purchase of equipment using the CTCL funds: "These technological enhancements will enable the [election] department to more affordably produce, maintain, and count mail-in ballots for years to come as we continue implementing the unfunded mandate of Act 77." The Philadelphia City Commissioners estimate that they saved Philadelphia taxpayers thousands, if not millions of dollars, by making investments in election infrastructure.

On almost every occasion that the Department or county elections officials have appeared before the General Assembly of Pennsylvania to

discuss elections, we have testified that the commonwealth desperately needs a new model for funding election administration—one in which federal and state governments share in the cost that counties bear to administer the process that selects leaders on both state and federal levels. In the Department's most recent budget proposal for the upcoming fiscal year, we proposed adding 21 new positions to our elections team, several of which will provide direct support to counties in administering elections.

Today, the Department reiterates its request that federal and state legislatures share the cost of administering state and federal elections. We do acknowledge that the Department recently received an additional \$2 million dollars of HAVA funds this year, which we will use for, among other things, security and technology enhancements, training, voter education, and subgrants to the counties for hardware and equipment related to modernization of the SURE system. While that funding is needed and appreciated, we know that there is still great need at both the state and county level. Thus, we ask that members of this committee support the President's new proposal to infuse \$15 billion dollars into elections, including \$10 billion dollars to go directly to states, and \$5 billion dollars to improve postal delivery of mail ballots.

Thank you for the opportunity to participate in this important conversation. I welcome any questions that you may have.

Chairwoman Klobuchar, Ranking Member Blunt, and distinguished members of this committee: good morning and thank you for having me. I am Kyle Ardoin, and I serve as Louisiana's 44th Secretary of State. I am especially pleased to be speaking before you today because Louisiana has unique experience in election preparation. Not only did we have to deal with the challenges of COVID-19, as did my colleagues across the country, but in 2020 we were faced with running the presidential election in the aftermath of Tropical Storms Cristobal and Beta and Hurricanes Laura, Marco, Delta and Zeta—the last of which made landfall in Louisiana a mere six days prior to Election Day. In 2021, we were faced with another major storm in Hurricane Ida, which devastated parts of our state just six weeks prior to our statewide elections. Thankfully, we were able to execute all of these elections due to the hard work of our election staff across the state, and in cooperation with other state agencies.

However, this year's federal election presents a new challenge: the supply chain backlog that has and will continue to affect paper supplies across the country. Let me be clear: this is a crisis

that demands immediate attention and bipartisan action. It is not an exaggeration to say that if this situation is not handled, it could lead to a serious erosion in the confidence in our elections.

In Louisiana alone, our office had to contact every paper producer in North America—not just the United States—to ensure we will have the supplies we need. Louisiana uses a much smaller amount of paper than other states for elections. In the 2020 presidential election, 7% of the 2.1 million votes cast in Louisiana were by paper. If we had to piecemeal the supplies we need to execute the election, how will other states with greater needs manage? In the most recent midterm election in 2018, the EAC’s Election Administration and Voting Survey stated that over 42 million mail ballots were transmitted across the country. Additionally, over 85% of the nation’s jurisdictions use paper or a paper component in their voting system.

Furthermore, we must consider that states need paper supplies for mail-ballot envelopes, voter instructions, or poll books, and may need special types of paper to comply with their state’s law.

In 2017, the Department of Homeland Security declared election infrastructure as “critical infrastructure.” Then-Secretary of

DHS Jeh Johnson said: “The designation makes it clear both domestically and internationally that election infrastructure enjoys all the benefits and protections of critical infrastructure that the U.S. government has to offer.” That is why I have asked the federal government to activate the Defense Production Act to ensure that paper suppliers prioritize election-related materials ahead of November’s election. I also believe that there are other innovative ways to ensure ample supply for state and local jurisdictions, including the use of tax incentives to urge paper suppliers to prioritize election-based supplies.

Furthermore, just as many jurisdictions increased voting by mail in 2020 due to the COVID-19 pandemic, states should consider prioritizing in-person voting due to the persistent supply chain issues in 2022. Jurisdictions should encourage voters to vote in-person and, to the extent possible, reserve absentee-by-mail voting for those that must vote-by-mail. These supply chain issues are also affecting other aspects of our election administration efforts, especially as it relates to the transportation of election supplies and machines. In 2021, the vehicle shortage forced Louisiana to seek delivery trucks in states as far away as Georgia. With four months remaining until

the federal 45-day UOCOVA ballot deadline and less than six months until Election Day, there can be no delay for action.

Additionally, we are continuing to work on shoring up our cybersecurity defenses against bad actors, both foreign and domestic. A recent advisory from cybersecurity authorities in the United States and our allies have warned that we should expect “malicious cyber actors-including state-sponsored advanced persistent threat groups-to step up their targeting.” The advisory specifically warned that these groups or individuals would be targeting managed service providers, or MSPs. I have long spoken out about the need for MSPs to be open and transparent with their government partners, and in Louisiana we championed legislation to require more accountability from MSPs that operate within our state. Without clear communication between MSPs and the jurisdictions they service, we cannot effectively fight those that wish to do us harm. In a world that is increasingly interconnected, and with our enemies seeking to undermine our elections, it is more important than ever that we work together, public and private entities, local, state, and federal governments, and across

agencies, to protect our critical infrastructure from new and existing threats.

These challenges are in addition to the aging population of poll workers, rampant false information, and threats to election officials and staff. However, working as partners, we can devise solutions to these pressing issues. We have no choice but to succeed-the American people expect and deserve no less.



**STATEMENT OF DAMON T. HEWITT
PRESIDENT AND EXECUTIVE DIRECTOR
LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW**

U.S. SENATE COMMITTEE ON RULES AND ADMINISTRATION

**HEARING ON
ADMINISTRATION OF UPCOMING ELECTIONS**

MAY 19, 2022

I. Introduction

Chairwoman Klobuchar, Ranking Member Blunt, and Members of the Senate Committee on Rules and Administration, my name is Damon T. Hewitt and I am the President and Executive Director of the Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee"). Thank you for the opportunity to testify today on the administration of the recent and upcoming primary elections and the November midterm elections.

The Lawyers' Committee uses legal advocacy to achieve racial justice, fighting inside and outside the courts to ensure that Black people and other people of color have voice, opportunity, and power to make the promises of our democracy real. The Lawyers' Committee convenes the nation's largest nonpartisan voter protection effort, the Election Protection coalition, which includes the voter assistance hotline 1-866-OUR-VOTE. The Election Protection Program works with over one hundred national, state, and community partners to provide Americans from coast to coast with comprehensive voting information and resources. Our work gives us unique insights into patterns that happen at the state and local level nationwide. Too often, what we are seeing is an erosion of infrastructure and access to the democratic process.

My message for this Committee is simple. Election laws that perpetuate attacks, and impose criminal penalties or hefty fines on election administrators who are trying to do their jobs in good faith are wrong. Voting laws that impose unnecessary hurdles for Black voters and other voters of color to overcome are wrong. Such laws not only deter well-meaning citizens from serving as election officials, they also make it harder for voters to vote. These laws, which have often emerged in states where voting is racially polarized, are a formula for drastically heightened levels of racial discrimination. They give hyper partisan actors the ability to weaponize the power of the criminal law to sweep aside neutral election administrators and disenfranchise Black voters and other voters of color. Put simply, these laws undermine democracy.

II. How State Legislation Passed Over the Past Two Years Will Negatively Impact Election Administrators, Leading to Staffing Shortages, Longer Lines, and Less Resources in Black Communities and Communities of Color

2022 is the first year that voters nationwide will be casting their ballots in federal elections since state legislatures across the country began enacting a wave of restrictive voting bills in response to record levels of voter participation during the 2020 election. Throughout 2021 and the beginning of this year, states enacted bills banning drop boxes, restricting early voting hours, shortening the window of time that voters have to request absentee ballots, creating new criminal and financial

penalties for election administrators, and giving partisan poll watchers unfettered access to the polls. These laws will have negative impacts on election administrators, who will be forced to understand and apply a host of new counter-intuitive election requirements and restrictions for the first time, and voters, who will face new barriers to the ballot box. In states across the country from Georgia to Texas to Florida, election administrators from both parties spoke out against many of the bills, warning state lawmakers that the laws would negatively impact election administrators' ability to do their jobs. Election administrators warned legislators that imposing these suppressive requirements and penalties would deter people from serving as election workers, ultimately making it harder for voters to vote.¹ In many instances, state lawmakers failed to heed election administrators' warnings and the impacts of these changes will come to light during this year's primary and midterm elections.

Black voters and other voters of color typically bear the brunt of irreparable harm when elections are poorly administered. Even before the 2020 election, Black and Latinx voters faced staffing and resource issues at polling places that make election administration more difficult, such as long lines, polling place closures and fewer electoral resources.² The suppressive new requirements and rules enacted by state legislatures over the past two years that make election administration more taxing for election workers are likely to magnify the issues that communities of color have historically faced at the polls. Furthermore, these newly enacted laws have already had and will continue to have a chilling effect on patriotic citizens who would otherwise serve as election administrators. People who have worked as election administrators and workers for decades are retiring at a rapid rate due to fear of prosecution, intimidation, and violence. In fact, 1 in 5 local election officials have already declared that they will likely step down before the 2024 elections.³ This mass exodus of election officials and election workers is certain to lead to staffing shortages that will require polling places to be closed or consolidated – a practice that has disproportionately happened in Black communities and other communities of color.⁴

A. *New Felonies and Fines for Election Workers*

¹ Anthony Izaguirre, *Election Officials Face Fines, Charges in GOP Voting Laws*, ASSOCIATED PRESS <https://apnews.com/article/donald-trump-laws-elections-voting-health-4cb9244c381f1031c9cc20610c79a931> (May 8, 2021)

² Hannah Klain et al., *Waiting to Vote: Racial Disparities in Election Day Experiences*, BRENNAN CTR. FOR JUST., <https://www.brennancenter.org/our-work/research-reports/waiting-vote> (June 3, 2020).

³ Miles Parks, *1 in 5 Local Election Officials Say They're Likely to Quit Before 2024*, NPR, <https://www.npr.org/2022/03/10/1085425464/1-in-5-local-election-officials-say-theyre-likely-to-quit-before-2024> (March 10, 2022).

⁴ *Democracy Diverted: Polling Place Closures and the Right to Vote*, LEADERSHIP CONFERENCE EDUC. FUND, (September 2019), <http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf>.

At least ten states have enacted laws establishing new criminal penalties or fines for election workers since the 2020 election.⁵ These laws criminalize multiple aspects of election administration from—from counting ballots and interacting with poll watchers, to absentee voting and collaborating with third-party non-profits to encourage voter registration and education.⁶ The criminalization of election administration is an alarming trend, especially considering the targets. Most nonsupervisory election workers are nonpartisan volunteers over the age of 60.⁷ These attacks on election administrators have not occurred in a vacuum. In many states, the object of these laws is clear – to target election administrators and workers in cities and counties with a large number of Black voters and other voters of color.

During the 2020 election, there were repeated attacks on the way that elections were administered in some of America's Blackest big cities. When former President Donald Trump attempted to get the election results in Georgia overturned, infamously asking Georgia Secretary of State Brad Raffensperger to "find" more votes, he took aim at Fulton County in particular, whose county seat and largest city is Atlanta.⁸ In Pennsylvania, the former President took aim at Philadelphia, after the Republican city commissioner Al Schmidt stated that he had not seen any evidence of voter fraud during the presidential election.⁹ In Michigan, the former President took aim at Detroit, where he falsely claimed that there were more votes cast than

⁵ Ryan Teague Beckwith, *U.S. Election Officials Face Their Biggest Threat Yet — Jail Time*, BLOOMBERG, <https://www.bloomberg.com/news/articles/2022-04-19/jail-threat-dangles-over-election-officials-in-new-gop-vote-laws> (April 20, 2022).

⁶ Ohio Voter Collaboration Ban, <https://codes.ohio.gov/assets/laws/revise-code/authenticated/35/3501/3501.054/9-30-2021/3501.054-9-30-2021.pdf>; Andrew J. Tobias, *Ohio AG Yost Says State Law Change Criminalizes Partnerships Between Elections Officials and Private Groups, But Most Routine Work is OK*, CLEVELAND.COM, <https://www.cleveland.com/news/2022/01/ohio-ag-yost-says-state-law-change-criminalizes-partnerships-between-elections-officials-and-private-groups-but-most-routine-work-is-ok.html> (January 6, 2022).

⁷ Michael Barthel and Galen Stocking, *Older People Account for Large Shares of Poll Workers and Voters in U.S. General Elections*, PEW RES. CTR., <https://www.pewresearch.org/fact-tank/2020/04/06/older-people-account-for-large-shares-of-poll-workers-and-voters-in-u-s-general-elections/> (April 6, 2020).

⁸ Hope Yen et al., *AP Fact Check: Trump's Made-Up Claims of Fake Georgia Votes*, ASSOCIATED PRESS, <https://apnews.com/article/ap-fact-check-donald-trump-georgia-elections-atlanta-c23d10e5299e14dace6109885f7dafa9> (January 3, 2021).

⁹ <https://twitter.com/AllisonLHedges/status/1326525180949237760?s=20&t=TAhw0GyyhepiE8YOYwRlFv>; A guy named Al Schmidt, a Philadelphia Commissioner and so-called Republican (RINO), is being used big time by the Fake News Media to explain how honest things were with respect to the Election in Philadelphia," he tweeted. "He refuses to look at a mountain of corruption & dishonesty. We win!" —Donald J. Trump (@realDonaldTrump) November 11, 2020; Natasha Brown, 'Completely Ridiculous Allegations': Philadelphia City Commissioner Al Schmidt Defends Election Integrity After President Trump's Tweet, CBS Philly, <https://philadelphia.cbslocal.com/2020/11/11/philadelphia-city-commissioner-al-schmidt-defends-election-integrity-after-president-trumps-scathing-tweet/> (November 11, 2020).

there were people living in the city.¹⁰ As of 2020, Atlanta was approximately 49.8% Black, Detroit was approximately 77.1% Black, and Philadelphia was approximately 41.4% Black.¹¹ It is no coincidence that the false claims of election maladministration and voter fraud focused on those cities.

It should be expected that the enforcement of the new criminal laws and fines for election administrators and workers will target communities with a large percentage of Black voters and other voters of color as well. It is certainly the case that there is a racial tinge to the enforcement of voting related crimes and fees for voters. One only need to look towards the prosecution of Crystal Mason in Texas and Pamela Moses in Tennessee, two Black women who were prosecuted for attempting to vote under each state's confusing guidelines for voter eligibility.¹² Further, in Florida, after a majority of the state's voters agreed that previously incarcerated citizens should be able to vote, the State legislature passed a new law requiring them to pay their fines and fees before they could do so.¹³ It is through this lens that the imposition of criminal penalties and fines for election administrators and election workers should be viewed. Bad actors can target election administrators and workers of color through selective enforcement of new crimes and fines, just as they have often targeted voters of color.

Florida is one of several states that passed new laws criminalizing and financially penalizing election administrators since 2020. Specifically, Florida enacted SB 90 into law in 2021, which among other things requires each drop box in the state to be continuously monitored by an election worker and imposes new requirements for when and how elections workers can retrieve ballots from drop-boxes.¹⁴ Failure to comply with these costly requirements will lead to a financial penalty of up to \$25,000 for election supervisors.¹⁵ That fine is approximately half a year's pay for many election supervisors in Florida and there is no requirement that

¹⁰ In Detroit, there are FAR MORE VOTES THAN PEOPLE. Nothing can be done to cure that giant scam. I win Michigan! — Donald J. Trump (@realDonaldTrump) November 18, 2020; Todd Spangler, *Trump Again Falsely Claims He Won Michigan and That Detroit Had More Voters Than People*, DETROIT FREE PRESS <https://www.freep.com/story/news/politics/elections/2020/11/25/donald-trump-false-claims-detroit-voters/6426412002/> (November 25, 2020).

¹¹ QuickFacts: Philadelphia, PA; Detroit, MI; Atlanta, GA, U.S. CENSUS BUREAU, https://www.census.gov/quickfacts/fact/table/philadelphiacitypennsylvania_detroitcitymichigan_atlantacitygeorgia/PST045221.

¹² Timothy Bella, *She Was Told She Could Vote Again After Felony Convictions. Now She's in Prison for Trying*, WASH. POST, <https://www.washingtonpost.com/nation/2022/02/04/tennessee-pamela-moses-voting-fraud-prison/> (Feb. 4, 2022).

¹³ Curt Anderson, *Judges: Florida Felons Can't Vote Until They Pay Fines, Fees*, ASSOCIATED PRESS, <https://apnews.com/article/florida-voting-rights-elections-courts-voting-b4f68dd4f11a6df1430fbd74ac93de3> (September 11, 2020).

¹⁴ S.B. 90. <https://www.flsenate.gov/Session/Bill/2021/90/BillText/e2/PDF>

¹⁵ *Id.*

the supervisors or their employees intentionally or even carelessly violate the state's suppressive drop box restrictions to be penalized with the fine.¹⁶

One county elections supervisor who has served for 28 years described this provision of SB 90 as putting “the fear of God into elections administrators.”¹⁷ He also explained how the requirements of the law make election administration more difficult. Instead of assigning volunteers to monitor drop-boxes or using video surveillance as Florida counties have done in the past, election supervisors will now be forced to assign senior staff who would otherwise be focused on more complex election administration tasks to monitor drop boxes to ensure compliance with SB 90.¹⁸

Another elections administrator explained that in order to avoid being fined under SB 90 for violating the new drop box requirements, she would be forced to remove her county's drop box all together. “I could not give up one of my staff members to just sit at our drop box all day long, nor could I afford with my budget to hire another staff member just to do that...There's no way a county my size could afford it.”¹⁹ Ultimately, every single one of Florida's 67 county elections administrators – both Republicans and Democrats – spoke out against SB 90 as making election administration unnecessarily onerous and voting unnecessarily harder– yet the state still enacted the omnibus bill.²⁰

B. Bans on Collaboration with Nonprofit Nonpartisan Voter Engagement Groups and the Need for Election Administration Funding

Another troubling trend from states across the country following the 2020 election has been bans on collaboration between election officials and non-partisan, nonprofit groups on voter education and voter registration. Elections offices across the country are severely underfunded. In light of their limited resources, collaboration with nonpartisan nonprofit groups to encourage citizens to register to vote and educate registered voters on the voting process is essential. Yet, states like Ohio and Kansas have banned this kind of collaboration, leading election officials in those states to refrain from partnering with organizations to encourage nonpartisan voter outreach in their communities of interest.

¹⁶ Ryan Teague Beckwith, *U.S. Election Officials Face Their Biggest Threat Yet — Jail Time*, BLOOMBERG, <https://www.bloomberg.com/news/articles/2022-04-19/jail-threat-dangles-over-election-officials-in-new-gop-vote-laws> (April 20, 2022).

¹⁷ *Id.*

¹⁸ Nick Corasaniti, *Jail Time and Big Fines: G.O.P. Seeks Harsh Penalties for Poll Worker*, N.Y. TIMES, <https://www.nytimes.com/2021/05/15/us/politics/republican-voting-bills-poll-workers.html> (May 15, 2021).

¹⁹ Grace Banahan, *Florida Supervisors of Elections Oppose Controversial Voting Bill 'SB 90'*, WUFT, <https://www.wuft.org/news/2021/04/21/supervisors-of-elections-oppose-voting-bill/> (April 21, 2021)

²⁰ *Id.*

In Kansas for example, nonpartisan nonprofit organizations such as the League of Women Voters were forced to halt all voter registration drives and voter outreach²¹ after the state legislature enacted bills that vaguely prohibit volunteers from engaging in activity that “would cause another person to believe” that they are an election official.²² Any individual who violates this law could face felony charges, up to 17 months in prison, and a \$100,000 fine.²³

Ohio enacted a law, HB 110, explicitly criminalizing partnerships between election officials and any non-governmental organizations which has already had serious consequences.²⁴ The official analysis of the bill from the Ohio Legislative Service Commission states that the bill “prohibits the Secretary of State or a board of elections from working with a citizen group to hold a voter registration drive, conduct a voting education program, or recruit poll workers.”²⁵ In Ohio, faith-based groups including churches, synagogues, and mosques have historically partnered with local election officials to educate their members and the public at large on elections and conduct voter registration drives.²⁶ Yet, the collaboration ban in HB 110 prohibits these faith-based groups from working with their county election officials to promote or encourage voting.

This is problematic for voters and election administrators alike. Election administrators do not have the time or resources to reach all of the voters and potential voters that nonprofit nonpartisan organizations can. By preventing county election officials from collaborating with these organizations, Ohio’s new law will force election administrators to spend more of their already limited time answering questions about voting and voter registration, educating the public about the voting process, and hosting their own voter registration drives.

²¹ Sherman Smith, *Kansas Groups Halt Voter Registration Drives to Avoid Being Jailed Under New Law*, KANSAS REFLECTOR, <https://kansasreflector.com/2021/07/01/kansas-groups-halt-voter-registration-drives-to-avoid-being-jailed-under-new-law/> (July 1, 2021)

²² HB 2183 http://www.kslegislature.org/li/4/2021_22/measures/documents/hb2183_enrolled.pdf.

²³ Noah Taborda, *Attorneys Debate Potential for Kansas Election Law to Chill Voter Registration Efforts*, KANSAS REFLECTOR, <https://kansasreflector.com/2022/04/07/attorneys-debate-potential-for-kansas-election-law-to-chill-voter-registration-efforts/> (April 7, 2022)

²⁴ House Bill 110, Final Analysis, Ohio Legislative Service Commission Page 429 – 430 of 499. “The act prohibits a public official responsible for administering or conducting an election from collaborating with, or accepting or expending any money from, a nongovernmental person or entity for any costs or activities related to voter registration, voter education, voter identification, get-out-the-vote, absent voting, election official recruitment or training, or any other election-related purpose...”

²⁵ *Id.* at 430.

²⁶ Morgan Trau, *Religious Groups, Legislators Butt Heads On New Election Law*, OHIO CAPITAL JOURNAL, <https://ohiocapitaljournal.com/2022/02/25/religious-groups-legislators-butt-heads-on-new-election-law/> (February 25, 2022).

The Lawyers' Committee recently signed a letter asking Congress for \$20 billion in funding for election administration.²⁷ These funds were necessary before the wave of voting legislation banning collaboration with nonprofit nonpartisan civic groups and they are certainly necessary now.²⁸ Black communities and other communities of color are more likely to be underfunded and lack the infrastructure needed to administer elections.²⁹ Congress must ensure that local elections offices are adequately funded so that these communities receive the resources they need to administer elections efficiently.

C. Laws that Negatively Impact Election Administrators Equally Harm Voters and Vice Versa

The negative impact that new state voting bills have had and will continue to have on election administration and voters should not come as a surprise to state legislators or anyone else because, as explained above, election administrators across the country and across party lines spoke out against them before and immediately after they were passed. Nationwide, state legislatures either passed laws affecting election administration without seeking input from local election officials or failed to heed election officials' warnings that the new laws would create serious problems for voters. In Georgia, Texas, and Florida, election officials raised the alarm in legislative hearings about the impact of the voting bills their state legislatures eventually passed. Legislators' failure to listen to election administrators is one of the many reasons that election officials are retiring or resigning in droves.³⁰ Election workers and administrators literally and figuratively serve as the eyes and ears on the ground at polling places. They understand the impact that voter suppression and election administration criminalization laws have on voters and themselves in real time.

i. Texas

Before the Texas state legislature passed SB 1, county election officials raised the alarm that the omnibus bill's new vote-by-mail ID requirements would lead to significant ballot rejection problems.³¹ During a legislative hearing for SB 1 in the

²⁷ Election Infrastructure Organizational Letter, July 22, 2021, <https://www.lwv.org/sites/default/files/2021-07/Election%20Infrastructure%20Organizational%20Letter.pdf>.

²⁸ Eryn Hurley, County Officials Ask Congress to Provide Additional Funding to Administer and Secure Elections, <https://www.naco.org/blog/county-officials-ask-congress-provide-additional-funding-administer-and-secure-elections>, National Association of Counties (August 3, 2020).

²⁹ Richard Wolf, *Polling Places Lack Resources, Civil Rights Group Says*, ABC NEWS, <https://abcnews.go.com/Politics/story?id=5989869&page=1> (October 8, 2008).

³⁰ Michael Wines, *After a Nightmare Year, Election Officials Are Quitting*, N.Y. TIMES <https://www.nytimes.com/2021/07/02/us/politics/2020-election-voting-officials.html> (July 2, 2021).

³¹ Jessica Huseman, *The Texas Election Bill Contains a New Obstacle to Voting That Almost No One Is Talking About*, TEXAS MONTHLY, <https://www.texasmonthly.com/news-politics/texas-election-bill-contains-new-voting-obstacle/> (July 26, 2021).

Texas House, Chris Davis, the elections administrator from Williamson County tried to explain to state legislators that the ID requirements in SB 1 were unworkable. Specifically, he warned that the law, which requires voters to submit either their driver's license number or the last four digits of their social security number would penalize any voter who could not remember which of those two numbers they used when they first registered to vote.³² "I challenge any person on the committee: do you remember what you filled out when you got your voter registration? I certainly don't. And I'm in the business of this. And if [the numbers] don't match, we're rejecting," warned Davis.³³

Despite this warning, none of the House committee members – Democrat or Republican – asked Davis questions about the potential for increased vote by mail rejections.³⁴ What followed was predictable – record high vote by mail ballot rejections across the state of Texas during the state's March primaries. 12.38 percent of all vote by mail ballots in the Lone Star State were rejected during the March 1 primary election, a rate nearly 12 times higher than the rejection rate in the 2020 election.³⁵ Voters across party lines were affected by ballot rejections, with 12.87 percent of Democratic vote by mail ballots being rejected and 11.77 percent of Republican vote by mail ballots being rejected.³⁶ However, there was a clear racial gap in vote by mail rejections, with Black voters in Harris County being 44% more likely to have their ballots rejected than white voters.³⁷ The results in El Paso County were exactly what Williamson County election administrator Chris Davis predicted, despite the fact that Williamson County is over 500 miles away from El Paso County: 70 percent of El Paso's rejected vote by mail ballots were from voters who registered over 25 years ago and 17 percent of El Paso's rejected ballots were from voters who registered at least 50 years ago, making it impossible for them to remember which, if any, identification number they wrote on their voter registration application.³⁸ Advocates expect these rates to increase in November when far more Texas voters will cast their ballots not only in races for Congress, but statewide elections—including for Governor.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ Ashley Lopez, *Almost 25,000 Mail-in Ballots Were Rejected in Texas for its March 1 Primary Election*, NPR, <https://www.npr.org/2022/04/06/1091267343/almost-25-000-mail-in-ballots-were-rejected-in-texas-for-its-march-1-primary-ele> (April 6, 2022)

³⁶ *Id.*

³⁷ Nick Corasiniti, *Mail Ballot Rejections Surge in Texas, With Signs of a Race Gap*, N.Y. TIMES, <https://www.nytimes.com/2022/03/18/us/politics/texas-primary-ballot-rejections.html> (March 18, 2022).

³⁸ Molly Smith, *New Texas Voting Law Disenfranchised Some of El Paso's Longest-Tenured Voters*, EL PASO MATTERS, <https://elpasomatters.org/2022/03/28/new-texas-voting-law-disenfranchised-some-of-el-pasos-longest-tenured-voters/> (March 28, 2022).

SB 1 also included new requirements for voter assistants who help voters with disabilities at the polls. Specifically, SB 1 changed the oath that voter assistants must give, forcing them to swear under penalty of perjury that they have not been compensated to assist the voter.³⁹ This provision is problematic because oftentimes, voters with disabilities' assistants are their paid personal attendants or caregivers who assist them in their day-to-day activities.⁴⁰ While the text of SB 1 includes a carve out for paid attendants and caregivers, that carve out is not explicitly stated in the oath.⁴¹ Therefore, many caregivers and attendants may mistakenly think it applies to them and refuse to sign the oath. This unnecessary requirement will disproportionately, if not exclusively, affect voters with disabilities.

We sued Texas officials on behalf of the Texas State Conference of the NAACP, Common Cause Texas, three election judges, one voter assistant and one Harris County voter over SB 1 because we knew the bill would disenfranchise Texas's Black, Latinx, and other voters of color, as well as the election workers who serve in those voters' communities.⁴² SB 1 gives unfettered access to partisan poll watchers by creating new criminal penalties for election administrators or workers who attempt to remove them or "obstruct" them, strips local election administrators' power to take executive action in emergency situations, and exposes voter assistants to increased surveillance and administrative complexities. SB 1 also restricts nearly every method of voting that Texas voters of color used overwhelmingly in 2020. The law limits early voting and ballot drop boxes, prevents election officials from distributing absentee ballots, and bans drive-thru voting. While the provisions of SB 1 will hinder the ability of all Texans to vote, these new restrictions intentionally and disproportionately impact communities of color.

We alleged in our lawsuit that SB 1's vague provisions expand "the ability of poll watchers to harass and intimidate voters in polling places—tactics that are designed primarily to impact voters of color" and "transform the polling place from its community-oriented culture to a hyper-partisan, toxic, and fearful space where emboldened poll watchers challenge voters, tell election judges how to do their jobs,

³⁹ Shelly Brisbin, *Voters with Disabilities Concerned About SB 1's Impact on Getting Assistance at the Polls*, TEXAS STANDARD, <https://www.texasstandard.org/stories/voters-with-disabilities-concerned-about-sb-1s-impact-on-getting-assistance-at-the-polls/> (February 25, 2022).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Texas' SB 1 Discriminates Against Voters of Color, Lawyers' Committee for Civil Rights Under Law, <https://www.lawyerscommittee.org/texas-sb-1-discriminates-against-voters-of-color/> (September 7, 2021).

and intimidate voters, particularly voters of color.”⁴³ Our lawsuit is currently pending in state court.

ii. Georgia

Georgia is another state where election administrators across party lines have spoken out against recently passed state laws that make election administration more difficult.⁴⁴ Despite the fact that Secretary of State Brad Raffensperger and Georgia elections official Gabriel Sterling confirmed that there was no evidence of widespread voter fraud in Fulton County or anywhere else in Georgia during the 2020 election,⁴⁵ the state legislature passed SB 202, which not only increased criminal penalties for election administrators in Georgia, but also included state takeover provisions that allow members of the State Elections Board – the majority of whom are appointed by the state legislature – to completely takeover election administration in counties and fire career election administrators.⁴⁶ These provisions were clearly meant to target Fulton County and other counties with a significant Black population in Georgia.

The Election Protection program has already received reports that SB 202 is leading to widespread problems in Georgia. Voters have contacted the Election Protection hotline to express their frustration with Georgia’s new law that makes it harder for voters to request an absentee ballot. In 2020, nearly 30 percent of Black voters in Georgia voted by mail, while only 24 percent of white voters cast their ballot by mail.⁴⁷ Recognizing this shift, Georgia included several provisions that make it harder to vote by mail in SB 202. One of these provisions requires any voter who wishes to vote absentee to print out a hard copy of an absentee ballot application, sign it with a pen, and then either return it by mail or scan the application after signing it in ink and upload it online.⁴⁸ Previously, voters could simply apply for an absentee

⁴³ *Texas State Conference of the NAACP et al v. Greg Abbott*, Cause No. 2021-57207, https://www.lawyerscommittee.org/wp-content/uploads/2021/09/2021-09-07-Original-Petition_timestamped.pdf.

⁴⁴ Maya King and Nick Corasaniti, *Local Election Officials in Georgia Oppose G.O.P. Election Bill*, N.Y. TIMES, <https://www.nytimes.com/2022/03/28/us/politics/georgia-election-bill.html> (March 28, 2022).

⁴⁵ Bart Jansen, *Georgia Election Official: Trump Legal Team 'Intentionally Mised' Voters on Election Fraud*, USA TODAY, <https://www.usatoday.com/story/news/politics/elections/2021/01/04/gabriel-sterling-trump-team-mised-voters-election-fraud-georgia/4130374001/> (Jan. 4, 2021).

⁴⁶ Domingo Morel, *As Georgia’s New Law Shows, When Black People Gain Local Power, States Strip That Power Away*, WASH. POST, <https://www.washingtonpost.com/politics/2021/04/01/georgias-new-law-shows-when-black-people-gain-local-power-states-strip-that-power-away/> (April 1, 2021).

⁴⁷ Kevin Morris, *Georgia’s Proposed Voting Restrictions Will Harm Black Voters Most*, BRENNAN CTR. FOR JUST., <https://www.brennancenter.org/our-work/research-reports/georgias-proposed-voting-restrictions-will-harm-black-voters-most> (March 6, 2021).

⁴⁸ Absentee Ballot Request, Georgia Secretary of State, <https://securemyabsenteeballot.sos.ga.gov/s/>.

ballot online without printing and scanning the form.⁴⁹ This requirement will only increase the volume of paper absentee ballot applications that county elections offices across the state will have to process by hand and decrease access to absentee voting for Black voters and other voters of color who do not access have printers or scanners at home and would otherwise have to pay money to meet this strenuous requirement. Another provision of SB 202 is also having a negative impact even before primary election day in Georgia. The provision that cut the window for voters to request an absentee ballot by more than half from 180 days before an election to just 78 days before an election has unnecessarily restricted the time that voters have to request absentee ballots and that election administrators have to process requests and send the ballots out.⁵⁰

We sued Georgia officials over SB 202 on behalf of the Georgia State Conference of the NAACP, Common Cause, the Georgia Coalition for the People's Agenda, Inc., the GALEO Latino Community Development Fund, Inc., League of Women Voters of Georgia, and the Lower Muskogee Creek Tribe in federal court.⁵¹ We specifically sued over SB 202's provisions allowing the State Elections Board to "take over county election boards, which would give the State Elections Board unprecedented authority to target jurisdictions with a large population of Black voters and other voters of color."⁵² In December, the court denied the State's attempt to dismiss our case, allowing our clients to move forward with their claims and finding that the organizations we represent "have stated a plausible discriminatory purpose claim."

When the state legislature seemed poised to pass a second round of restrictions this year, one Republican member of the Forsyth County board of elections warned state lawmakers in Georgia "you're going to cause me to lose poll workers...I have 400 poll workers that work for our board. That is 400 people that I could see telling me after May, 'Have a nice life,' and it's hard enough to keep them right now."⁵³ Despite these bipartisan warnings, state lawmakers in Georgia passed an election

⁴⁹ Patricia McKnight, *Georgia Sued Over Rule That Absentee Ballot Applications Be Signed in Ink*, NEWSWEEK, <https://www.newsweek.com/georgia-sued-over-rule-that-absentee-ballot-applications-signed-ink-1702733> (May 2, 2022).

⁵⁰ S.B. 202, <https://www.legis.ga.gov/api/legislation/document/20212022/201498>

⁵¹ Georgia's SB202 is a Culmination of Concerted Efforts to Suppress the Participation of Black Voters and Other Voters of Color, Lawyers Committee for Civil Rights Under Law, <https://www.lawyerscommittee.org/georgias-sb202-is-a-culmination-of-concerted-efforts-to-suppress-the-participation-of-black-voters-and-other-voters-of-color/> (March 29, 2021).

⁵² Georgia State Conference of the NAACP et al v. Brad Raffensperger et al, <https://lawyerscommittee.org/wp-content/uploads/2021/03/2021-03-28-complaint-as-filed-with-temporary-case-number.pdf>

⁵³ Maya King and Nick Corasaniti, *Local Election Officials in Georgia Oppose G.O.P. Election Bill*, N.Y. TIMES, <https://www.nytimes.com/2022/03/28/us/politics/georgia-election-bill.html> (March 28, 2022).

police force bill that gives the Georgia Bureau of Investigations the power to investigate any violation of the state's election code, which will almost certainly include investigations of elections workers and administrators in Georgia's predominantly Black counties.⁵⁴ In fact, elections administrators warned state legislators that involving the GBI would throw a wrench in their efforts to run elections smoothly. Specifically, Douglas County Election Director Milton Kidd warned that allowing the GBI to initiate investigations "could have a 'chilling effect' on poll workers and voters who might fear becoming targets of unfounded fraud accusations."⁵⁵ The GBI could also target election administrators and poll workers for making minor, innocent administrative mistakes, prosecuting those individuals for the kinds of slip ups that do not affect the final vote count in any way.

iii. Florida

Florida similarly doubled down on its efforts to make voting harder and election administration more difficult during the 2022 legislative session by creating an election integrity police unit to enforce the new requirements in SB 90. Florida's new election police under the "Office of Election Crimes and Security" will have the power to investigate any "election law violations" or undefined "election irregularities."⁵⁶ Instead of the traditional approach to maintaining fair and neutral election administration, the open-ended authority that Florida's election police have will tempt partisan abuse, foment needless conflict and potentially lead to intimidation of Black voters and other voters of color. Moreover, Florida's failure to define "election irregularities," which suggests that an individual can be investigated even if there is no evidence that they actually committed an election law violation, opens the door for these election police to investigate election administrators and poll workers without cause.⁵⁷ The criminalization of election administration will only serve to magnify the fear that these hard-working Floridians already feel.

iv. Pennsylvania

⁵⁴ Brad Dress, *Georgia Lawmakers Pass Bill Empowering Election Force to Investigate Voter Fraud*, THE HILL, <https://thehill.com/news/3259631-georgia-lawmakers-pass-bill-empowering-election-force-to-investigate-voter-fraud/> (April 5, 2022).

⁵⁵ Stanley Dunlap, *Poll Supervisors Fret as Senate Considers Another Election Overhaul*, GEORGIA RECORDER, <https://thecurrentga.org/2022/03/22/poll-supervisors-fret-as-senate-considers-another-election-overhaul/> (March 22, 2022).

⁵⁶ S.B. 524, <https://www.flsenate.gov/Session/Bill/2022/524/BillText/er/PDF>; "The phrase "election irregularities" used throughout the nearly 50-page law is vague, undefined, and would seem to give the new police force and investigators a lot of leeway in terms of what they investigate..." Fabiola Cineas, *Florida's New Election Police Unit is the Scariest Voter Suppression Effort Yet*, VOX, <https://www.vox.com/2022/5/3/23048665/florida-election-police-voting-rights> (May 3, 2022).

⁵⁷ *Id.*

In Pennsylvania, Governor Tom Wolf was forced to veto a bill that would have made voting and election administration more difficult in the Keystone State.⁵⁸ Last year, the Pennsylvania legislature passed HB 1300, which would have limited drop boxes, moved the voter registration deadline up from 15 days before election day to 30 days before, and given voters less time to request mail-in ballots.⁵⁹ The bill would have also eliminated the state's permanent mail voting list.⁶⁰ Although the bill was ultimately not enacted due to the Governor's veto, the fact that the state legislature passed the bill is indicative of the nationwide trend to make it harder to vote and for voters to have their votes counted by election administrators and workers. Importantly, these efforts came after the targeted false claims of voter fraud in Philadelphia, which is Pennsylvania's largest city and sits in the county with the largest percentage of Black voters.

III. Election Disinformation Puts Election Officials and Election Workers in Danger and Risks Discouraging Voters from Casting their Ballots

Election disinformation is seriously impacting election administration and having an outsized effect on Black voters and communities of color. As we saw during the 2020 election, election disinformation puts election workers and election officials in real danger. Misinformed voters who do not understand how elections work or the rules that election workers must follow have baselessly accused election workers of fraud and targeted them and their families.

A. Disinformation Deters Black Voters and Other Voters of Color from Voting

Election disinformation and misinformation – from false allegations of fraud to intentionally incorrect information about when and where to vote to false information about the way ballots are counted and processed – threaten the voting process from all angles. Many of the threats of violence against election officials across the country are fueled by disinformation about the way voting works or the power that election officials have to change election outcomes.⁶¹

In 2020, we sued two citizens who made robocalls to purposely disenfranchise Black voters on behalf of the National Coalition of Black Civic Participation and

⁵⁸ Mark Scoloro, *Wolf Vetoes GOP Bill with Voter ID, Other Elections Changes*, ASSOCIATED PRESS, <https://apnews.com/article/pa-state-wire-business-bills-elections-government-and-politics-8400bdb8742fe7a04b3b469c7136b498> (June 30 2021).

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ Matt Vasilogambros, *Disinformation May Be the New Normal, Election Officials Fear*, PEW RES. CTR, <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2021/09/21/disinformation-may-be-the-new-normal-election-officials-fear> (September 21, 2021).

individual plaintiffs in federal court.⁶² Our lawsuit alleges that the defendants' actions were racially motivated, given the contents of their phone calls and their targeting of communities with large Black populations. Many of the calls' falsehoods, which included warnings that if voters voted by mail, their personal information would be leaked to police departments, were based on systemic inequities that are particularly likely to resonate with and intimidate Black voters. Our lawsuit asks the court to immediately prohibit the defendants from engaging in additional voter intimidation robocalls. In October of 2020, the court granted our request for a temporary restraining order and the final outcome of case is currently pending.

B. Unprecedented Threats of Violence Against Elections Officials and Election Workers

Widespread election disinformation has fueled threats against election workers and elections administrators across the country. During the 2020 election, Al Schmidt, the former Republican city commissioner of Philadelphia, and his family received anti-Semitic death threats targeting him and his family. Schmidt, his wife, and his three kids were forced to leave their homes immediately after the election for safety and a 24-hour security detail remained at both his and his parents' houses long after the election. Some of the worst threats read as follows:

"You lied. You a traitor. Perhaps 75cuts and 20bul-lets will soon arrive."

"ALBERT RINO SCHMIDT WILL BE FATALLY SHOT,"

"HEADS ON SPIKES. TREAS-ON-OUS SCHMIDTS."

"tell the truth or your three kids will be fatally shot."

The last message threatening to shoot his kids also included Schmidt's home address, the names of each of his children, and a picture of his house.⁶³ Threats of violence were not limited to Al Schmidt alone - Philadelphia's election workers were also nearly the target of a violent, coordinated mass shooting. Shortly after Election Day, the FBI received a tip that two men in Philadelphia were making threats against the Philadelphia Convention Center, where ballots were still being counted.⁶⁴ Philadelphia police arrested these two men, who had driven up all the way from

⁶² Ian Wiener, Civil Rights Group seeks Temporary Restraining Order to Stop Voter Intimidation Robocalls, Invokes Anti-Klan Act, Lawyers' Committee for Civil Rights Under Law, <https://www.lawyerscommittee.org/civil-rights-group-seeks-temporary-restraining-order-to-stop-voter-intimidation-robocalls-invokes-anti-klan-act/> (October 22, 2020).

⁶³ Aila Slisco, *RINOs Stole Election, We Steal Lives': Pennsylvania GOP Commissioner Details Death Threats*, NEWSWEEK, <https://www.newsweek.com/rinos-stole-election-we-steal-lives-pennsylvania-gop-commissioner-details-death-threats-1643300> (October 27, 2021).

⁶⁴ Miguel Martinez-Valle, *Two Arrested With Guns After Police Get Tip of Convention Center Threat*, NBC PHILADELPHIA, <https://www.nbcphiladelphia.com/news/local/two-arrested-after-police-get-tip-of-convention-center-threat/2587411/> (November 6, 2020).

Chesapeake, Virginia after finding them parked near the Convention Center in a truck covered in QAnon stickers and armed with two loaded semi-automatic Beretta pistols, one semi-automatic AR-15 style rifle, and ammunition. If the FBI never received a tip, these two men may have unleashed unfathomable violence upon the election workers and administrators inside the Convention Center, citizens who serve as the backbone of the American democratic process. One must be reminded why Al Schmidt and Philadelphia's elections process was specifically targeted: Philadelphia County has a higher number and higher percentage of Black residents than any other county in the state of Pennsylvania.⁶⁵ This example serves as a reminder that election administrators of color are not the only ones who may be targeted; white election administrators who work in counties or cities with large populations of Black people and other people of color may also face harassment and threats based on whose votes they are counting.

In Georgia, election workers and administrators in counties with large percentages of Black voters directly faced threats of violence. After Rudy Giuliani spewed hateful lies and an election fraud conspiracy theory targeting two Black women, Shaye Moss and her mother Ruby Freeman, who served as election workers in Fulton County, they began receiving significant threats. Moss described how she would give her phone to her son and when he would answer, people would "call him all kinds of racial slurs, and say[] what they[] were going to do to him."⁶⁶ A stranger knocked on Moss's grandmother's door and told her that they were there to make a citizen's arrest, forcing Moss to call the police and leading her grandmother to scream out in fear.⁶⁷

An anonymous caller called Fulton County's elections director at the time, Rick Barron, and threatened, "I don't know what we do these days. Is it firing squad? Is it hanging for treason...Boy, you better run."⁶⁸ Fulton County Commission Chairman Robb Pitts, a Black man who has defended Fulton County elections as being secure has received so many death threats since 2020 that his police chief recommended he have a 24-hour security detail leading up to this year's primary and midterm elections.⁶⁹ One of the death threats he received read as follows:

⁶⁵ America Counts Staff, Pennsylvania Population Hit 13 Million in 2020, U.S. CENSUS BUREAU, <https://www.census.gov/library/stories/state-by-state/pennsylvania-population-change-between-census-decade.html> (August 25, 2021).

⁶⁶ Johnny Kauffman, 'You Better Run': After Trump's False Attacks, Election Workers Faced Threats, NPR, <https://www.npr.org/2021/02/05/963828783/you-better-run-after-trumps-false-attacks-election-workers-faced-threats> (February 5, 2021).

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Fulton County Commission Chairman Gets 24-Hour Security Due to Ongoing Threats*, FOX 5 ATLANTA, <https://www.fox5atlanta.com/news/fulton-county-commission-chairman-gets-24-hour-security-due-to-ongoing-threats> (February 10, 2022).

"Thank you for being so f---ing stupid and crooked that you got caught in the middle of this massive election fraud. The penalty for treason is death. Do you have a preference for hanging, firing squad or execution?"⁷⁰

These kinds of threats have no place in American democracy and are eerily reminiscent of days past, when Black voters and other voters of color had to withstand violent attacks in order to exercise their fundamental right to vote. Congress must act to protect election workers and elections administrators in order to ensure that the upcoming primary and midterm Congressional elections run smoothly.

C. Poll Watcher Laws Passed in States Will Make it More Difficult for Election Workers to Administer Elections and Make it Easier for Bad Actors to Intimidate Election Workers.

Over the past year and a half, many states have passed laws that give partisan actors increased—even borderline unfettered—access to election workers, administrators, and voters during the voting and ballot counting processes. It is important to note that many poll watcher laws have their roots in the disenfranchisement of Black voters immediately following reconstruction.⁷¹ Yet, it is also important to draw a clear distinction between poll watchers who intend to make sure elections run smoothly and poll watchers who intend to sow chaos into our elections by targeting Black voters and other voters of color and polling places in their communities.

Political parties and candidates' usage of poll watchers to inflict violence upon Black voters is well documented throughout American history. In Mississippi in 1875, white poll watchers in Meridian, Mississippi went on a violent rampage to stop Black voters from casting their ballots.⁷² In 1920 in Ocoee, Florida, poll watchers ordered several Black men who showed up to vote to leave. After being turned away twice, one of the Black voters returned with a gun, which ultimately resulted in white men massacring at least 50 Black Floridians in retaliation.⁷³ In the 1940s in Taylor County Georgia, poll watchers informed a mob of white men that they watched a Black veteran vote in the Democratic primary. Shortly thereafter, four white men murdered that Black veteran in his home and nailed a sign to a local Black church that read "The First N----- to Vote Will Never Vote Again."⁷⁴

⁷⁰ *Id.*

⁷¹ Emily Eby and Joaquin Gonzales, Opening the Floodgates for Racial Intimidation, Disenfranchisement, and Violence by Expanding Poll Watcher Authority, Texas Civil Rights Project, <https://txcivilrights.org/wp-content/uploads/2021/05/TCRP-Poll-Watcher-Report.pdf>

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

It is important to view state laws granting poll watchers unfettered access to the elections process through this lens. Today, poll watchers may not only use this newfound access to target Black voters and other voters of color, they may also use it to target Black election workers and other election workers of color or election workers and elections administrators who work in communities with a large number of Black voters and other voters of color. In fact, there is already evidence that poll watchers will do just that. In 2020, Common Cause Texas obtained video footage of a Harris County Republican Party presentation recruiting poll watchers for the 2020 election, where the presenter expressed the need for volunteers with “the confidence and courage” to staff polling places in Harris County’s predominantly Black and Brown communities.⁷⁵ The presenter specifically singled out a polling place at Wheeler Avenue Baptist Church in Houston’s historically Black third-ward as a problem area – a church that once hosted Rev. Dr. Martin Luther King Jr. and continues to serve a cornerstone of Houston’s Black community.⁷⁶

Since 2020, several states have passed new laws that will embolden poll watchers and make election administration more difficult. In 2021 alone, at least 40 bills in 20 different states were introduced that would expand the powers of poll watchers. These bills grant poll watchers access not only to watch voters at polling places, but to observe the ballot counting process and ballot processing activities such as signature matching. As described above, Texas’s SB 1 created a criminal offense for election workers or administrators who “obstruct” a poll watcher’s view in a manner vaguely defined as “mak[ing] observation not reasonably effective”.⁷⁷ These laws will make it easier for poll watchers to intimidate voters and election workers, particularly those in Black communities and communities of color.

IV. When There is an Election Administrator and Poll Worker Shortage, Voters Suffer

The results of new criminal and financial penalties for elections administrators and workers, new police forces with special power to investigate and prosecute those individuals, and unprecedented threats of violence and intimidation against these individuals are predictable: an unprecedented shortage of election workers and administrators. This shortage of election workers and administrators will inevitably lead to problems for voters such as longer lines at the polls, polling place closures, and polling place consolidation.

⁷⁵ Teo Armus and Derek Hawkins, *Video Shows Texas GOP Official Seeking ‘Army’ of Volunteers to Monitor Polls in Mostly Black and Hispanic Houston Precincts*, WASH. POST, <https://www.washingtonpost.com/nation/2021/04/08/texas-voting-gop-poll-watchers/> (April 8, 2021).

⁷⁶ *Id.*

⁷⁷ S.B. 1, <https://capitol.texas.gov/tlodocs/8724/billtext/pdf/SB00001F.pdf#navpanes=0>.

The election worker shortage is already disrupting election administration all over the country. Alaska is being forced to conduct a statewide election primarily by mail in June because election officials in the state have not been able to find the 2,000 workers they need to hold an in-person election.⁷⁸ In Southwestern Ohio, one in four elections administrators have quit.⁷⁹ In Kansas, one in four election administrators have either quit or lost re-election since November.⁸⁰ In Pennsylvania, 21 elections directors or deputies either already left their posts or plan to leave.⁸¹ Election administrators have cited increased threats, the increase of election disinformation, and newly enacted laws making election administration more difficult as reasons for leaving their positions.⁸²

One third of all election administrators reported feeling unsafe or being harassed on the job during the 2020 election cycle and 45 percent of the election officials who are eligible to retire by 2024 already plan to do so.⁸³ This is not business as usual for election administrators or election workers – nearly 80% of local election officials have said that threats against them have increased in recent years.⁸⁴ It is a crisis that puts the free and fair elections process, the foundation of American democracy, at risk all over the country and particularly threatens the voting process in Black communities and other communities of color.

In Texas, poll worker shortages in Dallas during the state's March 1 primary led some Black voters to wait up to 4 hours in line to vote.⁸⁵ Dallas County's elections administrator admitted that during the March primary, only 628 election judges showed up, when the county needed 936 to administer the elections efficiently. As a result, eight sites that were supposed to be open during the March primary never opened.⁸⁶ One Dallas County election judge explained that some of her former colleagues heard about bills introduced in the Texas legislature in 2021 that included

⁷⁸ Fredreka Schouten and Kelly Mena, *Midterm Mess: States Grapple with Poll Worker and Paper Shortages*, CNN, <https://www.cnn.com/2022/03/29/politics/midterm-election-shortages-ctzn/index.html> (March 29, 2022).

⁷⁹ Michael Wines, *After a Nightmare Year, Election Officials are Quitting*, N.Y. TIMES, <https://www.nytimes.com/2021/07/02/us/politics/2020-election-voting-officials.html> (July 2, 2021).

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ Zach Montellaro, *'Potential Crisis for Democracy': Threats to Election Workers Could Spur Mass Retirements*, POLITICO, <https://www.politico.com/news/2021/06/16/election-workers-mass-retirements-494790> (June 6, 2021).

⁸⁴ *Local Elections Survey March 2022*, BRENNAN CTR FOR JUST., <https://www.brennancenter.org/our-work/research-reports/local-election-officials-survey-march-2022>.

⁸⁵ Bret Jaspers, *Wait Times, Worker Shortage in March has Dallas County Leaders Scrambling Ahead of May Elections*, KERA NEWS, <https://www.keranews.org/news/2022-04-12/wait-times-worker-shortage-in-march-has-dallas-county-leaders-scrambling-ahead-of-may-elections> (April 12, 2022).

⁸⁶ *Id.*

new criminal penalties for election workers and thought “oh my God I could go to jail” if they served as judges in the March 2022 primary.⁸⁷ That fear led many experienced election judges to sit this year out.

In Georgia, a significant number of county elections administrators retired or resigned after the state enacted SB 202. The chief county elections administrators in the three counties that include Macon,⁸⁸ Augusta,⁸⁹ and Atlanta⁹⁰ – three of the four largest cities in the state of Georgia– all resigned. They had each served in their roles for 10, 28, and 8 years respectively. The former elections director in Macon-Bibb County cited “rapidly changing elections laws” as making her job overwhelmingly stressful and motivating her decision to resign.⁹¹

Black voters and other voters of color will ultimately suffer due to the shortage of election workers and vacancies of chief county election officials across the country. Congress must act immediately to ensure these individuals’ safety so that they can be confident they will not face intimidation, threats or physical violence for simply making sure America’s democratic process runs smoothly. Congress can accomplish this by passing legislation to protect election administrators.

V. Some States Have Taken Steps to Improve Election Administration

Not all states are making election administration worse. Kentucky, a state with a Republican controlled legislature, passed bipartisan voting bills that will make voting and election administration easier two years in a row.⁹² In 2021, Kentucky enacted a law establishing 3 days of early voting for all registered voters in the state and this year, the state followed up by enacted a law expanding those 3 days to 6 days of early voting.⁹³ This year, the state also passed a budget providing \$12.5 million over the next two years to help counties offset the cost of purchasing new voting machines. Kentucky also expanded legal protections for election workers to

⁸⁷ *Id.*

⁸⁸ Liz Fabian, *Macon-Bibb Elections Supervisor Resigns Due to Stress, Workload, New Election Laws*, WMAZ-TV, <https://www.13wmaz.com/article/news/local/macon-bibb-elections-supervisor-resigns/33-8fc78126-6601-4de6-b46e-cbca56f8ae5> (January 10, 2022)

⁸⁹ Susan McCord, *Lynn Bailey, Richmond County elections chief, announces retirement after 28 years*, THE AUGUSTA CHRONICLE, <https://www.augustachronicle.com/story/news/local/2021/06/15/lynn-bailey-director-elections-richmond-county-augusta-ga-to- retire/7698364002/> (June 15, 2021).

⁹⁰ Jeff Amy and Kate Brumback, *Election Director in Georgia’s Fulton County Resigning*, ASSOCIATED PRESS, <https://apnews.com/article/elections-voting-georgia-atlanta-0980431ec0eeba03471216fc264895ee> (November 3, 2021).

⁹¹ Liz Fabian, *Macon-Bibb Elections Supervisor Resigns Due to Stress, Workload, New Election Laws*, WMAZ-TV, <https://www.13wmaz.com/article/news/local/macon-bibb-elections-supervisor-resigns/33-8fc78126-6601-4de6-b46e-cbca56f8ae5> (January 10, 2022)

⁹² Bruce Schreiner, *Kentucky Secretary of State Praises Latest Election Bills*, ASSOCIATED PRESS, <https://apnews.com/article/2022-midterm-elections-elections-voting-kentucky-legislature-c9b67b56546d41975e0de283ce1cca84> (March 31, 2022).

⁹³ *Id.*

protect them from intimidation in the midst of increased threats.⁹⁴ These positive reforms by the state of Kentucky, implemented by a Republican controlled legislature and signed by a Democratic governor show that states and this Congress can work across party lines to make voting and election administration easier.

Other states are working hard to pass legislation that protects election workers from violence.⁹⁵ In March, Oregon's state legislature passed HB 4144, a bill expanding protections for election administrators in the state.⁹⁶ The bill, which received unanimous bipartisan support, allows election workers to keep their home addresses private and came after Oregon's Secretary of State found that 10 of the 13 front-line workers on her Elections Division staff experienced harassment or threats while doing their jobs.⁹⁷

It is imperative that more state legislatures pass legislation to protect their election workers and administrators, but it is even more imperative that Congress passes federal legislation to protect these dedicated Americans.

VI. Administering Elections for Language Minority Voters

A. *Section 203 of the Voting Rights Act Determinations*

In December of last year, the U.S. Census Bureau issued a notice of determination identifying the jurisdictions subject to the language assistance provisions of Section 203 of the Voting Rights Act to replace the previous determinations made in December 2016.⁹⁸ Congress enacted Section 203 of the Voting Rights Act to address literacy and language barriers resulting from unequal educational opportunities.⁹⁹ This provision requires that covered jurisdictions provide limited-English proficient voters in covered language groups with the same voting information and assistance offered to voters in English.¹⁰⁰ As a result of the

⁹⁴ *Id.*

⁹⁵ Barbara Rodrigues, *Election Workers Face Increased Threats and Intimidation, Some States are Trying to Protect Them*, THE 19TH, <https://19thnews.org/2022/03/states-protect-election-workers-increasing-threats/> (March 30, 2022).

⁹⁶ Jamie Parfitt, *Oregon Legislature Passes Election Worker Safety Bill, Sending it to Gov. Brown's Desk*, KGW NEWS, <https://www.kgw.com/article/news/politics/elections/oregon-legislature-election-worker-safety-bill-protections-threats/283-78416db7-d5d7-4d2b-bd1d-caae2c31500b> (March 3, 2022).

⁹⁷ *Id.*

⁹⁸ See Dep't of Commerce, U.S. CENSUS BUREAU, *Voting Rights Act Amendments of 2006, Determinations Under Section 203*, 86 Fed. Reg. 69611 (Dec. 8, 2021), available at <https://www.govinfo.gov/content/pkg/FR-2021-12-08/pdf/2021-26547.pdf>.

⁹⁹ See generally 52 U.S.C. § 10503(a) ("The Congress finds that, through the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process. Among other factors, the denial of the right to vote of such minority group citizens is ordinarily directly related to the unequal educational opportunities afforded them resulting in high illiteracy and low voting participation....").

¹⁰⁰ 52 U.S.C. §§ 10503(b) – (c).

December 2021 Section 203 determinations, a “total national population of 24,244,810 voting-age citizens, residing in ... 331 covered jurisdictions [are] required to provide minority language assistance.”¹⁰¹ That is a net increase of about 4.4 million voters, or approximately 22.3 percent more than the number of limited-English proficient citizens covered in 2016.¹⁰²

Language assistance programs play a vital role in providing linguistic resources for language minority voters and supporting equitable access to the political process. A fully functioning and effective language assistance program typically cannot be implemented over night. Instead, jurisdictions that anticipate being covered by Section 203 because of demographic changes that are apparent in the community are well-advised to take action early to develop a program in collaboration with community partners from the impacted language groups. Newly covered jurisdictions that fail to do so cannot escape liability. As a federal court explained, “shortage of time will not necessarily shield election officials from the diligent assertion of rights under the Act. It is Congress’s intention to eradicate voting discrimination with all possible speed.”¹⁰³ In March of this year, Dallas County was required to offer election materials in Vietnamese for the first time under Section 203 of the Voting Rights Act after being notified in December 2021.¹⁰⁴ In light of their requirement to act as quickly as possible, Dallas County began outreach to Vietnamese community groups in the area immediately after they were notified and hired a Vietnamese translator a little over a month later in mid-January.¹⁰⁵ During the upcoming primary elections and November midterm elections, jurisdictions must ensure that counties properly translate election materials so that language minorities are able to understand and complete their ballots in their native languages.

Lack of sufficient language materials and assistance also remains prevalent in jurisdictions that have been long covered by Section 203. In Alaska, limited-English proficient plaintiffs proved that election officials had failed to provide effective voting materials, information and assistance in three regions of the state. The case was settled in 2015.¹⁰⁶ Nevertheless, federal observers have documented continued non-

¹⁰¹ See Dep’t of Commerce, *Census Bureau Releases 2021 Determinations for Section 203 of the Voting Rights Act*, U.S. CENSUS BUREAU (Dec. 8, 2021), available at <https://www.census.gov/newsroom/press-releases/2021/section-203-voting-rights-act.html>.

¹⁰² *Id.*

¹⁰³ *Chinese for Affirmative Action v. Leguennec*, 580 F.2d 1006, 1008 (9th Cir. 1978).

¹⁰⁴ Jessica Huseman and Charles Scudder, *Dallas County Now Required to Offer Election Materials in Vietnamese*, VOTEBEAT, <https://www.votebeat.org/2022/2/21/22944418/dallas-county-vietnamese-bilingual-ballots-vra-language> (Feb 21, 2022).

¹⁰⁵ *Id.*

¹⁰⁶ Stipulated Judgment and Order, *Toyukak v. Treadwell*, No. 3:13-cv-00137-SLG (D. Alaska Sept. 30, 2015), No. 235; see also James Thomas Tucker, Natalie Landreth & Erin Dougherty-Lynch, “Why Should I Go Vote Without Understanding What I Am Going to Vote For?” *The Impact of First*

compliance, including: the absence of pre-election outreach in most villages, preventing voters from being informed of what was on the ballot ahead of Election Day; lack of poll worker training; inadequate staffing of bilingual poll workers, including several villages with no translator and others in which the translator was only available on-call or in-person for a few hours; and failure by election officials to provide required written translations at many locations.

Little, if any, information about ballot measures is provided to Native voters before Election Day, including translation of those measures into Native languages or simplification so voters can understand them. The first time that many Native voters see or hear about a ballot measure is on Election Day when they vote. However, electioneering prohibitions often are cited as the reason for not explaining ballot measures to Native voters at voting locations. As a result of these, and other issues, the parties agreed to extend court oversight over the settlement agreement through the end of 2022, over seven years after the agreement was entered by the court.

B. Arizona's Documentary Proof of Citizenship Bill

Some states, like Arizona, are also suppressing Latinx and other language minority voters. Arizona recently passed a bill, HB 2492, adding its own citizenship verification requirements to the federal voter registration process – a practice that the U.S. Supreme Court has already ruled is illegal.¹⁰⁷ The National Voter Registration Act allows voters to register to vote in federal elections using the federal voter registration form, which requires them to affirm that they are U.S. citizens under penalty of perjury. HB 2492, on the other hand will allow election officials to request additional documentation from these federal-only voters such as their birth certificate or their naturalization papers before registering them to vote.

After Arizona tried to pass a similar law in 2004, we sued in federal court on behalf of our clients and eventually won at the Supreme Court in 2013.¹⁰⁸ In that case, *Arizona v. Inter Tribal Council of Arizona*, the Supreme Court affirmed that Arizona cannot supersede federal law by imposing more requirements than the NVRA requires for voter registration.¹⁰⁹ In the midst of this new, clearly illegal and discriminatory law, we will continue to work to protect our clients' and other voters of color's right to vote.

Generation Voting Barriers on Alaska Natives, 22 MICH. J. RACE & LAW 327, 376-77 (2017) (summarizing the requirements under the Stipulated Judgment and Order).

¹⁰⁷ Jane C. Timm, *Arizona Gov. Ducey to Test Federal Courts with New Proof of Citizenship voting rule*, NBC NEWS, <https://www.nbcnews.com/politics/elections/arizona-gov-ducey-test-federal-courts-new-proof-citizenship-voting-rul-rena22273> (March 30, 2022).

¹⁰⁸ *Arizona v. Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1 (2013).

¹⁰⁹ *Id.*

VII. Conclusion

The 2022 election cycle will present challenges to voters and election administration that this country has never faced before – from intimidation of election workers and administrators, to rampant disinformation, to staffing shortages, to unprecedented restrictions on voters – but these elections must go on. Congress must act immediately to ensure that the 2022 midterm elections are administered safely and adequately funded so that our democracy can continue to function and so that Black voters and other voters of color have equal access to the fundamental, precious right to vote.



Wesley Wilcox

Supervisor of Elections, Marion County, FL

Election Center

981 NE 16th ST • Ocala, FL 34470

M PO Box 289 • Ocala, FL 34478-0289

P 352-620-3290

F 352-620-3286

W www.VoteMarion.Gov

Good morning, Chairwoman Klobuchar, Ranking Member Blunt, and members of the Committee.

I'm Wesley Wilcox, Supervisor of Elections of Marion County, Florida, and President of the Florida Supervisors of Elections (FSE) Association. I have more than 30 years of experience in the elections industry, and I am nationally certified.

Most of us likely recall the 2000 General Election. In the 20 years since, Florida and many other States have made great improvements, culminating in an administratively accurate and successful 2020 General Election.

Florida offers a no-excuse vote-by-mail option, that has proven to be quite popular, especially during the pandemic. One of the things that set Florida apart in 2020 is that fact that vote-by-mail ballots are processed in the weeks prior to the election. This process allows us to publish nearly complete vote-by-mail totals on election night. In addition, if there is an issue with a mail ballot signature, we have time to contact the voter, providing them an opportunity to "CURE" their ballot.

Several years ago, we also added an in-person Early Voting option to meet the needs of our extremely diverse population. Elections are best administered at the state and local level. A two-week Early Voting period offered in Miami-Dade County with 1.5 million voters, is not needed for a small county such as Lafayette County with only 4,500 voters. Decentralized elections are also positive from a national security perspective, making it more difficult for bad actors attempting to compromise the system, since there is no central point of attack.

Florida also has well-developed laws and procedures for recounts and post-election audits, providing clear guidelines and procedures.

There have also been significant efforts in raising the professionalism of election officials. Since 2000, over 1,300 elections professionals have received their national Certified Elections and Registration Administrator (CERA) designation, with 119 of those from Florida.

Our FSE association developed the nationally awarded Florida Certified Elections Professional (FCEP) program. The FCEP program consists of 30 core courses plus renewal courses, and 120 hours of content instructed by industry experts. Since its inception in 2009, we have had over 800 participants, with 245 obtaining their Master Florida Certified Elections Professional (MFCEP) designation.

In recent years, election security has become a top priority. Partnerships between local, state, and federal agencies have been strengthened. In 2017, the Department of Homeland Security designated elections as Critical Infrastructure, and the Center for Internet Security (CIS) formed the Elections Infrastructure Information Sharing and Analysis Center (EI-ISAC), of which I am an executive board member. Through the EI-ISAC, election officials have access to resources and tools for implementing cyber security best practices. Florida has used HAVA dollars to fund election security grant programs, which have been extremely beneficial.

Despite these vast improvements and strong partnerships, grave concerns remain for me and my colleagues. Florida was touted as the gold standard and model for voting in the 2020 election, but lately the accolades have waned, and the high fives for a job well done have ceased.



Wesley Wilcox

Supervisor of Elections, Marion County, FL

Election Center

981 NE 16th ST • Ocala, FL 34470

M PO Box 289 • Ocala, FL 34478-0289

P 352-620-3290

F 352-620-3286

W www.VoteMarion.Gov

Instead, they have been replaced by threats of violence against us and our families, accusations of rampant voter roll irregularities, allegations of voter fraud, and an inundation of public records requests. My colleagues and I continue to defend the accuracy of our 2020 Election, and our cherished democracy, which remains under a relentless and unprecedented barrage of falsehoods. Misinformation has made our jobs more difficult, as we battle on the front lines defending our democracy. Several of my tenured colleagues, have retired or have announced their impending retirement due to these unceasing false narratives. Even the days of wanting to be an election worker for your own sense of civic duty, have been replaced with fear, polling place disruptions, and politicization.

We have spent over two decades professionalizing our conduct of elections. And now, in a short period of time, our institutions are being undermined by falsehoods that continually weaken voter confidence in our elections.

The challenges facing our elections are daunting. In normal times, election worker recruitment is difficult, but today it is nearly impossible. Elections offices across the nation will need record amounts of paper this fall for our ballots, and supplies have been greatly affected by paper shortages. And, lest we all forget, the 2022 election is taking place after the decennial census, with its resulting redistricting, a challenging operation even in the best of times.

And finally, many of us are also facing new state election laws, resulting in demanding court cases and requiring substantial voter education. Election law changes are most successful when they're a collaborative effort between election administrators and the legislative bodies. We remain dedicated to impartial administration of Florida's election laws and conducting fair, honest, and accurate elections. Our goal is to make it easy to vote and hard to cheat.

Thank you again for the opportunity to testify today on this important topic.

United States Senate
Rules Committee Hearing “Administration of Upcoming Elections”
May 19th, 2022
Testimony of Tammy Patrick

Introduction

Chairwoman Klobuchar, Ranking Member Blunt, members of the Committee and honored guests, it is a privilege to provide testimony on the status of election administration and preparedness for the 2022 Federal Election Cycle.

My name is Tammy Patrick and I currently serve as the Senior Advisor to the Elections Team at the Democracy Fund, and as an adjunct professor at the Hubert H. Humphrey School of Public Policy at the University of Minnesota. I have worked in the election administration field for almost 20 years, and I spent eleven of those years in Maricopa County, Arizona--most of them as the Federal Compliance Officer. I have also served as a Commissioner on President Obama’s bipartisan Presidential Commission on Election Administration and as a Senior Fellow at the Bipartisan Policy Center.

I have the great fortune of knowing many state and local election officials, as well as many who work across the country, across the aisle, and across the myriad of facets of our election systems to ensure that officials have the tools and resources that they need to serve their voters well. As a representative of the National Association of Election Officials (the Election Center) to the United States Postal Service’s Mailers Technical Advisory Committee (MTAC) for over a decade, I have forged relationships that have aided the improvement of our Postal Service to better “Deliver Democracy” to American voters.

Today, I would like to share with you what I am hearing and seeing unfold for the primaries and the forthcoming November midterm elections in seven main areas. Some of these are typical issues that arise in every election, but with a 2022 twist. Those areas are:

- Paper & Supply Chain Issues
- Timing
- USPS
- Mis-, Dis-, & Mal-Information (MDM)¹
- Transparency vs. Surveillance
- The Greatest Resource: People

¹ The Cybersecurity and Infrastructure Security Agency website explains MDM as “misinformation, disinformation, and malinformation make up what CISA defines as “information activities”. When this type of content is released by foreign actors, it can be referred to as foreign influence. Definitions for each are below.

- **Misinformation** is false, but not created or shared with the intention of causing harm.
- **Disinformation** is deliberately created to mislead, harm, or manipulate a person, social group, organization, or country.
- **Malinformation** is based on fact, but used out of context to mislead, harm, or manipulate.”

<https://www.cisa.gov/mdm>

- Election Funding

My remarks are derived from recent conversations and communications with election officials, industry and vendor service providers, and stakeholder groups—including recent convenings of the leadership of state associations² of election officials on May 5-6, 2022, and the National Postal Forum on May 18, 2022. Each section includes direct comments from election officials and professionals, an overview of the issue, and the impact it is having on the field of election administration. While the comments are included anonymously here, I encourage each of you to speak directly with the officials and providers who serve your constituents to hear their specific and unique concerns, needs and ideas.

Paper & Supply Chain Issues

“Needs: paper! Some folks have stockpiled paper but overall ballot paper for November is a major concern.” –local election official

“Paper shortage issue was mitigated because we contract with vendors who responded by purchasing paper early. We did have to increase what we pay to our vendor.” –local election official

“Supply chain issues continue with dates getting further and further pushed out. Additionally, more allocations in play, so for example recently our supplier just delivered part of an order we placed months ago but cannot fulfill the rest due to ‘paper supplier doesn’t have paper allocation for material needed’. We are searching and are having to pay higher prices for paper sizes larger than what is needed to then cut down to size so we have the ability to keep moving out the work.” –industry service provider

Issue:

Paper supply chain concerns began surfacing in the 2020 elections. The origin of the paper supply for election materials is mostly domestic, coming from North American mills in the United States and Canada. When the international supplies became problematic, other markets turned to these domestic sources to fill the gap; this reduction in supply occurred at the same time as the increased demand for corrugated paper to fulfill the spike in online shopping during the pandemic. Mills could not simultaneously continue their traditional paper-production and take on the corrugated manufacturing. Many of them opted to change production to the more lucrative corrugated product.

Ballot and envelope printers and vendors began seeing these issues in late 2021 and started to ask their election official customers to get their orders in early. In order to take care of their customers they placed their paper orders well in advance of normal schedules. Standard turnaround times have gone from a few weeks to many months to fulfill and it is now common for orders to be incomplete—partial shipments, back-orders, and outright cancellations are becoming typical. Even orders placed as early as October of 2021 (for partial delivery in March of 2022 and the balance later in the year) are still unfulfilled for some states.

² The convening had election officials from Arizona, California, Colorado, Maryland, Minnesota, Missouri, New Jersey, Ohio, Virginia, Vermont, and Washington states.

Impact:

This is creating a disparate impact on jurisdictions. Those who use a vendor or service provider may be in better shape—*but only if* that vendor pre-ordered paper stock, the order was fully satisfied, and the jurisdiction got their order in early enough. Election offices which have traditionally printed and created their own materials in-house are now finding it difficult to obtain items and are turning to the vendors who are already strapped serving their existing customer base. Service providers and vendors are having to turn new customers away. Those customers are leaving empty-handed.

An additional impact is felt in those states that have made changes to their election policies and laws that negate the ability to use an existing inventory of materials. New registration requirements, ballot application changes, and changes to provisional ballot forms may necessitate throwing away existing paper products and require reprinting in an already strained market. States that are running coterminous elections on old and new district lines are having to duplicate materials, while states with very specific laws around envelope paper colors are experiencing challenges getting their prescribed materials.

Not all states and election offices will be impacted equally by the paper shortage. States that offer online and automatic/automated voter registration and those that utilize electronic pollbooks to check in voters will not be as hard hit as those relying solely on paper registration and roster forms. States that have an all vote by mail/absentee voting regime as well as those jurisdictions that offer mainly in-person voting will encounter issues with the paper shortage—with the caveat that in-person vote center models are better positioned due to their electronic check-in systems and the preponderance of them relies on a ballot-on-demand system that does not see the same amount of waste in unused ballots that is typical in a precinct-based model. States that specify specific colors or paper be utilized for certain functions (I.e., “green, ballot-return envelopes” or “blue provisional forms”) are encountering difficulties when those specific colors are not available. To be very clear, the paper shortage is pervasive across the materials required to conduct an election and simply limiting options for voters to in-person is not a viable solution. It is not just ballot paper but also paper used for postcards, poll worker training manuals, voting instructions, confirmation letters, voter registration forms, etc. It is pervasive and the situation is not getting better.

Despite the utmost gravity of the paper and supply chain shortage, there is at least one silver-lining that a service provider shared with me. In this instance, a state that was unable to obtain their standard voter registration materials was encouraged to redesign the decades-old form so that it fit on available paper stock. While still fulfilling statutory requirements, the redesign centered industry best practices and plain language to make their ballots easier to comprehend for voters. This is a perfect example of how the election administration profession works. They are continually deprived of resources and services—but find the best available solution available since the election must go on. On occasion, they are able to make “lemonade out of lemons.”

Timing

“Need? time!” –local election official

*“The timing of redistricting just after 2020. One-two punch. The hits just keep coming.”
–local election official*

“Since maps are still being litigated, there will be 2 primaries for the first time (2nd in August for state races).” –local election official

*“The census delay has meant things need to be fastracked. Things are late/behind.” –
local election official*

“Court postponed our primary by three weeks. Worst case scenario, lost contracted facilities and scrambling to compete with summer camps and weddings.” –local election official

Issue:

Redistricting is playing a key role in the additional tension being felt in election offices. Some district lines are still being litigated; but even in states where the district lines are set, the election officials must now align voting precincts to the new districts, and then place voters accordingly. Some states are “geo-enabled”—leveraging geographic information systems (GIS) to create “shape files” of the districts and maintain voter allocations based on the X, Y coordinates of their residences (much like the “pin” on Google maps). However, the majority of jurisdictions are not geo-enabled and this work is done manually by the election administrators, often with paper maps and colored pencils.

Impact:

Due to the latency of the census determinations and the various redistricting efforts the final district lines have come down to voters very close to the candidate nomination process. Voters and candidates must be placed in precincts beforehand to determine their eligibility to sign petitions for candidates or know which district their eligible to run in, respectively.

The paper shortage further impacts this election administration timeline. Unless the shortage is remedied, statutorily required election mailings and notices may not go out in time. The condensed timeframe and resources leave no room for error. Given the shortage, there may not be available stock to reprint if an error occurs, and these states need to contemplate how they will handle that situation if it arises.

Similar to the challenges in the supply chain, the deluge of newly passed legislation across the country has election officials scrambling to update materials, office policies, training content, and all the supporting ephemera that is necessary for implementation. All too often they are expected to do this without any additional support and with little time.

United States Postal Service (USPS)

“Challenges with changes over USPS delivery and postmark requirements.” –local election official on pain points for November

Issue:

When USPS plant rationalization – the consolidation of plants and reconfiguring of the postal network – occurred almost a decade ago, the mail system shifted from locally sorting and delivering local mail to scanning, postmarking, and sorting all mail at a central processing plant.³ In some instances, election officials reached “sweetheart deals” with their relevant postmasters to keep their mail local and not send it to the central plants which are often a great distance away—especially for rural communities. In the 2020 election cycle, USPS went to “extraordinary measures”⁴ to ensure that ballots were delivered to and returned from voters in time to count before the deadline—often circumventing the standard practice of sending mail to the plants and, instead, replicating the “sweetheart deals” to keep ballots local.

Voters are recommended by USPS to mail back their ballots one week before they are due, yet 19 states allow a voter to *request* a ballot *after* USPS says it should be mailed back⁵. This applies undue pressure on the postal system and sets the false expectation with voters that applying for a ballot by mail/absentee on Monday for Tuesday’s election—allowed by a handful of states—is going to be successful.

Impact:

While processing mail locally works in many instances, ballots kept locally do not get scanned or postmarked and this is problematic for election administrators and voters. For example, a rising number of jurisdictions use ballot tracking. This tool relies on the scanning of ballots as they travel through the mail stream. Although ballots may be delivered more quickly, voters are unable to see it in their tracking tools and the data does not accurately reflect the activity. This proved problematic in 2020 Federal Court reporting⁶ as it falsely looked like thousands of ballots were lost when in fact, they were delivered to the voter but not scanned at a central processing plant. The localized delivery also precludes the postmarking of ballots under the current system. Given the lack of traditional postmarking, this may prevent ballots obtained by USPS from being accepted for the count despite the voter sending the ballot before the statutory deadline.

³ Bipartisan Policy Center, “New Reality of Voting by Mail”. (June 29, 2016).

⁴ United States Postal Service Statement. “U.S. Postal Service Utilizes Extraordinary Measures to Deliver Nation’s Ballots In Final Days of November Election Fact Sheet”. <https://about.usps.com/newsroom/statements/103020-usps-utilizes-extraordinary-measures-to-deliver-election-mail.htm> (October 30, 2020).

⁵ National Conference of State Legislatures. “Table 5: Applying for an Absentee Ballot”. (March 15, 2022) <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-5-applying-for-an-absentee-ballot-including-third-party-registration-drives.aspx>

⁶ Murphy, Paul P. CNN. “Fact checking the unfounded claim that USPS lost 300,000 ballots”. <https://www.cnn.com/2020/11/05/politics/usps-missing-ballots-fact-check/index.html> (November 5, 2020). Jacob Bogage and Christopher Ingraham. Washington Post. “USPS data shows thousands of mailed ballots missed Election Day deadline”. <https://www.washingtonpost.com/business/2020/11/03/election-ballot-delays-usps/> (November 4, 2020).

For the 2022 Midterms, USPS has entered into an agreement to continue the extraordinary measures they put in place in 2020.⁷ At this time, we have not received instruction on whether or not this will mean that the issues with scanning and postmarking will be remedied for any ballots undergoing localized delivery.

Mis-, Dis-, & Mal-Information (MDM)

“Sheer volume—no longer any break in media attention/public scrutiny” –local election official

“‘Not enough hands to put out the fires’ referring to rumors.” –local election official

“Not knowing what the bad information being spread is...so staying on top of it is a challenge. You can put the facts out there, but how do you know if they are getting to the people with the bad information.” –local election official

“All news is national. Getting questions about other states and their issues. How do you get local information out when there is a dearth of local newspapers.” –local election official

Issue:

A prominent academic working in the field of election administration recently said, “we are still living with 2020, and 2024 is already here.”⁸ Election officials have been under a constant barrage of election-denying claims for the last 18 months. In some jurisdictions, election officials remain entrenched in a daily struggle against incorrect information purveyed online, on certain news platforms, and even under their own state capitol domes.⁹

Impact:

It is important to understand the landscape of election administration. More than a third of our election offices do not have a full-time employee¹⁰. More than a third of all election officials have other duties outside of elections¹¹. Slightly more than eight percent of our election offices service 75% of our voters, while 75% of our election offices service 8.4% of our voters¹². The

⁷ Nowhere in the Stipulation of Settlement. In Civil Action No. 20-cv-2295 (EGS), National Association for the Advancement of Colored People vs. the United States Postal Service, do the words “postmark” or “scan” appear. https://www.justice.gov/opa/press-release/file/1457271/download?utm_medium=email&utm_source=govdelivery

⁸ Gronke, Paul. Comments during the Democracy Fund National Convening of State Election Associations. (May 5, 2022).

⁹ Corse, Alexa. Wall Street Journal. “Election Officials Steel Themselves for Threats as Midterm Season Gears Up”. (May 15, 2022). <https://www.wsj.com/amp/articles/election-officials-steel-themselves-for-threats-as-midterm-season-gears-up-11652619600>. Peter Eisler and Linda So. Reuters. “One in five U.S. election officials may quit amid threats, politics.” (March 10, 2022). Brodie, Mark. KJZZ. “Arizona election officials are quitting over threats and misinformation.” (May 12, 2022). <https://kjzz.org/content/1779342/arizona-election-officials-are-quitting-over-threats-and-misinformation>.

¹⁰ Paul Gronke, Paul Manson, Jay Lee, and Heather Creek. “Understanding the career journeys of today’s local election officials and anticipating tomorrow’s potential shortage.” (April 20, 2021).

¹¹ *Ibid*

¹² Elections & Voting Information Center. “The Democracy Fund / Reed College Survey of Local Election Official Summary”. <https://evic.reed.edu/leo-survey-summary/>

drain on officials already understaffed, overworked, and under resourced that the onslaught of MDM is causing is considerable. Although there are some large jurisdictions with designated communications specialists on staff, my former jurisdiction of Maricopa County, Arizona is a great example, for the majority of election offices this is yet another skill they have been asked to master.¹³

The unfounded challenges to the 2020 election – which bore no fruit in the courtroom, uncovered no widespread issues in valid election audits – continue to circulate and election officials struggle to stay abreast of the most recent conspiracy theory, to get correct and truthful information out to their voting public. While it is true that we shouldn't expect our county or municipal election officials to go up against sophisticated, adversarial, foreign nation-states – a guiding factor in the creation of elections as critical infrastructure – we also should not expect them to be successful in piercing through the constant din of misinformation coming from the megaphones of major news networks, and from social media platforms no longer pulling down 2020 content “because the election is over.” A recent survey reported that administrators feel that their job as an election official is now more dangerous.¹⁴

Transparency vs. Surveillance

“Partisan groups (under the guise of election integrity) are aggressively bogging down EO offices” –local election official

“Weaponizing FOIA requests” –local election official

“Overwhelmed with records requests” –local election official

“The activists are just bullying us” –local election official

“Aggressive observers” –local election official

“We just don't know what to expect the new issue will be for these activist groups” –local election official

“What we need?...we need nonsense to stop.” –local election official

Issue:

Historically, election administrators felt they toiled away in obscurity and lamented at the lack of public interest in how our democracy works and encouraged wider participation—including as a poll worker, signing up to be a temporary worker, or observing a Logic & Accuracy test. While more participation and interest are promising signs of increasing civic engagement, we also see increasingly active, orchestrated campaigns to overwhelm and disrupt election offices fueled by and mis-, dis- and mal-information (MDM).

¹³ Masterson, Matt. “Vice-Chair Masterson: Election Officials as IT Managers”. (April 21, 2016) <https://www.eac.gov/vice-chair-masterson-election-official-it-manager>

¹⁴ Brennan Center. “Election Official Survey” <https://www.brennancenter.org/our-work/research-reports/local-election-officials-survey-march-2022>

Impact:

There is a clear distinction between transparency, education, and observation – election officials encourage and welcome all three – and antagonistic surveillance to distract and interrupt officials from their proclaimed oath to administer our elections. Public documents for some of these efforts use adversarial and inflammatory language that pits observers against the election officials in their communities.¹⁵ Known efforts – that succeed in placing a heavy toll on election officials – range from concerted campaigns to flood election offices with wide-reaching FOIA requests (I.e., “all emails for last 2 years,” and “all ballot images,” etc.),¹⁶ to frequently stationing individuals inside election offices to question every move that an official makes in the course of a typical work day. Some will say, “Why is that a problem? Are they guilty of something? Do they have something to hide?” Constant surveillance is traumatic even when going about your normal business. Think of it this way, if you are followed closely by a police car when driving at the speed limit, following all the traffic laws, one tends to get nervous even though they’ve done nothing wrong. Are the taillights out? When did I last check to make sure the blinkers worked properly? Second guessing ones every move is stressful in an already stressful job.

A recent poll of election officials found:¹⁷

- 77% feel that threats against election officials have increased in recent years
- 54% are concerned about the safety of their colleagues
- 28% are concerned about being assaulted on the job
- 1 in 6 local election officials have personally experienced threats
- 73% of those who were threatened, received threats over the phone
 - 53% in person
 - 37% through social media

To be clear, it is not just that there is increased scrutiny or observation. Over the last year I have spoken to election officials from all over the country – Colorado, Arizona, Pennsylvania, Iowa, Washington, Vermont, Michigan, Wisconsin, North Carolina and more – who have had death threats against themselves and their families, had their children followed to school, their elderly parents targeted. I have had strangers come up to me at conferences and share that after their staff goes home every night, they close their office door and have a good cry before leaving the

¹⁵ In the “Citizens Guide to Building an Election Integrity Infrastructure” there are sections on “Know Your Opponents” and being “prepared for intimidation tactics to keep conservatives out of election offices” and tips to be sure you travel in pairs in order to have a “witness to what transpires” and to “document any encounter that is intended to make you feel uncomfortable” (page 8), to “be able to handle the local election officials” (page 11), and to such extremes that “Make the commitment that every decision made by the election office will be made in the presence of one or more representatives of the Election Integrity Task Force” (page 12). The voter rolls are a problem in every jurisdiction in America, due to the constant duplications, difficulty of removing and updating the rolls because of threats by ideological groups to sue if and when a jurisdiction tries to update voter rolls and remove those who have died, or moved, or stopped voting for some reason and are no longer active” (page 16).
<https://whoscounting.us/wp-content/uploads/2021/12/Citizens-Guide.pdf>

¹⁶ Timm, Jane C. NBC News. “Amateur fraud hunters bury election officials in public records requests”.
<https://www.nbcnews.com/politics/elections/amateur-fraud-hunters-bury-election-officials-public-records-requests-rcna15432> (February 12, 2022). Shelby Tankersley. HometownLife. “Elections, Planned Parenthood, city payroll were popular records requests targets in 2021”. (March 15, 2022).

¹⁷ Brennan <https://www.brennancenter.org/our-work/research-reports/local-election-officials-survey-march-2022>

office themselves—usually taking circuitous routes and varying routes in case someone is following them so that they don't fall into a normal routine or set pattern and make themselves more vulnerable. At the recent convening of local state association leaders mentioned previously, Supervisor Craig Latimer, a 35-year law enforcement professional who retired as a major prior to running for office of Election Supervisor in Hillsborough County, FL 13 years ago provided tips such as not parking next to vans with side doors as that is a prevalent way that abductions occur. In his office they have installed a system of warning lights for evacuations out of the front or the back of the facility depending on where the breach or threat is located—one color light means the panic button was set off in the front lobby and evacuation out the rear of the building is necessary while the other colored light means the issue is in the back of the building, proceed out the front to safety. It is heartbreaking that in the United States of America, we must go to such lengths to protect our election administrators, their staff, and the other members of the community who rise to the challenge of conducting our elections. Remember: our democracy only exists as long as we continue to have elections and there are administrators to conduct them on the behalf of the American people—and the elected officials like those here in this room today who the voters choose to represent them when they cast their ballots.

The Greatest Resource: People

“Personnel. Retirements not just at the director level, but throughout the organization with a major loss of institutional knowledge.” –local election official

“1/3 of election officials aren't running again” –local election official

“Morale of EOs is low and challenging” –local election official

“Clerks overwhelmed/burnt out, apprehensive about upcoming elections in this environment.” –local election official

“Needs: pollworkers. We lost a lot of pollworkers in 2020” –local election official

Issue:

The current environment could not happen at a worse time. The election administration field is on the precipice of a mass exodus of election professionals:

- 74% of chief local election officials are over 50 years of age and a quarter are over the age of 65.¹⁸
- 35% of local officials are eligible to retire before the 2024 election, including more than half of those in the largest jurisdictions (those serving more than 250,000 registered voters).¹⁹

¹⁸ Paul Gronke, Paul Manson, Jay Lee, and Heather Creek. “Understanding the career journeys of today's local election officials and anticipating tomorrow's potential shortage.” (April 20, 2021).

¹⁹ Paul Gronke, Paul Manson, Jay Lee, and Heather Creek. “Amplifying the Perspective of Officials at the Front Lines of Elections”. <https://democracyfund.org/idea/amplifying-the-perspectives-of-officials-at-the-front-lines-of-elections/> (April 19, 2021).

We saw a similar, but less expansive, situation after the passage of the Help America Vote Act (HAVA) when a substantial number of poll workers and election officials retired or left the field. What is different about this current situation is the broader scale of the possible turnover within the profession and their potential replacement with individuals motivated by partisan or malicious intents—in direct contradiction to the oath of office all election officials take upon taking the position.

Impact:

Election officials are leaving the field in record numbers, taking institutional knowledge and experience with them. States that have had the most targeting of local officials (Georgia, Pennsylvania, Michigan, Wisconsin, etc.) are reporting losses of a third to half of their officials and the state associations are scrambling to bring new election officials up to speed. When we consider that 57% of local election officials are themselves elected (35% in partisan elections, 22% via nonpartisan races) and the remaining 43% are appointed or hired—often with partisan requirements, it is easy to see why we have cause for concern²⁰. We have candidates running for state and local election offices on election-denier platforms. Of course, these candidates trust the system enough for their own race, their own election, and for that of sitting office holders whom they agree.

In 2020 we had tens, if not hundreds, of thousands of poll workers who were unable to work the polls due to the health risks present in the global pandemic. In 2022 poll workers are declining to serve due to the caustic environment and threats to their physical safety. Elections are conducted by people, for people. Without our neighbors, friends, and family members stepping in to pick up the mantle we cannot conduct elections in this country.

Election Funding

“Election funding! Including, dealing with backlash from accepting private funding in 2020” –local election official

“People interested in staying on top of new legislation, especially those related to election funding” –local election official

Issue:

State and local election departments are historically underfunded, often only receiving episodic federal funding and varying degrees of support from state and local appropriations. In my years as a local election official, it was commonplace to not only put budget increases on hold, but to submit budgets with 5, 10, or even 20% reductions year after year. A 2020 study by Auburn University of Election Center members demonstrated that the median elections department budget comprised just 0.54% of the overall jurisdiction’s budget.²¹ The bottom line: even if the budgets of most election offices were doubled, they would barely make up more than 1% of the overall budget in their respective jurisdictions.

²⁰ *Ibid*

²¹ Hale, Kathleen and Mitchell, Brown. *How We Vote: Innovation in American Elections*. Georgetown University Press. (2020) Page 209.

Impact:

In our democracy, election officials have a job that unambiguously must be done – no matter what – on a pre-determined timeline. Necessity is the mother of invention, and too often the lack of election resources is the catalyst for innovation—demonstrated in the thousands of laboratories of democracy across the county. In California, I have seen PVC pipe connected to Christmas tree stands with zip-tied tablets mounted to create inventory scanning gateways for polling place materials coming in on election night. In Missouri, transport carts for polling materials and equipment also made from PVC. “Election officials are used to ‘making do’ with what they have. They often express pride in pulling off the complicated logistical maneuvers necessary to conduct elections on a shoestring budget. One consequence of the frugality imposed on election administration is that services provided to voters vary considerably across the nation.”²²

The demands on election offices are not stagnant. The expectations of election administration have grown from a relatively clerical role prior to 2000, into a role that now necessitates that officials also function as an IT manager, cyber-security expert, public health authority, and social media fact checker/MDM combatant. The conduction of the 2020 presidential election in the United States during a global pandemic laid bare the inequity of resources across the country and insufficient funding streams to provide basic services to the American electorate. To fill that void, philanthropic funding stepped in. Non-governmental support came in many forms: direct funding for nonpartisan activities and materials, in-kind donations of personal protective equipment (PPE), local labor and materials provided by small businesses to build items like plexiglass shields, and corporations providing large facilities to use as vote centers and polling locations.

Conclusion

Too often aspects of election administration are weaponized to fit partisan narratives, rather than working across and with our differences to address the root cause or need for a given policy. For example, providing sufficient and steady streams of government resources would close and solve for the gap that philanthropic funding has often filled to ensure officials can conduct elections and voters can fulfill their constitutional right to cast a ballot. For those who argue that we should have the projected winners on election night, supporting efforts to allow officials to pre-process ballots returned before Election Day would decrease the wait afterwards. Additionally, there are viable options for others who are against drop-boxes. If we prepaid for the postage of ballots and allow for ballots to use a postmark or other official USPS information that the ballot was mailed on time before the deadline.

Too often state and local election officials – who are committed to conducting lawful elections under the rules they are given – are being asked to do more with less, and despite how it impacts the voters they serve. Seventy-seven percent believe that fed government should do more.²³

²² Stewart, Charles, iii. MIT Election Data Science Lab and the National Institute for Civil Discourse. “The Cost of Conducting Elections”. (May 16, 2022).

²³ Brennan <https://www.brennancenter.org/our-work/research-reports/local-election-officials-survey-march-2022>

Senate Committee on Rules and Administration
Administration of Upcoming Elections
May 19, 2022
Questions for the Record
Acting Secretary Leigh M. Chapman
Commonwealth of Pennsylvania

Chairwoman Klobuchar

As we discussed during the hearing, election workers and volunteers across the country are leaving their positions, both because of threats and because many are reaching retirement age.

- What efforts are you making in Pennsylvania to support the recruitment of new election workers and to retain existing officials and volunteers?

Election Threats

We have had some turnover in county election directors in recent years. In the months leading up to the 2020 election and immediately thereafter approximately 30 county election officials in 25 of Pennsylvania's 67 counties resigned or retired. Some of that turnover is attributable to planned retirements and transfers to other county positions. However, a few directors left because they were dissatisfied with the lack of resources for elections. Sadly, it also includes some election directors who felt unsafe due to threats.

It is always a challenge when you lose experienced election officials for any reason. That is why the Department of State works very hard to maintain its close working relationship with county election officials. We provide guidance and connect them with resources as we are able. For example, the department implemented set bi-weekly office hours for counties to give election directors an opportunity to ask questions and discuss their concerns directly with the department's executive staff.

Prior to the 2020 election, the department assigned department staff members to serve as liaisons, or single points of contact, for individual counties, especially focusing on those counties that had new election directors. The liaisons can establish rapport with each county, which helps when the department is asking the counties to report certain information. Liaisons are frequently reaching out to counties to make individualized follow-up requests. Also, counties know that they will be able to get their liaison on the phone relatively quickly when other department staff are tied up addressing other matters. That program has been very successful in improving our ability to respond quickly to requests for assistance, so we have continued it throughout the last two years.

We must be cognizant of the morale of local elections officials. They are doing more with the same or fewer resources, all while facing heightened scrutiny and even, in some cases, threats from individuals and groups who are committed to undermining peoples' faith in elections.

Election officials ensure free, fair, and secure elections across the commonwealth. They deserve our thanks and admiration but, instead, many have been subjected to baseless claims, unfair criticism, and even threats.

A threat to an election worker or volunteer is a threat to democracy. All government officials should denounce these acts.

To secure our election infrastructure and protect our election workers, the department has developed extensive partnerships with federal, state, and local law enforcement agencies, which can investigate and prosecute threats made against election workers. For example, the department belongs to an Interagency Election Security and Preparedness Workgroup established by Governor Wolf in 2018.

We also work with federal partners, including the FBI and the U.S. Departments of Justice and Homeland Security. As you may know, the DOJ has established an Election Threats Task Force, and the FBI has an assigned Election Crimes Coordinator for our jurisdiction that we contact with concerns.

These federal and state partnerships have enabled us to provide counties with security assessments and protective services, tabletop and other training exercises, written training materials, and tools to aid counties in detecting and responding to threats, whether they are coming from abroad or are internal. They also enable us to quickly connect election officials to law enforcement, when necessary, to monitor and respond to specific threats.

Poll worker Recruitment

Poll worker shortages continue to be an issue in Pennsylvania, and these shortages were exacerbated by the COVID-19 pandemic.

In addition to our efforts to maintain our close working relationship with county officials, the department promotes poll worker recruitment and established an online poll worker interest form that any Pennsylvania resident interested in serving as a poll worker can fill out and it will be sent directly to their county of residence for follow up. The department also provides a “Champions of Democracy” poll worker recruitment kit that counties and private entities can use to generate interest among those able to serve. Finally, we also work with sister agencies to recruit poll workers.

One of our more successful efforts to recruit poll workers has come through the Governor’s Civic Engagement Award program, which we established in 2015. The goals of this program are to promote among the next generation of voters both participation in voting and civic engagement through service as a poll worker. We recognize both high schools who attain a certain level of voter registration for eligible students as well as individual students who volunteer as poll workers. The GCEA program has been especially successful in recruiting students to serve as bilingual poll workers in areas where we have a heightened need for poll workers who can assist voters in languages other than English.

Senate Committee on Rules and Administration
Administration of Upcoming Elections
May 19, 2022
Questions for the Record
Louisiana Secretary of State Kyle Ardoin

Senator Angus King

As state and local election officials have been preparing for the 2022 midterm elections, they have increasingly voiced concerns about supply chain issues that are impacting officials' ability to place orders for and purchase paper election supplies, including paper ballots, ballot envelopes, and other paper election materials. These supply chain issues could impact both in-person voting and voting by mail since officials have been struggling to secure paper ballots that voters can hand mark or that can be marked by voting machines, as well as paper ballots that can be mailed to voters and the envelopes those ballots are mailed out and mailed back in.

- What are state and local jurisdictions doing to mitigate the risks of paper supply chain issues?

State and local jurisdictions have been strongly encouraged by entities such as the Election Assistance Commission and their paper suppliers to place their orders immediately. In Louisiana, the Department of State worked together with the Office of State Procurement in contacting paper suppliers across North America to ensure an ample supply of products ahead of the fall elections.

- What can Congress do to support election administrators during this paper shortage?

First and foremost, Congress should encourage those that can vote in-person to do so to ensure that those who must vote via absentee ballot, such as uniformed, overseas, hospitalized, and infirmed voters, can do so. Congress should also pursue incentives for paper suppliers that prioritize election-related paper products. I have also called on the federal government to activate the Defense Production Act to ensure the necessary supply ahead of this fall's elections.

Senate Committee on Rules and Administration
 Administration of Upcoming Elections
 May 19, 2022
 Questions for the Record
 Mr. Damon Hewitt

Chairwoman Amy Klobuchar

Legislation was recently enacted in Florida and Georgia to empower special units dedicated to finding election fraud, which experts have consistently found does not exist on a large scale. Concerns have been raised that these new units will instead end up intimidating voters and election officials.

- How do you think these new state laws will impact voter turnout, especially in communities of color?

Earlier this year, state lawmakers in Georgia passed an election police force bill that gives the Georgia Bureau of Investigations (“GBI”) the power to investigate any violation of the state’s election code, which will almost certainly include investigations of voters in Georgia’s predominantly Black counties.¹ Prior to the bill’s passage, Douglas County Election Director Milton Kidd warned that allowing the GBI to initiate investigations “could have a ‘chilling effect’ on poll workers and voters who might fear becoming targets of unfounded fraud accusations.”² Historically, allegations and investigations of voter fraud in Georgia have targeted Atlanta—and especially Fulton County—where many of the state’s Black voters reside. Georgia’s new law increases the likelihood that the GBI will use its investigative power to wrongfully target, investigate, and indict Black voters in Metro Atlanta.

Florida similarly doubled down on its efforts to make voting harder during this year’s legislative session by creating an election integrity police unit to enforce the new requirements in SB 90. Florida’s new election police under the “Office of Election Crimes and Security” will have the power to investigate any “election law violations” or undefined “election irregularities.”³ Instead of the traditional approach to maintaining fair and neutral election oversight, the open-ended authority of Florida’s election police could potentially lead to intimidation of Black voters and other voters of color. Moreover, Florida’s failure to define “election irregularities” suggests that an individual can be investigated even if there is no evidence that they actually committed an election law violation, which opens the door for these

¹ Brad Dress, *Georgia Lawmakers Pass Bill Empowering Election Force to Investigate Voter Fraud*, THE HILL, <https://thehill.com/news/3259631-georgia-lawmakers-pass-bill-empowering-election-force-to-investigate-voter-fraud/> (April 5, 2022).

² Stanley Dunlap, *Poll Supervisors Fret as Senate Considers Another Election Overhaul*, GEORGIA RECORDER, <https://thecurrentga.org/2022/03/22/poll-supervisors-fret-as-senate-considers-another-election-overhaul/> (March 22, 2022).

³ S.B. 524, <https://www.flsenate.gov/Session/Bill/2022/524/BillText/er/PDF>; “The phrase “election irregularities” used throughout the nearly 50-page law is vague, undefined, and would seem to give the new police force and investigators a lot of leeway in terms of what they investigate...” Fabiola Cineas, *Florida’s New Election Police Unit is the Scariest Voter Suppression Effort Yet*, VOX, <https://www.vox.com/2022/5/3/23048665/florida-election-police-voting-rights> (May 3, 2022).

election police to investigate Black voters and other voters of color without cause.⁴ Florida has a history of using police to intimidate Black voters on their way to the polls. As recently as 2000, Black voters in Florida complained about police traffic stops and checkpoints near polling places in Black neighborhoods on Election Day.⁵

These newly enacted laws in Georgia and Florida increase the likelihood that Black voters and other voters of color will interact with law enforcement officers before, during, or after they cast their ballot. Black voters and other voters of color, many of whom distrust law enforcement due to decades of abuse and neglect at the hands of police, may ultimately be discouraged from casting their ballots if they believe doing so will put them at risk of being investigated, questioned, or stopped by election police. This dynamic amounts to a subtle (and sometimes not so subtle) form of voter intimidation. This is especially so when viewed among the spectrum of active voter misinformation, disinformation, misdirection, and intimidation efforts—public and private—designed to suppress votes in communities of color and undermine Democracy.

⁴ *Id.*

⁵ U.S. COMMISSION ON CIVIL RIGHTS, VOTING IRREGULARITIES IN FLORIDA DURING THE 2000 PRESIDENTIAL ELECTION, <https://www.usccr.gov/files/pubs/votc2000/report/ch2.htm> (2001).

Senate Committee on Rules and Administration
 Administration of Upcoming Elections
 May 19, 2022
 Questions for the Record
 Ms. Tammy Patrick

Chairwoman Amy Klobuchar

Intelligence officials have warned that our elections remain a target for foreign adversaries, and following Russia's invasion of Ukraine, experts have warned that Russia will likely view the 2022 elections as a "ripe target."

- What are the main cybersecurity challenges election officials are facing this year, and what lessons can they apply from the 2020 election to confront these threats?

Response:

Election officials are still facing the standard challenges of phishing and denial of service attacks, but with the additional complication that there are so many new officials in office who do not have the benefit of all that we have learned since the Critical Infrastructure designation—they are starting from scratch. The loss of institutional knowledge is impacting jurisdictions of all sizes, but disproportionately those smaller, rural jurisdictions where they traditionally rely on one, or perhaps two, staff. The adage that "one is only as strong as the weakest link" has grown in import.

Over the course of my career there have been many thought exercises around the potential of insider threats. This is manifesting in both the unintended actions of those new to positions of responsibility and authority who may not know better--and thus expose vulnerabilities to the system unintentionally--and those who do so willingly, maliciously, and intentionally. The orchestrated actions of former Mesa County, CO Clerk Tina Peters demonstrates the degree to which partisan actors are willing to go when they have bought into the conspiracy theories being extolled around the legitimacy of the 2020 election. Willful actions such as felony impersonation and exposure of voting system security protocols have now occurred in more than one jurisdiction.¹ In the recent New Mexico primary election a slate of county officials refused to certify the results of the election because the county uses Dominion Voting Systems and they believed the conspiracy around those systems that they perpetuate fraudulent voting activities.²

Some states are taking action to protect their elections by putting in place guiderail policies around disclosure of security protocols as well as formalizing the cyber training of election

¹ Nathan Layne and Peter Eisler. "Exclusive: Michigan widens probe into voting system breached by Trump Allies." *Reuters*. (June 7, 2022). <https://www.reuters.com/world/us/exclusive-michigan-widens-probe-into-voting-system-breaches-by-trump-allies-2022-06-06/>

Link, Merdi. "Body Cam Video Sheds Light on Michigan Election Data Fiasco." *GT Government Technology Today*. (March 21, 2022) <https://www.govtech.com/elections/body-cam-video-sheds-light-on-mich-election-data-fiasco>

²Schouten, Fredreka. "New Mexico county official convicted of January 6 trespassing refuses to certify 2022 primary results based on debunked conspiracy". *CNN* (June 16, 2022) <https://www.cnn.com/2022/06/16/politics/new-mexico-otero-county-election/index.html>

officials and articulating clear ramifications for unfounded interference in the certification of results.³ State associations of election officials are revisiting their curriculum given the large influx of new members who need to quickly understand the threat landscape, their role in protection of the elections processes, and what must be done before the midterm election. Thankfully, CISA continues to provide quality support for election officials via their table-top exercises, security evaluations, and numerous other programs that improve the quality of training and educational materials that election officials have as resources.

One of our greatest vulnerabilities currently is the ongoing attack on election officials by election deniers who are distracting them from their duties at hand—conducting the elections of 2022. Ongoing expansive FOIA requests and the stationing of aggressive observers who continually interrupt the standard business functions of an elections office have both played a role in diverting attention of our election administrators from their official business. I anticipate that we will continue to see increases in ballot proofing errors, voter district assignment issues, and other resource allocation concerns because all those tasks require concentrated focus that is diminished when having to stop every few minutes to answer superfluous and distracting questions. Additionally, when one is distracted, they may be more inclined to fall prey to cyber ploys.

To be clear, this is not to say that there isn't a role for meaningful observation in elections—there certainly is. However, the distinction between observation and obstruction is clear. We want our public to take an active role in their elections, not an armed role. Much of the training these observers are receiving from third party groups is setting the stage for contentious and combative relationships with election officials and it is manifesting in even more election officials leaving office. Election officials who have either started to have, or who have increased the frequency of, public tours of their facilities have to be vigilant against individuals who may be there with the intent of destruction, theft, sabotage, and/or espionage. At least one tour in South Dakota led to a candidate attacking and destroying electronic pollbook equipment with a hammer.⁴

The majority of election officials are diligently, dutifully taking what they have learned and applying it to each election that they conduct.

³ Coltrain, Nick. "New Colorado laws target election 'insider threats,' protect election workers." *The Fort Morgan Times*. (June 2, 2022). <https://www.fortmorgantimes.com/2022/06/02/colorado-election-laws-doxing-insider-threats/>

State Senator Newman, Josh. "Legislation Addressing Harassment of Workers Passes the Senate." *YubaNet*. (May 25, 2022). <https://yubanet.com/california/legislation-addressing-harassment-of-election-workers-passes-the-senate/>

Lawrence Norden and Derek Tisler. "Addressing Insider Threats in Elections." Brennan Center for Justice. (December 8, 2021) <https://www.brennancenter.org/our-work/analysis-opinion/addressing-insider-threats-elections>

⁴ Sand, Elisa. "Mayoral candidate smashes laptop with hammer labeled 'truth' and 'justice,' pleads no contest". *Aberdeen News*. (March 25, 2022). <https://www.aberdeennews.com/story/news/courts/2022/03/25/south-dakota-candidate-groton-mayor-smashed-election-computer-hammer-no-contest-plea/7154181001/>

Senator Angus King

As state and local election officials have been preparing for the 2022 midterm elections, they have increasingly voiced concerns about supply chain issues that are impacting officials' ability to place orders for and purchase paper election supplies, including paper ballots, ballot envelopes, and other paper election materials. These supply chain issues could impact both in-person voting and voting by mail since officials have been struggling to secure paper ballots that voters can hand mark or that can be marked by voting machines, as well as paper ballots that can be mailed to voters and the envelopes those ballots are mailed out and mailed back in.

- What are state and local jurisdictions doing to mitigate the risks of paper supply chain issues?
- What can Congress do to support election administrators during this paper shortage?

Response:

At the recent State Certification and Testing National Conference, I presented a checklist of tasks for election officials to consider around the paper shortage. (The checklist portion of the presentation is provided in the Appendix to these responses and the presentation is [available here](#) in its entirety.) Some election officials may be under the incorrect assumption that since they placed their orders early, they will be fine, and their orders will be satisfactorily fulfilled. I strongly encouraged them to make a full inventory of all of their paper material requirements, an accounting of what they have on hand and what they have ordered, and then to contact their vendors and service providers for a status update on all of the materials they do not have on hand, on their warehouse shelves.⁵

Election officials are reporting that many are paying a higher price for all their materials. My answer to how Congress can help in this moment is simple: Congress should pass legislation that provides a sufficient funding stream for federal elections in order to stabilize some of the uncertainty that election officials have to contend with. Additionally, the continued support for agencies such as CISA and the EAC is critical. The Sector Coordinating Council (SCC) has been a major player in identifying solutions to this problem.⁶

⁵ Moretti, Mindy. "Two years later, elections officials still facing 'unprecedented' situations." *electionlineWeekly*. (June 16, 2022). <https://electionline.org/electionline-weekly/>

⁶ Election Infrastructure Sector Coordinating Council. "Ballot Paper Supply Chain Risk Management. Working Group: Threats, Vulnerabilities, Risks, and Mitigations." (February, 2022). https://www.eac.gov/sites/default/files/electionofficials/SupplyChain/SCC_BP_SCRM_Paper_Final.pdf

APPENDIX: Election Paper Assessment Checklist



So, what should we be looking at to ensure everything is set?

INVENTORY: Take stock of what you

- Need (*Every paper product used...*)
- Have (What is on the shelf?)
- Ordered (Quantity & delivery date?)

Consider **ALL** facets of your office/work:

- Voter Registration
- Candidate Filing/Campaign Finance
- Voting by Mail & In Person

Consider

- All the mailings & notifications
- All the signage & postings
- All the forms & interoffice paperwork

For each item consider & note:

- Statutory requirement? (MUST have?)
- Paper characteristics: Color/weight/size
- Timeline: mailing/packing

For those items that are flexible:

- When were they last updated?
- Could a new design consolidate items?
- Find out what size/color/weight is available

Once you think you know where you stand...:

- What is pending in the courts?
- Is there legislation that could impact?
- Has redistricting been accounted for?

Once you think you know where you stand...:

- When did you last talk to vendor?
- What is uniformly being used?
- What is status around state?



This leaves little room for error...

Review proofing & approval processes.

Measure twice, cut once!

