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United States House Committee on House Administration
Shadow Hearing hosted by Ranking Member Joseph D. Morelle
And Member Mary Gay Scanlon
on protecting our democracy and the right to vote.

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Ranking Member Morelle and Representative Scanlon, thank you for the invitation to submit testimony in connection with the shadow hearing on protecting our democracy and the right to vote. The series of hearings you are hosting are critical to chronicle and raise awareness of the ways in which the federal government and the current executive branch are undermining voting rights and election administration. In the more than twenty years that I have been practicing law in the democracy space, this is the first time that the greatest threat emanates from the federal government. Despite this appalling truth, the responsibility for administering elections remains, as it has since our nation's founding, with the states and municipalities. Concerned but undaunted by these new threats, state and local election officials are working to ensure that every eligible voter who desires to vote can do so.

In addition to the typical and recurrent tasks of running elections, election officials are addressing challenges on multiple fronts this year. My testimony will focus on three areas from an election administration standpoint: First, United States Postal Service (USPS) is causing genuine disruptions to mail-in voting caused by the illegal implementation of an equally illegal executive order. This will require elections officials to expand access to other voting options under the law. Second, threatened federal interference with voting at polling locations will require preparations to stop such interference especially during the period the polls are open. Third, shoring up the security of the election infrastructure itself, including voter registration databases, voting systems, poll books and other computer components touching elections, is especially key given that the current administration has cut back federal funding, staff and resources for this mission critical work.

These three scenarios represent risks, not certainties. Preparing for risks that have the *potential* to disrupt elections is sound management, even if those risks never materialize or are less than expected. Although the intent of the federal executive branch is to cause chaos and uncertainty, voters should know that state

and local government officials are committed to running free and fair elections and ensuring all eligible voters can vote.

Mitigating Disruptions to Mail-in Voting This Election Cycle

This body is aware of the provisions in Executive Order 14399¹ that illegally attempts to confer power to the USPS over who is entitled to vote by mail, and what ballots will be delivered or not.² Litigation over the Order continues and, as of this writing, it is not clear whether U.S. Supreme Court will allow the implementation of USPS' final rule.³ The uncertainty around the rule, coupled with USPS slower delivery rates in general, have significant impacts on the administration of absentee and mail-in voting.

Election administrators can and should send mail ballots to voters as early as possible to account for general mail delivery delays. Assuming that blank ballots reach voters⁴, voters need to return ballots early, preferably using a method that does not involve the USPS. Best practice would dictate that election offices expand the availability of ballot drop off locations, mail-in ballot drop boxes and increase the number of 24/7 ballot drop boxes. Ideally, drop boxes and ballot drop off locations should be available and running at the same time or shortly after mail-in ballots are sent to voters. Pennsylvania law requires mail-in ballots to be *received* by the county election office no later than 8 pm on Election Day.

Voters have other options for voting early. In Pennsylvania, voters can go in person to their county election office, or a branch or satellite office, apply for a mail-in ballot, receive it, vote it and submit it in one visit.⁵ Local elections offices in Pennsylvania should be preparing for a spike in demand for such “over-the-counter” mail-in voting as a direct result of the uncertainty surrounding mail delivery of ballots. County election offices should expand the locations for such services and the hours the offices are open to serve voters.⁶

¹ Executive Order 14399 *Ensuring Citizenship Verification and Integrity in Federal Elections* (the “EO”), 91 Fed. Reg. 17125 (Mar. 31, 2026).

² To the extent that states would be required to reveal the party affiliation of mail-in voters through this rule, the potential for abuse is enormous.

³ *Ballot Mail for Federal Elections*, 91 Fed. Reg. 54,966 (Aug. 26, 2026).

⁴ Governor Shapiro is a party in *State of California et al. v. Donald J. Trump*, No. 1:26-cv-11581 (D. Ma.) a suit by 23 states and the District of Columbia seeking to enjoin implementation of the USPS rule. It is extremely likely that even if the U.S. Supreme Court allows implementation of the rule, Pennsylvania will not send a list of voters to USPS and that could mean that USPS will not deliver mail ballots either outgoing or incoming.

⁵ See 25 P.S. § 3146.5.

⁶ Pennsylvania's Election Code specifically allows county boards of elections to establish branch or satellite offices as they see fit. See 25 P.S. § 2645(b).

To the extent that voters are nervous about sending back their mail-in ballot, they have another option if they can appear at their polling place on Election Day. Under Pennsylvania law, voters can bring their unvoted mail ballot packet, including the envelopes, to their polling location on Election Day. The judge of elections will spoil that mail-in ballot and return it securely to the board of elections. The voter is then permitted to vote a regular ballot.⁷

Voters should also know about the process if their mail ballot does not arrive. Voters can contact their county election office or go to the office in person. The original ballot that never arrived can be cancelled in the voter registration system (known as the SURE system) and the county can issue a replacement ballot which the voter can then mark, seal and submit on the spot.

Even if a voter does not take advantage of the replacement ballot process, the voter can still go in person on Election Day and vote a provisional ballot. Not only is the provisional ballot process available for voters whose mail-in ballot never arrived, it's available for voters who lost their ballot, or discarded it, or if voters are worried that their mail-in ballot will not arrive at the county in time, or voters who were notified that they made an error while submitting their mail-in ballot. Counties can and should expect a surge in demand for provisional ballots at the polling location and should increase the supply of provisional ballots for polling places. Moreover, enhanced poll worker training on how to properly complete the provisional ballot packet is essential to reduce errors that might result in rejection of the provisional ballot.

Most importantly, county officials, state officials and members of this body should step up efforts to advise voters of the options for voting and how to best ensure that their ballot is received and county including recommending mail-in ballot return in person or by ballot drop box or ballot drop off location.

Congressional Oversight of USPS activities

Federal law establishes criminal penalties including fines and imprisonment, for interfering with mail delivery. The law specifically criminalizes the behavior of any postal officer and employee who “unlawfully detains, delays . . . any letter, postal card, package, bag or mail entrusted to him or which shall come into his possession, and which was intended to be conveyed by mail, or carried or delivered by any carrier or other employee of the Postal Service, or forwarded through or delivered from any post office or station thereof established by authority of the Postmaster General or the Postal Service[.]” 18 U.S.C.A. § 1703. To the extent that USPS fails to deliver ballots or delays delivering them under the executive order or

⁷ 25 P.S. §§ 3146.6(b)(3); 3150.16(b)(3).

Final Rule which is later held to be illegal, these penalties seem to apply. The Department of Justice and the U.S. Attorneys have enforcement authority for these statutes. Nevertheless, Congress can exercise its oversight function and require appearance before the Committee on Oversight and Government Reform and the Committee on House Administration. The failure to deliver mail will impact voters of all political stripes especially if voters are unaware of other methods of returning or applying for and voting a mail-in ballot. Congress should recognize the harm that could occur and exercise its oversight authority immediately.

Federal Interference with Polling Sites

Numerous federal statutes prohibit the government from sending armed federal agents or officers to the polls.⁸ Despite this, the Trump administration has not ruled out doing so.⁹ Indeed, the presence of law enforcement officers at polling place would constitute voter intimidation under federal and state statutes.¹⁰ The Department of Justice has also announced plans to deploy observers to polling places.¹¹ The DOJ announced this even though the only statute that permits election observers is the Voting Rights Act, and only for covered jurisdictions under section 4 of the Act. However, since the Supreme Court struck down the coverage formula in *Shelby County v. Holder*, 570 U.S. 529, 133 S.Ct. 2612 (2013), no jurisdiction is currently covered. Thus, given the lack of federal authority for the presence of federal officers at the polls, state law would govern the ability of those officers to enter the polling place and limit how close they could stand on the outside. In short, they would not be permitted within 100 feet of the polling location.

Nevertheless, state and local election officials and elected officials should prepare rapid response and other plans to prevent disruption during the hours the polls are open for voting. Proper plans include coordinating with local law enforcement to make a plan to demand federal officers leave polling locations, \to asking a court to issue an order to enforce state law, communicating with the state attorney general, governor or other officials that would support removing obstacles to voters at the polling place.

⁸ See e.g., 18 U.S.C. § 592-595., BRENNAN CTR. FOR JUST., VOTE SAFELY IN 2026, JULY 2026, <https://www.brennancenter.org/our-work/research-reports/vote-safely-2026>(explains voters' rights if federal officers are at the polls).

⁹ Adora Brown and Manuela Silva, *Trump administration remains open to placing federal agents at polls during midterms*, SPOTLIGHT PA, Mar. 30, 2026, <https://www.spotlightpa.org/news/2026/03/election-2026-midterms-trump-administration-federal-government/>

¹⁰ 52 U.S.C.A. § 10307(b); 25 P.S. § 3527

¹¹ Torrie Herrington, *Trump admin plans to deploy 'historic number' of election monitors to swing states for midterms*, SPOTLIGHT PA, Aug. 18, 2026. <https://www.spotlightpa.org/news/2026/08/justice-department-election-monitors-trump-administration-federal-government/>

Another enormously important action is to disseminate “know your rights” information to voters so that they are equipped to deal with the presence (legal or not) of federal officers at the polls. Many civil rights groups have resources available on their websites, *see, e.g.* Protect Democracy, HOW TO SPOT (AND PUSH BACK AGAINST) FEDERAL VOTER INTIMIDATION, Jun. 18, 2026.¹²

Our Elections are Run Securely and States Have Shouldered the Financial Burden to Ensure It.

The current president of the United States has made false claims about the security of U.S. Elections since 2016. Most recently, he repeated these debunked claims in a primetime speech in July.¹³ The misinformation about election security spread by the White House usually takes two forms, either that the voting technology including voting systems and election results are compromised, or that large numbers of ineligible people are registered to vote and are voting. These claims have repeatedly been shown to be false.¹⁴

It is certainly true that election administration depends on computers at multiple points in the election process. Equipment for *voting* is but one part of a broad array of election technology infrastructure that supports the conduct of elections today. Some of that technology infrastructure includes voter registration databases, internet facing applications such as online voter registration and polling place lookup, network connections between state government and local jurisdictions, the computers that program the voting devices that record and count votes in addition to the voting devices themselves. Some jurisdictions also use electronic poll books to check voters in at polling sites and most states and localities report election night returns via a website.

To the extent that any of these can be compromised or manipulated, can contain errors, or can fail to operate correctly—or at all—this can potentially affect the vote. Election system security requires not only efforts to prevent breaches and malfunctions, but also fail-safes that address breaches and malfunctions that do occur. The existence of vulnerabilities, though, represents a risk that can be mitigated, not a certainty that systems are compromised.

¹² <https://protectdemocracy.org/work/how-to-spot-and-push-back-against-federal-voter-intimidation/> Cf., ACLU, KNOW YOUR RIGHTS, FEDERAL AGENTS AT THE POLLS, Jun. 16, 2026, <https://www.aclu.org/know-your-rights/federal-agents-at-the-polls#scenarios>

¹³ Joe Walsh, *Trump falsely alleges voting machines are "vulnerable" and "easily compromised"* CBS News, Jul. 16, 2026 <https://www.cbsnews.com/news/trump-falsely-alleges-voting-machines-are-vulnerable-and-easily-compromised/>

¹⁴ See e.g. D'Angelo Gore, Robert Farley, Lori Robertson, Paul Cuno-Booth and Jessica McDonald, *FactChecking Trump's Election Security Speech*, FACTCHECK.ORG, Jul. 17, 2026, <https://www.factcheck.org/2026/07/factchecking-trumps-election-security-speech/>

Best practice demands a multi-layered approach built around the concept of resiliency. Systems are *resilient* if owners can monitor, detect, respond and recover from either an intentional attack or a programming mistake or error. The capacity to recover from even a successful attack is integral to the security of U.S. elections.

In the last 10 years, since the 2016 presidential election cycle, election officials have significantly strengthened security around election infrastructure. Much of the gains in this area were supported by Congressional appropriations of funding, resources and support from the Department of Homeland Security, Cybersecurity and Infrastructure Security Agency. However, despite overblown claims of election security failures, the Trump administration has severely curtailed the support that CISA provides to states and localities for no apparent reason.¹⁵ Nevertheless, states are spending the funds, and implementing strong security practices for their election assets, including voter registration databases.¹⁶

Moreover, the vast majority of jurisdictions use electronic voting systems that incorporate a paper ballot (marked by pen or computerized ballot marking device) that voters can verify before casting.¹⁷ And a significant number of jurisdictions check that the voting systems tabulated the results correctly using robust, statistically sound audits.¹⁸

The improvements to election security in the past 10 years mean that U.S. elections are secure, they are not plagued with fraud, nor are the election results rigged, despite mis- and dis-information to the contrary. Congress should act to ensure that state and local election officials receive the federal funding and resources to continue the enormous strides that have strengthened the resiliency of election infrastructure.

¹⁵ Dion Nussbaum *'I don't trust you': Tensions reach boiling point on election security call for state leaders hosted by Trump administration*, VOTEBEAT, AUG. 16, 2026.

¹⁶ Katie Lurie, Geoff Hale, Veronica DeGraffenreid, *Voter Registration Database Protections Are Resilient*, BRENNAN CTR. FOR JUST. MAY 5, 2026. <https://www.brennancenter.org/our-work/analysis-opinion/voter-registration-database-protections-are-resilient>

¹⁷ See VERIFIED VOTING, the Verifier, <https://verifiedvoting.org/verifier/#mode/navigate/map/voteEquip/mapType/ppEquip/year/2026>; see also, VERIFIED VOTING, Election Security, <https://verifiedvoting.org/electionsecurity/>

¹⁸ VERIFIED VOTING, Audit Law Database <https://verifiedvoting.org/auditlaws/>; *Principles and Best Practices for Post-Election Tabulation Audits*, Dec. 2018, <https://verifiedvoting.org/wp-content/uploads/2020/05/Principles-and-Best-Practices-For-Post-Election-Tabulation-Audits.pdf>