



Secretary of State Jocelyn Benson

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Testimony of Jocelyn Benson, Michigan Secretary of State

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Chairperson Lofgren, Ranking Member Davis and Members of the Committee:

Thank you for holding this hearing and for the invitation to testify. Securing our election infrastructure against efforts to thwart or undermine the will of our voters is essential to the survival of our democratic system. I am honored to offer my perspective as Michigan's chief election officer on this critical challenge. I encourage this committee to seek further input from other state officials and especially from local election administrators across the country as you proceed.

Now more than ever, the federal government's role as a partner in securing our elections is necessary if our work at any level is to succeed. That role best manifests in three forms: resources, setting standards and establishing protections, and setting a cooperative and bipartisan tone.

As you know, recent years have brought unprecedented threats to our election system, including some from highly sophisticated, foreign-government aligned entities. It is essential that from the very highest level of government there is acknowledgement of the past, present and future active threats posed by foreign state actors, and that in response we marshal bipartisan support and cooperative actions focused on building sustainable and secure infrastructure to protect our elections. Because while the threats to the security of our elections didn't begin in 2016, we know for certain they won't end in 2020. Only through a unified approach and long-term commitment and investment can we adequately support our election infrastructure and provide a voting system in which Americans will rightly place their trust.

Part of that unified approach must be a commitment to providing a predictable stream of funding and additional resources for election security. Many of the issues I will discuss today can be addressed only partially and temporarily with the tools we have at our disposal. In many parts of the country, election officials know what they need to do to improve their procedures but cannot afford to do it. The federal government has taken positive steps — such as significantly improving federal, state and local coordination and making more funding and tools available — but we need to do much more.

Michigan's election system provides some helpful grounds for examination as this committee reviews security issues nationwide. We are unique in the extent to which our election administration is shared throughout a broad range of local jurisdictions. Our elections are run



primarily by more than 1,500 city and township clerks, with 83 county clerks also carrying significant responsibilities. This decentralized system helps safeguard against state and even county-wide problems, as errors or breakdowns can be confined often to local jurisdictions. The large number of access points also means more surfaces are potentially vulnerable, however. From a statewide standpoint, with so many links in our chain, it is important to recognize that local election officials are the front line in the defense against system threats.

This also means that we need to invest in election infrastructure at the local level and provide support to local clerks. With that should come increased accountability when local officials don't take advantage of these resources or otherwise fail to run elections at a local level in a way that ensures security and integrity of election results.

I. Secure Elections in Michigan in 2020 and Beyond

To ensure we are implementing best practices and leaving no stone unturned, in Michigan I formed an election security advisory task force composed of local officials, election specialists and national experts in technology and data security (including a DHS liaison). Our ultimate goal is for Michigan's elections to be among the most secure in the country, and to pilot best practices that we hope can drive national reform. While we await the panel's final recommendations later this year, their initial meetings have focused on securing and protecting three areas of vulnerabilities: (1) our voter registration and data, (2) the process of voting and (3) the transmission of election results.

Voter Registration Databases

Following the 2016 election, the FBI and DHS determined that hackers affiliated with foreign states attempted to infiltrate multiple states' voter registration databases in that election, in some cases successfully. If outside actors were able to access a voter registration database, they could potentially manipulate voter registration records, which could wreak havoc on our election planning and possibly put voters at risk of disenfranchisement.

In Michigan, our statewide voter registration database, the Qualified Voter File (QVF), serves as the backbone of our election administration system. It is used by state, county and local election officials to run their elections and communicate with voters. In recent years, we have modernized our QVF system to improve its functionality and security.

From the voter side, we also have an important new protection against registration-based threats. Under Proposal 18-3, passed by Michigan voters last election, our state constitution now guarantees eligible Michiganders the right to register up to and on Election Day, a process that mitigates the effect of registration-based attacks should they occur. Michigan has joined a list of states offering same-day registration that has grown significantly in recent years; 17 states plus the District of Columbia now offer it in some form. Under federal law, states also must provide



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the ability for voters missing from registration lists to cast provisional ballots at the polls. This is an additional failsafe, though it isn't always effective in allowing voters to cast ballots that count.

Nevertheless, a disruption to registration records has the potential to cause significant confusion and problems on and before Election Day, and protecting against this is one of the most important aspects of our work. We plan to explore and implement additional security features in addition to those we already have put in place to protect against potential attacks. Because municipal, county and state officials all access the voter registration list across our state, the cost of maintaining best practices on an ongoing basis could be significant, and federal resources have been and will continue to be critical.

Voting Technology

Michigan upgraded its voting technology in 2017 and 2018. Our localities all use one of three types of voting machine vendor systems, selected at the local level, but all are versions of optical scan machines, which use paper ballots that are scanned through electronic tabulators (with the paper ballot retained and stored). There is no evidence that voting machines in Michigan have been compromised or that votes have been changed, but in the event that a bad actor were able to alter an electronic tabulator program, using and retaining paper ballots (which can be reviewed and recounted) is an important safeguard. It is encouraging that a significant majority of voters nationwide cast votes on paper ballots, and the number could approach 100 percent by 2020.

While our voting machines are relatively new and function well, we need to ensure they remain secure and effective with continued use over multiple elections and through the lifecycle of each machine. With the pace of technology, ensuring we have adequate voting technology is an ongoing process, rather than a one-time task to be completed. Voting technology quickly and unexpectedly can become obsolete as circumstances change, and it isn't possible to ensure that all jurisdictions have the most-recent and state-of-the-art equipment with the limited funding we have available. We need to stay ahead of this curve and continue the focus on security and potential vulnerabilities of these systems.

Audits

Paper ballots can assist with another key element of election security infrastructure: auditing of election results. In Michigan, reviewing the accuracy of vote counts is mandated in our state constitution: Proposal 18-3 grants voters a constitutional right to have their election results audited. Last year, we undertook a pilot project to implement risk-limiting audits in three large cities: Rochester Hills, Lansing and Kalamazoo. Risk-limiting audits are a useful tool for verifying the accuracy of election results across an entire election (as opposed to a single precinct), because they allow us to use statistically proven methods to sample and scale the number of ballots we count and confirm election results overall, which in turn will tell us the probability that errors, manipulation or problems have occurred with vote tabulation. This is a particularly helpful feature in a state like Michigan, with our decentralized structure and where voting equipment varies across counties.



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We are expanding our auditing procedures this year, with several more jurisdictions conducting risk-limiting audits in 2019. The first of these elections actually was held yesterday — May 7, when local elections were held in 65 of our 83 counties. We have a long way to go, however, to achieve a statewide audit process, which we would like to put in place as early as 2020 if possible. We hope to learn from the experiences of our own tests and those in other states.

Election Night Reporting

To bolster public confidence in election results and reduce the potential for dispute or confusion, we must ensure that electronically transmitted results on Election Night are sent quickly and securely, and that the final review and canvass of ballots is clear, transparent and error-free. And while final, certified election results cannot be delivered on Election Night, we also are examining how we can ensure as accurate an initial count as possible, as fast as possible. Discrepancies between the initial unofficial vote totals (delivered on Election Night) and the final results (certified after a thorough review and canvass in the days after the election) don't mean the actual conduct of the election was compromised. Still, we must acknowledge the reality that the initial Election Night vote total is widely shared and treated as the final election outcome by many voters, as well as the media.

We experienced the importance of this firsthand in Michigan in 2016, when our state had among the closest margins in the Presidential Election; we will see similarly close margins in 2020, if not in Michigan then surely in other states. Increased attention in a politically charged, high-stakes election magnifies the impact of any actual or perceived errors and the attendant risk of loss of public confidence in election results.

The inherent challenge in Election Night reporting is that the responsibility falls primarily on overworked, under-resourced election workers operating in a high-pressure situation at a time when they are unlikely to be well-rested. Although the polls close at 8 p.m., voters in line must be allowed to cast ballots, which means in some places voting will continue until significantly later. Once that is finished, poll workers and election officials then must close down the poll sites, ensure their unofficial results account for every ballot and every voter, and transmit their unofficial precinct results.

Increased resources for hiring and training election workers would significantly improve these circumstances. As they stand, they leave little margin for error if information sharing isn't usable and efficient for election workers; thus, improving Election Night reporting is an important area for study and improvement.

Emergency Preparedness

This decade we have seen the extent to which unexpected emergencies, such as weather events, can interfere with election processes in coastal states. Although Michigan doesn't face the specific risk of hurricanes, severe weather, power outages or worse could potentially disrupt our elections, as well. We already have important redundancies in our system, such as the ability to



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conduct elections by paper during periods in which tabulators, electronic poll books and other electronic equipment are down. Nonetheless, emergency planning around election dates, particularly during high-turnout races, is a critical area of assessment that must be in place at every level in our system.

Public Communication

As important as it is to secure our elections, ensuring voters also have confidence in that security is similarly paramount. To that end, public information-distribution must be considered as an essential element of election security and integrity. Sharing accurate information broadly and quickly is particularly needed in two scenarios: to counteract misinformation, and to maintain public confidence and participation in the face of crises or unexpected events.

Misinformation poses a significant risk to election integrity in the face of organized, targeted efforts to confuse or mislead members of the public. For example, bad actors have the capacity to use social media or other communication tools to confuse the public about where or when they should vote or spread false reporting about events (for example, a fake violent or dangerous incident) that may dissuade voters from participating.

Voters also may be confused or dissuaded by unexpected events on Election Day. For example, a voter may hear a *correct* report that a polling place is experiencing problems with a voting machine and draw the *incorrect* inference that he or she won't be able to vote and shouldn't bother showing up.

In any situation in which voters are hearing false statements about the election, whether as part of an intentional misinformation campaign or through the rumor mill, election officials must be positioned to provide correct, accurate information in real-time and across all media. This requires cooperation and advance planning between state and local public officials and non-government entities, and we will be exploring how to improve our own process.

II. The Role of the Federal Government in Securing our Elections

Support from Congress and the federal government will go a long way in supporting Michigan and other states' efforts to secure our election systems. This support comes in three forms: resources, standards and protections, and setting a cooperative and bipartisan tone.

Resources and Investment: Sustainable and Reliable

Federal resources are essential tools for election infrastructure in the modern election era, starting with the passage of the Help America Vote Act of 2002 (HAVA). Most states purchased new voting machines and established statewide voter registration databases using funding made available through HAVA in the years following the law's enactment. As those resources ran out, however, election technology began to age at the same time as technology was advancing at a rapid pace.



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As I discussed earlier in my testimony, Michigan recently upgraded voting machines across the state. We were able to do so because we still had HAVA funds available from prior years; only with those resources was our state able to make necessary improvements in voting technology. In Michigan and elsewhere, however, we need additional support to make necessary improvements at the state and local level.

The additional HAVA funding made available last year is an important first step. In Michigan, the more than \$10 million we have received will help fund the election security procedures we adopt after reviewing the recommendations of our advisory task force. We have opportunities to make further investments in registration and voting technology and boost local infrastructure using the funding we have available, but we will surely be limited in providing all the support we could to our local jurisdictions.

Federal Standards and Protections

The federal government also has a role to play in providing national standards for election security. New election security resources made available by the Department of Homeland Security have been helpful in this regard. The cybersecurity tools DHS has been able to offer are promising, and the agency has helped improve cooperation between federal and state partners through outreach and through the work of the Government Coordinating Council.

The federal government should go further, however, in identifying threats to election security and administration, providing protections against them, and promoting state and local adoption of these protections. In the past, the Election Assistance Commission has bolstered election administration across the country by certifying voting equipment and serving as a clearinghouse for information about election technology; Congress should support the agency and push it to provide more of these resources.

Setting a Tone of Bipartisan Cooperation

Election security isn't and shouldn't be a partisan issue. Federal government agencies must be mindful of their responsibility to ensure that election security doesn't become politicized. Congress should make every effort to continue the bipartisan cooperation that led to last year's additional HAVA funding, so that it is positioned to further assist the states in their election security needs in the short and long term. Although we all aspire to bipartisanship when it comes to strengthening our democratic institutions, election security is an area where we cannot afford to be divided. Without a functioning voting system, which the American people trust to deliver accurate results, we cannot maintain a representative democracy.

Despite the politically charged environment, I am encouraged by the bipartisanship and spirit of cooperation that exists among election officials in our state and across the country, particularly when it comes to election security. Tomorrow, Alabama Secretary of State John Merrill, a Republican, and I, a Democrat, are organizing a bipartisan group of secretaries of state to visit Selma, where Dr. Martin Luther King Jr., Congressman John Lewis and many others put their



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lives on the line for the right to vote. My hope is that we can strengthen and unify our commitment to a free and fair election system without improper interference from outside actors.

Cooperation across partisan and state lines is possible and is essential to keeping that commitment, especially when it comes to the integrity of our voting system. I and my colleagues will continue to lead on the state level, but we hope that you and your colleagues will join us in this regard.

Thank you again for the opportunity to testify today. I hope in sharing information about Michigan's election infrastructure and the issues we are examining, I can help this committee build a strong record as it examines election security, and I look forward to learning from its review. I am happy to answer any questions you may have.