

**THE CHANGING ELECTION SECURITY LANDSCAPE: INCLUDING THREATS TO
ELECTION OFFICIALS AND INFRASTRUCTURE**

Statement of

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and

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Committee

Current Chairman, Committee for Safe and Secure Elections

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Good morning, Chairman Thompson, Vice Chairman Torres, Ranking Member Katko, and members of the Committee on Homeland Security. My name is Neal Kelley, and I am

the retired Chief Election Official, Registrar of Voters for Orange County, California. Before serving in this role, I served as a deputy sheriff and later a police officer in Southern California. I am now the current Chair of the Committee for Safe and Secure Elections, a 32-member committee made up of elected Sheriffs, other members of law enforcement and current and former election officials from around the country. Thank you for the invitation to speak at this hearing to address:

- The changing election security landscape, including threats to election officials and infrastructure;
- Barriers states and counties encounter in the pursuit of enhancing election security;
- The best practices used in Orange County, including collaboration with local and federal law enforcement, development of tools designed to aid local law enforcement, and field operations designed to ensure that no intimidation occurs at the polls;
- The value organizations, such as the Committee for Safe and Secure Elections, can bring to combat this growing problem;
- And how Congress can further assist states and counties with reducing risk and enhancing overall election security.

“You rigged my election”; “We are going to try you and hang you”; “We are coming for you”; “There will be blood on the ballots and blood on you”. These are just a small example of the type of threats and harassment election officials around the country have experienced in recent elections. We also know that many election officials received thousands of threatening emails, text messages, had their personal information doxxed online, faced protests in front of their homes, and in addition to personal threats have endured threats against their families. As a result, upcoming elections are not very appealing to those that run them. In fact, this has mutated into a real migraine for election officials. Many have left the profession. The impact is widespread. While the effects on the individuals are devastating the potential blow to democracy should not be dismissed.

Controversial political statements with inflammatory accusations have the potential to incite continued harassment or violence from the public. Throughout my testimony I talk about the need to engage law enforcement in the election planning process. However, I must make clear that I am not advocating for the presence of armed officers in polling places. This is a sensitive issue and one that should be handled with the seriousness that it deserves. I believe there are ways to address these growing threats while remaining steadfast in our resolve to recognize that the mere presence of law enforcement in the polls can be viewed as intimidation. To be sure, there are valid reasons that laws exist to protect voters against potential, or actual intimidation.

With this in mind, we must prevent efforts to corrupt our electoral process while continuing to administer elections for an electorate that is increasing in size and complexity. The threats and challenges will continue to grow, and the security of the American elections process will only be achieved through collaboration, cooperation, and the allocation of sufficient resources.

Amid these growing threats I believe that we should not lose sight that elections are critical infrastructure, which was established to support and protect the mechanics of running elections. The protection of our nation's poll workers, voters, physical locations, ballot counting centers, and voting systems, which are a part of the backbone of our democracy, should be a priority.

Let me try and thread a needle here – I believe it's important to distinguish against the very fundamental right to observe and comment on elections, to be a part of the process, and to engage with your local election administrator. Research has shown that members of our communities often have higher levels of trust with their local officials, and we should capitalize on that. I believe in the fundamental rights that the First Amendment affords our citizens as they exercise their rights to challenge the outcome of an election. I believe transparency goes hand in hand with a fully audited, accurate and fair election; these are not mutually exclusive. Nevertheless, as an election official you know when that line is

crossed. When acts of violence, threats to oneself or family, threats to the infrastructure, or interference begins to emerge, then the entire process is at risk.

There are many barriers that municipalities, counties, and states face when working to combat these growing threats. Election officials are very good with planning, preparing, and adjusting to changing operational conditions. But that kind of preparation does not prepare them for the increased risks associated with conducting elections in today's divisive environment. I like to say that if you visit one election office, you visit one election office. By this I mean that they are all very different in size and scope based on the disparate nature of how we conduct elections in this country. But the common theme among all of them is a need for funding; I believe the playbook of claiming an election outcome is inaccurate in all close contests will only grow; and it's a real concern that something could trigger an individual, or individuals to react with violence. Funding is an issue for all election officials. While threats and intimidation were exponentially larger in certain parts of the country, this is not just an issue in battleground states or contested races. Funding can continue to improve physical and overall security and help improve preparedness for law enforcement to protect polling locations, poll workers and election officials.

Disinformation and misinformation will continue to expand and tools and resources to help provide timely and accurate information is essential. While one-time funding has been historically allocated, election security is known to be an ongoing challenge that will require ongoing efforts to better understand threats and vulnerabilities and develop strategies and solutions to defend and protect America's election infrastructure.

We should not conflate disagreements with laws, regulations, and rules with the outrageous notion that all elections are "rigged". Is there work to be done? Of course. Too often election officials are bound by outdated laws that should be updated. Misunderstandings of legal, or regulatory constraints can and does cause suspicion, rumors and breeds irrational theories. These kinds of disparities only fuel a public hungry for explanations as to why their favored candidate lost an election.

I don't want this to appear that funding is the only solution. As an example, while serving as Orange County's chief election official, I established a task force made up of the Department of Homeland Security, the FBI, our state and local law enforcement partners, and our District Attorney. We worked collaboratively long before an election to plan for specific responses. This included local plain clothes investigators pre-positioned in the field, not in polling places, reviews of all voting locations and personnel, and intelligence gathering.

Prior to this approach there were many times I would be called to a polling location due to a sensitive matter and occasionally would meet local law enforcement on scene. Often these were obvious staged events by political operatives, which sometimes crossed the line into potential intimidation. Police officers would ask me “is this even a crime? Isn’t this a civil matter?”.

As a result, we created a pocket guide for law enforcement officers that they could carry with them and would inform them of criminal violations of election laws, not often used by responding officers. Briefing and informing local law enforcement bridged an important gap and made for a much stronger partnership. Understanding that threats and interference is a real problem can drastically improve collaboration and reduce, not eliminate, the risks.

In addition, we remained closely connected to the Election Assistance Commission (EAC), our local law enforcement fusion center and to Information Sharing and Analysis Centers such as Multi-State Information Sharing and Analysis Center (MS-ISAC) and the Election Infrastructure Information Sharing and Analysis Center (EI-ISAC). Information sharing in both directions is tremendously helpful for maintaining awareness of innovative solutions and security threats or challenges. To increase staff awareness of election security, my staff participated in regular tabletop exercises with government and private partners.

In the weeks following the 2020 election my office was inundated with agitated observers and on one occasion a protest with hundreds of people. Because of our pre-election task force work, there was a rapid response, detailed intelligence, and action items put into place.

I don't want to leave this topic without also noting that we must continue to do work to reduce voters' lack of confidence, which can exacerbate the very issues we are discussing today. For instance, election officials should continue to expand audits, partner with prosecutors on any violations of election law, and improve the voter experience, which will continue to build trust and confidence among voters. If the challenges currently facing our election systems are ignored, we risk continued erosion of confidence in our elections and in the integrity of our election processes. This of course will not change all hearts and minds, but this is a journey without a finish line.

Over the past several months, a group of election officials and law enforcement personnel from across the country have been meeting to address the protection of the public servants who supervise our elections from intimidation, threats, and violence. Recently organized as the Committee for Safe and Secure Elections, which I currently chair, this is a group of chiefs of police, elected sheriffs, and former and current election officials

nationwide coming together to close the gap between law enforcement and election administration.

But why is there a gap? During the 2016 election cycle discussion around foreign interference in our elections spurred many election offices to build relationships with federal partners like the FBI, the Department of Homeland Security, and other agencies to enhance cooperation on cybersecurity issues. But what wasn't addressed in large part was physical security, for election officials, staff, voters and polling places. During the 2020 election cycle it was clear that many local law enforcement agencies and election officials were not communicating in many parts of the country. But 2020 made us think, what should a local official do if he or she receives threats? Whom do you contact? How can the officials and the process be protected from disruption? The committee was created to help address these issues and reduce the risks.

Our committee is focused on a four-part process, some of it very simple. The first part is developing resource materials for law enforcement officials, such as the pocket guides that I spoke about earlier. The committee members agree that this could be a model for developing similar materials for local law enforcement agencies, specifically about elections. Our hope is to make the spread of this material much more efficient across the country. The second is training. One of the challenges is establishing that the need to

increase physical election security is a real issue. An effective way to achieve this is by creating and using law enforcement training videos designed to build awareness on threats to election officials and the infrastructure. Identifying steps that can be taken by law enforcement and election offices prepares both for how to respond in certain scenarios and how they can work together to identify examples where a plain clothes response could help deescalate and would be most appropriate. The third step is bridging the gaps. We want law enforcement to proactively reach out to their local election officials and vice-a-versa long before election day. Together, they should establish joint procedures for communication in advance of elections. An election official shouldn't arrive at work on election day, find a threatening situation, and not know what to do. If local law enforcement and local election offices have met in advance and created a plan, knowing how to respond will be much clearer. We hope to provide guidelines that can help election officials through this process. You might ask why this critical planning would not already be in place – in many cases it is because it has never been a part of the playbook for election officials. It's clear that you must get everyone who is involved in the administration of elections to go through a step-by-step process of engaging with law enforcement at the local level – street officers, beat officers, detectives. Getting everyone on both sides of this equation to know each other and know how to communicate with each other will go a long way with improving response and protection.

The final piece falls in the policy arena. While the committee has not decided how we are going to approach this important element, potential changes in policy or regulations might reduce the risk of certain threats or provide clear direction to law enforcement and election officials on reporting, tracking, and recognizing the warning signs.

During my nearly two-decade tenure as the Chief Elections Official in Orange County, I have seen the election security landscape change dramatically. While in the recent past the focus has been on developing digital defense strategies, it has now sadly morphed into the real and dangerous threats posed to the men and women who run elections.

State and local election officials need broad support to protect America's election infrastructure, its people, and its processes. As I previously noted, and as you are aware, states and counties differ not only in geographic area and population size but also in terms of their access to resources, funding, and information. Yet, the election security challenges that local election officials face has no bearing on the size of their jurisdiction, access to funding and resources, and the ability to mitigate or respond to such threats.

There are hundreds, if not thousands, of election offices where only a handful of dedicated staff are on hand to run their jurisdiction's elections fairly and securely. The lack of

personnel in many of these small jurisdictions makes it difficult to add additional responsibilities. Sending staff to trainings or bringing trainings to small or rural voting jurisdictions can be particularly challenging because it reduces the number of staff on hand at the elections' office. The magnitude of what is involved in maintaining election security can be overwhelming to any individual seeking to expand their knowledge and remain abreast of the ever-changing field of election security. We must not lose sight of smaller jurisdictions that could benefit greatly from shared resources.

Congress has a unique ability to address issues affecting multiple states. It is incredibly challenging to coordinate resources and knowledge sharing amongst states and local jurisdictions. Congress can greatly assist states and counties with these growing threats by raising awareness, increasing funding to enhance physical security of election offices and the associated infrastructure, and supporting collaboration among election officials and law enforcement partners when needed and most appropriate.

Our institutes of democracy are under attack and while many election officials are resilient, it is stretching their capacity to operate while being threatened. I don't want to overstate this, but the important act of running fair and accurate elections is what holds a fragile democracy together. We just want someone to have our backs.

Thank you and I look forward to your questions.