

United States House of Representatives — Committee on House Administration

“Voting Safely in a Pandemic”

California Secretary of State Alex Padilla

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TESTIMONY

Good morning and thank you Chairwoman Lofgren, ranking member Davis, and members of the committee for the opportunity to speak to you today.

Thank you for convening this hearing to discuss how our elections system is responding to the pandemic. There is no more of important topic today than the health of our democracy

Even before COVID-19, the 2020 election cycle was expected to be an enormous challenge. We were preparing to defend against cyber threats and misinformation, while serving a record number of voters, and even responding to the effects of climate change. In California, wildfire season has extended into late October and November and high wind events have led to regional, proactive power shutoffs.

In my testimony today I will describe the impact of the pandemic on our state's approach to administering the election. I will describe California's plan for a safe, secure and accessible election which focuses strengthening our laws, increasing public education efforts, combating misinformation, providing clear health and safety guidance, and building partnerships across sectors. Lastly, I will give my observations and recommendations about the institution who's well-being is directly tied to the well-being our democracy – the United States Postal Service.

California held its primary on March 3rd and on March 4th our first statewide emergency declaration due to COVID-19 was issued. It quickly become clear that the pandemic would have a lasting impact. We began to hear from our county elections officials that polling place hosts and poll workers that were confirmed for November were backing out in droves.

In our March primary, schools comprised roughly one-third of voting locations. Nearly 200 polling places were in senior care facilities and another 440 were in private residences. Understandably, these types of locations will no longer meet public health guidelines. Polling places will need to be larger, to accommodate socially distanced voting booths. Most poll workers fall within the vulnerable age groups for COVID-19. A national survey of 2018 poll workers found 58% were over the age of 60. We are now in the midst of a statewide effort to recruit a whole new generation of poll workers.

I made a decision early on that to ensure voters would not have to choose between their health and exercising their right vote. California would not only expand vote-by-mail, but also maintain safe and healthy in-person voting options. In-person voting locations are important for voters to receive language assistance, use accessible voting machines, register to vote, or receive a replacement ballot.

For decades, California has been moving in the direction of more vote-by-mail. Since 1979, California has authorized “no excuse” vote-by-mail. In 2002 we allowed voters to sign up as

permanent vote-by-mail voters. In the 18 years since, vote-by-mail grew from 27% of all ballots cast to 72% in our March 2020 Presidential Primary. We knew California would be well positioned to expand vote-by-mail, but we also recognized there would still be challenges.

My office convened a working group of civil rights organizations, community groups, researchers, policymakers and local elections officials to identify challenges that required solutions. After a month of near daily meetings, we arrived at a set of policy recommendations. I am thankful for the partnership we have with our State Legislature and Governor Newsom who took swift action to issue two executive orders and two pieces of urgency legislation to implement the policy proposals developed by our working group.

As a result, California is making the following changes for the November 3, 2020 Presidential General Election that will apply to every county in California:

- Elections officials will send every active, registered voter a vote-by-mail ballot beginning no later than October 5th.
- Our “Where's My Ballot” tracking program has expanded statewide. Voters can sign up to receive email, text or voicemail notifications in 10 languages. Voters are informed of when their ballot is on its way to them from the elections official, when the returned ballot is received by the elections official and if there is an issue requiring a resolution. The program also provides data in real time allowing us to immediately identify any slow downs in mail service.
- We authorized vote-by-mail ballots, postmarked on or before election day, to be processed if they arrive up to 17 days following election day. This is still well within the 30-day window counties have to finish their vote count and auditing duties.
- Vote-by-mail ballots are allowed to be processed, beginning on the 28th day before the election. This permits counties to verify voter eligibility earlier so that ballot results can be released sooner after the close of the polls at 8:00 p.m. on election day.

We also established an alternative model for in-person voting for counties that cannot maintain the same level of in-person voting locations they had in our March primary:

- Counties may consolidate polling locations up to one location for every 10,000 registered voters. In prior elections, the maximum consolidation was one location for every 6,000 registered voters.
- Consolidated polling locations must be open, at a minimum, for 8 hours per day beginning the Saturday before the Election and from 7:00 a.m. To 8:00 p.m. on election day.
- Counties must provide one ballot drop off location for every 15,000 registered voters starting the 28th day before the election.
- Require counties to solicit public comment for a period of 10 days on the proposed locations of consolidated polling locations and ballot drop off locations.
- Require each county to conduct a voter education and outreach campaign.

This alternative model is not new to California, in fact it is based on our Voter's Choice Act which features a vote center election model. This law was inspired by our neighbors in Oregon,

Washington, Nevada, Utah and Colorado who were offering expanded vote-by-mail options or more early, in-person voting or both. The Voter's Choice Act has already been adopted by 15 of our counties, representing half of our registered voter population. Our experience with the Voter's Choice Act has prepared us to assist all of our counties as they adjust to the changes to election administration for November.

For the November 2020 election, even with our decades long experience with vote-by-mail and, more recently, vote centers, educating the public about the changes to our elections was a key recommendation from our working group. Our state legislature and Governor appropriated \$35 million for my office to conduct a statewide voter education campaign. We are also dedicating \$12 million of our CARES Act funds for counties to conduct their local public education efforts.

Our funded public education effort will build upon our Vote Safe campaign which we launched in July. Our Vote Safe campaign aims to:

- Encourage voters who can, to vote-by-mail or vote early in-person. This will help minimize crowds at polling places on election day.
- Educate first time vote-by-mail voters about each step of the vote-by-mail ballot process.
- Encourage all registered voters to sign up for our "Where's My Ballot?" ballot tracking tool.
- Ensure that all communications, outreach and advertising is culturally and linguistically competent and responsive to our diverse electorate. California offers elections materials in 27 languages as required by federal and state law.
- Ensure voters understand that voting-by-mail is safe, secure and that state and county election officials are taking the necessary steps to ensure in-person voting is also safe and available for those voters who need in-person services.

The state funding will significantly amplify our reach to voters through advertising, but we are also making direct contact to voters through email. Our voter registration database contains nearly 7 million emails which we are using to inform voters of the changes as well as the tools available to them. The emails have been highly successful, for example an email we sent in July reminding voters to check their voter registration information led to over 200,000 voters verifying their voter registration in the first 24 hours.

We are also leaning into our Democracy at Work program which partners with public and private entities to promote voter registration and voting to their employees and customers. This year we are expanding the partnership to include poll worker and voting location recruitment. Our partners range from healthcare providers to charities, to technology companies and sports teams. We have had a tremendous response from California's major and minor league sports teams who are stepping up and engaging their fans and employees. You may have recently seen that the Los Angeles Dodgers became the first Major League Baseball team in the nation to host a voting location. Go Dodgers!

We recognize that different voters may experience the changes to this election differently. For example, college students in California will be remotely learning and many no longer living on or near campus. This means they may have temporarily moved back with their parents or moved altogether since March. Several years ago, we established MOU's with each segment of higher education; the University of California, California State University, California Community Colleges, and private institutions. We partner with each system to communicate directly to

students via emails from the administration or information posted to student portals. We will continue to expand these types of partnerships with entities that serve voters who will most affected by the changes to the election.

Public and private partnerships are import for elections officials to augment their capacity, but funding is critical for us to succeed. I want to thank you for the recent appropriations of election funding from the Help American Vote Act (HAVA) and the Coronavirus Aid, Relief, and Economic Security (CARES) Act. We will be using these funds to ensure our county elections officials will have the equipment, technology, materials, staffing, training, facilities, and personal protective equipment (PPE) to administer a safe and secure election.

Given the supply challenges we saw with PPE during the early days of the pandemic, my office took a more centralized approach to procurement. In July, we surveyed our 58 counties to understand their PPE needs. We coordinated with our State Department of General Services for bulk purchases. We are now utilizing our State Office of Emergency Services to deliver the PPE directly to each county. Federal funding is critical so that all states can have sufficient supplies to protect election workers and voters.

California has been fortunate to have the support of our state legislature and Governor. Prior to COVID-19 we secured \$450 million in state funding to modernize each of our county's voting systems. I am pleased to announce that this year every county in California is using new voting equipment that meets our state's latest and strictest standards for security and access. This investment in new equipment put us in a better position to implement the changes needed for the General Election.

Unfortunately, my colleagues in other states have not had this level of coordination and support. Many have not received additional state funding and states that held their primaries during the pandemic have expended most, if not all, of their CARES Act funds. Elections are already historically underfunded, and now is not the time to continue that trend. To ensure we have a free, fair, and safe election, states and local jurisdictions need funding now to address staffing, equipment, material, facility, and PPE needs. I urge you to appropriate more funding for elections as soon as possible.

We will be using a significant portions of our CARES Act funds to implement new health and safety guidelines for in-person voting. The guidelines were developed in partnership with our State Department of Public Health and using guidance issued by the US Center for Disease Control and the US Election Assistance Commission. I have submitted our full guidance along with my testimony, but I would like to highlight some top line recommendations for elections officials:

- Redesign of worksites so that all workstations, voting stations, check-in stations and other stopping points are separated by at least six feet.
- Adding partitions and visual cues—such as floor markings, colored tape, or signs—to remind workers and voters and guide them to maintain appropriate distancing.
- Where physical distancing cannot be maintained, consideration of acrylic, plexiglass or other physical barriers that separate airspace. This may be a viable strategy to ensure capacity of voting stations and check-in stations in voting locations with limited space.

- Sanitizing and deep cleaning of voting locations before, during and after the November 3, 2020 General Election.

In addition to recommendations, we are requiring counties to:

- Provide protective equipment to county elections employees and elections workers.
- Make disposable face coverings and hand sanitizer available to voters and observers who arrive without them.

Our guidance also address the how to respond to people who refuse or cannot wear a face covering. We advise that those voters should be asked to use a voting station with additional physical distancing to protect the safety of all voters and poll workers. We are concerned about the rise in violent incidents around facial covering requirements. We will not be requiring voters to wear facial coverings, but we are preparing more detailed guidance and training for elections officials to deescalate tense situations. Ample training of poll workers is critical to a smooth and successful election. We will continue to engage counties on this topic to ensure they have the resources and guidance they need.

Unfortunately, COVID-19 is not the only virus elections officials are up against. The increasing volume of misinformation about how, when and where to vote will have a enormously detrimental effect not only on our response to the pandemic but to the future of our democracy. I am proud to say that California is leading the way in combating these attacks. In 2018, my office launched the “Vote Sure” campaign to monitor and counter election misinformation. Specifically, misinformation related to the time, place, and manner of voting. The campaign was a success in the midterms and was recognized by the National Association of Secretaries of State with their 2020 IDEAS (Innovation, Dedication, Excellence and Achievement in Service) Award. This year election misinformation already appears much more widespread and focused on discrediting the very means elections officials are using to protect voters.

Widespread attacks, fueled by President Trump, on the integrity of vote-by-mail and ballot drop boxes seek to undermine public confidence in our elections. This misinformation is baseless and is easily disproved by numerous reports and studies that voter fraud and vote-by-mail fraud is rare and isolated. A recent study by MIT Professor Charles Stewart II and Amber McReynolds CEO of the National Vote at Home Institute and a one of your witnesses today, found that vote-by-mail fraud accounted for 0.00006% of all ballots cast over a 20 year period. In California's 2008 Presidential Elections, which still holds the modern record for turnout, 41% of eligible voters did not cast a ballot. Our democracy has a voter participation problem, not a voter fraud problem. Nonetheless, California is prepared to counter any and all misinformation and defend the integrity of tens of thousands of county employees and poll workers who administer our elections.

I am deeply concerned about recent changes to the US Postal Service. On August 10th I wrote Postmaster General DeJoy expressing my opposition to the sweeping policy changes he had announced, especially this close to an election. Here is why that is important: In less than 3 weeks, ballots will begin to be mailed out to military and overseas voters, the very people defending our democracy. We must be ramping up USPS resources, not eliminating them. While the Postmaster General stated that he would suspend those changes, he has so far refused to take any steps to undo the damage already done.

I urge the US Postal Service to put back online each mail sorting machine and to put back each mailbox that has been removed since the start of the pandemic. Instead of making hasty decisions that will hurt voters, I recommend that the USPS share the best practices that states like California have learned over the years working side by side with postal workers and letter carriers.

California elections officials have developed strong relationships and established coordinated procedures with Postal Service leaders to ensure every vote-by-mail ballot is mailed and returned in a timely manner. My office currently meets weekly with Postal Service representatives to identify, discuss and resolve issues. These dedicated Postal Service professionals understand the importance and urgency of election mail.

We rely on U.S. Postal Mailpiece Design Analysts to review and approve the design of vote-by-mail envelopes and other election materials in order to ensure machine comparability and seamless delivery. Our county elections officials use the postal service's Official Election Mail Logo, allowing postal workers and carriers to easily recognize vote-by-mail ballots as essential election mail. We work with the postal service to inform each mail plant of the vote-by-mail period and examples of what local vote-by-mail ballot envelopes look like to ensure they are given priority and processed in a timely manner.

We train our staff and county election officials to report problems through dedicated web portal to ensure the U.S. Postal Service has real-time, awareness of any problems. During the vote-by-mail period, postal workers conduct daily sweeps of processing areas and require staff to certify that no unprocessed ballot mail remains. And this fall, for the first time, every county in California will offer a ballot tracking service for voters, an effort that requires continued coordination with our postal representatives and election officials to implement the use of Intelligent Mail Barcodes. A focus on engaging states that are expanding access to vote-by-mail and assisting them to adopt these best practices will benefit citizens far more than the disastrous changes implemented by DeJoy that threaten voters' ability to participate in the November election.

California provides each vote-by-mail voter with postage prepaid return envelope using Business Reply Mail, which is first class mail. Additionally, the changes we made for November such as extending our law to allow ballots to be postmarked by Election Day and count if they arrive within 17 days as well as providing ample numbers of ballot drop off locations are important protections against USPS changes. However, election officials must remain vigilant. This is why on August 21, I toured the largest USPS mailing plant in the US. I would like to share with you my observations.

While important physical distancing and other health and safety measures have been implemented, COVID-19 has had a significant impact on the postal service workforce, forcing many employees to miss time. I was told this USPS facility is trying to quickly hire and train hundreds of new employees in an effort to meet mail processing needs.

I was also told there has been a significant decrease in letter volume and a significant increase in parcel volume since the beginning of the pandemic. While some of the adjustments made to accommodate the increase in parcel processing and delivery might make sense short term, the volume of letter mail will significantly increase in late September and October with the delivery of ballots (both to voters and from voters back to their county elections office), State and County Voter Information Guides, and political mail from candidates and campaigns.

Before the COVID-19 pandemic, this processing facility routinely handled approximately 5 million letters. During COVID, the figure is closer to 3 million. While not every voter in Los Angeles County receives their mail from this facility, it does serve more than half of Los Angeles County households. The addition of millions of ballots and elections materials in the course of just a couple of days represents a significant increase in volume for a short window of time.

The ability for the USPS to effectively respond to the surge of vote-by-mail in late September through early November will rely on:

- Working closely with state and local election officials to disseminate best practices
- Approval of overtime for current employees
- Expanding the workforce
- Expanding mail sorting capacity
- Increasing the number of mail boxes

California has done our best to adjust our laws and prepare elections officials for more vote-by-mail, but we do not control how that mail will be delivered. We need your help to ensure a healthy and strong USPS. Any reductions in postal service during a national public health crisis and an election year are unconscionable. It is hard to see the changes at the Postal Service as a cynical political strategy that attacks on a key pillar of American society.

The pandemic and the attacks on the integrity of our elections and our postal service by the current President of the United States pose unprecedented dangers to elections officials and voters. To protect our democracy from these threats, states and local elections officials must act now and California provides a template for action. This body can provide the necessary resources to ensure a safe and secure election. Lastly, Congress must hold President Trump and the Postmaster General to account for their deliberate and reckless assault on voting rights. We must protect our democracy and our elections at all costs – we cannot fail our fellow Americans.

Thank you.