

Thank you Chairwoman Fudge and Ranking Member Davis for the opportunity to address the subcommittee. You have taken a leadership role amidst the COVID-19 epidemic. For instance, the HEROES Act included key provisions to streamline election administration, provisions that your committee authored. Your subcommittee also conducted a thought provoking and informative oversight hearing in Cleveland last year that I had the pleasure to participate in. Thank you for your leadership.

Democracy in Crisis

Americans have fought and died for the right to vote. The civil rights and women's suffrage movements made voting rights a cornerstone for generations of activism. Hard-fought policy gains in favor of equality are premised on underrepresented communities' access to the franchise. At a time of tremendous uncertainty, the franchise is in danger.

President Trump and his allies are trying to undermine confidence in absentee voting, and by association, our electoral system. Let me be clear, this is a transparent attempt to delegitimize election results. In addition, Jared Kushner, a senior aide to the President has been speaking about moving the November general election, as if choosing November 3, 2020 were at the Presidents discretion.¹ That somehow, twitter battle one liners give the President the right to move an election, and to keep himself in office longer than the Congress and Constitution prescribe.

We must rise above these partisan optics and ensure that every American has equal access to the ballot.

Ohio Primary Day

The timing of Ohio's primary election placed Ohio in the cross hairs. Our primary election, March 17th, 2020, was just days after President Trump declared a national emergency on March 13, 2020,² and meant the public had almost no notice to prevent election day from turning into a COVID-19 spreading event. As the scale of the epidemic became apparent, Ohio Governor Mike DeWine acted to postpone in person voting. Unfortunately, this set off a chaotic series of events that placed our most fundamental right, the franchise, in jeopardy.

The first attempt to cancel in person voting on March 17, 2020 by using the authority of the State Courts failed. Instead, the Governor relied on the authority vested in the State through the legal authority of the Ohio State Health Director, Amy Acton to postpone the election.³ Chaos ensued as the litigation stretched into the night, and voters did not know whether the polls would be open or closed.

Eventually, the primary was rescheduled to April 28, 2020, with nearly 2 million voters requesting absentee ballots.⁴ This created an enormous surge that local election officials did not

¹ <https://www.washingtonpost.com/nation/2020/05/13/jared-kushner-election-delay-coronavirus/>

² <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>

³ <https://www.dispatch.com/news/20200316/coronavirus-ohio-supreme-court-allows-delay-to-primary-election>

⁴ <https://www.ohiosos.gov/media-center/press-releases/2020/2020-04-27/>

have the capacity to manage. Unfortunately, despite an unprecedented number of requests, data compiled by Five Thirty Eight indicates voter turnout on the April 28, 2020 primary, 20% was well below historic average.⁵ This may have been due to the additional steps required to request a ballot, ballots being delivered too late,⁶ or delays in the postal service that prevented timely delivery of ballots.⁷

Preparing for November

In addition to this flood of logistical challenges, Ohio is under water as a result of the increased costs to conduct an election under unprecedented circumstances. With unnecessarily restrictive voting laws, and a legislature that is resistant to broad flexibility, we are caught in the vice of laws designed to make voting more restrictive. A recent study by the Brennan Center (who you will hear from in the next panel) estimated that Ohio and its localities would now bear as much as \$82 million in unplanned costs before November.⁸ These new costs are largely being shouldered by localities that are facing their own massive budget shortfalls.

The CARES Act allocated \$400 million for elections grants to the states, and \$12.8 million to Ohio. Unfortunately, these funds left a major gap as state and local governments brace for major budget cuts.

Next Steps

If the Republican controlled Senate does not do its work and get HEROES over the legislative finish line, with its \$3.6 billion for State and Local governments for election assistance, jurisdictions in my state will have to cut major corners that will not only place the franchise at risk, but will make it more likely that the General Election will be a mass spreading event.

I believe that the United States Commission on Civil Rights, a bipartisan and congressionally chartered organization can serve congress as a fact-finding agency to ensure the fall election is conducted with vigor, and that our franchise is protected.⁹

The challenge is great, but Congress has the tools to prevent a repeat of Ohio's primary election chaos. We have five months to invest in our institutions and to turn the corner in this moment of chaos and to empower our nation. Our democracy has never seen a threat like this. With tens of millions newly unemployed, with more people taking to the streets—too many Americans feel voiceless.

We therefore have an obligation to use every step in our arsenal to administer a universal, free, safe and fair fall election.

⁵ <https://fivethirtyeight.com/features/what-went-down-in-ohios-primary/>

⁶ <https://www.daytondailynews.com/news/local/local-voters-didn-get-requested-ballots-changes-called-for-november/tfn0q4MUbxoHEAVNrXY2nL/>

⁷ <https://www.cleveland.com/open/2020/04/ohio-elections-officials-mail-delays-could-result-in-voters-not-getting-ballots-before-april-28-primary.html>

⁸ https://www.brennancenter.org/sites/default/files/2020-04/2020_04_5StateCostAnalysis_FINAL.pdf at 9

⁹ https://www.usccr.gov/pubs/2018/Minority_Voting_Access_2018.pdf