



# Restoring Confidence in American Elections

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## INTRODUCTION

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Ideally, voting rules and processes in mature democracies should be stable over time and instill high public confidence in the outcomes of elections. That is not the case in the United States currently. The electoral features embedded in the federal Constitution have stability, but they are under unprecedented stress in the highly polarized United States of today. State and local rules concerning the time, place, and manner of elections are constantly in flux and often gamed for partisan advantage. Election controversies and rhetorical challenges to the reliability of US elections have become more frequent, visible, and intense in recent years.<sup>1</sup>

Since the 2000 election, proposed bills about election administration reforms have strongly diverged along partisan lines, with Republicans prioritizing “election integrity” with additional protections to guard against voter fraud and Democrats seeking to expand voter participation by making it easier to vote. The core division over election reform is often now characterized as “fraud versus suppression,” and the partisan gap on this issue is wider today than in the past. Public faith in the accuracy of US elections is currently at an historic low, with more than 30 percent of the population doubting the accuracy of elections. If unaddressed, this could severely undermine the US political system and its form of government, which is rooted in the peaceful transfer of power.<sup>2</sup>

The question we address here is whether there is some common ground across party lines on these election administration concerns. As a first step in this inquiry, we give a brief overview of the evolution of US election administration disputes to provide some historical perspective. We then review common myths and misunderstandings that pervade the current public dialogue about these matters and what they portend for restoring confidence in the US electoral system. Lastly, we put forward four topics that have the potential for bipartisan agreement.

## A TOXIC PARTISAN BREW

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The current battles over election administration did not ignite in a political vacuum: the modern context has shaped the stakes and lines of division over the rules and conduct of elections. The security versus participation paradigm reflects the general polarization trend in US politics and inflames it. Some specific aspects of election administration that make it ripe for polarization are the invisibility of many election procedures to most voters, rules inconsistencies caused by strong federalism, strong partisan cognitive screens, higher rewards for small tactical advantages due to close contestation, and campaign professionalism.

Election administration issues fall into several general categories: rules establishing voter eligibility, procedures for casting ballots, and methods of determining winners. They have been shaped by core structural features of US government, evolving political conditions, and the advent of internet communications that have transformed political dialogue and communications. Nineteenth-century reforms such as the adoption of the secret ballot or the extension of voting rights to the African American population were indisputably consequential. Twentieth-century reforms instituted direct elections for the US Senate, regularized voter registration processes, and expanded suffrage to include women and eighteen-year-old citizens. By comparison, the post-2000 election issues have been in the weeds of election administration; for example, the kinds of documents needed to check voter eligibility, rules for easing absentee/mail voting, the number of days for early voting, ways to reduce long lines at polling stations, activities that should be allowed around polling areas, the kinds of machines that should be used to record and tabulate the vote, and the merits of different ballot designs or vote recounts.

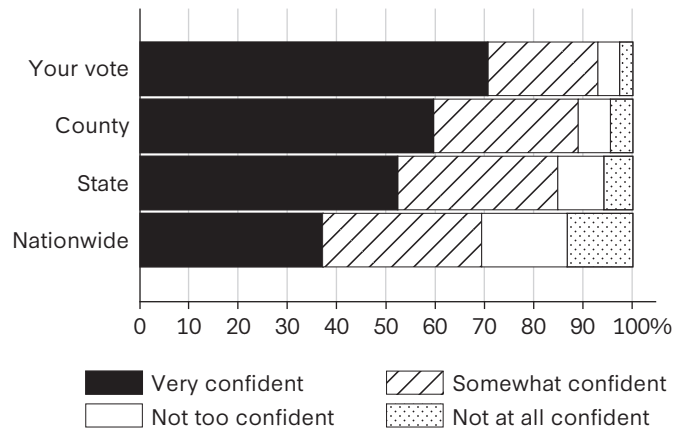
### INVISIBILITY OF VOTING PROCEDURES TO THE PUBLIC

Issues such as who should be able to vote are easy to understand and appreciated as significant, whereas the specific details of election administration often seem to the public like “insider politics”—considerations that matter more to political consultants, activists, and politicians than to the citizenry at large. However potentially important they seem to candidates and their consultants in an era of closely competitive parties, they are largely matters about which average voters are not well informed or interested in until they become central to some highly visible election controversy.

Evidence from the MIT Election Data and Science Lab backs this up. They find that voters are mostly unaware of the many complex and specific procedures that election administrators follow.<sup>3</sup> In some instances, the procedures that voters thought would give them more confidence in the election process were already in place. What voters know best is what they experience, and they mostly express high levels of satisfaction—90 percent and higher—with their personal voting experiences and high levels of confidence in their local election officials, even as election disputes in state legislatures and Congress have become more acrimonious and contributed greatly to doubt about whether officials from the opposing party were conducting elections as accurately as officials from their own party (see figure 1).<sup>4</sup>

**FIGURE 1** Confidence in the vote count

How confident are you that votes [at level] were counted as intended?  
2022 respondents



**Source:** Charles Stewart III, using data from the 2022 Survey of the Performance of American Elections, MIT Election Data and Science Lab.

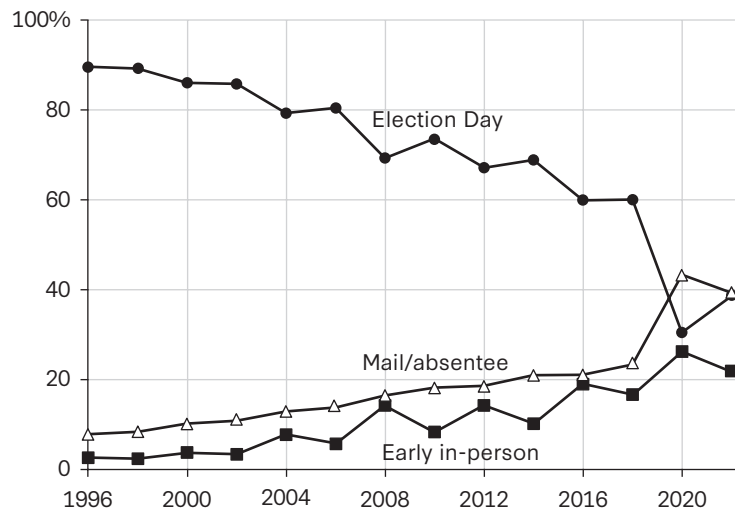
This mirrors what political scientists have shown about public attitudes toward government generally: with few exceptions, most voters are far less attentive to what goes on in government than are activists, interest groups, and politicians and have more confidence in their local public officials than those in other states or at the national level. In short, people have more confidence in the level of government that is most visible to them. Trust and geographic and experiential distance are inversely related, creating ample room for politically motivated distortion and misunderstanding about other states and the national government. The current legitimacy crisis over US elections may be more reflective of what voters learned from news coverage, social media, and online sources of information than what they personally experienced.

### **RULE INCONSISTENCY AND STRONG FEDERALISM**

This confidence gap between local versus national election processes is exacerbated by structural features of the US political system and deteriorating political conditions. The decentralized delegation to the states of many procedural details for state and federal elections means that voters are often surprised to learn that other states have different rules. More than ten thousand jurisdictions are responsible for the casting, counting, and certification of their communities' votes. This means, for example, that a voter residing in a state that requires a notary to verify a signature on a mail-in ballot would be less accustomed to and hence may be more suspicious of absentee ballots in states that do not require the same kind of verification. A voter in a state that allows same-day voter registration might regard another state that requires voter registration four weeks before an election as overly restrictive.<sup>5</sup> Adding to electoral suspicion, the United States, unlike most advanced democracies, allows many more government officials to be elected on a partisan ballot.

The United States' strong federalist structure may also be a contributing factor to the rise of convenience voting, an increasingly popular but controversial method of balloting. Because

**FIGURE 2** Trends in how people voted



**Source:** Charles Stewart III, using data from the Census Bureau, Voting and Registration Supplement, 1996–2020; SPAE, 2022.

the United States has so many elections at all levels of government, voters in many states must fill out very long and complicated ballots, especially in the direct democracy states where referenda or initiatives are permitted. Understandably many citizens now prefer the convenience of voting at home and dropping the ballot off at a voting center, rather than navigating the long lines while waiting for other people to work their way through the lengthy list of choices on Election Day. Even before the public health emergency led to the expansion of the use of mail-in ballots during the pandemic, mail-in voting was growing in popularity (see figure 2).

### **STRONG PARTISAN COGNITIVE SCREENS**

In addition to these structural features, current political conditions have also magnified acrimony around seemingly small procedural and bureaucratic details of vote administration. Heightened political polarization in recent years has strengthened the party line on voting methods, as evident, for instance, in the controversy over in-person voting on Election Day versus mail-in voting. For most of the postwar era, mail-in voting was called “absentee ballot voting,” because these ballots were granted to people who could claim travel or incapacitation as a reason they needed to vote by mail. Better-educated, wealthier voters, and overseas military voters, many of whom leaned Republican, took greater advantage of this opportunity for many decades. Because absentee ballots were reported out first on Election Night, it was common for the early results to show Republican leads that lessened dramatically over the course of the evening as Election Day results from the precincts came in. When the rules for mail-in voting loosened, the Republican advantage in absentee ballots dropped, resulting in what has been termed a “blue shift” in the vote totals because many of the increasingly Democratic mail-in ballots are counted after in-person voting has ended. The duration of the counting process increases with the growing number of people choosing the mail-in option, particularly in states that either do not process their mail-in ballots until Election Day itself or allow valid mail-in ballots to arrive afterward.

**TABLE 1** PARTISAN DIFFERENCE IN THE USE OF MAIL-IN VOTING

|      | <b>Dem - Rep Diff.</b> |
|------|------------------------|
| 2008 | -1.1 points (n.s.)     |
| 2012 | 2.3 points (n.s.)      |
| 2016 | 2.7 points             |
| 2020 | 24.2 points            |
| 2022 | 15.0 points            |

**Source:** Charles Stewart III, using data from the 2022 Survey of the Performance of American Elections, MIT Election Data and Science Lab.

As table 1 from the MIT Election Data and Science Lab shows, the so-called Democratic Party advantage in mail-in ballots peaked significantly in 2020 and was still large in 2022, likely in part because President Trump’s negative rhetoric about mail-in ballots caused Republicans to choose in-person voting or just not vote. Delayed counts that favor one party over the other, even for valid policy reasons, greatly annoy the media and undermine public confidence in the electoral process, a point we return to in greater detail later in this analysis.

The growing partisan divide on voting rules is also reflected in the pattern of new voting laws proposed by each party in the states, especially as one-party control of state governments has increased.<sup>6</sup> Democrats generally propose laws that provide more opportunities for people to vote with fewer requirements, whereas Republicans prefer laws that provide more checks to make it harder for potentially ineligible individuals to vote.<sup>7</sup> The result is significantly more litigation over election laws, as well as a ramping up of partisan campaign rhetoric over “fraud” or “suppression” in get-out-the-vote messaging, all of which contribute to more partisan polarization in the country as a whole.<sup>8</sup>

## CLOSE CONTESTATION

Partisan fights over election procedures are not novel and are certainly more intense when the races are closely contested. If the margin between two candidates in the initial count is narrow, many states mandate recounts; in other states, losing candidates can ask for recounts and contest the determination in court. Ironically, the raw number of contested congressional seats has generally dropped in recent decades due to geographic sorting—that is, natural partisan clustering—and redistricting practices.<sup>9</sup> The aggregate parity of the political parties nationally in the modern era makes each of the increasingly small number of competitive races more salient and important. It also enables partisan resources to be concentrated more efficiently and effectively where they matter most, magnifying the importance of every tactical advantage. In the past, major party candidates and their supporters accepted the results of recount

determinations after they exhausted all legal avenues,<sup>10</sup> but since 2020, Donald Trump, Kari Lake, and others have carried their challenges forward, vigorously questioning the process and the results. This undermines the system's capacity for closure and public confidence in the integrity of the electoral system.

## **ASYMMETRY BETWEEN CAMPAIGN PROFESSIONALS AND LOCAL ELECTION OFFICIAL RESOURCES**

The traditional media historically was an ally for rapid closure, eager for ratings reasons to announce election totals and declare winners as quickly as possible. This eventually led to embargoes on results until the polls closed. Conversely, the incentives of social media and celebrity candidates work against closure. Rumors about mistakes or possible voting machine malfunctions spread during the day more rapidly and extensively than ever.<sup>11</sup> Electoral drama keeps followers on websites and helps raise small-money donations for politicians who fan the ensuing outrage. Unchecked misinformation can cause voters to stay home, go to the wrong polling place, or question the accuracy of results. Election officials would like to counter the rumors, but rarely have the time or personnel to correct online misinformation because they are busy handling activities in the polling places and processing ballots to be counted that night.

The asymmetry between election offices that rely heavily on volunteer poll workers and the campaign organizations that control tactical decisions has increased as US campaigning has professionalized.<sup>12</sup> Campaigns rely less on volunteers than in the past and more on professional assistance for everything, including get-out-the-vote drives, whereas often underfunded local election offices are dependent on older volunteers to run their polling place operations.<sup>13</sup> Election administration mistakes are inevitable and more likely than ever to be noticed by the professional campaign staff, attorneys, third-party groups, and poll watchers who are mobilized in full force for elections. The consultant norm is to do whatever it takes for the client, including by finding tactical advantages in the details of voting procedures or by swamping election officials with data requests when it serves their client's interests. Instances of suing or physically threatening election officials are on the rise.<sup>14</sup> Election officials are increasingly vilified by those who are unhappy with the outcome. Consequently, many have quit, raising concerns about who will replace them.<sup>15</sup>

## **COMMON MYTHS EXAMINED**

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When issues become politicized, it becomes harder to separate fact from fiction. This serves the purposes of political mobilization nicely but makes the task of finding common ground based on solid evidence and common goals more difficult. In this section, we outline some assertions that are, at least to some significant degree, myths and, based on available scholarly evidence, ask how clarification of them might improve the prospects of forging more bipartisan consensus and lead to increased public confidence in the US electoral system.

## **MYTH 1. US CITIZENS HAVE LOST FAITH IN THE AMERICAN ELECTORAL PROCESS**

Although we have touched on this issue already, confidence in the accuracy of election results deserves further consideration. President Trump’s assertion that the 2020 election was rigged and stolen was premised in major part on the claim that the expanded deployment of mailed ballots under the pretext of COVID-19 protection created opportunities for widespread voter fraud by the Democrats that ultimately caused him to lose to Joe Biden. Even after these claims—along with assertions of fraudulent ballots being cast by illegal or nonexistent voters—were rejected by numerous federal and state courts, Trump supporters still maintain to this day that the Biden victory was not legitimate.<sup>16</sup>

The question of whether emergency measures such as those deployed during the COVID crisis should be invoked in future circumstances, by whom, and for how long is something that reasonable people can debate.<sup>17</sup> Whatever their health benefits, we learned that those emergency measures had potentially serious political consequences. Allowing an expansion of mail-in ballots in the context of the pandemic can plausibly be argued by partisans as having helped one party more than the other. Thus, one lesson from this is that it would be better to spell out the process and conditions for emergency measures well in advance of any crisis, thereby putting these choices behind a stronger “veil of ignorance” concerning likely political impacts.

Although Democrats had fewer objections than Republicans to the 2020 electoral processes, they still had concerns about the overall fairness of the electoral system under which they had to operate. Many feared that small state overrepresentation in the US Senate, the Electoral College, and aggressive partisan congressional redistricting by Republicans had created an insuperable disadvantage for their candidates in the 2020 and 2022 elections. In the end, however, those fears were not realized. The Democrats won control of the US Senate in 2020 (albeit with the vice president as the tiebreaker) and in 2022, and the Republican redistricting bias in 2022 turned out to be minimal due to Republicans opting to protect their incumbents rather than expand their seat share and to the offsetting impacts of redistricting plans favoring Democrats in blue states.

This is a reminder that rule advantages can be swamped by other factors such as economic conditions, pandemics, bad candidates, or hot issues. Moreover, marginal rule biases are typically ephemeral in any case. Eliminating all system biases is impossible, but counting on them to be small and offsetting across the states prevents an accumulation of bias against any one party.

Political actors and avid supporters are largely incapable of separating their feelings about the rules and processes from their fate in the most immediate election. As with the debates over the Senate filibuster, the position that political people take on institutional issues depends on where they sit at that moment in time. When their team wins, the rules look good to them, and when they lose, they call for change. It does not take deeply political people very long to abandon seemingly strongly held views when it suits their interests. Republican political

consultants, for instance, have already indicated that they will make full use of the mail-in ballots in 2024 that they complained about in 2020.<sup>18</sup>

As for the actual processes of voting, most voters, as we saw earlier, had positive experiences with voting in 2022 in terms of finding the right polling place, dealing with election machines, interacting with poll workers, and the like, according to the MIT Election Lab data. Most voters also had high confidence in their own state's and especially locality's voting processes as opposed to those in other states or the nation as a whole: this suggests that the lack of confidence in the national electoral system is more influenced by what some voters read and watch than by what they experience.

That electoral system confidence is partly a function of who wins and losses, that it can change from one election to the next, and that it may not reflect personal experience as opposed to what voters are told by an increasingly partisan media have implications for what anyone can do to improve voter confidence in elections. It understandably distresses election officials to hear that there are significant numbers of voters (approximately 30 percent) who are not sure that the election results will be accurate.<sup>19</sup> Election officials face the hard choice of either ignoring or minimizing the public confidence problem and then dealing with the increasing amount of litigation and controversy that attends each new election or, instead, investing a great deal of their scarce time and resources into public outreach that might instill marginally more confidence in the accuracy of their election systems.

Given that the confidence problem is not widespread but rather is concentrated at present in certain groups, it would seem more cost effective to target outreach messages and efforts to enhance public confidence to the minority of skeptics. But whether messaging will really convert many skeptics is an open empirical question, especially because a significant number of election officials have declared partisan affiliations.

## **MYTH 2. EASING OR ENHANCING RULES ABOUT VOTING CREDENTIALS FAVORS ONE PARTY OVER THE OTHER**

A good deal of the earliest Anglo-American electoral reform efforts centered on eliminating material corruption in elections. Secret ballot and antibribery laws were adopted to curtail the widespread and corrupt nineteenth-century practices of treating voters by offering food, drinks, or money for voting; rewarding loyal voters with public sector jobs in return for their votes; or intimidating potentially disloyal voters. The secret ballot made it difficult to ascertain whether a voter lived up to the contract with the briber. Civil service rules limited patronage. And laws limiting caging (i.e., challenges to the validity of someone's right to vote) and demonstrations around polling areas protected voters from coercion and harassment. Without reliable ways of identifying whether a potential voter meets the qualifications for voting, however, voting outcomes could still be corrupted by a widespread, coordinated impersonation voting and ballot-stuffing effort. The solution initiated during the Progressive Era and carried out throughout the twentieth century was to implement stricter election administration procedures, including more formalized registration requirements, official voter lists, and administrative checks such as signature and residence verifications to assure vote integrity.



Keeping track of citizens in a dynamic society, however, is no simple task. Between elections, new people become eligible to vote, some die, and others move across state and local boundaries. Registration lists become less reliable over time unless they are constantly updated, providing seemingly ripe opportunities for individuals to impersonate those who have died or moved away. In addition, because voter eligibility rules vary from state to state and even change over time, some voters become confused about or misled into believing they are eligible to vote when in fact they are not; a few individuals may even try to vote fraudulently. Election workers can also make mistakes, such as purging eligible people from the voting rolls who should be retained. In a perfect world, there would be no election worker mistakes of this kind or individuals who are so irrational as to try to vote more than once. However, in the underfunded, quasi-professional world of election administration, these mistakes and fraud happen. But do they happen in large enough instances and in a sufficiently coordinated manner to affect electoral outcomes?

People may vote wrongly by mistake or intentionally. There are instances of both in most elections, but the critical question is whether either type of ineligible voting occurs in any frequency or in large enough numbers to alter electoral outcomes. Allegations about voter fraud have grown consistently over the last fifty years and have led to actions some courts have found overzealous.<sup>20</sup> The frequency of charges and countercharges has accelerated since the 2000 election as politics has become more polarized. Efforts to make voter registration easier, such as the 1993 motor voter law, or to make casting a ballot more convenient, such as voting by mail (VBM), may have had the unintended consequence of increasing voter fraud suspicions. Lowering barriers to entry into the electorate seemed like it might make voter impersonation easier. Isolated instances in every election cycle of individuals voting fraudulently or mistakenly feed fraud suspicions. The Heritage Foundation Election Database, for instance, keeps tabs on “recent proven instances of election fraud,” although the number of actual cases is strikingly small.<sup>21</sup>

Indisputably, some people are guilty of voting or trying to vote when they should not in almost every election cycle. The critical question, however, is whether these individuals are part of a coordinated scheme to steal an election and whether the guilty individuals had the intent to commit fraud. As Professors Gimmer and Hersh point out in their article, even from a purely mathematical point of view and assuming coordinated efforts that are hard to conceal, the risk-reward calculation of voter fraud is not rational: you get small net changes in federal and state contests when hundreds of thousands or millions of ballots are cast.<sup>22</sup> The same restrictions can affect less well-educated and informed voters, so that loss must be netted out. Given the recent coalitional shift of less-educated, lower-income, and more alienated voters into the Republican ranks, strict security measures that present barriers to voting could work against their party more than the Democrats in future elections.<sup>23</sup>

Neither large-scale “ballot integrity” nor “voter protection” programs by political entities nor academic studies have yet to find much beyond scattered individual violations as opposed to large, coordinated fraud efforts.<sup>24</sup> All the cases brought by President Trump alleging widespread fraud in the 2020 election failed to convince any court.<sup>25</sup> The 2020 Trump campaign and the Republican National Committee claimed they had a fifty-thousand-person poll watcher

army, but it did not produce any cognizable evidence for the lawsuits or support for the allegations.<sup>26</sup> The Brennan Center webpage compiles thirty-nine articles and various court opinions that investigated voter fraud claims: most were due to misunderstandings and mistakes on the part of the voters and election administrators and not orchestrated campaigns. That said, there is a recent example of an illegal coordinated effort to harvest mail-in ballots for a congressional race that led to a 2018 criminal conviction of a political consultant under North Carolina law. In an era of bitterly contested partisanship, a few consultants and candidates will be tempted to go over the line, and it would be foolish to assume otherwise.<sup>27</sup>

Short of a coordinated effort by political operatives, it is implausible that an individual could change the outcome of congressional or presidential elections by voting more than once. The odds of a person's vote being determinative of any election outcome are infinitesimally small. The so-called paradox of voting—why anyone should even bother to vote given the odds that any one vote would be decisive are so small—means that the risks of getting caught and serving time in jail generally outweigh the minute political gain. The reward for a political consultant who could successfully coordinate voter fraud is higher, but at the same time the risk of discovery rises with the number of people involved in any scheme. Electoral secrets are particularly hard to keep because of the intense scrutiny of rivals and the media.

Voter fraud allegations took a different form in 2020, focusing more on unexplained anomalies, such as Biden winning more votes but in fewer counties than Trump or Obama, than on individual cases of illegal voting. These ostensibly more sophisticated claims have been refuted by academic studies and court review.<sup>28</sup> A recent paper by Eggers and colleagues, for instance, demonstrates that many of the seeming anomalies are neither anomalies nor could be explained by the increasingly inefficient clustering of Democratic votes in urban areas.<sup>29</sup>

Believing that there is widespread voter fraud has broad consequences. A recent article by Berlinski and coauthors demonstrates that exposure to these fraud allegations can undermine voters' confidence in electoral system integrity.<sup>30</sup> Moreover, they find that these concerns cannot be easily mitigated by mainstream media fact checking. Hence, it is questionable whether voter outreach and education by election officials can persuade highly partisan voters.

Historically, the fraud discussion focused on in-person voting. However, as mail-in voting has grown in popularity, fears of impersonation and duplicate voting during mail-in elections have escalated. It shifted dramatically in the 2020 election when many states adopted wider use of mail-in voting alternatives due to the COVID health emergency. Even in 2022, Republicans across the board were more likely to think that voting fraud of various types was occurring, according to the MIT data, and were least confident about absentee voting and ballot-harvesting practices; that is, third parties collecting and depositing the ballots.<sup>31</sup> Partisan differences in perceived vote fraud increased between 2016 and 2020 across the board, including the perception that people were voting with another person's ballot.<sup>32</sup>

Anecdotally, there is reason to believe that a nonnegligible number of family members and close friends fill out ballots for others in their family or circle. But whether ballots are filled out in ways that do not represent the intended voter's views is unknown and possibly even

unknowable. State laws certainly do not prohibit friends and family from going through the ballot together and discussing collectively how to vote on measures and candidates, as often happens in states that have long ballots.

Many but not all states require some form of ballot verification, such as by signature, driver's license, Social Security number, or state-supplied voter ID.<sup>33</sup> A signature requirement for VBM at least indicates that the person who delegated the decisions to a friend or family member had given formal consent. Signature verification processes, however, vary considerably. At one end of the continuum, three states (Mississippi, Missouri, and Oklahoma) require notarization, and nine others require either witnesses or a notary. At the other end of the spectrum, nine states require signatures but do not verify them. This is one of many examples where different election rules can foster doubts about the vulnerability of US elections to fraud.

What then does all this mean for electoral reform? First, there is the question of how much effort should be devoted to convincing election skeptics that impersonation or duplicate voting occurs infrequently. On the one hand, it is dangerous to let unfounded rumors about fraud go unchallenged because they could continue to spread and eventually become mainstream. But on the other hand, for some highly partisan or ideological voters, efforts to convert their opinions on these matters are likely to be futile. We need to understand better how many skeptics are potentially persuadable and what it would take in terms of messages and who delivers them to have the most efficient impact. Second, we need to know more about how much rule variance contributes to voter distrust of other states' election procedures. Although it is unlikely at this time that Congress could pass a bill that addresses differences in rules for federal elections, it would be useful to know whether more uniformity or better explanation of the safeguards in other states would lessen concerns about election integrity.

A corollary is the impact of the pitched legislative battles that have occurred in different states and in Congress as both parties use their legislative majorities to attempt to "reform" election laws. Battles in states and Congress over laws that purport to increase or decrease turnout have been so pitched as to cause loud charges of "Jim Crow 2.0"<sup>34</sup> and "fraudulent and rigged elections."<sup>35</sup> Yet with recent scholarship showing the marginal impact of these laws,<sup>36</sup> the question must be asked whether both parties' pitched rhetoric on statutory changes is worth the cloud it creates over the fairness and accuracy of elections.<sup>37</sup>

### **MYTH 3. ELECTION MACHINES CONTRIBUTE TO FRAUD AND STOLEN ELECTIONS**

After the 2000 election revealed flaws in the somewhat primitive punch-card systems that Florida and other states were using at the time, it seemed the solution was to turn to some form of electronic voting, especially given that many Americans were doing their banking with teller machines and on online banking sites. Moving away from paper ballots and hand counts seemed the obvious modern way to go. But despite two decades of improvement in voter technology (and the inclusion of a paper trail on virtually all the electronic machines used), parts of the electorate are trying to head the United States in the opposite direction. For example, losing presidential candidates in both 2016 and 2020 cast doubts about the accuracy of

the voting machine counts, and those who doubt the accuracy of US elections pushed after the 2022 elections for all paper ballots and hand counts, despite the cost, delays, and inaccuracies that the more human enterprise would entail.<sup>38</sup>

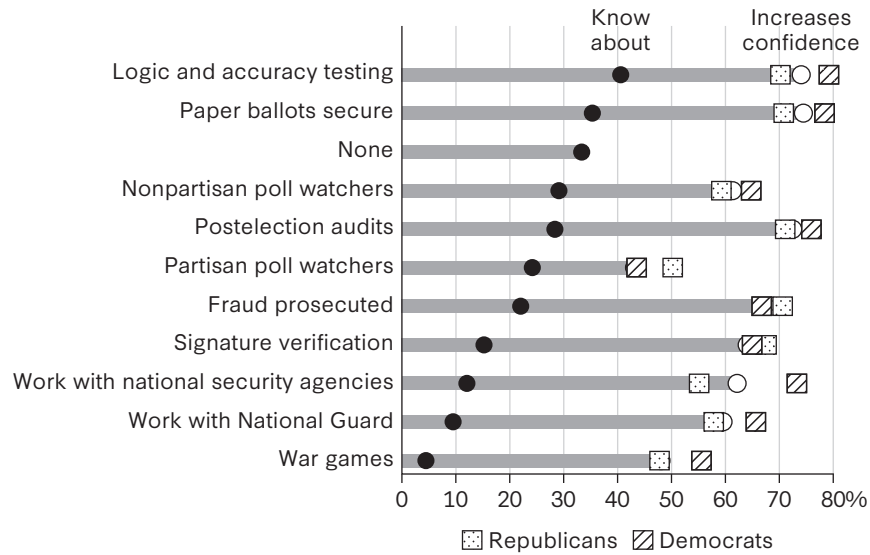
How did this reversal of perspective come about? The answer is partly about unforced errors but also about an inherent belief in the vulnerability of voting equipment to hacking of various sorts. The voting machine question differs from the individual vote fraud problem in one critical respect: whereas individual efforts to alter election outcomes run into the paradox-of-voting problem—the odds of an individual vote changing an election outcome for a statewide or national office are infinitesimally small—a computer hack at the level of several precincts could be enough to reverse a close election. And where coordinated voter impersonation or duplicative voting would have to involve many people to have an effect, a few hackers or rogue election workers could do significant damage if the system checks are inadequate.

Under the category of unforced errors, we would place some of the conflict-of-interest problems that the owners of voting systems have had in the past. One glaring example was Warren O'Dell, the chief executive of Diebold, a fundraiser for Bush who promised in a mail solicitation that he would help deliver Ohio to the Republican candidate. Although he apparently did not mean that his machines would do the trick for the Republicans, his assertion was widely construed by Democrats to imply that and undermined faith in the machines that were deployed to fix the problems in 2000. Ironically, the Diebold machines ultimately found their way through various mergers and acquisitions to Dominion, the company Donald Trump accused of delivering the presidency to Joe Biden.<sup>39</sup>

These mergers and acquisitions are causing a second problem: the market for voting machines is quite thin and is dominated by a small number of companies. Voting occurs periodically, and the only customers are local governments' election offices, which are typically understaffed and underfunded compared to other local government departments that service the everyday needs of citizens. This means that there is not a lot of market incentive to do the research and development to make these machines better or more secure. Computer scientists have warned us to be cautious about using online voting systems with face or fingerprint technology<sup>40</sup> that could expedite the counting and lower the costs of US elections but are vulnerable to hacking.

Although online voting faded as an option very quickly, machines that could record and count ballots at the precinct level seemed to be the right solution until their hypothetical vulnerabilities were exposed as well. For instance, simply replacing the memory card that stores results could allow someone to change the vote totals. Leaks of proprietary information about software and hardware design can give valuable information to those probing a computer system's points of vulnerability. Malicious software could alter the records, audit log, and counters in such a manner as to hide traces of manipulation. Rogue poll workers with access to the machines could become the agents of electoral subversion. Many of these possibilities were openly discussed by qualified computer scientists and popularized by documentaries and commission reports,

**FIGURE 3** Partisan differences in confidence in election administration procedures



**Source:** Charles Stewart III, using data from the 2022 Survey of the Performance of American Elections, MIT Election Data and Science Lab.

despite the arguments by machine manufacturers and election officials that safeguards against these actions are built into the voting systems.<sup>41</sup>

In short, a background of accumulated expert information about potential voting machine vulnerability provided fertile ground for Trump’s allegations that the election was stolen. This led to the shift in tactics previously discussed of vote deniers looking for anomalies in the voting patterns, rather than seeking individual cases of fraud. Ultimately this has led some counties like Shasta County in California to abandon machine counting altogether.

Most areas of the country have moved to a system in which ballots are filled out by hand and then tabulated by machine. Others have voters cast their votes on machines with a paper trail ballot generated in case of a recount or contest. Both systems enable a hand count of the physical ballots to check the machine count. In addition, there are many other measures to ensure that the totals are accurate. However, the MIT Lab has found that many voters simply do not know that these safeguards are in place. In figure 3, respondents were shown a list of measures that respondents were told election administrators could take and were asked whether they knew about these measures. The circles indicate that in many instances fewer than half of them did, including many Democrats and Republicans alike who said knowledge of the safeguards would increase their confidence in election processes.

This returns us to the recurring question of whether the solution is better outreach, more transparency, and robust communication. Again, there is a serious void in research that tests whether it is possible to communicate the existence of these procedures in simple and convincing terms and how much message penetration there would have to be to measurably increase voter confidence in election processes.

#### **MYTH 4. HIGHER PARTICIPATION CONSISTENTLY AND SIGNIFICANTLY FAVORS ONE PARTY**

The fourth myth is possibly the most politically fraught. The underlying premise shared by both Democrats and Republicans is that legislation that makes voting either easier or harder is electorally consequential and hence worth fighting over. Although this assumption can hold true in close elections, it frequently does not. The ultimate question is whether this miniscule electoral advantage in limited circumstances is worth the public loss of confidence in elections' reliability and fairness produced by the toxic debate.

The constitutional amendments, federal legislation, and court decisions that removed barriers to Black enfranchisement from the end of the Civil War to the end of the twentieth century certainly had important political consequences but not always the ones that were anticipated at the time. Republicans fought against slavery and for Reconstruction, enabling the Black population to vote and compete for political power, while Democrats instituted Jim Crow restrictions. But in the post-World War II era, Democrats initiated the civil rights legislation that enfranchised millions of Black voters, resulting in Black voters becoming loyal Democrats and the realignment of conservative Whites into the Republican Party. Rules matter, but events, demography, and coalitional change can wipe out predicted patterns. And sometimes there is no consistent pattern at all. Extending the voting franchise to women or to eighteen-year-olds has not given either party a persistent structural advantage due to many mediating political and demographic factors.

Still rule changes can have measurable, marginal political impacts in elections and places. Given that candidates and their campaigns operate with notoriously short-term time horizons, they will seek out any plausible edge to help them win an election. The strategy of the contemporary Democratic Party is to expand the electorate by reducing barriers and safeguards to voting. The principled reason for this is that they believe a larger, more inclusive electorate is more likely to represent the full population more accurately. The partisan reason is that they believe that new voters will usually favor Democrat candidates. Republicans oppose many of these measures and prefer stricter credentialing in principle to reduce the risk of impersonation and duplicative voting, but the partisan reason is that they believe low-propensity voters are more supportive of Democrats. In both cases, the motives are a mixture of sincere and pretextual premises and may be based on dated myths about who makes up the base of each party.<sup>42</sup>

Most political scientists who have examined the efficacy of recent efforts to make voting easier or harder have concluded that they have little or no impact on election outcomes, except perhaps in the very closest elections.<sup>43</sup> But there are some caveats to keep in mind. Measuring the impacts of these law changes is difficult because of numerous data and methodological challenges. The laws themselves vary enormously in terms of how strictly they are written and enforced. And even though the predominant view is that the effects are modest at best and often nonexistent, there are studies with divergent results.

Consider the example of mail-in voting. Many Republicans believe that mail-in ballots helped the Democrats win the presidency and the Congress in 2020 when many states eased the restrictions on mail-in voting during the pandemic emergency. Several jurisdictions reverted to more restrictive mail-in voting in 2022 when the pandemic crisis waned, in part because of the belief that mail-in balloting always favors the Democrats.<sup>44</sup> The most proactive form of mail-in voting is universal VBM (used in nine states and Washington, DC), a process that sends a mail-in ballot to every registered voter. Given the inaccuracy of registration lists and purging systems, sending blank ballots to households that did not even request them seems risky to many Republicans, despite assurances from election administrators about the efficacy of signature verification procedures checks for duplicative voting.

In a rigorous statistical study of universal VBM, Thompson and colleagues concluded that there was “no apparent effect on either the share of turned-out voters who are Democrats or the share of votes that go to Democratic candidates on average,” but that there was an increase in overall turnout by 2 percent.<sup>45</sup> However, turnout rates in Oregon, which began using VBM in general elections in 2000, are not appreciably different than they were before it was implemented.<sup>46</sup> Of the states that permit universal VBM, many are solidly blue. Hence, even if the VBM effects were larger, they would not matter much in the context of solid Democratic majorities. Universal VBM reflects, rather than determines, a state’s predominantly liberal politics.

At the other end of the political spectrum, as we discussed earlier, there is also scant evidence that stricter voter ID laws have either negatively affected voter turnout or increased public confidence in elections. To some degree, this is because most restrictive laws are adopted in red states and most liberalizing laws are adopted in blue states, and their actual electoral import has been overblown.<sup>47</sup>

This is not the first time that political scientists find themselves at odds with journalists and political consultants about widely held assumptions about what affects election outcomes. Journalists and consultants tend to think that elections are primarily determined by money and political tactics, whereas political scientists have shown that the effects are on the margin. Past voting habits and party loyalties mostly explain why people vote the way they do.<sup>48</sup>

Would knowing that these measures have far less impact than has been supposed help defuse the tension and polarization over these competing types of bills? Perhaps, but it might also weaken their political allure. The main reason mail-in voting has become so popular is that people like the convenience of voting at home. If there is no party advantage associated with mail-in votes and no evidence of fraud systemic enough to affect any election’s outcome, it seems likely that partisan resistance to VBM might diminish: this is the direction that current discussions in the Republican Party are taking.<sup>49</sup> In any event, it would be a step forward to keep considerations of political advantage in the background and to put the trade-offs between access and security on firmer empirical ground.



## FINDING COMMON GROUND

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We began with the observation that confidence in the accuracy and legitimacy of the US election system has eroded in recent years and election administration issues have become more politicized. Reversing partisan polarization is ultimately in the interest of everyone across the ideological and political spectrum. Some problems may be so obviously harmful to democracy—such as protecting voters and election workers from physical and personal liability threats—that it should be relatively easy to achieve consensus and find solutions. In other cases, there may be no consensus because of common misunderstandings. For those, it might be possible to make more progress to solutions by providing and communicating the correct information more effectively. Doing so may require a more explicitly political approach of targeting the voters who are open to persuasion, determining which messages have the greatest appeal, and finding the most credible messengers. But in a few instances, the partisan gap in opinion may be so wide that it will require longer and more difficult discussions over time.

Reform groups are awash with ideas about possible fixes. Reflecting our highly polarized times, virtually all of them are seen as slanted toward a particular party’s political interests and beliefs. The prospects of such measures are most favorable in deeply blue or red states where the politics matches the policies, and therefore there is little or no need for bipartisan consensus. Divergent political experiments can be healthy and even ultimately contribute to a clearer understanding of problems and solutions. But constantly shifting and inconsistent electoral practices across the board can give rise to confusion and feed a cynical belief that the rules are designed for partisan advantage. As pointed out earlier, the root cause of this wide divergence in electoral rules is structural. Fixing inconsistencies would ultimately mean amending the US Constitution, which is nearly impossible to do given the amount of partisan polarization, multiple steps, and high vote thresholds that are involved.

We focus on examples that could be developed initially to provide common ground for electoral reform. Respecting partisan disagreements about the trade-off between wider participation and voting security, what problems could be addressed with reasonable prospects of bipartisan consensus? We offer four possibilities.

### ***1. Enact Legislation to Better Secure the Safety of Election Officials and Poll Workers***

Election administrators and poll workers are expected to implement election rules and processes impartially to ensure accurate democratic accountability and protect voting rights. One way to preserve impartiality is to prohibit individuals from either offering material rewards or making violent threats to election officials to dissuade them from carrying out their legal duties. Although this principle is well established, it is not always well observed. Threats to US election officials are on the rise. A 2023 survey of 853 local election officials found that 11 percent of those surveyed reported that they had been threatened for doing their work, and 19 percent claimed that they were harassed or abused but not threatened. Of the latter group, 68 percent were threatened by phone, 58 percent in person, 41 percent in social



media, and 26 percent by mail. A little over half of these threats were reported to authorities, and of those, 94 percent went to local law enforcement.<sup>50</sup> Such threats have resulted in experienced election officials retiring at an alarming rate.<sup>51</sup>

The last point is important because state laws vary enormously in the level of legal protection offered to election officials. Some states like Florida, North Carolina, Nevada, Pennsylvania, and Wisconsin provide explicit protection to election workers. The Florida law, for instance, says that a “person may not directly or indirectly use or threaten to use force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel an individual to . . . refrain from acting as a legally authorized election official or poll watcher.”<sup>52</sup>

Other states such as Arizona and Georgia ban actions that might prevent election officials from doing their duty but have ambiguous language about whether threats are covered. The Arizona law states that a “person who at any election knowingly interferes in any manner with an officer of such election in the discharge of the officer’s duty” is guilty of a felony.<sup>53</sup> Michigan and New Hampshire have threat bans covering government officials generally but do not explicitly mention election officials. For instance, Michigan law says that a person shall not knowingly and willfully . . . obstruct or endanger [an] . . . officer or duly authorized person serving or attempting to serve or execute any process, rule, or order made or issued by lawful authority or otherwise acting in the performance of his or her duties. . . . ‘Obstruct’ includes the use or threatened use of physical interference or force”<sup>54</sup> Finally, some states have no protection at all. Texas, for instance, provides no protection against threats directed to public officials, except for police officers.<sup>55</sup>

Election officials certainly believe they need better protection and are increasingly under threat. The Brennan Center study mentioned earlier found that 73 percent of the officials surveyed believed that threats against election workers have increased in recent years. Nearly half expressed concern for the safety of their coworkers. Twenty-one percent worried about being assaulted on the job and 10 percent at home.

Many also fear harassment, either on the job (40 percent), by phone or voicemail (36 percent), or on social media (32 percent). Given the recent Supreme Court decision *Counterman v. Colorado*,<sup>56</sup> it is not clear what if anything can be done about harassment without strong proof of imminent danger. Frivolous lawsuits or massive and repetitive FOIA/public record requests are also being used as a form of harassment meant to disrupt the balloting procedures or overwhelm election officials. Although such actions are concerning, violent threats seem like a better candidate for bipartisan consensus. As a matter of best practice, states should explicitly prohibit threats against election workers.

## **2. Encourage Greater Uniformity in Electoral Practices through Evidence-Based Assessments of Both Participation and Security Impacts**

As our earlier discussion highlighted, US federalism allows for experimentation and innovation among the states. Yet, when approximately ten thousand jurisdictions each have responsibility for the casting and counting of votes, the inevitable variances in election rules and

practices can feed confusion, misunderstandings, and the public's lack of confidence in elections. Nonetheless, it is also true that the rubric "one size does not fit all" applies to our elections, given the differences among our ten thousand jurisdictions and the tradition of federalism affording jurisdictions considerable flexibility to tailor election procedures to their own perceived needs.

The issue should be viewed on two levels. One is differences between the states, which are perhaps inevitable given our history not only in matters involving elections but also in many other matters of governance. More solvable is the lack of uniformity among jurisdictions within a single state, which also causes confusion and therefore an erosion of confidence in elections. Uniformity in the administration of a state's laws and standardization of electoral systems within a state's jurisdictions could lead to a vast increase in public confidence in elections.

The national and local problem of inconsistency is compounded by constant rule changes and reversals as parties circulate in and out of office in this highly competitive electoral period in US history. The states have adopted many new ways of voting and administrative requirements in recent years. Democrats have emphasized expanding participation and Republicans ballot security for both ideological and tactical reasons. However, as discussed previously, academic studies have shown that the effects of these various reforms in many instances have been exaggerated or incorrectly perceived.

When politicians and consultants consider whether to push for new rules and processes, they rarely wait for hard evidence to back up their intuitions. Academic evidence about election administration has improved since 2000. Before that, there was little work in political science or public administration on these topics. That changed after the ballot disputes in *Bush v. Gore*. There are also new developments to consider. Early in-person and no-excuse mail-in voting rates have increased steadily over time. Both rose substantially in 2020 due to the pandemic emergency and then dropped slightly in 2022 as some states reverted to mainly in-person voting.

As discussed earlier, there can be good reasons for revisions as experiments are tried and abandoned if they fail, but constant change for raw partisan advantage within and across states increases the risks of public confusion, misunderstanding, and loss of confidence. With ten thousand jurisdictions and volunteers an integral part of the administration of elections, mistakes by voters and officials happen every cycle, with unintentional mistakes vastly more common than intentional fraud. Rule stability can help lower the error rates. This is not an argument against change for the sake of improvement, but it is for limiting changes based primarily on temporary political gain when the results are often illusory.

One way to tamp down tactical manipulation is to provide empirical evidence about the purported reasons for these measures. Candidates by human nature tend to focus on how election rules and practices affect their own electoral prospects; consultants can profit from new election procedures. Election officials, nonprofits, and academics can counterbalance the tendency to believe myths by providing and communicating evidence about purported

participation and ballot security impacts. People may still disagree about how to balance the two goals, but their decisions should be based on solid empirical evidence.

A good example of an issue that needs more scrutiny and improvement is mail-in balloting. Mail-in voting is popular and is likely to see heavy usage in the future. Despite some reversion to early and Election Day in-person voting between 2020 and 2022, the MIT Election Lab estimates that 40 percent of the US electorate voted by mail in 2022. States vary enormously in how and when they process these mail-in ballots. Thirty-eight states permit election officials to process ballots—verify the signature, open and flatten the ballot for tabulation, and so on—before Election Day. Nine states start the processing on Election Day before the polls close. There is also enormous variation by state in when the counting of ballots can proceed and the date by which a mail-in ballot must be received. California, for instance, requires that a mail-in ballot be postmarked by Election Day but can be received up to seven days later. Most states, however, require that mail-in ballots be received by Election Day so they can provide timely results. California’s permissive rules have led to lengthy delays in congressional, statewide, and local election results. Proponents claim that this more lenient policy results in higher participation, but so far the gains are quite small.<sup>57</sup>

Practices that might foster skepticism and mistrust without clear benefits to the system should be avoided. Like conflict-of-interest logic related to material corruption, if a practice gives the appearance of being vulnerable to fraud or abuse, it may be better to prohibit it in the interest of voting integrity. For example, there are circumstances of so-called double voting where voters can vote in two states at the same time due to ambiguities in the law about residential eligibility or the absence of an explicit rule against voting in two different places in the same election.<sup>58</sup> Although there may be reasons why someone who pays property tax on a second home would want to vote locally in one place while voting nationally in another, this practice may cause a problematic appearance of voter fraud with little or no valuable participatory gain.

Claims that go either in the direction of more leniency in the interest of participation or more stringency in the name of vote security should be verified. An ever-widening divergence in election system goals and practices will foster more partisan suspicion and conspiracy theories. If we are serious about finding common ground, we must start by establishing the facts.

### ***3. Outreach to the Public on Voting Administration Should Be Targeted, Tested, and Coordinated***

Surveys to date reveal that most voters report a good experience at the polls and have a high level of confidence in the way that elections are conducted in their communities. However, they have far less confidence in the processes in other states and nationally.<sup>59</sup> Periodic reviews of public attitudes in states and local communities can be a useful way to improve service to voters, but it might not be the most effective way to combat national election skepticism. That requires a more targeted strategy.

A survey conducted for the Colorado secretary of state after the 2020 election found that only 14 percent of their citizens in 2020 lacked confidence in the Colorado election outcomes

compared to 36 percent who lacked confidence in the national outcomes.<sup>60</sup> Colorado voters relied heavily on media for their information about practices outside their home state. Eighty-seven percent of the Colorado residents said news stories had no impact on their confidence in Colorado’s electoral system versus 60 percent who said the news lessened their confidence in the national election system.

This finding raises strategic questions. Election administrators understandably would like to address this skepticism, but their offices are typically underfunded and cannot afford expensive outreach campaigns. Yet local election administrators report learning in the 2022 cycle that transparency had benefits in convincing election deniers and that outreach efforts answering all questions lessened tensions in some jurisdictions. Because electoral skepticism is concentrated among certain types of voters, messages and outreach should be targeted to those on whom it will have the most impact. That means determining who the persuadable skeptics are, what their concerns are, and how to reach them. In recent years, skeptics have tended to be conservative, older, and less well educated, but skepticism can change partisan color from election to election: in the early 2000s, for instance, liberal Democrats had more doubts about voting machines than Republicans. Determining which aspects of election administration that the doubters are skeptical about is obviously key. The 2020 Colorado study found that noncitizens voting (36 percent), ballot harvesting (32 percent), and suspicions about Dominion software (29 percent) were the most frequent concerns.

The third component is how to persuade skeptics. This in turn has three considerations: first, what evidence or message is most persuasive; second, who are the most credible messengers; and third, how to deliver the message to the skeptics. It may be the case that election officials are most credible in explaining the technical safeguards in the electoral system needed to ensure an accurate vote. But election officials need the support of the bipartisan leadership of their communities to validate the system when it comes under intense questioning. It may be the “best practice” to work with stakeholder groups and prominent community leaders across the political spectrum who are trusted in the right virtual and social communities. In a polarized world, the messenger’s identity is the key cue for trusting information. All this requires a coordinated but strategically focused outreach and educational effort by local and many state election offices.

#### ***4. Develop Bipartisan “Standards of Reliability” to Reassure the Public of the Accuracy of Elections***

State officials have used provisions in their state’s laws to reassure their citizens of the accuracy and reliability of close and contested elections in their jurisdictions. The following is a compilation of those various safeguards. Although some are the subject of partisan disagreement, they form the basis for legislation that can both increase access to voting for legally qualified voters and provide safeguards demonstrating elections’ reliability.

- **Absentee ballot / mail-in ballot validation measures** States use different ways to verify that the person submitting an absentee/mail-in ballot is the actual voter.<sup>61</sup> Most states match a signature on the ballot envelope with a signature on file, but some have turned

to using verification by a driver's license/state ID card number or the final four digits of the voter's Social Security number. As more Americans turn to writing on computers rather than writing by hand, digital ID is emerging as a more effective and less subjective method of validating absentee/mail-in ballots.

- **Prompt reporting of election results** Delays in producing results have been used to cast doubts on elections' validity.<sup>62</sup> The reasons for delayed results vary by state, but many states are able to produce nearly complete, if unofficial, results on Election Night. In some states, mail ballots cannot be processed before Election Day. Other states extend the deadline for receipt of mail ballots until a week or more after Election Day.
  - *Receipt* According to the National Conference of State Legislatures (NCSL), thirty states require absentee/mail ballots returned by mail to be received on or before Election Day, whereas nineteen states and three territories accept and count a mailed ballot if it is received after Election Day but postmarked on or before (sometimes only before) Election Day.<sup>63</sup> States could expand their early voting periods in exchange for requiring the receipt of all ballots by Election Day to ensure that voters have the same number of days in which to vote.
  - *Preprocessing of absentee ballots* This allows the tabulation of all ballots, both mailed and in person, on Election Day. The goal of providing prompt results to the public can be achieved by allowing the processing of absentee/mail-in ballots to begin before Election Day so they can be included in the Election Day count. Nine states and Washington, DC, do not permit election officials to begin processing absentee/mail ballots until Election Day.<sup>64</sup> Maryland does not allow processing or counting until the Thursday after the election.<sup>65</sup> Fears of the premature release of voting results drive this policy, but there are no examples of this happening in the states that do preprocess ballots.
- **Easily available mail/early voting (no excuse)** With the recent change in the Republican Party's position on mail-in voting,<sup>66</sup> the ease of mail and early voting should be part of any new state legislation.
- **National voter ID (including one-time initial proof of citizenship for all current voters and available at no cost)** Voter identification is required in thirty-six states, although the specific type varies.<sup>67</sup> Voter ID enjoys broad public support<sup>68</sup> and is often cited as one of the strongest validating methods available. More comparative research is needed to evaluate which voter ID laws best provide validation to voters while making IDs available to eligible voters so that participation is not diminished.
- **Online voter registration** Although available in forty-two states, the accuracy and cost savings of this practice make perfecting this system a subject of bipartisan agreement<sup>69</sup> and a potential change in the states that do not yet have online registration.

- **Notice and cure of defective ballots** When absentee/mail-in ballots are returned without a signature or other required information, twenty-four states require election officials to notify the voter and give them an opportunity to correct their ballot by a set deadline.<sup>70</sup> Inclusion of such a provision would increase participation with no loss of security.
- **Drop boxes monitored with video** Drop boxes provide a convenient way for voters to drop off ballots without going into a polling place before an election. However, because they are placed in heavily traveled areas, critics have argued that they present easy targets for fraudulent voting. Although most states allow some drop boxes, the security rules surrounding them vary widely from state to state.<sup>71</sup> A reasonable compromise in many states is to have a set number of drop boxes with twenty-four-hour-a-day video monitoring.
- **Voter roll maintenance** Keeping voter registration rolls accurate and current is an important part of holding efficient and secure elections. With about 11 percent of the US population moving annually, lists change constantly as new registrants are added and others become ineligible. Because of the importance of the lists and the constant movement of the voters on them, all states take steps to keep their voter registration rolls accurate and up to date. But these list maintenance practices vary.<sup>72</sup> The benefits of having accurate registration lists include the following:
  - Protecting against fraud by ensuring only eligible electors can cast a ballot
  - Informing Election Day planning by helping accurately budget for ballots, voting machines, polling places, and poll workers
  - Minimizing wait times at the polls
  - Simplifying postelection procedures by reducing the number of provisional ballots cast

List maintenance is not a simple process, however, and there are several ways a voter's registration may become inaccurate or ineligible. A comprehensive best practices study would help states adopt statutes tailored to their needs.<sup>73</sup>

- **Multistate database to check duplicate voter registrations** Given the mobility of Americans, it is essential that states share a database of their registrants to provide confidence that there is no double voting. The Electronic Registration Information Center is now the subject of partisan disagreement,<sup>74</sup> yet states need to have a means of checking their registrations to ensure that voters are not registered in more than one state.
- **Absentee ballot applications to all voters but not live ballots** Although all states offer some form of voting by mail, nine states and Washington, DC, now mandate<sup>75</sup> that every voter be mailed a live ballot ahead of an election.<sup>76</sup> Other states, recognizing that mailing live ballots to all voters creates a "chain of custody" issue—leaving open the possibility that mail ballots are easily cast by someone other than the intended voter—instead mail

request forms to all voters, with voters required to return an application with some form of identification.

- **No ballot harvesting** Different states have different rules for who can turn in a ballot for another voter.<sup>77</sup> Although it is valid for a family member to turn in the ballot of a discrete number of family members in most states, some states are far more permissive and allow outside groups to chase mail ballots and potentially fill them in for the registered voter; this is particularly the case in universal ballot states. This can create an appearance of impropriety around mail ballots.<sup>78</sup> States can craft compromise legislation that recognizes that some voters need assistance with submitting their ballots without creating the appearance that partisans can chase mail ballots and fill them in for voters.
- **Paper trail for all ballots** The vast majority of voting jurisdictions now use ballots with a paper trail.<sup>79</sup> Those that do not should move to this type of technology to audit election results, guard against cybersecurity interference, and facilitate credibility in recounts and contested elections.<sup>80</sup>
- **Postelection risk-limiting audits** Although most states—thirty-four plus the District of Columbia—now require some type of postelection audit, all states should improve their standards as a means of providing confidence to the electorate in their elections' accuracy. A risk-limiting audit is designed to limit the risk that a contest is certified with the wrong winner. It does this by increasing the initial sample when discrepancies are found until either the level of confidence has been met or a full recount has been performed.<sup>81</sup> Risk-limiting audits should check whether the voting equipment and procedures used to count votes worked properly and that an election yielded the correct outcome. A postelection audit may be able to detect whether any outside interference occurred, and security experts recommend one as a method of protecting the integrity of elections.
- **Observers allowed in polling places and where votes are tabulated** State laws vary widely,<sup>82</sup> but, at a minimum, states should provide that candidates, political parties, and neutral election observers are allowed into polling places to observe the voting process and tabulation of votes. Observers should be required to attend a training session to familiarize themselves with the jurisdiction's processes so they can better understand what they observe. Some jurisdictions are also providing livestreams of these operations to provide guarantees to the public that elections are not being tainted.
- **Adequate funding for elections** US elections are underfunded, contributing to many of the issues affecting elections about which so much has been written.<sup>83</sup> Chronic underfunding touches all aspects of elections from less-than-state-of-the-art equipment to a shortage of poll workers to violent threats against election officials and foreign cybersecurity threats.<sup>84</sup> State and local governments, with an occasional infusion of federal money, fund elections, but more is needed on a consistent basis and should be part of any election administration legislation passed on the federal or state level. In 2020, private



sources supplemented government funds, leading to widespread complaints about outside influences and legislation in twenty-four states banning or limiting the practice.<sup>85</sup>

- **Protection for election officials** The number of incidents of harassment of election officials and workers has increased greatly in recent years. In response, some states have passed laws providing protections for election workers and punishments for harassers.<sup>86</sup> These incidents and threats of harassment have led to a personnel shortage in many jurisdictions that threatens the smooth running of elections.<sup>87</sup> Each state should be sure that its laws include protections against harassment for its election officials and workers. Proposed and enacted legislation on the state<sup>88</sup> and federal<sup>89</sup> levels can serve as models.

## CONCLUSION

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Some might conclude that these examples of plausible initial steps of bipartisan election administration are too small and that reform efforts should go big or go home. That would be fine if the country were not deeply polarized and bipartisan consensus was not so difficult to achieve. Cross-party reforms necessarily involve negotiation and building trust by finding the most obvious points of agreement first. Continuing down a path that undermines public faith in democratic institutions is not an acceptable option. Even if small steps do not address the underlying problems associated with strong federalism or overly partisan officials, they would be a valuable start toward changing the negative direction of contemporary American citizen culture.

## NOTES

1. This article describes the issues surrounding voting itself. Other aspects that affect elections have been cited by partisans on both sides and by academics as influencing the public's faith in elections. One example is redistricting. After the 2020 census, Democrats widely feared that, because Republicans solely controlled the line drawing of 195 congressional districts and the Democrats only solely controlled 94, the House elections would be rigged against them. Due to offsetting Democratic and Republican partisan plans and the choice in many instances to make incumbent seats safer, redistricting turned out to be less of an advantage for Republicans than was initially feared. See Nathaniel Rakich, "Did Redistricting Cost Democrats the House?," *FiveThirtyEight* (blog), December 1, 2022, <https://fivethirtyeight.com/features/redistricting-house-2022/>. Moreover, very few members of the public pay attention to redistricting or feel strongly about it one way or the other. See Bradley Jones, "With Legislative Redistricting at a Crucial Stage, Most Americans Don't Feel Strongly about It," *Pew Research Center* (blog), March 4, 2022, <https://www.pewresearch.org/short-reads/2022/03/04/with-legislative-redistricting-at-a-crucial-stage-most-americans-dont-feel-strongly-about-it/>.
2. See, for example, Reem Nadeem, "Americans' Dismal Views of the Nation's Politics," *Pew Research Center* (blog), September 19, 2023, <https://www.pewresearch.org/politics/2023/09/19/americans-dismal-views-of-the-nations-politics/>.
3. Charles Stewart III, *2022 Survey of the Performance of American Elections*, MIT Election Data and Science Lab, <https://electionlab.mit.edu/sites/default/files/2023-05/How-We-Voted-In-2022.pdf>.
4. Sean Westwood finds, for instance, that even though only 6 percent of Democrats and Republicans would support making voting harder by reducing the number of polling places, both estimated that more than 50 percent of supporters from the opposing party would be in favor of doing so. Yphtach Lelkes



- and Sean J. Westwood, "We Study Political Polarization: The Midterm Election Results Make Us Hopeful," *The Hill* (blog), November 19, 2022, <https://thehill.com/opinion/campaign/3742552-we-study-political-polarization-the-midterm-election-results-make-us-hopeful/>.
5. National Conference of State Legislatures, "Voter Registration Deadlines," <https://www.ncsl.org/elections-and-campaigns/voter-registration-deadlines>.
  6. See Voting Rights Lab, "Battleground 2024": How Swing States Changed Voting Rules after the 2020 Election," October 5, 2023, <https://votingrightslab.org/2023/10/05/battleground-2024-how-swing-states-changed-voting-rules-after-the-2020-election/>; Brennan Center for Justice, "Voting Laws Roundup: October 2023," <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-october-2023>.
  7. Voting Rights Label, "Battleground 2024"; Brennan Center for Justice, "Voting Laws Roundup."
  8. See "COVID Related Election Litigation Tracker: Case List," <https://healthyelections-case-tracker.stanford.edu/>.
  9. See William A. Galston, "The Gerrymander Myth," March 17, 2023, <https://www.brookings.edu/articles/the-gerrymander-myth/>.
  10. A good example is Jill Stein's unsuccessful efforts to obtain recounts in the 2016 presidential election, which she abandoned despite the fact that she still believed that there were flaws in the count. See Steve Eder, "Stein Ends Recount Bid, but Says It Revealed Flaws in Voting System," *New York Times*, December 13, 2016, sec. US, <https://www.nytimes.com/2016/12/13/us/stein-ends-recount-bid-but-says-it-revealed-flaws-in-voting-system.html>.
  11. A good recent example is the rapidity in which a clerical error was misreported on social media as a machine error that was flipping votes, when in fact the machine was recording votes accurately; this occurred in a 2023 judicial race in Pennsylvania. See AP News, "Posts Misrepresent Voting Machine Error in Pennsylvania County as Evidence of 'Rigged' Elections," November 9, 2023, <https://apnews.com/article/fact-check-pennsylvania-election-vote-flip-545307248102>.
  12. One tactic is to flood election offices with public record act requests in an organized effort to discover election manipulation. See Fredreka Schouten, "Election Officials Confront Waves of Public Records Requests from Trump Supporters | CNN Politics," *CNN*, September 21, 2022, <https://www.cnn.com/2022/09/21/politics/public-records-requests-trump-supporters/index.html>.
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