

THE BROOKINGS INSTITUTION

WEBINAR

DISINFORMATION, SOCIAL MEDIA, AND FOREIGN INTERFERENCE:
WHAT CAN GO WRONG IN THE 2020 ELECTIONS?

Washington, D.C.

Tuesday, July 28, 2020

PARTICIPANTS:

Moderator:

DARRELL M. WEST
Vice President and Director, Governance Studies
Senior Fellow, Center for Technology Innovations
The Brookings Institution

Panel Discussion:

SUSAN HENNESSEY
Senior Fellow, Governance Studies
Executive Editor, Lawfare
The Brookings Institution

ELAINE KAMARCK
Senior Fellow and Founding Director
Center for Effective Public Management
The Brookings Institution

* * * * *

P R O C E E D I N G S

MR. WEST: Well, thank you for joining us today. I'm Darrell West, vice president of Governance Studies at the Brookings Institution. So we are less than 100 days to the election. This is a historic campaign with far reaching consequences for America and the world. The election is taking place at a time of COVID, a national recession, and public protests against racism.

Today, we want to examine potential problems in terms of the campaign and how to address those issues. There are particular concerns about voting, social medial manipulation and foreign intervention in the campaign. At a time of COVID, many voters are worried about in-person voting and gathering in large numbers at polling places, and as a result of that a number of states have moved to encourage mail-in balloting as a way to protect public health. But yet there are questions of whether states are ready for this and will have the personnel to count the ballots in a timely manner.

There are also issues in terms of voting obstacles and voter suppression activities. Some states have cut the number of polling places and put obstacles in the way of voting. There are problems for minority neighborhoods, young people, and other groups. There is concern about the role of social media platforms in spreading false information and promoting racial divisions, and so we'll talk a little bit about what these platforms are doing and what they should be doing to address these issues.

And then finally, there's the risk of foreign intervention, and this could take the form of disinformation campaigns, cyber attacks on critical elections infrastructure, and efforts to sow public mistrust about the integrity of the election process.

To help us understand these problems, I am pleased to welcome two colleagues from Brookings. Elaine Kamarck is a senior fellow in Governance Studies and director of our Center for Effective Public Management, and Susan Hennessey is a senior fellow in Governance Studies and executive editor of Lawfare. And I'd like to remind the audience, we would welcome your questions. You can send them -- you can email them at events@brookings.edu. That's events@brookings.edu and we will save time near the end of this show to incorporate the questions that you may have.

So I'd like to start with Elaine and focus on the health aspect of this election. How will

COVID affect the voting process and if states moved towards mail-in balloting, what are the things that could go wrong? And do you think we're actually going to know the result on election night, or could it be a few days before the final results actually are known?

MS. KARMARCK: Well Darrell, thank you for having me here today. Look, I think the first thing to say about this is that we have to stop thinking about election night and we need to start thinking about election week, and maybe for some elections, election month. We have seen in the primaries this year, a lot of absentee ballot requests and a lot of mail-in ballot usage. And there are all sorts of things that go wrong. There are ballots that get delivered late. I mean all sorts of stuff is happening out there, so the fact of the matter is that we are so accustomed to election night, but to count all these absentee ballots, it's going to take some time. It is very possible we won't know the winner of the presidential race on election night. We have already seen congressional primaries in New York, for instance, where it took weeks and weeks to find a winner, and obviously the closer the race, the longer it's going to take to figure out the winner because they have to -- you know they have to count every single paper ballot. So this is going to be a very new experience for a lot of people.

Now, the good news is that this did happen in election year and we do have a ton of primary elections before we get to the general election in November. There's still primaries going on this summer. There's even some primaries in September. So state election officials are getting used to this. They are figuring out their procedures and I think that they're getting as ready as they can be for what's going to be an unprecedented number of mail-in ballots.

MR. WEST: So I guess that's one advantage of the primary system is, it is getting states a chance to test their systems, find out what the problems are and address them before we actually hit the general election. So, Susan there also are concerns about voting obstacles and voter suppression activities. Some states have cut the number of polling places and put obstacles in the path of voting for minorities, immigrants, and young people. What worries you the most about these issues and how can we combat these problems?

MS. HENNESSEY: I think there are a lot of things to worry about. It's hard to sort of put

your finger on what worries me the absolute most, and that's why I do think that because we are experiencing a pandemic that is not occurring sort of with even geographic distribution. That the failure to control the pandemic effectively in certain parts of the country within certain communities is going to lead to an amplification of voter suppression -- voter suppression issues that existed for a long time, and might amplify those concerns -- those questions sort of to the point at which there are real sort of legitimacy concerns.

With that said, there's a lot to focus on. For example, poll closures. That's not necessarily a big conspiracy theory or a big conspiracy at work. You need poll workers in order to have lots and lots of polls, and so if you're sitting there right now and are really, really concerned about there being polling locations and being lots and lots of polling locations available, one of the best things that somebody can do right now is sign up to be a poll worker in your state. These are predominantly people who take these positions, happen to be elderly, people who are going to be less able, less willing to assume those risks on election day. And so what we're going to see is sort of -- is a strain of -- of existing resources.

There's also sort of, not only are we having an election in a crisis, this is also the first election, the first presidential election that we're having after the 2013 Supreme Court ruling that ruled that key provisions of the Voting Rights Act and the 2017 expiration of a consent decree with the Republican National Committee, that had very, very specific rules surrounding poll access, voter suppression issues. And so this is -- also this is already going to be a really, really difficult test of how those states could perform, how those jurisdictions could perform absent federal oversight and enforcement. And any time we have sort of the -- the ground conditions being as complex as they are in the pandemic, that's going to -- that's going to increase opportunities, you know not just for sort of the accidental or incidental counts that's going to occur that might not be evenly distributed, but also for individual actors or individual states that want to target certain communities to prevent them or impede their ability to vote. And I think that's what we need to be incredibly, incredibly focused on in the lead up to the election.

MR. WEST: So I have a question for each of you. I have a new book out today about AI, cowritten with Brookings President, John Allen. And the book addresses problems with digital technology and what we can do about those issues. But one of the particular concerns relevant for our conversation today is the role of social media platforms in spreading false information and promoting racial division. So how are these platforms handling these kinds of issues and what should they be doing that they may not be doing right now? Elaine, why don't we start with you?

MS. KARMARCK: Yes, I was going to say, well the -- the short answer is they're not handling it very well at all. They have at least acknowledged the problem and Facebook and Twitter have been taking down you know, suspicious sites, etc. But, it's a very -- it -- I mean, I'll give them some credit. They could be more aggressive than they've been, but I think the other thing that's going here is a very difficult thing to counteract. And one of the debates in this community is what's the best way to take on the disinformation? Whether it's disinformation about a candidate -- For instance, you know, one of the famous ones from two years ago was there was a mass shooting while Beto O'Rourke was running for Senate and instantly it went up on the internet that the mass shooter had a pickup truck with a Beto O'Rourke bumper sticker on it and this person was a democratic socialist. Well none of that was correct. The picture that they posted was stolen from a -- or taken from a website that advertised political bumper stickers -- you know, advertised how to buy political bumper stickers. There was nothing about it that was true.

Now, the question is what do you do in that instance? And some of the debate is -- some of the people studying this have thought, well you know, in a way you're hinting at the wrong handling. They're actually by attacking it, people are actually spreading the news. Others have suggested, you know the way to handle it is simply to be factual, in other words, not making fun of it, not saying, "Oh, my God, this is just terrible", but simply to say, "No, no, no, that picture is not the picture of the pickup truck of the shooter. That picture came from this site. That was inaccurate". We saw this with the hydroxychloroquine issue, you know, when the President suggested maybe you should drink that to prevent COVID-19. The left wing went crazy making fun of it, right? I mean, I -- I -- you know, putting out

funny pictures and things like that, and the suggestion was, well maybe instead of it saying to the voters or to the citizens, "Hey, this is a problem", they just thought well the President said this so of course the democrats are saying that, and that maybe the best response would have been a little bit more muted.

So there's a debate going on now, how do you counter this information? And some people seem to think that -- that giving a -- getting to the underlying sponsors of the information, you know, going -- figuring out who really sent this and then letting that be known is somewhat more effective than either trying to make fun of it or -- or try to say this is terrible, this is terrible, this is a lie, which has the ironic effect of actually spreading falsehoods even more. So this is -- this is the tricky debate we're in the middle of.

MR. WEST: So Susan, your thoughts on the role and the responsibility of the social media platforms?

MS. HENNESSEY: So, I don't think anybody would -- would call the social media platforms responses thus far a resounding success, right? There's -- there's lots to criticize. With that said, I do think there's a way -- there's an outside focus on sort of social media and its role in spreading this information, and an insufficient focus in traditional media -- in traditional media's role in it amplifying and disseminating and sort of coping with -- responsibly coping with disinformation.

So one thing that was sort of a feature of 2016, the Russian disinformation campaign, and for the -- the investigation that came after. But the United States actually has a lot of rule -- a lot of laws on the books, a lot of rules on the books that allow us to combat foreign interference, right? Foreign disinformation efforts, because they really sort of differentiate between foreign actors participating in U.S. elections versus domestic actors. Once we move into the domestic disinformation space, legally the tool - the toolkit is dramatically more limited and the questions become really, really difficult, right? The ability of American citizens to participate as a matter of the first amendment in political debate and discussion including via social media, that's something that has first amendment implications to the extent that the government is attempting to do something, and also just sort of basic speech implications whenever we're having big companies stepping into that role to start deciding you know, what information should reach

voters and when.

You know, with that said, I do think that companies are getting better at, at least combatting sort of coordinated in authentic activity, right? So people who are pretending to be one, saying spreading information and they do appear to have to established some sort of clear guidelines. They're also engaging in lots and lots of labeling efforts, right? Saying this is a false claim, putting up the fact check, and it's still not clear that those are actually sort of particularly effective mechanisms to combat disinformation. You know, but at least they're sort of trying -- at least they're sort of trying something.

Going over to sort of the traditional media side, and that's an area that's post 2016, I think remains really unexamined and that's - that's, yes there were Facebook ads and disinformation campaigns on Twitter, sort of pushed by the Russians, but at the end of the day the reason why that was such an astonishingly successful operation on the part of the Russians is because traditional media picked up those hacked and leaked emails and reported them far and wide. And so we're getting closer and closer, right? So the period in time in which in 2016 we saw the original sort of hack and dump of emails tended to be, it was right around in July around the conventions. And so we're moving into a period in which to the extent we're concerned about either genuine material being hacked and dumped or inauthentic false materials being sort of pushed out into the public. This is the period of time in which we need to be concerned about that and it's not clear to me that traditional media has really, really learned the lesson about how to responsibly report on information and not just focus on sort of the salacious details or the substance itself, of course actually amplifying those efforts, but also explaining to individuals where the providence of that information, why they maybe need to be skeptical about it, and also starting to think about potentially obligations not to report information that would otherwise be true and newsworthy because it ends up sort of undermining core principles of democratic participation and legitimacy.

MR. WEST: That is a very interesting point. So, Elaine, Susan has highlighted this issue of foreign intervention and of course, that could take a variety of different forms, so she mentioned

hacking emails and dumbing them, disinformation campaigns, something that people worry about. Cyber attacks on the critical election infrastructure, like could there be disruptions of the actual voting process and interference with the actual infrastructure? And then also, just general efforts to sow public mistrust about the integrity of the election process and whatever the outcome is, to cast doubt on it so that Americans do not have confidence in the integrity of the process. So, which of these things do you think are the most worrisome and what should we do to guard against these types of problems?

MS. KARMARCK: Well, you know, let me take your, the first one first about the integrity of the election process and hacking in. On the disinformation front, one of the things I think we're going to see more of this time is not just Russian disinformation, but we're going to see homegrown information, disinformation. We already saw that in 2018, we've seen that in the primaries. In other words, what the Russians did and sometimes it was kind of sloppy with misspellings and obviously off English, a lot of people are going to do, who are American citizens and more just playing this game. So I think we have to watch for homegrown disinformation.

I think on the question of getting into the election architecture itself, one of the ironies here is that before COVID even began, election administrators around the country were doing an interesting thing. They were adopting paper ballots. They were adding to their election systems verifiable paper ballots in order to have a paper trail for recounts. And that was happening in about 22 states. It was -- it was a trend and you know, it sort of struck me as wow, here we are in the digital age and we're going right back to paper ballots because they can be stored in a room safely and recounted. Well, the irony here is that in many states, swing states included, we're going to have a huge number of paper ballots because of absentee voting. Now, people who are in Svetlana and Boris might be able to hack into an election sys -- hack into a common line system. It's going to be a little harder for them to get into that room in the State Capitol, which are always carefully guarded, to actually try to do something with the hundreds of thousands of paper ballots that are going to come in. So we -- we're going to have a kind of interesting election where a lot of the -- it's an old fashioned election. A lot of it is going to be counted.

Now, what some people have been doing is trying to cast doubts about the sanctity if you

will of a paper ballot election. For instance, the president just tweeted out that foreign governments are going to be printing millions of paper ballots and sending them in. Well, that's really hard. Paper ballots are printed usually at the county level, sometimes at the state level. They're all slightly different. There are signatures that governments have machines to match signatures to your voter registration signature. They're sometimes bar codes. They are printed on special paper. There's a whole bunch of ways that makes it really hard for somebody to just xerox a paper ba -- xerox a hundred copies of a paper ballot and somehow send it in.

But, what is going on here is of course an attempt to sow, and this is classic Russian activity, to undermine democracy, to sow confusion, and to try to be able to say that the results of this election are not actually the results of the voters. And I think that is very, very serious. They're busy right now sowing doubt about the authenticity of the coming election.

MR. WEST: Susan, your thoughts on foreign intervention and what are the things you worry about and what should we do to guard against those problems?

MS. HENNESSEY: Yes, so I do think it's sort of at the election infrastructure level, right? So actual sort of voting systems pollbooks reporting mechanism. I mean, I think overall that is a good news story from 2016. We have a far healthier more secure sort of basic system and infrastructure than we did in the past and we've actually seen a lot of really, really you know positive developments both at the state and local levels and also sort of in partnership with the federal government. So (inaudible) which is an agency at the adjustment, is leading these efforts and really has done a great forward leading job both in terms of educating, providing support, and really increasing our cyber security posture, sort of in general.

So I think as, you know, as the story in 2016, but I think it's even more true today, the idea that somebody is an external actor, foreign or domestic, is going to be able to reach in and change votes, right, or hack the election in some sort of way that selects the candidate of their choice, that's very, very unlikely. What is more likely, both in terms of its attempt and in terms of our vulnerability is that some actor is going to be able to do something to create some -- some reason to not have confidence,

right? To some reasonable auditor looks at it and says, "Well, I can't say 100 percent that nothing was changed here. I can't say 100 percent that nothing was accessed here", I mean because we have an inherently adversarial system, you know, election-wise whereas we'll seize on any sort of -- the core of any kind of questions and blow them up as much as possible. That's kind of how the system is designed to be run. And so there is -- there is a number of efforts that I think have been really, really beneficial, and so in the 2018 election DHS had a really, really successful program of essentially sitting in the room with the journalists and any time there was information about you know, polling, voting machines not working in a particular way or attacks on part of the infrastructure, they were able to give journalists in real time very, very rapid feedback and information in order to ensure only good information was sort of being pushed out, you know, and reaching the public.

All of that said, you know, whether we're talking about foreign election interference and sort of the issue of deterrence, to the extent we're talking about sort of deterrence by denial and hard security and what we can do to prevent other people from getting in, we're already in sort of a dangerous position there, right? Ordinarily when we're talking about shaping the behavior of foreign governments, we're thinking about the traditional tools of diplomacy, of foreign policy, of the United States Federal Government making it clear to other countries that there will be serious consequences if they even attempt, you know, to operate in this space. And I think we do have to acknowledge going into the 2020 election, that has been an abject failure on the part of the federal government. You know, if anything, the purpose of the United States has actually indicated in some cases the key wealth that was that type of interference, you know, if we're to believe news reports. And so, you know, there's -- there's lots and lots we can focus on. There's lots of continued room for improvement.

Like Elaine, I think seeing broader adoption of paper ballots, this idea of building and resiliency, not just focusing on prevention and sort of defense in depth, if something happens, being able to go back and have a record we can look to in order to restore that confidence and legitimacy. With that said, you know, sort of the -- the initial strongest protection, having these really, really strong norms and strong international partnerships with our allies and strong incredible warnings to our adversary, you

know, that has I think been really, really unsuccessful. And so, we also need to be candid about what a perilous moment this is, that we are combing an already quite fragile system or a system that is starting to show cracks, with a genuine crisis in the form of a pandemic. You know, and then query, if there's you know other additional crises on top of that, right? So, major weather events. You know, Elaine mentioned disinformation about -- about acts of violence, right? You can imagine -- you can put together lots and lots of hypotheticals in which you can construct a pretty alarming scenario pretty quickly.

MR. WEST: So some of these issues that each of you have outlined, we did see in 2016 and even in the 2018 midterm election. So I guess the question and Elaine, I'll start with you, is just have we learned any lessons since 2016 and 2018? What is it that local, state, and federal agencies have been doing, and have they been enough to protect us in 2020?

MS. KAMARCK: You know, that's a good question, Darrell, and Susan alluded to this. In the -- what happened in 2016 was it was so unprecedented that the intelligence community of the United States federal government had never before interacted with election officials, who are, by the way mostly county level officials, some state/county level. So when the Senate did its real report, a long, long report on what happened in 2016, to me one of the most interesting things was the extent of the miscommunications between the federal government agents who were looking at this and seeing where it was coming from and seeing that there was some international funny business going on, and the state election officials who just didn't know what to make of this stuff. That, I think has actually changed. I know that for instance, in the last two summers there's been this huge hackers convention that goes on every year and you know, people were remarking how, "Oh, people from election boards and secretaries of state offices were coming to a hackers' convention" where they were testing election machinery, etc. So I think that, that communication breakdown, which I think the problem was pretty serious in 2016, I think that's probably not going to happen again. I think a lot of progress has been made on that.

As for, to me what worries me more than the election apparatus is the -- just the ease of disinformation flowing out there and the rapidity with which a lie goes wham around the country. And I don't th -- I think we -- we have a good kind of head start on the election machinery. I don't think we have

a very good way of coping with just flat out lies and -- and stuff that gets dropped, say the day before election day, you know, about -- about Joe Biden or even about Donald Trump, but there's that much. You know what I mean? I think that, that's really the problem that we're -- we're not able to cope with very well.

MR. WEST: Susan, are local, state, and federal agencies doing enough to safeguard this election?

MS. HENNESSEY: I think they're doing the best they can and let's keep in mind, we tend to think about elections as only occurring every two years or every four years. From a state and local perspective, that's not true. They run elections every single month, right? Elections are happening across the country continuously, school board elections, county board elections, state elections, primaries, you know house elections, right? So there's been a huge amount of experience and learning experiences. You know, I take Elaine's point that one of the sort of identified failures in the 2016 election was the lack of context being presented, so even whenever the federal government, which is in a privileged position at least whenever it comes to foreign sources at the tax and election infrastructure, you know, they were able -- they were able to sort of provide warnings. They really weren't giving enough context or enough information so that state officials would know how to sort of remediate. With that said, this is a scenario where you know, sort of foreign interference, it's exciting, it's something different. You know, the actual sort of reforms that are really, really desperately needed are the most boring possible, right? We need to reform the relationship between election machine vendors and states. There are a very, very limited number of ele -- of actual companies that create these election, you know, basically the mach -- voting machines. They do not -- they're in a position which they essentially voluntarily decide whether or not they want to comply with basic cyber security standards and state governments are not in a position to -- to do a whole lot to sort of compel them to change their behaviors.

And so just thinking about our -- what are the mechanisms we can use you know, to really reform things, you know at the systematic and structural level in order to ensure that we are seeing more secure behavior, you know, not just during the 2020, not just during you know the day of the

presidential election, but in all elections generally? You know, the other key is that this requires lots and lots of money and you know, we've had sort of funding for election security bills, you know, being kind of tucked in at the margins of other you know authorization appropriation skills. There hasn't been comprehensive bipartisan cyber security legislation passed. The latest coronavirus relief packages do not include substantial funding and that's what states really need. They need money in order to take the steps -- you know, in order to take some security steps.

The other thing that we need to think about is states are not just concerned with securing elections you know, against sort of foreign interference. There are also concerns with issues like access, right? So ensuring that everybody who goes to the polls is able to cast their vote. So this is something in the Help America Vote Act, you know, sort of post 20 -- post 2000. It was really, really voted on and focused on this question of voter access. And so one of the questions is how do we resolve the security concerns, and the security concerns that go to basic legitimacy without creating conditions that actually make it harder for people to vote or somehow replicate some of the pathologies that previously existed? And so it's a tremendously difficult sort of problems to wrap our arms around.

At this point, you know, I think that the technology and the technological choices really are baked in at this point. That the government can do between now and November is develop the relationships, find ways to share information, and also to share more information with the public. One of sort of I think the errors of 2016 was real concern that if the federal government acknowledged, even you know, sort of very, very basic intrusions into the system, things that you really had no reason to believe any vote would be changed for any reason throughout the integrity of the election, there was so much concern about sharing that information to the public that ultimately I think it became counterproductive, right? And the very limited information that was shared ended up scaring people and alarming them more than they needed to be and it wasn't until the SSCI report years later that we really, really understood the specifics of what had occurred.

And so what can the government do this time in order to share in real time, you know, actionable meaningful information, information that states and local

governments can act on and information that the public can digest ourselves and understand in a way that is actually going to bolster the legitimacy and sort of integrity of our systems, you know, because it feels like we are engaged in a fair and fundamentally transparent process?

MR. WEST: So in a few minutes we're going to take questions from the audience, so those of you who are watching I would encourage you, if you have any questions, email us at events@brookings.edu, that's events@brookings.edu and we will get to as many of your questions as is possible.

So Elaine, one of the things Susan mentioned a while ago was the role of the media. How should journalists think about these election problems that we've been talking about here today and how can they help the American public understand any problems that actually come up this fall?

MS. KAMARCK: There's a very big role of the media in this. First of all, on the disinformation front, one of the things we think we're learning about coping with disinformation is that when the source of a lie is publicized, that is actually more effective at cutting down on say the views of a certain page or a certain website than trying to combat the lie from the other side of the aisle. And so the media can have a huge role in simply publicizing the source of disinformation, particularly when it's foreign or particularly when it's another -- the other political party doing it clearly for the purpose of mischief.

The second thing I think the media can do is really help voters understand how to vote in -- during a pandemic. So understand that their polling places they're gone to for the last 20 years may not be the same polling place because there will be fewer polling places, helping people understand what the deadlines are for applying for your absentee ballot, what you have to make sure to do to make sure your ballot is counted, all of those things.

And then I think finally is the media has to not panic on election night because I mean, we had a little -- we had a little example of this with the Iowa caucuses. Now, granted the democrats had some mess-ups in the Iowa caucuses, but the media went completely berserk because they didn't have results out of the Iowa caucuses by 11:00 p.m. eastern standard time, which between was 10:00 p.m. in

central time. And it did take another two or three days, but we probably had the most accurate Iowa caucus count that we've ever had, which is you know, which is another story. And I think the media has to simply say on election day, there's going to be two sets of voters. There's going to be the voters who voted in person and I'm sure they'll have some people there at the polls reporting on the, but then probably there's going to be more than 50 percent. That's my guess now is that maybe as many as 60 percent to 65 percent voting absentee. Now there's no way other than some very rough polling, but even that I think would be hard to do, it's going to be really hard to figure out what the absentee ballots are. So if the press goes ahead and starts naming winners based on the in-person voting and then two weeks later all the absentee ballots are counted and the election is reversed, the winner is not the winner, that causes suspicion. People are going to say, "Oh, my God" that there was all sorts of funny business, the election was rigged, etc. So the media is really going to have to be disciplined. They always want to jump out ahead and declare the winner and make the news and they all compete vigorously against each other to call states on election night. They're not going to be able to do that reliably this time around, and if they do, if they do jump the gun, then what's going to happen if when the real results are in, if they're different, if they make a mistake and the probability is high there, then you're going to add to this sense of distrust, oh, the system is rigged, people were cheating, there was corruption, etc. That is exactly what the Russians would like to see about this election and frankly, a lot of Americans. They're playing into this. It's very serious and I think the media has a huge role in it.

MR. WEST: So Susan, you've already talked a little bit about the role of the media, but what would you like to see journalists do in terms of the way they cover this campaign and how they cover potential problems that may pop up?

MS. HENNESSEY: Well, I'll sort of limit myself to the election security issues of the campaign, right, and sort of the basic legitimacy questions and sort of grappling with the disinformation, because of course there is a much broader question about how the media covers the two candidates in question. That our -- you know, we could have 15 you know hours of this panel and not sort of begin to form those steps. But look, certainly Elaine's right. Resetting expectations about the timelines here, and

also in advance helping people learn how to vote, that you know, look, the media is a civic institution, you know, and I think can embrace the responsibility. How do people -- educating people about what voter -- what voting election that is actually going to look like, what the voting process is going to look like for them because to the extent that we are looking at something new and novel that is always going to be a world in which people are most concerned, right, and things seem illegitimate because they seem unfamiliar to them. And so I do think that if the media can start having a conversation with the public right now, "Hey, this how, this is what voting is going to look like, this is how you fill out an absentee ballot, here are the rules" and so the information you need to have in order to not have your ballot -- your ballot be invalidated. And then have and then be prepared sort of to go into election night. I'm representing that ultimately these are going to be state specific questions and then there's always a desire in a presidential campaign to really, really focus on the federal government. The federal government doesn't have that much of a role here actually. This is driven predominantly by state and local government and it is covered by state law, so there are going to be 50 different laws that govern when questions arise whether or not they're very, very big ones or little tiny minor ones about, "hey, does this ballot count" or "what do we do, you know, we saw this sort of weird thing happen in the system, how do we respond to that?" "Hey, this person got in line, but they weren't able to vote, they showed up to their polling place and it looks like their voter registration is not on file". All of the rules that govern that, they are not uniform federal rules for that. Those are different state specific rules. And so understanding that one, it is going to be a much longer process, and two, you know that as we're starting to have discussions about issues that are inevitably going to arise on election day, being in position to have a sophisticated nuance discussion you know based on the relevant jurisdictions in question, I think that's going to be a really tremendous public service.

You know, the other thing is I think a lot of the media tends to be focused predominantly on the presidential election. You know, that's -- that's perfectly understandable. It's less likely that we're going to have real questions or have really, really long waits in order to learn who won the electoral college and who is going to be the next president of the United States. The places where there's going to

be 2 percent margins, right, places where it might take a really, really long time to going to answers, are going to be in down ballot races. And so educating people and to continue to follow and care about those stories even once sort of the big flashy thing for the top of tickets are resolved, helping people understand all the way through the end of the process that hey, this is -- your voting in elections for the United States is an end to end system, right? You're -- you're vote, the moment when you cast your vote, that's not the end of the process and institutional integrity, institutional maturity, and depth and reliability, it extends all the way through all of these processes that we have in place in order to resolve an adjudicate any questions that might -- that might pop up. And we do in fact have a system that is substantial enough and strong enough to answer those questions when they do arise and we don't have to be afraid of them, but we do need to be far, far more educated on what a normal process, what a legitimate and ballot process will look like even if it's something that's not familiar to voters.

MR. WEST: Sounds like great advice for journalists. So I want to move to some questions from audience members. Elon (phonetic) has a question: What guardrails are available to prevent Trump from taking extreme measures to suppress the vote or to declare emergency powers to disrupt the election? Elaine, you want to start with that?

MS. KAMARCK: Well, as Susan just emphasized, elections are run by states, not by the federal government, so the President would have a very difficult time legally saying we have an emergency, we can't have the election. We did have elections during World War I, during World War II. We even had elections during the Civil War. There have been no precedent for a president stopping an election or somehow cancelling the election or somehow deferring it. Also, remember that the constitution says that your -- you -- the president is president until election -- the election is held, the electoral college meets, and until that, until January, the term ends. So President Trump needs an election to remain the president, okay. So it's not like he can just sort of say we're not going to have an election and I'm going to you know stay, I'm going to stay in there.

So I think that this is paranoid, a lot of paranoia about it because of some of the things Trump as done. I think it would be very hard to do. What I think is more likely and what I think he trying

to do right now is sow doubts about the legitimacy of the election. I think this campaign against mail-in ballots, which have never been very controversial at all and in fact do not have high levels of corruption associated with them, I think this is a campaign to set up a story that says if I lose, meaning Trump, if Trump loses that somehow the election was stolen and it will give him then, I mean maybe he'll try to litigate this. Maybe it will go on and on. Maybe he'll use it as a basis for his post-election you know organizations, assuming that he does lose.

I think what -- what's trying to -- what's happening here is he's setting up a reason to doubt the legitimacy of the election in case he loses.

MR. WEST: Susan, your thoughts on this topic?

MS. HENNESSEY: Unmute. Look, Elaine is certainly right. There is only a limited role for the federal government in you know the tabulation and certification of votes. And so I think some of the sort of nightmare scenarios where somehow an authoritarian president doesn't allow votes to be counted or influences the tabulation or outcomes, you know, that's very, very difficult to imagine how that would actually occur in practice. With that said, you know, voter suppression is a very, very real issue in the United States and in the past under both republican and democratic administrations, the Department of Justice and the federal government has taken a substantial forward winning role in combatting voter suppression and ensuring that all Americans are allowed to exercise their franchise.

One thing we have seen the Department of Justice do is take a massive step back, not enforce, not sort of attempt to enforce federal law. And we have seen the president make comments that appear to encourage or give cover to governors or other states' efforts that might be sort of aimed at some forms of disenfranchisement. You know, with that said, you know, I've heard a lot of people sort of talk about coronavirus and emergency powers and what can he do sort of on election day to disrupt things? You know, my thinking about this is ultimately this is a question of voluntary compliance by governors. And so the governors who might be inclined to do that tend to be governors of states in which the actual sort of vote might not be -- it might not be a swing state, right? It might not have a substantial impact on the outcome, and so you know, yes, I don't think we have to be cautiously careful and really

thoughtful as we go into this election and really looking closely at swing states and swing states in jurisdictions that are controlled by governors who have in the past been willing to go along with -- with federal requests or efforts even in the absence or countervailing an expert opinion or evidence.

With that said, I don't think this is something that should be keeping lots and lots of people up at night. And at the end of the day, the real way to combat all of this is to vote and to vote in very, very high numbers because whether you talk about disinformation and/or voter suppression efforts, all of these things that they all exist, they all have impacts at the margins. And if we had a country that participated at a much higher level in sort of regular elections, you know, it wouldn't solve those -- those issues, sort of the core issues, but it would mute the effects dramatically. And so I think for people who are you know worried about people being able to vote, make a plan for yourself. Make a plan. Don't just assume you'll be healthy and able to get to a poll. Register to get your absentee ballot. If you're all set and you know you can get to a poll and you've filled out and turned in your absentee ballot, help somebody else who might need access you know, to understanding how they register, understanding how they submit votes, right? Those are the things that are actually going to have a -- a real sort of impact on creating you know, healthier environments. And I do think that ultimately the -- the nightmare scenarios we have real questions about legitimacy that could be fueled you know by irresponsible rhetoric from the federal government, those really, really don't exist whenever you have more substantial vote margins.

MR. WEST: So Elaine, David has a question about mail-in ballots. He wants to know: Which battleground -- which battleground states are expected to have an unusually high percentage of mail-in ballots, and then if some of these ballots are contested, how will the disputes get resolved? And what are the odds, yes, that we're going to end up in a months' long contestable election?

MS. KAMARCK: (laughter) Well, that's a -- that's a really good question and it keeps a lot of people awake at night, David. So thank you. I can tell you, I made -- I'm looking at some notes here. Based on what we saw in the primaries, Florida, Georgia, New Hampshire, Ohio, all battleground states had enormously high numbers, unprecedented high, unprecedentedly high numbers of mail-in

ballots. So we can expect that. California has moved to an all mail ballot system, but that's not a swing state. Other states like Idaho, a solid republican state, have also had huge numbers of mail-in ballots. But basically, the swing states are seeing that. In Michigan just a week ago, the Detroit Free Press reported that they have already received 1.67 million requests for absentee ballots for their August primary. That's just for a primary, okay? So not -- who knows what there's going to be in November.

So I think all the swing states are going to see an enormous amount of absentee balloting. Now, traditionally when you -- when a state counts absentee ballots, there is a secured room, it is guarded, and the political parties each are entitled to have observers in that room as the ballots are counted, and that's -- that is of course an initial safeguard against any funny business going on. And then as Susan alluded to, there are -- this thing is lawyered up the wazoo. I mean, there are -- there are literally thousands of lawyers mobilized by each political party, during -- especially during the presidential election to watch what's going on at polling places and then of course this time I think the emphasis is going to shift because they're going to need a lot of lawyers to watch what's going on as the counting progresses.

Then, as you get to that point, you may get into the questions that we got in -- we haven't seen since Florida in 2000 where the two parties are saying, oh my God, does -- look at this ballot, did they mean to vote for this person? The vote's unclear, how do we count this? If it's a razor thin margin, those ballots are going to be really, really contested. I suspect they'll go to court, etc. Usually, however, if the margin is you know, 2, 3, 4 percentage points, there are not enough of those ballots to really matter. But remember that the one advantage of competition in elections as with competition in -- between car companies, etc., is that everybody's holding each other accountable, right? And you've got, believe me, the stakes are high. I think there's something like 50,000 lawyers mobilized by each political party in a presidential election year to watch this thing.

So they're not going to just let everybody go off and count the ballots themselves. This will be closely watched. And I think the one thing that the president, in his typical narcissistic way is forgetting, is that he is not the only person on the ballot. There are lots of people down ballot. There's

republic and congressmen running for reelection. There's Senate races, (inaudible) races. There's county commissioner races on the ballot. So there's a lot of people who are interested in making sure that the system is honest, straightforward, and that the ballots are counted in a good way. We just have to realize that it's not going to be quick.

Let me put one date in your mind, December 14th. That is the constitutional date for the meeting of the electoral college, which some people don't realize, but the electors are real people and they actually meet in state capitol on December 14th. So you basically have between November 3rd and December 14th to get this done and get it done right. And I'm hopeful that we will get it done right.

MR. WEST: Now Susan, Jacqueline has a question about voting mechanics and particularly changes in the process. So we know that some states are changing the requirement in terms of absentee ballots and mail-in balloting to make it easier for people because of COVID concerns. Some localities sometimes open and close polling places, so her question is: What should cities and states be doing to get information to voters about any of these changes that would affect the mechanics of the process?

MS. HENNESSEY: Yes, so usually these efforts are administered and overseen by state secretaries of state, so that's going to be -- the best information that you're going to be able to get is from your particular jurisdiction and sort of expecting to turn on national media and them to tell you what you need to know about your individual polling place. With that said, there are lots and lots of online resources, nonpartisan, apolitical resources that can help get you information about where to vote, that tend to be updated relatively rapidly and that the federal government does appear to be moving forward with plans in order to ensure you know that, that information remains -- remains valid and sort of responsive to coronavirus specific concerns.

You know, so to the extent that there's any question about where to go and vote changes, you know, information you see on Twitter or elsewhere on Facebook and on the internet, you know, really going to your state sponsored resources is going to be the best place to get reliable information. With that said, you know, look, I don't think anybody looking at the primaries that have

occurred over the past few months would be good at answering your question, right? There are -- there is lots and lots of evidence that we are not able to handle these disruptions very well, that this is a period of time in which we are especially susceptible to that. So I think the way to plan is for states to have lots and lots of options. Yes, there's lots of focus on getting access to mail-in ballots, increasing and loosening the absentee ballot rules so some states have gone to no excuse absentee ballots. Other states have explicitly said we are -- you have to have an excuse to request an absentee ballot. Concerns about coronavirus are a valid excuse. It's a reason why you can vote absentee. But also, there needs to be lots of different polling locations, right? There has to be options for people to exercise their franchise on the day of. And so either sort of planning for every eventuality is I think the most that we can ask you know our state and local election officials to do.

You know, and in terms of changes that might come, this is not their first rodeo. They do it all the time. They know how to remain you know agile and responsive and I do think that this is an area in which we can trust the media to look really, really closely. And so nothing is -- very few things are going to happen without the public being aware of them, without armies of election lawyers sort of being deployed. You know, and to the extent you know, Elaine was talking about sort of rules for in depth validating absentee ballots. You know, the absentee ballots, some percentage are invalidated every single time. I think New York state actually has one of the highest absentee ballot invalidation rates. And so one thing that's happening right now, certainly in every single swing state and a lot of non-swing states as well, is litigation that's occurring right now to ensure that the rules regarding disqualification of ballots or qualification of ballots are not in any way going to have an uneven impact and are not designed in order to ensure or encourage particular votes -- votes from particular communities to be more likely to not be counted than others. And so those are all efforts that are ongoing right now in sort of every state and are also going to significantly influence what occurs on election day, both the manner in which people are able to cast their votes and also which votes ultimately end up being counted.

MR. WEST: So Elaine, Dean has a question about the post office and basically it refers

to the proposals to reduce the budget of the post office and Dean wants to know if there are budget reductions of the post office, how is that going to affect this move to deliver the vote by mail ballots and how could it affect the process?

MS. KAMARCK: Well, that's a very good question and of course the post office has been in financial trouble for many, many years now. This is nothing new. They do have considerable borrowing authority, which they have used to keep them up and running and that's why we have a post office that is in theory in debt, but still keeps delivering mail more or less on time.

There's two things that are built -- built into the system. First of all, there are laws that require that the post office forward a ballot, if it's an absentee ballot, even if the ballot doesn't have postage on it. So that's a -- that's an interesting way that the post office will keep forwarding those ballots. Secondly, most -- lots of states are moving as they're going through this process adjusting their systems as Susan was talking about, one of the things they're doing is they are extending the days on which you can receive an absentee ballot and have it counted. So some states it's up to five days after election day. Some states it's as many as 10 days after election day. So that accounts for the fact that as we all know, sometimes the mail can be really slow. So as long as it's postmarked on election day, it can get counted even if it arrives late, even if it takes 5, 6, 7 days to arrive at the state, state election headquarters.

Now, the tricky thing that has arisen -- come up in New York state is that some of these ballots were simply passed through the post office without a postmark on it. Obviously, the postmark's kind of important because we don't want people voting after election day, right, thinking that they knew the winner and either getting on the bandwagon or saying, hey, I want to change that. So we don't want people voting after election day. But that's tricky. That is now in litigation in New York state, and I think a lot of states are going to have to figure out what to do about ballots that arrive without the postmark. Almost all of the state laws are very clear that the ballot has to be postmarked either on election day or sometimes the day before election day. When there's no postmark, nobody quite knows what to do and I think that's being litigated right now and I'm hopeful that this will get cleared up before -- before

November.

MR. WEST: Okay, Susan, we're going to give you the last question. It's from Lisa and she wants to know: How much of an impact does disinformation and social media manipulation have on down ballot races? So you know, a lot of our conversation is really focused on the national races in the presidential race in particular. She wants to know about these down ballot races. Are they at even greater risk or do they face different types of risks from some of these problems?

MS. HENNESSEY: So what I think that people forget about 2016 is actually a number of sort of hacks and leaks were targeted at congressional candidates, something that was not purely the presidential campaign that was sort of subject to -- to disinformation efforts. And certainly the likelihood that a foreign actor would have incentive to engage in that, I think is a little bit more limited whenever you're talking about down ballot races. You know, with that said, the -- the evidence that -- that -- the evidence of what extent disinformation or social media disinformation campaigns have on voting behaviors at all is highly contested. So there's been lots of people who have looked at this question of, okay, we know there was a -- a sweeping sophisticated disinformation effort in 2016. What's not clear is that, that disinformation campaign actually meaningfully altered voting behaviors. And so you know, I think this is an area in which it's tempting to want the science or the evidence to comport with sort of our pre -- our preconceived political notions or the narrative that might help our preferred candidates, and that might shift, right, in the current election versus prior elections. But this is one area in which I do think we need to be candid, but it really is unclear the extent to which disinformation efforts really, really do change voting behaviors, and to recall that if any one person had the key that made a person vote or not vote, or vote for a particular candidate, they would be working for a campaign making a lot of money doing that. These are really, really difficult questions you know of how exactly do you change voters' behavior, how exactly do you target them? We know that social media companies are certainly looking for that behavior right now, right? So they are -- they are carefully monitoring anything that might look like efforts to -- to illegitimately influence particular voters or not.

With that said, I think that -- I think the only honest answer to give as to -- to what affect

does disinformation campaigns actually have on down ballot races is to say that nobody really knows in part because we're just starting to get some understanding about the impact it might have you know on sort of marquee races and the evidence, at least some sort of preliminary studies and evidence do suggest that actually the affect is far more muted than you might -- than we might suspect. And so as we think about where we want to allocate both our attention and actually our resources in terms of securing election, that we might have -- we might be better to focus less on combatting disinformation, although certainly it remains a problem, and more on actually securing systems because that goes to sort of the core question of legitimacy of participation, and right -- so there's the basic democratic agreement of sort of allowing citizens to engage in a fair election. So in a world of limited resources, I don't think we have to pay a lot attention to the science and evidence you know so that -- so that we can target the issues that could have the most impact on actual voting.

MR. WEST: Great answer. Well, I want to thank both Elaine and Susan for sharing their thoughts with us. These are very important topics and all of us are going to be paying attention in the coming months.

Those of you who would like to read more on this topic, go to [brookings.edu](https://www.brookings.edu). Susan is very involved with the Lawfare blog. Elaine works on our FixGov blog, and I contribute to our Tech Tank blog. Each of those blogs have lots of short articles and links to longer papers on all of these topics. So thank you very much. We appreciate your interest.

* * * * *

CERTIFICATE OF NOTARY PUBLIC

I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative

ANDERSON COURT REPORTING
1800 Diagonal Road, Suite 600
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Carleton J. Anderson, III

(Signature and Seal on File)

Notary Public in and for the Commonwealth of Virginia

Commission No. 351998

Expires: November 30, 2020

ANDERSON COURT REPORTING
1800 Diagonal Road, Suite 600
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190