



Secretaries of State Are Crucial for Protecting African American Voters

By Michael Sozan and Christopher Guerrero August 2020

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Introduction and summary

The United States is simultaneously confronting three wrenching challenges: the deadly COVID-19 pandemic, deep economic upheaval, and systemic racism—issues that disproportionately affect African Americans. Compounding these critical issues is the racial discrimination that pervades the U.S. voting system and silences the voices of the communities that are most affected.

In several primary elections across the country, there has been a breakdown in election processes—including closed polling places, mail ballot voting hurdles, and malfunctioning voting equipment—causing outsize harm to African American communities. It is important for elected officials to ensure that every American can fully exercise their constitutional right to vote, especially during a pivotal election year. Secretaries of state, although perhaps not the most well-known public officials, serve as the gatekeepers of free and fair elections across the United States. As the top election administrators in most states, they face unprecedented hurdles to running safe elections during a pandemic, on top of their responsibility to ensure that elections are inclusive and accessible. The decisions that secretaries of state make can help determine whether every eligible American can vote and play a meaningful role in transforming the United States into a more just society.

Yet with so much on the line, particularly in the face of an unprecedented pandemic and continued protests against systemic racism, Americans are experiencing an uneven approach by state election officials throughout the country. The disparities in how secretaries of state are working to secure access to the ballot box are alarming, as the result is often the continued disenfranchisement of African American voters.

This report shines a light on the critical role secretaries of state play in protecting elections, including the bedrock promise of the right to vote. The authors also provide examples of states that are taking steps toward inclusive and safe elections, as well as examples of states pursuing policies that result in voter suppression. As the country approaches a historic election in the face of myriad crises, it has never been more important that every eligible American has access to vote on November 3, 2020.

Background for the analysis

The crucial role secretaries of state play in safeguarding elections and voting rights for people of color

The United States has a decentralized election system that vests considerable authority in state and local officials to determine voting procedures. This balkanized system allows opportunities for innovation and nimbleness, but it leaves elections open to partisan politics, state- and local-level corruption, and entrenched discrimination.

In almost all states, the secretary of state serves as the chief elections officer in charge of federal, state, and local elections.¹ Although they often conduct their work with severely limited budgets and resources, secretaries of state ultimately help protect a cornerstone of American democracy: elections that are free and fair as well as accessible, inclusive, and secure. The most effective secretaries of state are those who choose to use their authority to actively dismantle the systemic discrimination and inequality that exist within their state's election system.

Secretaries of state are responsible for implementing state plans to register eligible people to vote, maintain up-to-date voter rolls, and oversee how people vote—whether in person or by mail.² Their duties include ensuring that there are enough accessible polling places, polling places are secure, voting equipment properly functions, poll workers can do their jobs safely and effectively, and citizens can vote freely and securely.

Not only do secretaries of state oversee voting processes before, during, and after an election, they also must work smoothly with the U.S. Congress and state legislatures, which provide funding and decide overarching election policies. Perhaps most importantly, secretaries of state must ensure that the results of elections are accurate and reflect the will of the people. This means, in part, ensuring that all eligible voters can equally exercise their right to vote without undue burden. But the work of secretaries of state is being tested in unprecedented ways.

First, they have had to take steps to fortify election systems against attempts from foreign or domestic entities who want to interfere in U.S. elections.³ In many ways, secretaries of state—along with other state and local officials—are on the front lines of protecting the country from cyber intrusions, disinformation, and foreign spending in elections.

Second, the COVID-19 pandemic is challenging U.S. elections in profound ways, given the health risks of voting in person or serving as a poll worker. The pandemic has compounded existing racial inequalities, from occupational segregation to economic exploitation to employment discrimination,⁴ and African Americans are suffering higher rates of infection and death from complications caused by the virus.⁵

Given that no voter should have to make a choice between their health and casting a vote, it is imperative that secretaries of state give all voters the option to vote safely and securely by mail. At the same time, secretaries of state must maintain robust in-person voting opportunities in order to avoid unduly risking the disenfranchisement of voters who do not or cannot vote by mail. This includes many African American voters who voted by mail at less than half the rate of voters of other races in 2018.⁶ These and additional commonsense polices are discussed in greater detail below.

Regrettably, the past year has exposed breakdowns in primary elections in multiple states, including Wisconsin and Georgia, as well as Washington, D.C.⁷ In some of these elections, voters never received the mail-in ballots they requested. In other cases, they were forced to wait up to six hours in line to vote—sometimes at polling places where voting machines were missing or did not work.⁸ Unreasonably long wait times led some people to give up and leave before voting, and there is evidence that in-person turnout was dampened as a result.⁹ Many of these breakdowns had disproportionately negative effects on African American voters,¹⁰ and these flaws must be remedied before the November general election.¹¹

The COVID-19 crisis has shined a brighter light on the discriminatory power structures that African Americans face, but disenfranchisement of African American voters is not a new phenomenon. As California Secretary of State Alex Padilla (D) has stated, voter suppression efforts are “rooted in white supremacy.”¹² Mechanisms that have historically been used to suppress the African American vote include reducing the number of polling locations or limiting early voting, which causes long waits in line; purging voters from registration rolls; not alerting all voters of updated voting instructions and locations; and many other unfair

practices.¹³ One particularly problematic law in many states is the requirement for voter identification, a blunt instrument that has been shown to disproportionately suppress African American voters.¹⁴ Several of these problems have been exacerbated by the U.S. Supreme Court's 2013 decision in *Shelby County v. Holder*, which gutted key parts of the landmark Voting Rights Act, making it easier for states to discriminate against communities of color at the ballot box.¹⁵

When people lose faith in the idea that elections are conducted fairly without regard for race or other factors, the democratic process is weakened.¹⁶ When African Americans experience inefficient and inaccessible elections that hinder their right to vote, the system fails. And when secretaries of state yield to political pressures, they can no longer act as the guardians of fair elections. However, secretaries of state have the power to be a firewall to safeguard voting rights and allow more people to access the franchise, especially at a time when African Americans are mobilizing to create a transformative new era of equal rights.

President Trump and congressional Republicans sowing fear and division in electoral process

Instead of encouraging states to create safe and inclusive voting procedures during the COVID-19 crisis, President Donald Trump and many Republican leaders are actively opposing these efforts. At the same time, they are dangerously stoking the types of division and mistrust that can undermine Americans' confidence in free and fair elections and denying African Americans a meaningful voice in elections.

President Trump and many Republican leaders are engaging in a form of voter suppression designed to help them retain political power—and in some cases, they are aided by willing allies in secretaries of state, as discussed below. Just as strikingly, the president appears to be laying the groundwork to potentially postpone the November election, which he lacks legal authority to do, or challenge the election results if he loses.¹⁷ He enjoys the assistance of Attorney General William Barr, who has falsely claimed that the upcoming presidential election is deeply endangered by expanded mail-in voting.¹⁸

President Trump has long contended that the 2016 election was rife with fraud, and he has now updated his claims with the allegation that voting by mail would lead to widescale abuse and help Democrats win.¹⁹ These assertions not only have been repeatedly debunked,²⁰ but President Trump, his family, and several of his top-ranking advisers have in fact voted by mail in multiple elections.²¹

When Michigan's secretary of state announced in May that she would send applications for mail ballots to voters due to the COVID-19 pandemic, President Trump bizarrely threatened to cut off federal funds for the state.²² Similarly, the president claimed that California would be "rigging" the election if the state mailed ballots to all registered voters.²³ He opposes funding the U.S. Postal Service, even though (or perhaps because) post offices are responsible for delivering mail ballots.²⁴ In addition, a number of Republican Party lawyers are litigating in courts nationwide to restrict people's voting options.²⁵

Expanding vote by mail and updating other voting processes during the pandemic should not be a partisan issue. In fact, it is a moral imperative to protect voting rights and public health, especially for communities of color.

Analyzing the state of elections

Examples of secretaries of state fighting for fair, accessible elections

In a successful and inclusive democracy, all eligible voters must have the ability to fully participate in the democratic process, especially during national crises. Across the nation, many secretaries of state are taking action to expand voters' ability to safely and effectively exercise their constitutional right in this year's elections. Some notable examples include the following:

- **Michigan:** Michigan voters elected Secretary of State Jocelyn Benson (D) to her position in 2018, after the seat had been held by a Republican. Benson, who has a deep background in election law and an interest in expanding the electorate, stated, “The ability of citizens to hold their elected officials accountable—and weigh in on issues critical to their local communities—is all the more important in times of crisis.”²⁶ She sent absentee ballot request forms to all registered voters in the state, even after President Trump falsely accused her of acting illegally and going down a “voter fraud path.”²⁷ She has implemented multiple reforms, including providing prepaid postage for mail-in ballots and request forms; recruiting a new generation of poll workers; and starting a ballot tracking system to reduce the opportunity for fraud and allow voters to check the status of their mail ballots.²⁸ In light of the current crises facing African American communities, Benson is conducting a statewide listening tour to engage communities with historically low voter turnout rates about how “to dismantle structural racism in our society.”²⁹ She stated, “The vote is one of the most powerful promises of equality in our democracy and as Michigan’s Secretary of State I am committed to ensuring every voice is heard and every vote is counted.”³⁰
- **California:** In California, the tenure of Secretary of State Alex Padilla has been marked by aggressive efforts to expand voter participation. In recent months, Padilla has helped lead a nationwide push to give people an expanded array of safe voting options, including voting by mail and accessible, in-person voting.³¹ In June 2020, under Padilla’s leadership, California became the latest state to switch to a system

that will send all eligible voters a mail-in ballot.³² Padilla said the new law will help protect voting rights and spur more voters to exercise their constitutional right, even during the pandemic.³³ The new law also allows election officials to count mail ballots that are postmarked by Election Day and received up to 17 days after Election Day due to factors such as Postal Service delays.³⁴ Additionally, Padilla has used his public position to forcefully rebut President Trump's election-related falsehoods, noting that they are disinformation aimed to suppress voters and reduce participation.³⁵

- **Arizona:** Arizona voters elected Secretary of State Katie Hobbs (D) in 2018, after the seat was held by a Republican. During the COVID-19 pandemic, Hobbs has fought to expand the range of options available for voters in a state where the Republican governor is a close ally of President Trump.³⁶ Hobbs has stated, "I see it, as the state's chief elections officer, to make sure people don't have to choose between their vote and their health."³⁷ Arizonans already heavily vote by mail, and Hobbs announced that the state will send an absentee ballot application to all voters who are not on the state's permanent early voting list.³⁸ She has also emphasized the indispensable need for early, in-person voting.³⁹ Moreover, Hobbs is working with county election officials to ensure that polling locations incorporate social distancing and that officials have all the personal protective equipment, such as masks and gloves, that they need to work safely.⁴⁰ Finally, she has become an outspoken advocate for election reform, pushing for Congress to fully fund state election preparation efforts during the pandemic.⁴¹
- **Colorado:** After the seat had been held by a Republican for 60 years, voters in Colorado elected Secretary of State Jena Griswold (D) in 2018.⁴² Colorado is one of five states that conducts its elections primarily by mail, which has increased voter access by 9 percent since 2013, when the state passed its vote-by-mail law.⁴³ Griswold has been a vocal proponent of mail-in balloting, actively helping other states ramp up inclusive and secure vote-by-mail systems, and she has emphasized the importance of including early, in-person voting options that are designed to be safe for voters and poll workers.⁴⁴ She has also implemented a new automatic voter registration system and spearheaded a robust program to recruit new poll workers, which includes offering them extra pay and sick leave.⁴⁵ Under Griswold's leadership, the state has spent \$6 million to help fortify its election infrastructure and security against foreign cyberattacks, and she hosted a summit with county clerks to prepare for any potential outside interference.⁴⁶ Griswold also has prioritized increased voter participation, saying, "[W]e have to be on alert and push back against any attempt to use the pandemic to suppress voter turnout."⁴⁷ In recent months, Griswold has used her platform to refute the president's falsehoods about vote by mail and to advocate for more federal funding for state elections.⁴⁸

Examples of secretaries of state hindering fair, accessible elections

Unfortunately, several secretaries of state have taken actions that are antithetical to conducting elections that are free, fair, and accessible to all voters. Some notable examples include the following:

- **Georgia:** Brad Raffensperger (R) is the secretary of state in Georgia, a state with a long and troublesome history of African American voter suppression. In 2018, then-Secretary of State Brian Kemp (R) was elected governor over Democratic voting rights activist Stacey Abrams, in an election she called “rotten and rigged.”⁴⁹ Leading up to the election, Kemp had overseen a purge of 1.7 million people from Georgia’s voters rolls—the effects of which fell disproportionately on African Americans—and he closed 214 polling places across the state.⁵⁰ Instead of reversing this legacy, Raffensperger managed a June 9 primary election widely seen as a debacle that disproportionately hurt African American voters. He ignored repeated warnings that the state was unprepared to implement all new voting equipment during a presidential election year, a challenge compounded by the pandemic.⁵¹ On primary day, the Atlanta area—which is heavily populated by African Americans—saw 80 of its polling locations closed.⁵² The polling places that were open were plagued by equipment problems, inadequately trained workers, a shortage of workers due to fears of COVID-19, and several other problems.⁵³ Furthermore, many voters never received the mail ballots they requested months before and were given no choice but to try to vote in person, despite health concerns.⁵⁴ Some voters gave up after waiting in hours-long lines.⁵⁵ Amid claims of continued voter suppression, Raffensperger conceded that many of these problems were unacceptable and opened an investigation.⁵⁶ Moreover, in June, he announced that Georgia will stop proactively mailing ballot request forms to voters and instead will require voters to request mail-in ballots online—an unfortunate move that will likely lead to fewer people voting safely by mail.⁵⁷
- **Missouri:** Jay Ashcroft (R) is the secretary of state in Missouri, a state with a track record of suppressing African American voters, including by conducting discriminatory voter purges in Democratic precincts.⁵⁸ The Missouri Supreme Court has repeatedly struck down provisions in Missouri’s voter ID law as unconstitutional,⁵⁹ though Ashcroft has stated, “I don’t care what the Supreme Court says. You all should make the decision, the people of the state.”⁶⁰ State legislators recently enacted updated vote-by-mail legislation that failed to allow most Missouri residents the option to invoke the fear of contracting COVID-19 as an excuse for voting by mail. In the course of debate on that bill, Ashcroft fought for voter

ID provisions to be included, a step too far even for the Republican-dominated Legislature.⁶¹ Regrettably, however, the Legislature decided to mandate that most mail-in ballots be notarized, an unreasonably onerous requirement supported by Ashcroft that is now being challenged in court.⁶² Moreover, Ashcroft has perpetuated a misguided argument that COVID-19 is being used as an excuse to achieve advocates' goal of expanding vote by mail, and he has failed to challenge President Trump's falsehoods that vote by mail leads to widescale fraud and inaccurate election results.⁶³

- **Florida:** Secretary of State Laurel Lee (R) was appointed in 2018 by Gov. Ron DeSantis (R), a close ally of the president.⁶⁴ During Lee's tenure, Florida has continued its deeply rooted history of suppressing African American voters—which it had done previously through tactics such as imposing poll taxes and literacy tests and conducting primary elections in which only white people could vote⁶⁵—and multiple election-related lawsuits are currently pending.⁶⁶ Until recently, Florida was among the states that permanently banned people convicted of felonies from voting.⁶⁷ But in 2018, Florida voters overwhelmingly voted to amend the state's constitution to restore voting rights to people with prior felony convictions. This reform carried enormous positive ramifications for inclusive elections, as it meant returning suffrage to 20 percent of the state's African American population, thereby giving them a voice in their democracy.⁶⁸ However, under the leadership of DeSantis and Lee, Republican legislators cynically set up a pay-to-vote roadblock, requiring formerly incarcerated individuals to pay fines and fees associated with their convictions before being able to vote.⁶⁹ In May 2020, a federal district court issued a scathing opinion striking down the law for what it is—an unconstitutional, modern-day poll tax.⁷⁰ Regrettably, with the November 2020 election mere months away and racial justice protests continuing nationwide, DeSantis and Lee appealed the court's decision, refusing to abandon their fight to suppress these voters, and the U.S. Supreme Court has temporarily sided with them.⁷¹ In a state notorious for its razor-thin election margins, local election supervisors claim Florida is unprepared for this year's challenges, in part because Lee was slow to ask for available federal aid for election preparation.⁷²
- **West Virginia:** Mac Warner (R) was elected by West Virginia voters as their secretary of state in 2016. On a positive note, Warner has taken some commonsense steps to expand the option for people to vote by mail without an excuse or to vote early in person up to 10 days before Election Day.⁷³ Yet even as he recognizes the benefits of these reforms and says he has implemented necessary safeguards, Warner will no longer proactively send ballot applications to eligible voters as he did in the

June primary, and he agreed with President Trump that “voting by mail just opens up opportunity for fraud.”⁷⁴ He also has repeatedly raised the specter of election malfeasance, applauding the creation of a West Virginia task force to investigate and prosecute election fraud cases—even though such incidents are exceedingly rare.⁷⁵ Perhaps Warner’s focus makes sense in light of the fact that his top two stated election-related priorities are preventing election fraud and investigating people who violate election laws, instead of expanding the franchise to all eligible voters.⁷⁶ One West Virginia newspaper’s editorial board opined that Warner’s conduct “smack[s] of a lame attempt at voter suppression.”⁷⁷ When he is not on the hunt for virtually nonexistent voter fraud, Warner has conducted aggressive voter roll purges, which can disproportionately suppress African American voters.⁷⁸ One analysis of the state’s most recent biennial purge showed that the state removed 41,251 more Democrats than Republicans from the voter rolls, although the state contends that no political party or precincts were targeted in the purge.⁷⁹

Recommendations for secretaries of state during the COVID-19 pandemic

With COVID-19 continuing to pose a major threat to elections, secretaries of state must lead the way in making significant updates to their election systems before November. Their top goals should be to promote voter participation; prevent further spread of the coronavirus; and protect the integrity, accessibility, and security of the electoral process.⁸⁰

If new procedures are not implemented, voters, their families, and election workers will be unfairly forced to put their lives at risk to take part in the democratic process. As the Center for American Progress outlined in May, this is particularly true for higher-risk populations such as communities of color.⁸¹

The following are essential reforms that would help prevent the disenfranchisement of voters while also mitigating potential coronavirus-related health risks.⁸² Additional potential reforms are discussed in the CAP column, “Election Contingency Planning During the Coronavirus Pandemic.”⁸³

- **Voting by mail:** States should give every voter the option to safely and securely vote by mail without the voter having to select a reason from a preapproved list. For mail-based voting to be successful, it must be coupled with several related policies to ensure that voted ballots are properly counted and that all voters can make full and effective use of mail-in balloting.
 - States should automatically mail every active and inactive registered voter a ballot request form to vote by mail well before the voting period begins. Where permitted, election officials should directly send voters a mail-in ballot.⁸⁴
 - Voters should be given the additional option of requesting their absentee ballot online. Especially amid the ongoing pandemic, states should also eliminate unrealistic requirements that another person or a notary witness the voter’s ballot signature.⁸⁵
 - Voters should be able to mail their ballots and ballot request forms free of charge or with prepaid postage.⁸⁶

- States should count ballots postmarked on or before Election Day, even if ballots are received up to 10 days after Election Day due to lagging Postal Service deliveries.⁸⁷
 - Voters should be allowed to drop off ballots at predesignated, secure locations, conveniently located across neighborhoods that equitably represent diverse populations.⁸⁸
 - Voters must have a meaningful opportunity to fix any error that would invalidate their ballot within two weeks of being notified by the state. This includes giving voters the ability to contest any claim that their ballot signature does not match their signature on file with the state.⁸⁹
 - States should establish ballot tracking processes to allow voters to track their ballots online through every step of the process and reduce the already small chance of fraud.⁹⁰
- **Enhanced in-person voting:** States should give all voters robust options to vote in person at polling places, while taking appropriate precautions to minimize the spread of COVID-19 per guidance from the Centers for Disease Control and Prevention. As discussed above, reducing in-person options would inadvertently disenfranchise many African American voters and increase the risk of spreading COVID-19.⁹¹
 - States should allow for at least two weeks for early voting and extend the hours that polling places remain open, including weekends and early morning and evening times.⁹²
 - Polling locations must be conveniently located across communities.⁹³
- **Additional pro-voter measures:**
 - States should offer all eligible voters the option for online voter registration.⁹⁴
 - States should offer all eligible voters the option for same-day voter registration.⁹⁵
 - States should conduct robust voter education efforts and update information about voting procedures or locations, which may have changed due to the pandemic.⁹⁶

Even before the COVID-19 pandemic hit the United States, congressional Democrats passed an unprecedented democracy reform package—known as the For the People Act, or H.R. 1—which would establish most of the aforementioned election reforms as a nationwide minimum standard.⁹⁷ In May 2020, House Democrats passed the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act—a COVID-19 relief bill containing important voting reforms and \$3.6 billion in additional federal funding for states to fully implement necessary reforms.⁹⁸ House Democrats also passed legislation in December 2019 to update the Voting Rights Act after the Supreme Court neutered it in the *Shelby* decision.⁹⁹

The most imperative action Congress can take is to pass full funding for states to immediately implement essential election reforms as the coronavirus continues to threaten the health and safety of Americans.¹⁰⁰ Most states are severely underfunded and underequipped to conduct safe elections,¹⁰¹ compelling many secretaries of state to implore Congress to fully fund their election preparation efforts.¹⁰² Yet Senate Republicans have opposed attempts to fully fund these efforts, which could result in a chaotic 2020 election and put the health of tens of millions of Americans at risk.¹⁰³

Conclusion

In these unprecedented times, many Americans—especially African Americans—are demanding avenues to deliver much-needed change. Society, however, cannot achieve meaningful progress toward racial and economic justice if communities of color continue to face entrenched barriers to voting and are precluded from exercising their constitutional right to vote. Secretaries of state should use their important position as stewards of democracy to ensure that every voter has an equal voice in determining the trajectory of the United States.

About the authors

Michael Sozan is a senior fellow on the Democracy and Government Reform team at the Center for American Progress Action Fund, where his work focuses on issues including election administration, money in politics, and ethics.

Christopher Guerrero is the executive director of the Democratic Association of Secretaries of State, a national organization supporting the election of Democratic secretaries of state, where he works with secretaries of state on protecting and preserving voting rights and ballot access for all Americans through fair, honest, open, and accurate elections.

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