



NATIONAL ASSOCIATION of STATE ELECTION DIRECTORS

Thank you Chairman Durbin, Ranking Member Grassley, and members of the Committee. I appreciate being asked to participate in this important conversation.

My name is Amy Cohen; I am the Executive Director of the National Association of State Election Directors (NASED). NASED is a nonpartisan, nonprofit membership association for the state and territorial officials whose primary responsibility is the administration of elections. Our members are in all 50 states, the District of Columbia, and the five US territories. In the 40 states where a Secretary of State or Lieutenant Governor is the Chief Election Official, NASED's member works for the Chief Election Official; in the other 10 states, District of Columbia, and the five territories, NASED's member is the Chief Election Official.

No NASED members are elected¹. Our members are public servants who oversee the implementation of election systems, laws, and policies, and work with local election officials. NASED does not issue best practices or guidance – we facilitate information sharing across the states and territories and from the federal government to the states and territories. NASED does not take positions on federal or state legislation or on federal or state election policy.

Threats Against Election Officials

Although the national conversation about threats to election officials is relatively new, it is important to acknowledge that in some states, this behavior has gone on for years. Several NASED members have had police details or other security precautions in place on a continuous or sporadic basis for some time. What is new, however, is the scope, scale, and frequency of these communications, which started before the November 2020 General Election. An August 2020 article in ProPublica² detailed hostile messages received by state and local election officials in states across the country in the Spring of 2020:

- In advance of the May primary, a conspiracy spread in Oregon accusing the state election office of illegally changing voters' party registrations without their consent. Oregon, at the time led by a Republican Secretary of State, has closed primaries, so the implication was that voters' registrations were being changed to deny their participation in the primary. The state election office spent valuable time investigating every claim and found that these voters had either registered years before as a different party or had been registered through Oregon's motor vehicle agency, which does not require voters to specify a party. The office, however, was inundated with calls, emails, and internet posts accusing election officials of committing crimes and deserving of a variety of violent punishments.

¹ In one state, the Secretary of the Senate, by statute, also serves concurrently as the Secretary of the State Board of Elections. The Secretary of the Senate is elected by the State Senate.

² Jessica Huseman, "[For Election Administrators, Death Threats Have Become Part of the Job.](#)" *ProPublica*, Published August 6, 2020.

- For the June primary election, Jefferson County, Kentucky, home of Louisville, (approximately 616,000 registered voters), offered one Election Day voting location in accordance with the state’s COVID voting plan. The state also implemented early voting for the first time, and like others, saw an astronomical increase in the number of absentee ballot requests, which they made available without an excuse for the first time. Once national figures began tweeting #AllEyesonKentucky, though, the Secretary of State’s office, led by a Republican, the State Board of Elections, led by a Democrat, and the Jefferson County election office received such a volume of calls that it essentially caused a denial of service to the offices, rendering them inaccessible to their voters. The callers that did make it through left vile and violent messages such as: “Go find a gun and kill yourself,” and “[W]hoever caused this should be hung from a tree.”

Lost in the outrage was that Kentucky has closed primaries such that even historic turnout in the primary would likely only be around 35 to 40 percent of registered voters; that voters had two weeks to cast their ballots early in person; that 25 percent of Kentucky’s registered voters requested an absentee ballot for the primary election, including 34 percent of Jefferson County voters; and, critically, that the one polling place was the size of more than 20 football fields, had more than 400 individual voting stations, and was accessible by free public transportation.

As 2020 progressed, these stories grew more common. Instead of a handful of states reporting these experiences, NASED heard from nearly all states that either they or their local election officials – or in many cases, both – were experiencing these kinds of incidents. After consulting with the Cybersecurity and Infrastructure Security Agency (CISA), NASED began telling states to share these communications with the Federal Bureau of Investigation (FBI) in mid-2020.

In December 2020, members of the Election Infrastructure Government Coordinating Council (GCC) and Sector Coordinating Council (SCC) reported receiving alarming communications from a group calling themselves Enemies of the People: “Most traitors are shot at dawn. Your days are numbered. Your address and phone number has been provided to some mafia/gang member type individuals. They will be coming after you.” The website these messages linked to, which also included a number of high-ranking federal government figures of both parties, included photos of the GCC and SCC members with rifle sights over their faces, photos of their homes, their home addresses, phone numbers, and personal email addresses. For several days, the website was shared on a variety of mainstream and less common social media platforms and the people listed received an onslaught of terrifying communications. CISA arranged for the FBI to brief members of the Coordinating Councils to share what they knew and answer questions. Although available information was limited, the FBI ultimately indicated that Iran was behind this effort³. It is our understanding that FBI Cyber worked with the relevant social media platforms and website hosting companies to remove links and deplatform all iterations of the site in December.

³ Federal Bureau of Investigation, [“Press Release: Iranian Cyber Actors Responsible for Website Threatening U.S. Election Officials.”](#) Published December 23, 2020.

For NASED, this provided a window into the communication, or lack thereof, between the different layers of law enforcement. In every case, it was the victim – the GCC and SCC members – who alerted their FBI regional staff that this was happening to them. Victims were also instructed to alert their local law enforcement, but many experienced difficulties doing so, especially members of the SCC, many of whom, at the time, did not have an ongoing relationship with any law enforcement. For most of the impacted GCC and SCC members, including several of the election officials, the conversation with local law enforcement had to start at the beginning: “I work in election administration. In 2017, elections were designated critical infrastructure...”

Starting on January 4, 2021, the communication began again: “Your days are numbered. The FBI can’t save you. Out of kindness, we took a break during Christmas. We hope you enjoyed this holiday because it will be your last. Every time you leave your house in the morning, make sure to say goodbye to your family, as you may not see them again.” This time, the list of election officials receiving the communication expanded to include several additional Secretaries of State as well as additional state and local election officials in states whose election outcomes were considered controversial. The website had been updated to include the personal information for these election officials as well as their photos with rifle sights over their faces.

Thinking back to the early days of January 2021, it is easy to understand why this new round of attention from Enemies of the People was particularly alarming for those on the list. In the days and weeks before January 6, 2021, election officials had seen on social and traditional media that there would be protests, some armed, at state capitols around the country related to the election results. While NASED members do not typically work in the physical state capitol building, all of them are based in state capitol cities and all of them work in elections. This made the communications on January 4 significantly more threatening – not only did these actors know where NASED members lived, they were potentially planning to be in the vicinity of state election offices on January 6. Many of those named on the website did not feel safe at home or at work.

Different from December 2020, in January 2021 the FBI was unwilling to brief the election officials added to Enemies of the People. They would not commit to a timeline for contacting the individual election officials or that notification would happen before January 6 so the impacted officials could take appropriate measures to protect themselves. NASED took on the responsibility of notifying our impacted members (as did our colleagues at the National Association of Secretaries of State) and arranging a briefing with CISA, who was willing to share what they knew and try to answer questions. Days later, the FBI confirmed that it was the same actor: Iran.

The experience with Enemies of the People laid bare several challenges, including the complicated jurisdictional issues that exist between federal law enforcement, capitol police, state police, county sheriffs, and local law enforcement, but one of the biggest challenges experienced by NASED members was, and continues to be, that they are not elected officials. In states where the Secretary of State and the election director were included on the list, many of the Secretaries were able to access protective security details and state resources to keep them safe, while many of NASED’s members were not. In one such state, the Secretary got a 24/7 state police detail and the Director of Elections, after hours of pleading, convinced the local police to drive by their home once per day. One of NASED’s

unelected Chief Election Officials similarly spent hours wading through the different law enforcement jurisdictional challenges before a local law enforcement agency finally agreed to provide a 24/7 police detail.

Other states experienced similar issues around January 6. In one state, the state capitol complex was closed on January 6, 2021 because of concerns about protest activity specifically related to the November 2020 election. Nobody in state government or law enforcement told the Chief Election Official that there were safety concerns, but they alerted the governor. The election office learned from a local business. It is impossible not to draw parallels to October 2016 when federal officials notified governors that they had observed scanning of election networks by foreign actors, and never notified election offices.

The experiences of our members made physical security a top priority for NASED in 2021, especially as vitriolic communications continued to bombard election offices. CISA's Election Security Initiative was a critical resource for us as we tried to navigate how to move forward. It was clear based on the Enemies of the People that local law enforcement was a key partner, but we learned quickly that law enforcement is even more decentralized than elections, with complicated, sometimes overlapping jurisdictions. An initial meeting between representatives from local law enforcement associations and representatives from NASED, coordinated by CISA, also made it clear that law enforcement has a variety of concerns about engaging on this topic. Those concerns range from violating civil liberties to questioning the legality of election officials' actions during the November 2020 General Election. While NASED is aware of some subsequent efforts to strengthen relationships between local law enforcement and local election officials coordinated by nonprofit groups, NASED members have not been invited to participate meaningfully in those efforts.

Throughout 2021 and 2022, election offices across the country continued to receive an onslaught of hostile communications. These are typically not tied to any predictable election administration landmark like a deadline or an election itself but are more often tied to events we have limited or no advanced visibility into: blogposts, podcasts, rallies, conferences, posts on social networks, and the like. Many of these communications call for execution by firing squad or hanging – the supposed punishments for treason – but can be more creative or vile. As a result, NASED has heard from state election offices in which every employee now has a concealed carry license and actively carries a weapon; we have heard from state election offices that have seen long-time employees abruptly give notice en masse with no jobs lined up, citing safety concerns; and we have heard from states that have lost 25 to 30 percent of their local election officials because those public servants no longer want to work in this environment.

Sometimes, these communications shift off the screen or the phone and into real life. NASED is aware of election officials who have needed to enter and exit their offices via the loading dock because the protest activity at the front was too volatile. In one instance, a local election official spent time educating a voter with questions about voting equipment, a conversation that ended when the voter removed a hammer from his bag and began destroying equipment and threatening the election official with the tool.

You may have noticed that I have mostly described the communication as vitriolic and hostile, but not threatening or harassing. This is deliberate. As we have navigated this new era of election administration, election officials do not have a clear definition of a

threat or of harassment, nor of stalking, at the federal level. Beneath that, every state and territory has their own laws that define this behavior. There is a legal difference between “I want to kill you” and “you should die,” even though they feel the same to the person taking the call or reading the message.

By and large, election officials are not well versed in all aspects of state or territorial law outside of the election code, making reporting to law enforcement extremely difficult. As a first step, NASED worked with CISA to design a customizable poster that state election offices can tailor with their Attorney General or state law enforcement to lay out state laws governing threats, harassment, and stalking. The goal for these posters is to provide them to local election offices so those officials have an easy reference point to facilitate their conversations with local first responders. Unfortunately, this is a logical extension of the Last Mile effort initiated by CISA in 2019. CISA is still in the early days of promoting this product.

Those election officials singled out by Iran are not the only members of our community that have been doxed, or had their personal information put online, over the last few years. Election officials and others in the community have been doxed in litigation, on social media, and on podcasts or radio shows. Instead of attacking policies, election officials are now the target. Doxing compounds the impact of the communication we receive, whether it meets the legal definition of a threat or not: when someone tells you that you should watch your back or you deserve to die, it is impossible not to wonder whether that person also has your home address.

Finally, when thinking about threats to election officials, it is easy to think about the public faces of an office: the Chief Election Official or even the election director, or at the local level, the clerk or supervisor. There are some who believe that elected or public officials put themselves in the public eye and therefore are required to tolerate abuse. But what about the receptionist or the help desk staff? Or the social media intern? What about the people who work in other departments that need to have public contact information? Just like members of Congress, election officials have a dedicated staff supporting them, some of whom are there because they are passionate about election administration and some of whom are there because they need a job. When election offices receive toxic, hateful communication, often, it is staff reading or answering, not the public face of the office.

The Task Force for Threats Against Election Officials

On June 25, 2021, NASED learned on social media of a memo issued by Deputy Attorney General Lisa Monaco establishing a task force “to address the rising threats against election officials.”⁴ NASED only received outreach from the Department of Justice (DOJ) about the Task Force for Threats Against Election Officials on July 14, 2021. Following a subsequent meeting later that week, a representative from the Task Force provided contact information for each regional FBI office Election Crimes Coordinator (ECCs), along with general guidance for election officials to report all communication that they felt was threatening, harassing, or otherwise made them feel unsafe. The recommended mechanism

⁴ Deputy Attorney General Lisa Monaco, [“Guidance Regarding Threats Against Election Workers.”](#) Authored June 25, 2021.

for reporting threats is via email, but reports can also be made over the phone or via the FBI electronic tips form⁵.

Initially, many states reported no response from their ECC to submissions made directly via email. After repeatedly raising the issue with Task Force representatives, now, most election officials report receiving a response within a few days. However, the response is often an acknowledgement of receipt and nothing else, and there is typically no additional substantive follow up. There have been few public reports of action taken against those who have sent this kind of communication to election officials; taken with the limited substantive response from the FBI and law enforcement, many NASED members find that reporting to anyone feels pointless. A common refrain I hear from my members is that nobody is going to take this seriously until something bad happens, and we are all braced for the worst.

As a practical matter, NASED members have raised a few issues with the implementation of the Task Force:

- The current reporting pathways are set up to intake only a handful of reports at a time, but the reality is that when an office is experiencing antagonistic communication, there can be dozens or hundreds that need to be reported per week. Some ECCs have worked with state and territorial election offices to create bulk reporting mechanisms, but many have not; in those locations where these mechanisms are not in place, it can be extremely time consuming to share individual communications with the ECC and election officials often just do not report. At a microlevel, the inability to intake in bulk is a problem for election offices and means that the reports DOJ has do not demonstrate the full scope of what offices are experiencing. At a macrolevel, however, the issue is a lack of consistency across the FBI regional offices. All election officials should have access to the same reporting mechanisms and level of support from the FBI, and that should include regular communication about the status of submissions.
- Reporting via email creates an email record subject to state and territorial open records laws. As the national conversation about threats to election officials has developed, so has interest in the kinds of communications election officials are receiving and reporting. NASED members report an uptick in open records requests specifically asking for communications shared with the FBI. While most, if not all, states and territories have a law enforcement exemption to their open records laws, those laws and exemptions are not created equally. Many of the concerning communications must be provided in response to records requests. Without a clear definition of a threat, though, there is concern that reporting to the FBI could make it appear that an election official or office is trying to stifle the First Amendment rights of American citizens by directing law enforcement to someone expressing their Constitutional rights. In addition, because election officials do not typically receive substantive responses or updates from their ECCs about investigation status, most are not aware whether something is an active law enforcement investigation and therefore would be subject to the open records request law enforcement exemption. At a minimum, the ECCs should communicate regular

⁵ FBI Electronic Tips Form, <https://tips.fbi.gov/home>

status updates to the reporting party, but the FBI should also develop a secure mechanism for uploading attachments via their electronic tip form.

The high-level reports out from the Task Force, including the recent analysis provided to us, have been clear that the vast majority of what is being submitted does not constitute a crime, though it is important to note that we know that what is being submitted is a fraction of the actual activity. However, in some cases where voicemails and emails have been disclosed via open records requests, academics opine that these communications do violate federal law⁶. Election officials are stuck in the middle. If law enforcement does not believe that something is a crime, the punishment for that crime does us no good: anything multiplied by zero is zero. We need help understanding how to navigate the existing legal framework to understand what is happening to us.

In confronting the challenges facing election officials, it is impossible not to talk about funding. While NASED does not have an organizational position on federal funding for election administration, we have heard from many of our members that their already stretched budgets cannot accommodate another addition to the priority list. Presumably, this is even more acute at the local level. Although many would welcome the ability to access additional resources directly, to be useful, resources must be made available quickly, communicated clearly, and allocated with the flexibility necessary for election officials to use them effectively.

In January 2022, DOJ announced that election officials could leverage the Byrne Justice Assistance Grant (JAG) program⁷. This was the first time NASED or most of our members heard about the Byrne JAG program. According to DOJ, “[T]he Byrne JAG program is a leading source of federal criminal justice funding to state and local jurisdictions, helping to fill gaps in state, local, and tribal criminal justice systems. The broad criminal justice purposes supported by the JAG Program permit JAG funds to be used to deter, detect and protect against threats of violence against election workers, administrators, officials and others associated with the electoral process.”⁸

The program is funded annually out of the government appropriations bill. Funding for each state and territory is determined by a set formula that accounts for state population, certain kinds of criminal justice spending, and some kinds of violent crimes⁹; there is a different formula for local jurisdictions that also takes into account population and crime rate¹⁰. The FY21 funding was not awarded to the states and territories until the end of September 2021¹¹. Once a state or territory receives funds however, each of them

⁶ Linda So and Jason Szep, “[Reuters unmask Trump supporters who terrified election officials.](#)” Reuters, published November 9, 2021.

⁷ Department of Justice Office of Justice Programs, Bureau of Justice Assistance, “[Edward Byrne Memorial Justice Assistance Grant \(JAG\) Program Overview.](#)”

⁸ Department of Justice, “[Press Release: Readout of Justice Department Leadership Meeting with Election Officials.](#)” Published January 26, 2022.

⁹ Department of Justice Office of Justice Programs, Bureau of Justice Assistance, “[Fiscal Year \(FY\) 2021 State Edward Byrne Memorial Justice Assistance Grant \(JAG\) Allocations.](#)”

¹⁰ Department of Justice Office of Justice Programs, Bureau of Justice Assistance, “[Edward Byrne Memorial Justice Assistance Grant \(JAG\) Program FY 2021 Allocations.](#)”

¹¹ Department of Justice, “[Press Release: Justice Department Awards Nearly \\$187 Million to Support Community Safety.](#)” Published September 24, 2021.

determines the way that funding will be allocated within their jurisdiction within the bounds of the program. Relevant stakeholder groups must go through a state/territory-specific application process and addresses jurisdiction-specific priorities: some prefer to use these funds for tangible goods, while others prefer using them on staff costs, such as overtime for law enforcement. In short, for 56 states and territories, there are 56 different approaches to distributing these funds to stakeholders, who can include law enforcement and ancillary groups, drug treatment programs and criminal diversion programs, and forensic labs, among many others, such as election officials¹². What is common across all 56, though, is that these applications are only open for a relatively short time.

By the time DOJ announced in January 2021 that election officials were eligible to receive this funding and by the time election officials were briefed on the specifics of the program by the grant administrators in early February, many state and territorial application windows were closing or already closed. There was not time to develop the necessary relationships or complete an application. The promised funding to help election officials protect their staff and the election process in 2022 was not available to us. Further, given the timing of the grant process – funding delivered to states and territories in September/October and then an application process of varying lengths – some election officials will struggle to access the FY22 funds, too, because of the demands of the election calendar.

To add insult to injury, the grant administrators clarified that election officials have always been eligible to access the Byrne JAG funding; that is, the guidance issued to the State Administering Agencies by DOJ in January did not add election officials to the stakeholder list, it clarified that election officials have always been stakeholders¹³. This was news to us.

The federal grant program that election officials are the most familiar with is the Help America Vote Act (HAVA) funding. For those grants, election officials provide a high-level budget during their application process, but ultimately have flexibility to modify the budget and direct funds as they see fit within the bounds of the law and guidance issued by the Election Assistance Commission (EAC). This allows election offices to use these federal funds to address emerging issues that may not have been contemplated during the application process.

The Byrne JAG program offers no such flexibility to election offices. Election officials could apply for and receive funding for specific items, like security cameras, or programs, and that would be the only approved usage for those funds. If you asked most election offices in December 2019 whether they would want a law enforcement presence at their office in November or December 2020 or if they were concerned about doxing of themselves and their staff, the answer would have been utter confusion. We are always fighting the ghosts of the last election, so it is nearly impossible to predict where overtime might be necessary or where other physical security-related needs may arise.

¹² Department of Justice Office of Justice Programs, Bureau of Justice Assistance, “[Purposes for Which Funds Awarded Under the Edward Byrne Memorial Justice Assistance Grants \(JAG\) Program May Be Used.](#)” Published June 2021.

¹³ Kristen Mahoney, “[Letter to BJA State Administering Agency Directors re: JAG Funding to Combat Threats Against Election Workers.](#)” Authored January 26, 2022.

A very small handful of states have had success working with their State Administering Agency to secure reverted funds from the FY20 Byrne JAG funding or promises for reverted funds from the FY21 grant. This is a positive development, but hoping other stakeholders return money is not a predictable or sustainable way to fund serious security efforts.

Election officials have limited access to other resources beyond the Byrne JAG program that can specifically be used to address physical security concerns. In early June, the EAC clarified that election offices can use HAVA funding to provide security for election officials and social media monitoring services¹⁴, after receiving a Government Accountability Office (GAO) opinion authorizing them to do so on April 25 of this year¹⁵. For many offices, this is a welcome development, though for others, the significant delay in receiving this guidance – the EAC requested the GAO opinion on December 1, 2021 after receiving an inquiry from states before that – means that now they cannot supplant state funds with federal funds.

The FY22 Homeland Security Grant Program¹⁶, administered by the Federal Emergency Management Agency (FEMA) and designed to help state, local, tribal, and territorial governments prevent, mitigate, and respond to terrorism and other threats, added elections as a national priority, but without a funding requirement; they also added another priority – enhancing community preparedness and resilience – with a funding requirement. State Administering Agencies for this grant, which are different from the State Administering Agencies for the Byrne JAG funding but are also under the governor, developed their priorities long before the Department of Homeland Security (DHS) issued theirs. Even in states where the governor and the Chief Election Official are of the same party, it is not realistic for elections to be seriously considered a grant stakeholder without a funding requirement. If the grant application period had been more than the statutory minimum of 30 days or if the DHS priorities were announced earlier, election officials might have had an opportunity to collaborate with their State Administering Agencies and think creatively about programs that simultaneously address election security and other priority areas. Given the short timeframe and the absence of a required spend, few election officials were able access to this funding source.

In general, while NASED appreciates the focus on election officials' work and the threats faced by our community, the result of the increased attention has been an unfocused response with limited practical improvement. If additional resources are made available to support elections, it is worth learning from models that have been most effective in strengthening election infrastructure. These include the HAVA grant funding program described above, which allow states and territories the ability to access resources relatively quickly with the flexibility to meet their individual needs; it also includes CISA's increasingly focused support for securing elections since the critical infrastructure designation in January 2017. While neither of these efforts are perfect solutions for the problems they seek to face, they meet the evolving needs of our community.

¹⁴ US Election Assistance Commission, "[Allowable Use of Funds: Physical Security Services and Social Media Monitoring Services](#)." Distributed June 2, 2022.

¹⁵ Government Accountability Office, "[Decision in the Matter of: Election Assistance Commission – Use of Grant Funds for Security Services](#)." Authored April 27, 2022.

¹⁶ Federal Emergency Management Agency, "[Fiscal Year 2022 Homeland Security Grant Program Key Changes](#)." Released May 13, 2022.

NASED members and their staffs are proud to help Americans cast their ballots but working in election administration over the last few years has been enormously challenging. I have often said that when a person takes a job with law enforcement, even if they are not a field agent, they know that at some time, they could be called upon to put their life on the line in the course of their duties. Those people make a choice to go into a line of work that could cost them their lives. Election officials did not make that choice. Until recently, this was not a field you went into thinking it could cost you your life. Now that it is, however, we need a focused, coordinated, whole-of-government response that better understands the needs of our community to ensure our safety.