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IN FOCUS

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Federal Investigations and Seizures of Voting Records

This In Focus provides background on the constitutional and statutory framework underlying federal investigations of elections, summarizes investigations by the Trump Administration and legal action surrounding demands for and seizures of state and county voting records, and offers considerations for Congress.

Constitutional Background

States have the initial and principal responsibility for administering elections in the United States, including in determining voter eligibility. The federal government maintains a significant role in elections, such as in enforcing federal laws protecting election integrity.

The states' primary role in congressional elections is partially set out in Article I, Section 4, Clause 1, of the U.S. Constitution, the Elections Clause: "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof[.]" The Elections Clause also references Congress's power to "at any time by Law make or alter" state regulations, which the Supreme Court has sometimes described as an "override" authority. Article I, Section 2, Clause 1, the Voter Qualifications Clause, further empowers the states to decide who is qualified to vote in federal congressional elections. For presidential elections, Article II, Section 1, Clause 4, provides that Congress may determine the "Time" of choosing presidential electors and the day the electors shall cast their votes. The states hold the power to appoint presidential electors to the Electoral College and decide how those appointments are made under Article II, Section 1, Clause 2, the Electors Clause.

Congress does not have general regulatory authority over state and local elections, but it may still exercise its power over them in several contexts. For example, Congress has authority to prevent unconstitutional voter discrimination in a state or local election. In addition to its Article I powers, Congress's authority to legislate regarding these issues derives principally from the Fourteenth and Fifteenth Amendments. Relying on its Spending Clause authority under Article I, Congress also may condition the receipt of federal funds for state or local elections on compliance with federal requirements.

The Constitution does not articulate a specific role in federal elections for the President. However, the Take Care Clause, in Article II, Section 3, Clause 1, provides that the President "shall take Care that the Laws be faithfully executed." The clause imposes a duty that implicates powers to enforce the laws that Congress enacts, including the enforcement of statutory criminal prohibitions.

Select Statutory Background

While states and localities generally determine their own election practices, Congress has set minimum requirements in federal law. For example, the National Voter Registration Act of 1993 (NVRA) provides that states must "conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters" due to death or residency change. The NVRA contains public disclosure provisions requiring states to maintain and make available for public inspection certain records concerning the implementation of programs for ensuring the accuracy of voter rolls. The Attorney General may bring civil actions to enforce the NVRA.

The Help America Vote Act of 2002 (HAVA) sets additional requirements, including that states maintain "in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list" containing the names and registration information of all registered voters. HAVA further requires states to ensure voter registration records are "accurate and are updated regularly," to make "a reasonable effort to remove registrants who are ineligible to vote," and to ensure eligible voters are not removed in error. HAVA provides that the Attorney General may bring a civil action against any state or jurisdiction "as may be necessary to carry out the uniform and nondiscriminatory election technology and administration requirements[.]"

The Civil Rights Act of 1960 (CRA) requires election officers to retain and preserve records "relating to any application, registration, payment of poll tax, or other act requisite to voting in such election" for 22 months, and to provide the Attorney General such records "for inspection, reproduction, and copying" upon demand in writing with a statement of the basis and the purpose of the demand.

Recent Executive Branch Actions

The Trump Administration has issued executive orders (E.O.s) with the stated purpose of protecting the integrity of elections and initiated investigations into the 2020 and 2024 presidential elections, including by demanding statewide voter registration lists with detailed voter registrant information and ballot records.

Executive Orders

In March 2025, President Trump issued E.O. 14248, "Preserving and Protecting the Integrity of American Elections." The E.O. includes several Administration policies with regard to state voter registration lists and other election records. For example, Section 2(b) of the E.O. requires, among other things, that "the Department of Homeland Security, in coordination with the DOGE [Department of Government Efficiency] Administrator,"

review federal immigration databases alongside state voter registration lists and other state records "concerning voter list maintenance activities," including by subpoena. Section 5 further orders the Attorney General to consider withholding federal grants from states that do not enter into information-sharing agreements or otherwise refuse to cooperate with enforcement of the E.O. While provisions of the E.O. have since been enjoined from implementation by multiple federal courts, Section 2(b) and Section 5 are outside of the scope of those injunctions. One federal district court declared that in the course of implementing Section 2(b), the Administration must comply with the requirements of the Privacy Act, "including its requirement that agencies provide at least 30 days' notice and opportunity for comment for any new or intended 'routine use' of information stored in an agency's system of records." For further information on the March 2025 E.O. and legal challenges, consult this Legal Sidebar.

In March 2026, President Trump issued E.O. 14399, "Ensuring Citizenship Verification and Integrity in Federal Elections." The E.O. requires, among other things, that federal officials compile and transmit to each state a "State Citizenship List" for upcoming federal elections, and prioritize investigations and prosecutions of state and local officials who issue ballots to individuals not eligible to vote. Two dozen states have filed a legal challenge to the E.O., arguing that the E.O. would unconstitutionally "usurp" power over elections belonging to the states and Congress.

Investigations of Voter Registration Lists

Citing the President's March 2025 E.O. along with the NVRA, HAVA, and CRA, the Department of Justice (DOJ) has requested voter information from most states, the District of Columbia, and some local governments, and sued to enforce compliance with various demands. In complaints against states and their election officials, DOJ alleged that the states had failed to provide copies of the statewide voter registration lists, information concerning the implementation of programs and activities for ensuring accuracy, and other election records. In the underlying requests and the complaints, DOJ demanded detailed voter registrant information, including registrants' "full name, date of birth, residential address, and either their state driver's license number or the last four digits of their Social Security number." In various complaints, DOJ alleged that failure to comply with the requests violated the NVRA, HAVA, and the CRA. Several federal district courts have dismissed DOJ's suits seeking voter registration data. Some of the decisions have reasoned that while federal laws set certain requirements with regard to registration, they do not compel the disclosure of the voter records demanded by DOJ. DOJ has appealed decisions, and cases in other states remain pending as of the date of this writing. Other states have reached agreements to share voter lists, some of which have been challenged by civil rights groups.

In another dispute, a DOJ lawsuit alleged that the North Carolina State Board of Elections (NCSBE) violated HAVA by using a voter registration form prior to 2024 that did not require an applicant to provide a driver's license number or the last four digits of their Social Security number. The NCSBE reached a settlement in September to reregister voters missing this information.

Investigations and Seizures of Ballots

On January 28, 2026, DOJ's Federal Bureau of Investigation seized over 600 boxes containing the 2020 election ballots of more than 500,000 voters in Fulton County, Georgia. The search warrant and supporting affidavits alleged violations of Title 52, *U.S. Code*, Sections 20701 and 20511—criminal prohibitions relating to recordkeeping under the CRA and election interference under the NVRA, respectively—and sought records including "[a]ll physical ballots from the 2020 General Election in Fulton County"; "[a]ll tabulator tapes for every voting machine used in Fulton County"; "[a]ll ballot images produced during the original ballot count" and the recount; and "[a]ll voter rolls[.]"

Fulton County election officials filed a motion in federal court seeking the return of the seized election records, arguing that the federal government's search lacked probable cause and violated the Fourth Amendment and other legal requirements, and that the factors under Rule 41(g) of the Federal Rules of Criminal Procedure required a return of seized property. The district court denied the motion, finding that the plaintiffs had not met the exacting standard required under circuit caselaw for granting a motion to return seized property. The court noted that the seizure of ballots of a closed and certified election did not interfere with the ability to conduct the past election, nor "will hinder the State's ability to conduct future elections."

Officials in Arizona have stated they complied with a subpoena seeking 2020 Maricopa County election records. In April 2026, DOJ demanded all 2024 election "ballots (including absentee and provisional), ballot receipts, and ballot envelopes" from Wayne County, Michigan, citing the CRA and election fraud laws. Wayne County has replied that it does not have custody of the records.

Considerations for Congress

Congress may amend existing statutory authorities, like the CRA, NVRA, or HAVA, or create new federal election authorities within the bounds of the Constitution as interpreted by the Supreme Court. H.R. 22, the SAVE America Act, which passed the House on April 10, 2025, would amend the NVRA to establish additional state voter list maintenance requirements, among other provisions. Congress may also facilitate federal investigations of elections by encouraging greater information sharing between state, local, and federal officials. In light of challenges in protecting election systems, Congress may consider creating new requirements for securing election records and limiting the appropriate use of such data. Congress may consider limiting the federal role in elections, such as by restricting the circumstances under which the executive branch can obtain and consolidate voter information. Congress may also provide additional resources and guidance to state and local election officials.

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