



Written by [Kurt Hyde](#) on July 10, 2017

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Will Trump's Commission on Election Integrity Succeed?

President Trump formed a committee to probe election fraud. Though both Democrats and Republicans are claiming vote tampering, neither side is eager for the probe to start.



On May 11, President Trump signed an executive order creating the Presidential Advisory Commission on Election Integrity. The mission of this advisory body is to file a report to the president detailing which aspects of federal elections are enhancing voter confidence and which aspects of elections are not. Additionally, the group is charged with the responsibility to report on such election vulnerabilities as improper or fraudulent voter registrations and improper or fraudulent voting.

The commission, when all appointments are completed, will have 15 members, with Vice President Mike Pence chairing the commission. Kansas Secretary of State Kris Kobach has already been named vice chair. The executive order requires this commission to hold public meetings. The members of this commission are to serve without pay, but will be reimbursed for travel expenses. The federal government will pay normal administrative expenses, including necessary staff. The executive order has a sunset provision requiring the commission to cease to exist 30 days after filing its report.

But what might the committee uncover? And even if large-scale vote fraud exists, will the committee be able to detect it? What can (and should) the committee do to uncover fraud, or to determine that the ballot is reasonably secure?

Photo: AP Images

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What Does the Current Evidence Suggest?

Evidence that fraud is likely rampant was published after the 2012 elections — in the same time frame that evidence came out that embedded political partisans safeguard illegal voting. National Review wrote in 2014,

New York City's watchdog Department of Investigations has just provided the latest evidence of how easy it is to commit voter fraud that is almost undetectable. DOI undercover agents showed up at 63 polling places last fall and pretended to be voters who should have been turned away by election officials; the agents assumed the names of individuals who had died or moved out of town, or who were sitting in jail. In 61 instances, or 97 percent of the time, the testers were allowed to vote. Those who did vote cast only a write-in vote for a "John Test" so as to not affect the outcome of any contest. DOI published its findings two weeks ago in a searing 70-page report accusing the



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city's Board of Elections of incompetence, waste, nepotism, and lax procedures. The Board of Elections, which has a \$750 million annual budget and a work force of 350 people, reacted in classic bureaucratic fashion, which prompted one city paper to deride it as "a 21st-century survivor of Boss Tweed-style politics." The Board approved a resolution referring the DOI's investigators for prosecution. It also asked the state's attorney general to determine whether DOI had violated the civil rights of voters who had moved or are felons, and it sent a letter of complaint to Mayor Bill de Blasio.

... You'd think more media outlets would have been interested, because the sloppiness revealed in the DOI report is mind-boggling. Young undercover agents were able to vote using the names of people three times their age, people who in fact were dead. In one example, a 24-year female agent gave the name of someone who had died in 2012 at age 87.

A recently released report about noncitizen voting in Virginia by the Public Interest Legal Foundation suggests the number of illegal votes cast by noncitizens may be significant. The report, *Alien Invasion II*, can be downloaded from its website. Among the startling findings include the fact that a total of 5,556 voter registrations have been removed in Virginia based on noncitizenship since 2011. A check of the voter histories of those registrations indicated that many illegal ballots were cast:

5,556 non-citizens have been removed from the voter rolls for citizenship problems in 120 of Virginia's 133 voting jurisdictions since 2011. In 102 of these jurisdictions, 1,852 individuals cast 7,474 ballots before election officials cancelled their registrations. In the other 13 voting jurisdictions, election officials have not removed a single record from the voter rolls because of citizenship problems in over 6 years.

The report also said:

State election officials concede that most discoveries of non-citizens on the registration rolls are accidental or by chance. According to communications received from Edgardo Cortes, the Commissioner of the Virginia Department of Elections, the 5,556 non-citizens removed from the voter rolls in recent years were discovered only because they "self-reported" their status as a non-citizen to Commonwealth officials.

Logan Churchwell, a spokesman for the Public Interest Legal Foundation, told *The New American* that he hopes the presidential commission will get the state-wide voter registration lists from all 50 states and do a national-level investigation.

The *New American* asked Churchwell if he knew how many noncitizen voter registrations in Virginia were deliberately acquired by the noncitizens or by others for fraudulent purposes or how many of them might have been added to the voter rolls by accident, such as in cases where the individuals marked the noncitizen box on the driver's license application but were added to the voter rolls by clerical error or computer error.

Likewise with the 7,474 ballots that are known to have been cast under these voter registrations: How many of those ballots were actually cast by these people and how many were cast by someone else who voted using these people's voter registrations unbeknownst to them? Churchwell said that level of detail was not included in the responses to their requests. The *New American* sent a similar request to the Virginia Department of Elections. As of press time, the Virginia Department of Elections has not yet responded to that information request.



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Who Will Be on This Commission?

The commission will have its work cut out for it, but based on some of the appointments so far, the commission has a real chance of determining whether or not there was large-scale voting by noncitizens or other ineligible voters in the 2016 general elections. That is, if the commission is formed and holds public meetings.

Kansas Secretary of State Kobach has already initiated a system of interstate cross-referencing to find duplicate voter registrations. Most states, however, do not automatically delete voter registrations when voters move across state lines. Kobach is the only secretary of state who has the authority to prosecute cases of election fraud, given to him by his state legislature. Kobach made headlines earlier this year when he obtained a conviction of voting by a noncitizen.

The New American has confirmed that New Hampshire Secretary of State William Gardner has also accepted an appointment to this commission. Gardner, officially a Democrat, has a track record for fairness in elections and has extensive support from Republicans, Democrats, and Libertarians. Gardner is the longest-serving secretary of state in the nation. He was originally elected to his position by the New Hampshire Legislature in 1976 following the 1974 senatorial contest between Louis Wyman and John Durkin. Wyman was declared the winner by two votes although the Democrat-controlled U.S. Senate refused to seat him. That was the closest U.S. Senate election in the history of the popular election of senators. During the high-profile statewide recounts numerous errors in the process were found. Errors in the electoral process that had been tolerated because they seemed trivial suddenly became non-trivial when a U.S. Senate seat hung in the balance.

Gardner is known for being a secretary of state who doesn't want errors swept under the rug, not even seemingly trivial ones. One example is Gardner's opposition to punch-card voting systems. Punch-card ballots were known to have occasional problems, with recounts not producing the same results. There were minor differences each time the same punch-card ballots were recounted. While many election officials found those recount errors tolerable, Gardner did not. He wanted recounts to resolve doubts, not to add additional controversy.

Gardner doesn't tolerate other seemingly trivial errors either. New Hampshire has 400 state representatives elected every two years. There are numerous contests decided by very close margins, and sometimes even ties. Gardner was an early believer in the voter-verified paper trail movement and was instrumental in getting the nation's first paper trail law passed in New Hampshire in 1990.

The 15-member commission reportedly still has open positions, but there are Obama appointees who are also being considered.

Opponents Say Trump's Claims Are Baseless

Opponents of organizing this presidential commission include Reverend Al Sharpton, whose National Action Network website posted a statement saying, "This commission was formed as an attempt to construct legitimacy around baseless claims of illegal voting." Other opponents, including many in the news media, consistently use the same phrase, "baseless claim," when referring to President Trump's statements regarding large-scale voting by noncitizens and other forms of illegal voting.

Congressman Jason Chaffetz (R-Utah), chairman of the House Oversight Committee, which in the absence of a Congressional Committee on Elections appears to be the committee that ought to look into



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questionable elections, told CNN on January 25 that “he doesn’t ‘see any evidence’ of voter fraud, and his committee won’t investigate it.” However, Chaffetz’ statement raises the question of how the allegations can be dismissed for lack evidence when the committee hasn’t investigated the allegations.

Another opponent of this committee is Senator Mitch McConnell (R-Ky.), the Senate majority leader. McConnell has been quoted in numerous sources as being against spending federal money because combating voter fraud is better left to the states. McConnell is right that election integrity is better left to the states, but Congress is allowed to play a role in investigating elections where its members are elected, especially when many states aren’t checking for fraud. Senator McConnell has a cumulative Freedom Index score of only 60 percent, with only 47 percent in the previous Congress, including his vote to grant Trade Promotion Authority (TPA) to former President Obama.

If President Trump’s Claims Are Baseless, Why Not Resolve the Issue?

If these officials are truly confident that the facts would support their assertions that Trump’s statements are baseless claims, why aren’t they cooperating in the fact-finding effort? After all, if an honest and accurate inquiry into the 2016 presidential elections will prove their case, why aren’t they getting involved, making sure the process is accurate and honest? That would settle the matter.

False claims have been successfully handled in the past in much the same way. In the 1960s, The John Birch Society was characterized in the news media as being, among other things, a fascist and anti-Semitic organization. On March 22, 1961, JBS founder Robert Welch responded to these baseless claims by requesting an investigation of The John Birch Society by the California Senate Factfinding Subcommittee on Un-American Activities. Once the investigation was completed, the report stated:

Our investigation and study was requested by the society, which had been publicly charged with being a secret, fascist, subversive, un-American, anti-Semitic organization. We have not found any of these accusations to be supported by the evidence.

Note how the above statement was based on having completed an investigation, not used as an excuse to avoid conducting an investigation. The right way to resolve the concerns over whether or not there was massive fraudulent voting would be to conduct an accurate, honest, and fair inquiry that could be monitored by the public. Then let the facts speak for themselves.

Is President Trump’s Executive Order Constitutional?

Of all the opposition comments to the president’s commission on election integrity, the one area that hasn’t been mentioned in the establishment news media is constitutionality. The U.S. Constitution has no grant of power to the president to authorize such a commission. This is Congress’ responsibility.

Article I, Section 5 of the U.S. Constitution says, “Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members.” The U.S. Congress established the Committee on Elections as a standing committee in 1789:

A standing Committee on Elections shall be appointed, to consist of seven members; it shall be the duty of said committee to examine and report upon the certificates of election, or other credentials of the members returned to serve in this House, and to take into their consideration all such matters as shall or may come in question, and be referred to them by the House, touching returns and elections, and to report their proceedings, with their opinion thereupon, to the House.

Because the 2016 Electoral College was elected in the same 2016 general elections in all 50 states,



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President Trump's allegations of vote fraud apply to the Congressional contests as well as to the elections for Electors.

It is the constitutional duty of Congress to investigate questions of election integrity. Unfortunately, Congress has abrogated its responsibility to have a standing Committee on Elections, the committee having been abolished by Congress in 1947.

There was no need to have a similar committee in the U.S. Senate in 1789 because the senators were appointed by the state legislatures. However, since the passage of the 17th Amendment in 1913, which changed the process to one of a popular vote for senators, an election integrity investigation by either or both houses is appropriate and should be one of the legislative priorities for the 115th Congress.

The bottom line is that President Trump can have informal conversations, but he has no authorization to form an official federal government organization to look into illegal voting. He should make a formal presidential request of both Congressman Chaffetz and Senator McConnell to do their duty and have either or both Houses of Congress conduct an open investigation.

If Chaffetz and McConnell continue to refuse, then President Trump should use his influence as president to encourage private citizens to work with civic-minded groups such as True the Vote and its nationwide network of volunteers. As president, he has the freedom of speech to encourage those volunteers in the private sector to do the job that government agencies should be doing. If they find little or no election fraud, then the American people can rest assured. If these volunteers do find considerable electoral fraud, then it should be time to confront the governmental agencies that aren't doing their jobs and ask if there ought to be some changes made.

Should We Separate the Russian Hacker and Illegal Balloting Inquiries?

Ironically, if Democrats truly feel that their accusations against Trump of having the Russians skew the election results have any merit, they should be clamoring for oversight. Candidate Hillary Clinton, when backed into a corner during one of the presidential debates, alleged that Russian hackers were helping Donald Trump. President Trump has alleged that he really won the popular vote once votes cast by foreigners and other illegal votes were subtracted from the totals. The major media has treated these as if they were two unrelated controversies that should be investigated separately.

But any interference in our elections by a foreign source, whether it be altering votes by computer hackers from outside our borders or by citizens of foreign nations casting ballots illegally in our elections, can be investigated, at least in the initial stages, by federal law-enforcement agencies such as the Department of Defense, FBI, and ICE (Immigration and Customs Enforcement) — the latter especially if illegal ballots were cast by foreign nationals or persons who were in this country illegally. In the end, Congress should take charge of both investigations because they have the constitutional power to look into election results for congressional and U.S. senatorial contests. In addition the states should be involved because any interference in elections is a violation of state laws.

Another reason that the states and the Congress should also be involved is because it might turn out that some electoral fraud might initially appear to be caused by a foreign source, but might in the end be actually be an inside job perpetrated from within this country. Of course, all of the proceedings should be done in public, except for a few details where undercover operatives might be compromised. In American law enforcement, the greatest source of witnesses to crimes comes from the general public informing their local police.



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Separating these two controversies and having them investigated by unrelated federal agencies opens the door to having one of the controversies investigated while the other dies on the vine. President Trump would do a great service if he would amend the executive order to put both aspects of the 2016 electoral controversy under the purview of this commission and to include Congress as an active participant, as they should be.

How Should This Committee Get Started?

The commission would do well to start by requesting the statewide computerized voter registration lists from all 50 states, as suggested by Logan Churchwell. Kansas Secretary of State Kobach has experience in using computerized voter registrations to identify interstate duplicate registrations. With today's powerful computers and Kobach's experience, tasks such as this could be done very quickly and very inexpensively.

The study should also gather evidence regarding whether or not there was Internet hacking, be it by Russian hackers, other hackers, or an inside job. Each state should report to the commission exactly how many ballots were cast via the Internet and list the voter registrations associated with the Internet ballots. Additionally, in order to determine if the transmission of vote totals could have been altered by outside hackers or as an inside job by people with access to the vote totals before the public sees them, the states should also identify whether or not their precinct vote totals were made public immediately after closing the polls and whether or not the precinct vote totals were printed on paper and posted at the precincts. In order to assess other possibilities of foreign access to our electoral system, the states should also list voting equipment and election software and services purchased from foreign vendors.

The commission should gather evidence regarding how many votes were cast by noncitizens or other forms of phantom voter registrations. Many experts have suggested using some form of random selection, but this may be an ideal time to try using the Comprehensive Audit Recount (CAR), a strategy that was developed by this author around 2003. It was originally named Targeted Audit Recount (TAR). CAR procedures are designed to use intelligence gathered by the stakeholders in an election to identify a small number of precincts and subject them to a comprehensive audit, including recounting the ballots and contacting the voters to ensure they exist.

CAR gives candidates, both winning and losing candidates, the opportunity to identify at the precinct level where to gather evidence that can either support or disprove their claims that something was wrong about an election.

President Trump and Democratic candidate Hillary Clinton should each choose 50 precincts, one in each state, for a Comprehensive Audit Recount. Other candidates who got at least one percent of the vote should get a proportional share. Libertarian candidate Gary Johnson, who got about three percent of the vote, should get to choose three precincts anywhere in the United States. Jill Stein, who got one percent of the vote, should get to choose one precinct anywhere in the country. A really good initial audit could be accomplished with just a little more than 100 precincts. That is a very low-cost way to start such an inquiry.

Each precinct selected by the candidates should have a recount of the ballots if there is a paper trail. Simultaneously, each voter who voted in that precinct in the 2016 general election should be contacted by mail, in person, or by both means. The questions should include "Are you a U.S. citizen?" and "Did you vote in 2016 general election? If not, do you have any idea who might have voted using your



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name?" The contacting of these voters can be accomplished by the committee's staff or by people who recently contacted every resident in the United States during the 2010 Census. Because these procedures are similar to those of the recently completed 2010 Census, it should be a very inexpensive and efficient process.

All this should be done in public. Once the CAR is accomplished for the selected precincts, the findings, including how many Internet ballots might have been altered by Russian hackers, should be published in a report made available immediately to the public.

If the findings indicate that the recounted ballots were not tampered with and that all the voters actually existed, are eligible to vote, and are the ones who actually voted, that should be published. If the candidates aren't satisfied with the results of the first CAR and want to try a few more precincts at their own expense, they should be allowed to do so.

If, however, the findings indicate the ballots may have been tampered with or that a significant number of the voters don't exist or are ineligible to vote, or that someone voted using their names unbeknownst to them, that should also be published and the audits should then be expanded to other precincts.

The American people have a right to know if our elections are being tampered with, whether by foreign hackers or by foreign nationals illegally voting, or if election fraud is being done by political insiders who are American citizens. If there is little or no fraud, the American people have the right know that too. The best way to know for certain is by an honest investigation involving the presidential commission, the Congress, and the states, with the public being informed every step of the way. Once the facts are known, let the cards fall where they may.

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