

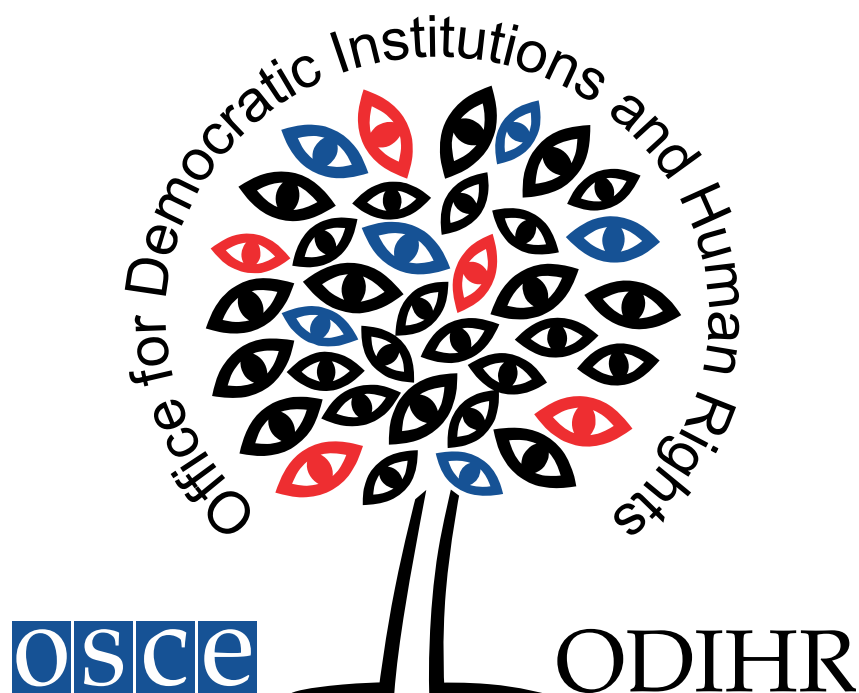


Office for Democratic Institutions and Human Rights

UNITED STATES OF AMERICA

MID-TERM CONGRESSIONAL ELECTIONS
8 November 2022

ODIHR NEEDS ASSESSMENT MISSION REPORT
23 – 27 May 2022



Warsaw
29 June 2022

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ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following an invitation from the United States Mission to the OSCE to observe the 8 November 2022 mid-term congressional elections and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 23 to 27 May. The NAM included Ulvi Akhundlu, Deputy Head of the ODIHR Election Department, and Hamadziripi Munyikwa, ODIHR Election Adviser. The ODIHR NAM was joined by Andreas Baker, Head of Elections of the OSCE Parliamentary Assembly.

The purpose of the mission was to assess the pre-election environment and the preparations for the elections. Based on this assessment, the NAM recommends whether to deploy an ODIHR election-related activity for the forthcoming elections and, if so, what type of activity best meets the identified needs. The mission held meetings with officials from federal institutions, as well as representatives of political parties and civil society. A list of meetings is annexed to this report.

ODIHR would like to thank the Department of State, including the United States Mission to the OSCE, for their co-operation and assistance in organizing the NAM. ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM team and for sharing their views.

II. EXECUTIVE SUMMARY

The US is a federal presidential republic comprising 50 states, the District of Columbia, and a number of overseas territories. Executive power is vested in the president while the bicameral Congress, consisting of the Senate and the House of Representatives, exercises legislative power. The states exercise wide authority relative to the federal government and have their own governors, laws, legislatures, and courts. On 8 November, in line with the Constitution, US citizens will vote to elect 35 of 100 Senate seats and all 435 seats in the House of Representatives. The 2022 mid-term elections will take place in a context of severe polarization exacerbated, among other issues, by persistent allegations of systematic electoral fraud during the 2020 elections primarily made by former president Donald Trump. Several ODIHR NAM interlocutors expressed concerns about the effects of election related misinformation and disinformation to undermine the administration of elections resulting in cases of threats and harassment of election administrators.

The Constitution establishes the broad legal framework for federal elections, with federal laws providing minimum standards, and detailed implementation regulated by state laws. No changes have been made to federal election laws since the last elections. More than 300 new voting laws were enacted at the state level since the last elections, with state legislatures in Texas, Georgia, Montana and Iowa passing comprehensive voting reform laws and all 50 states introducing election related bills. Most of the changes related to absentee and mail voting, early voting, ballot drop boxes and ballot collection, voter identification and voter registration. Many ODIHR NAM interlocutors perceived the higher than usual number of proposed laws with a particular emphasis on early and absentee voting, including the introduction in some states of criminal penalties on election officials for not following state laws, as perpetuating undue distrust in election administrations and election officials.

Ahead of these elections, based on the 2020 census, new district maps were drawn for 435 congressional districts and 7,383 state legislative seats across 99 chambers. State legislators are primarily responsible for redistricting in most states with only eight states and Washington D.C relying on independent commissions. Several NAM interlocutors expressed serious concerns with the issue of partisan redistricting of electoral boundaries, which, according to these interlocutors, is frequently biased in favour of a single party and at times explicitly factors racial demographics in the delimitation process. Over 50 challenges have been brought in state and federal courts in response to the current cycle of new district maps.

States are responsible for managing elections with duties devolved to roughly 7,900 jurisdictions across the country with no federal body mandated to administer elections. ODIHR NAM interlocutors cited multiple and compounding challenges to the work of election administrators, including disinformation, which has often resulted in threats to their safety, contributing to a high turnover of polling staff. Election administration is generally underfunded, a factor likely to be exacerbated by the impact of rising inflation on the costs and the disruption of supply chains for material such as paper. ODIHR NAM interlocutors highlighted that these and other challenges may further diminish trust in election administration, potentially negatively affecting perceptions of integrity of election proceedings, and possibly the acceptance of the election results.

Various initiatives are in place at federal level to work with states and localities to improve cyber security in relation to elections, co-ordinate efforts to mitigate cyberattacks, and counteract malign foreign influence. Most ODIHR NAM interlocutors expressed confidence in the adequacy of cybersecurity infrastructure, highlighting improvements made since 2016.

Citizens who are at least 18 years old on election day and are residents of a state are eligible to vote. Constitutional provisions result in 600,000 citizens residing in the District of Columbia and some 3.5 million citizens resident on US territories lacking full representation in Congress. An estimated 5.2 million citizens are disenfranchised due to criminal conviction, 58 per cent of whom have already served their sentences. There have been positive trends to restore voting rights for ex-prisoners, though most states continue to impose burdensome procedures for the reinstatement of these rights.

Voter registration is active and citizens must register in order to cast a ballot. Registration takes place in the jurisdiction of the voters' residence, most often at the county level, and states maintain voter registers. Available methods for registration and official requirements to register vary by state with voters generally being able to register in person, by post, online or through an authorized third party. Several ODIHR NAM interlocutors noted that access to voter registration is disproportionately more difficult for voters living in urban areas, low-income voters, and Native Americans with these groups continuing to have lower than average registration rates.

Voter identification requirements vary across the states, with 35 states requiring voters to show identification before voting, 17 of which require photo identification. The remaining states use other identifying information provided at the polling place. Voter identification cards remain a politically contentious issue with ODIHR NAM interlocutors offering diverging perspectives on the risk posed by multiple voting and the necessary emphasis on the balance between electoral integrity and participation.

Women are generally underrepresented in elected offices and there are currently only 120 (27 per cent) women with seats in the House and 24 in the Senate. Also, women currently hold 2,300 out of 7,383 seats in state legislatures combined (31.2 per cent), and only nine women are currently serving as governors. Women make up five of the 15 cabinet posts, including Kamala Harris, the first woman vice president of the USA, and Janet Yellen, the first female treasury secretary.

While federal legislation prohibits discrimination and ensures equal opportunity for persons with disabilities in political and electoral life, restrictions on voting rights based on intellectual or psychosocial disability or guardianship are widespread and vary across states. Strong legal guarantees ensure the rights of persons with physical disabilities to vote. All polling stations are mandated to provide specialized equipment to assist such voters. A number of ODIHR NAM interlocutors stated that aging technology and the lack of well-trained polling staff negatively affect the ability of persons with disabilities to register and to vote, while stricter requirements for early and mail voting may make it more difficult for these voters to cast their ballots.

Forty-five states and the District of Columbia offer early in-person voting with varying modalities across states. Most states offer “no-excuse absentee voting” in which any registered voter can request a mail ballot without having to provide any justification. Several state laws were passed since the last elections seeking to regulate early in-person and absentee voting, most of which dealt with timings for implementation. Most ODIHR NAM interlocutors expressed confidence in the methods for early and postal voting, but many also raised concerns about the capacity for less experienced poll workers to count and tabulate mail ballots in a timely fashion given the varying deadlines. Some ODIHR NAM interlocutors were concerned that stricter ID requirements and earlier deadlines for return in some states would result in a high level of rejection of ballots.

The use of new voting technologies (NVT) is extensive and varies across and within states. In line with previous ODIHR recommendations, states have tended towards the reintroduction of paper-based voting, with most states using voter-verified paper audit trails (VVPT), with an estimated 90 per cent of all ballots in these elections expected to be cast through paper-based systems.

Election campaigning is largely unregulated and is expected to be polarized, with a focus on competitive congressional races. ODIHR NAM interlocutors did not express concerns regarding freedom of peaceful assembly, but many were disconcerted by increasingly inflammatory rhetoric against political opponents and political attacks on the integrity of elections and election officials during the campaign. The use of online and social media is expected to be prominent, with many interlocutors expressing concern about potential misinformation and disinformation, including from both domestic and foreign sources.

The Federal Election Commission oversees and enforces campaign finance regulations. Federal law limits individual donations to candidates and requires full disclosure; spending on campaigns is not restricted. Most ODIHR NAM interlocutors shared concerns that spending by independent groups, may obscure sources of campaign financing and provide avenues to avoid disclosure, thus decreasing transparency.

The media landscape is pluralistic and diverse, though extremely polarized. The legal framework for traditional media is characterized by a robust protection for media independence and freedom of speech. Regulations in the immediate run up to elections allow for “reasonable access” for candidates and “equal opportunity” to all electoral candidates. All ODIHR NAM interlocutors expect an increase

in political advertisement in media, and highlighted the susceptibility of online media networks and online news audiences to disinformation as a major concern.

Election observation is regulated by states, which often do not explicitly provide for international observers. While election observation by civil society and political parties is expected to be widespread, some ODIHR NAM interlocutors expressed concern that in the context of charged election misinformation the activities of some observer groups might lead to intimidation of voters and election officials.

The majority of ODIHR NAM interlocutors expressed confidence in the election administration and their ability to conduct elections professionally and impartially, including on election day but many expressed alarm at the increasing incidence of election rhetoric denigrating from the integrity of election officials which has diminished trust in elections and has frequently led to threats against election workers.

While only some previous ODIHR recommendations have been addressed since the last elections, most interlocutors noted the value of a potential ODIHR observation activity for these elections. Elements of the electoral process that the ODIHR NAM considers as deserving specific attention include the stability of the legal framework, the implementation of alternative voting methods, campaign finance, the conduct of the electoral campaign as well as voter rights, registration and identification. ODIHR NAM interlocutors also noted that, given the highly polarized environment and the diminishing trust in the integrity of elections, external and independent overview of the electoral process, including of the election day proceedings would be beneficial.

On this basis, the ODIHR NAM recommends the deployment of an Election Observation Mission (EOM) to observe the mid-term congressional elections. In addition to a core team of analysts, the mission recommends the secondment of 100 long-term observers from OSCE participating States to follow the electoral process countrywide, and 400 short-term observers to follow election day proceedings. In line with the ODIHR's standard methodology, the EOM would contain a media monitoring element.

III. FINDINGS

A. BACKGROUND

The United States of America is a federal presidential republic composed of 50 states, the District of Columbia, and 16 overseas territories.¹ The president of the United States holds executive power, serving as head of state, head of government and the commander in chief of the armed forces. The US has a bicameral legislature (the Congress) composed of an upper chamber (the Senate) made up of two members from each of the 50 states, and the House of Representatives (the House) which has 435 voting representatives. State governments replicate the same structure as the federal government with each state having its own constitution and laws, executive authority residing in governors, legislative power in state legislatures, and judicial power in state courts.

¹ American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Northern Mariana Islands, Palmyra Atoll, Puerto Rico, Virgin Islands, and Wake Island.

In the upcoming elections, 35 of 100 Senate seats and all 435 seats in the House of Representatives will be contested for.² Elections will also be held for the governorships of 36 states and seats in 88 of the 99 state legislative chambers, representing 6,166 (84 per cent) of the country's 7,383 state legislative seats. Votes will be held on over 100 statewide ballot measures and elections for other important state and local offices will be contested for, including some roles with pivotal functions in the management of elections such as State Secretaries of State. The most recent congressional elections were held in 2020, resulting in a Senate comprised of 50 Republicans, 48 Democrats and 2 independents, and a House comprised of 222 Democrats, and 213 Republicans.

Women are generally underrepresented in elected offices. As of the 2020 general elections, there are 120 (27 per cent) women with seats in the House and 24 in the Senate. Women currently hold 2,300 out of 7,383 seats in state legislatures combined (31.2 per cent), and only nine women are currently serving as governors.³ Women make up five of the 15 cabinet posts, including Kamala Harris, the first woman vice-president of the USA, and Janet Yellen, the first treasury secretary. Despite progress in ethnic and racial diversity at the federal level, minorities are underrepresented in political structures, particularly in state legislatures.⁴

ODIHR has observed nine elections in the US since 2002, with a Limited Election Observation Mission (LEOM) deployed for the last general elections in 2020.

The mission concluded in its final report that “the elections were competitive and well managed despite legal uncertainties and logistical challenges. In a highly polarized political environment, acrimonious campaign rhetoric fuelled tensions. Measures intended to secure the elections during the pandemic triggered protracted litigation driven by partisan interests. Uncertainty caused by late legal challenges and evidence deficient claims about election fraud created confusion and concern among election officials and voters. Voter registration and identification rules in some states are unduly restrictive for certain groups of citizens. The media, although sharply polarized, provided comprehensive coverage of the campaign and made efforts to provide accurate information on the organization of elections. Arrangements put in place by the election administrators, including for early and postal voting, together with committed civic engagement, allowed for high voter participation despite challenges posed by the COVID-19 pandemic”. The Final Report underscored that “baseless allegations of systematic deficiencies, notably by the incumbent president, including on election night, harm public trust in democratic institutions.”

The political context ahead of the 2022 mid-term elections has been marked by persistent polarization which has been exacerbated by continued allegations, made by former president Donald Trump and echoed by his supporters, of systematic electoral fraud during the 2020 elections.⁵ The allegations have resulted in the polarization in perceptions of election integrity along partisan lines.⁶ Several ODIHR

² For the Senate, 33 seats will be contested in regular elections and 2 in special elections to fill the seats made vacant by Sen. Kamala Harris’ (California) election as Vice President and Sen. Jim Inhofe’s (Oklahoma) retirement effective January 2023.

³ See research by the [Rutgers University Centre for American Women and Politics](#).

⁴ See [research](#) findings by Pew Research Center and [data](#) from the National Conference of State Legislators.

⁵ Recounts and legal challenges brought after the 2020 elections have not lent any credibility to the accusations of election fraud.

⁶ A Marist/NPR national [poll](#) published in November 2021 found that 75 per cent of Republicans say Donald Trump has a legitimate claim that there were “real cases of fraud that changed the results.” By contrast, 86 per cent of Democrats and 60 per cent of independents expressed “great deal” or “good amount” in the fairness of elections.

NAM interlocutors expressed concerns about the effects of election related misinformation and disinformation to undermine the administration of elections, including threats and harassment of election administrators while possibly encouraging losing candidates to reject the results of elections.⁷

B. LEGAL FRAMEWORK

The legal framework for elections is decentralized and complex. The Constitution and its amendments establish the broad framework for elections.⁸ Federal legislation pertaining to elections covers the protection of voting rights of racial minorities, facilitating voting for persons with disabilities, managing the ability for serving members of the military and citizens who are overseas to vote, establishing minimum standards for new voting technologies (NVT) and regulating campaign finance.⁹ State laws prescribe virtually all detailed aspects of the electoral legal framework and, as such, a diverse body of laws and regulations on numerous aspects of the electoral process exist across states, including variations among counties in some states. Decisions by courts interpreting federal and state laws also form an active and integral part of the legal framework with the ability to change important aspects of the electoral process including in the days leading up to the elections.

There have been no changes to federal electoral legislation since the last elections. Two comprehensive electoral reform bills, the For the People Act and the John Lewis Voting Rights Advancement Act, were introduced in and passed in the House of Representatives, but neither received the 60 votes required to invoke cloture in the Senate.¹⁰

⁷ At a rally held on 6 January 2021, the then-incumbent President urged his supporters to pressure representatives to overturn the counting of electoral college votes. The protest turned violent as rioters attempted to enter the Capitol building. Five people, including four rioters and one police officer, died in the violence that ensued the breaking into the building of the Congress. While ultimately unsuccessful, the riots constituted an attempt to circumvent the democratic process and challenged the commitment enshrined in paragraph 7.9 of the Copenhagen agreement to “ensure that candidates who obtain the necessary number of votes required by law are duly installed in office”. Over [800 people have been arrested](#) and charged in relation to the events. The House of Representatives established a Select Committee to Investigate the January 6th Attack on the United States Capitol. The first public hearing of the Committee was held on 9 June 2022.

⁸ Article I, Section 4, Clause 1 of the United States Constitution states that: *The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators.*

⁹ Federal legislation includes: the 1965 Voting Rights Act ([VRA](#)), which protects the rights of racial and linguistic minorities; [the 1986 Uniformed and Overseas Citizens Absentee Voting Act \(UOCAVA\)](#) and the 2009 Military and Overseas Voting Empowerment Act ([MOVE](#)), which facilitate out-of-country voting; [the 1984 Voting Accessibility for the Elderly and Handicapped Act](#) and the 1990 Americans with Disabilities Act ([ADA](#)), which promote access to the polls for people with disabilities; the 1993 National Voter Registration Act ([NVRA](#)), which facilitates voter registration; [the 1971 Federal Electoral Campaign Act](#) and [the 2002 Bipartisan Campaign Reform Act](#), which regulate campaign finance; and the 2002 Help America Vote Act ([HAVA](#)), which provides standards for new voting technologies (NVT), state-wide voter registration, provisional ballots, and access for voters with disabilities.

¹⁰ The [For The People Act](#), as introduced, sought to address perceived obstacles to voting in federal elections, the partisan redistricting of congressional districts, as well as overhauling federal campaign finance laws, increasing safeguards against foreign interference, and strengthening government ethics rules. The [John Lewis Voting Rights Advancement Act](#) proposed a new formula for determining jurisdictions required to undergo preclearance for changes to voting laws and practices based on a history of voting discrimination which had been invalidated by the Supreme Court decision in *Shelby v. Holder* in 2013.

More than 300 new voting laws were enacted at the state level since the last elections, with state legislatures in Texas, Georgia, Montana and Iowa passing comprehensive voting laws and all 50 states introducing election related bills in 2021.¹¹ Most of the changes related to absentee and mail voting, early voting, ballot drop boxes and ballot collection, voter identification and voter registration. The laws reflect the contrasting emphasis, largely along partisan lines, on either deepening security measures or expanding access to various temporary measures that were introduced ahead of the 2020 elections to facilitate voting during the COVID-19 pandemic. Many ODIHR NAM interlocutors argued that some laws unduly perpetuated the narrative of election fraud in 2022 negatively affecting public trust in elections, particularly those laws introducing criminal penalties on election officials for not following state laws.

The US is a party to major international and regional instruments related to democratic elections.¹² The US has signed but not ratified the 1979 Convention for Elimination of All Forms of Discrimination against Women (CEDAW) and the 2006 Convention on the Rights of Persons with Disabilities (CRPD).¹³ The US ratified the ICCPR in 1992, with a number of reservations, understandings, and declarations.

The Department of Justice (DoJ) monitors states' compliance with and implementation of federal legislation, including provisions of the Help America Vote Act (HAVA), the National Voter Registration Act (NVRA) and the Voting Rights Act (VRA) and can initiate lawsuits in cases of non-compliance.¹⁴

C. ELECTORAL SYSTEM

Senators and Representatives are directly elected, primarily through first-past-the-post contests.¹⁵ Senators are elected to six-year terms, with approximately one third of senate seats contested for every two years. Elections for all 435 congressional seats are held every two years.

Senate electoral districts correspond to the entire state, and Representatives are elected from single-member districts. All states have at least one representative in the House and all other seats are

¹¹ A [report by the National Conference of State Legislatures](#) (NCSL) indicated that 285 laws were passed in 2021 also noting that while the number of laws proposed in the year was notably high (3,676) the rate of enactment of election related bills was consistent with previous years.

¹² Including the 1966 International Covenant on Civil and Political Rights (ICCPR), 1965 International Convention on the Elimination of All Forms of Racial Discrimination (CERD), 2003 Convention against Corruption, and 2004 Council of Europe (CoE) Convention on Cybercrime. The US is a member of the CoE Group of States against Corruption (GRECO) and the European Commission for Democracy through Law (Venice Commission).

¹³ Paragraph 13.2 of the 1989 OSCE Vienna Document commits participating States to consider acceding to international human rights treaties, with paragraph 15 referencing CEDAW. See also, paragraph 40.2 of the 1991 OSCE Moscow Document and paragraphs 5.20 and 5.21 of the 1990 OSCE Copenhagen Document. Additionally, the US is also not a party to the American Convention on Human Rights and the Indigenous and Tribal People's Convention.

¹⁴ Since January 2021 the DoJ has brought lawsuits in relation to recently enacted laws affecting the right to vote against the states of [Georgia](#) and [Texas](#); [state-wide redistricting](#) in Texas, and [Galveston County](#) Texas; and agreements under UOCAVA with [Ohio](#), and under HAVA and NVRA with [New Jersey](#) and [Oneida County](#) New York.

¹⁵ In Georgia elections for the House and Senate elections, a second round is held should none of the candidates receive an absolute majority. In the House, vacancies arising between elections are filled through by-elections. In the Senate, vacancies may be filled temporarily by Governors, except in Oregon where a special election is required.

allocated to states in proportion to their population at the most recent census.¹⁶ States with more than a single electoral district are generally required to delimit electoral boundary districts following each national census. Delimitation for new district maps for 435 congressional districts and 7,383 state legislative seats across 99 chambers began following the most recent census in 2020. Of the 44 states with more than one congressional district, State legislators are primarily responsible for redistricting in 33 states.¹⁷ Three states use “politician commissions” which may include elected officials, and eight states and Washington D.C. use independent commissions.¹⁸ Several NAM interlocutors expressed serious concerns with the issue of partisan redistricting of electoral boundaries, which is frequently biased in favour of a single party and at times explicitly factors racial demographics in the delimitation process.¹⁹

D. ELECTION ADMINISTRATION

States are responsible for managing elections with duties devolved to roughly 7,900 jurisdictions across the country and no federal body mandated with administering elections. In 41 states the Secretary of State serves as the chief election official and is charged with management and oversight of elections and voters rolls, with the remaining states and the District of Columbia assigning these tasks to state election boards or divisions. Contrary to international standards, chief election officials of states and counties (or county equivalents) are often elected as party candidates, at times in elections they themselves administer.²⁰

The Election Assistance Commission (EAC) is composed of four bipartisan appointees and functions in an advisory role providing guidance on meeting HAVA requirements and serving as a clearinghouse for information about election administration including chain of custody best practices, election security, voting accessibility, procurement, audits and recounts. It also develops guidelines for testing and certifying election technology.²¹ The EAC informed the ODIHR NAM that, ahead of these elections, it has prioritized protecting election workers from threats and harassment resulting from increased misinformation and disinformation.

Federal legislation prohibits discrimination and ensures equal opportunity for persons with disabilities in political and electoral life.²² It is estimated that one sixth of the voting age population has some type

¹⁶ Following the [2020 Census](#), Texas gained two seats and Colorado, Florida, Montana, North Carolina and Oregon each gained one seat, while California, Illinois, Michigan, New York, Ohio, Pennsylvania and West Virginia all lost one seat.

¹⁷ Of the states in which state legislators are responsible for drawing boundaries Iowa, Maine, Utah and Vermont appoint advisory commission to support the legislators. In Maryland the advisory commission supports the Governor in drawing draft plans which are submitted to the legislature.

¹⁸ Politician commissions are in place in Hawaii, New Jersey and Virginia. Independent Commissions are in place in Alaska, Arizona, California, Colorado, Idaho, Michigan, Montana and New York.

¹⁹ The current cycle of redistricting triggered over [50 challenges](#) by May 2022. On 7 February 2022, the U.S [Supreme Court](#) blocked an order by a US District Court requiring the State of Alabama to redraw maps for two congressional districts citing that the stay would disrupt the conduct of primary elections in the state. Since January 2021 the DoJ has brought lawsuits in relation to recently enacted laws affecting the right to vote against the states of [Georgia](#) and [Texas](#); [state-wide redistricting](#) in Texas, and [Galveston County](#) Texas; and agreements under UOCAVA with [Ohio](#), and under HAVA and NVRA with [New Jersey](#) and [Oneida County](#) New York.

²⁰ Elections for 27 Secretaries of State will take place in 2022. Paragraph 20 of the 1996 UN Human Rights Committee (CCPR) General Comment 25 states that “an independent electoral authority should be established to supervise the electoral process”.

²¹ See the most recent [Voluntary Voting System Guidelines 2.0](#) issued in February 2021

²² See [guidance](#) provided by the DoJ.

of disability.²³ Several ODIHR NAM interlocutors noted that factors such as changes in the use of election technology and stricter requirements for early and mail voting may make it more difficult for people with physical and sensory disabilities to vote.

ODIHR NAM interlocutors acknowledged that election administration is generally underfunded, a factor likely to be exacerbated by the impact of rising inflation on the costs and the disruptions of supply chain for material such as paper.²⁴ The prevalence of threats to election officials alarmed several ODIHR NAM interlocutors, most of whom blamed false narratives of systematic election fraud in 2020 for the increase in such threats. Such incidents have included the publishing of personal information online, threatening contact and phone calls including death threats.²⁵ The DoJ launched a taskforce to address threats of violence against election workers, investigating and prosecuting these offenses where appropriate²⁶. Some officials also highlighted the propagation of election related misinformation leading to a drastic increase in Freedom of Information Act (FOIA) requests since 2020 as effectively debilitating their capacity to deliver on their core tasks.

E. CYBER SECURITY

The Department of Homeland Security (DHS) designated election infrastructure as critical infrastructure in 2017 following the disclosure of vulnerabilities in the elections cybersecurity infrastructure during the 2016 election cycle. The Cybersecurity and Infrastructure Security Agency (CISA) was established as a Sector Specific Agency (SSA) to oversee election infrastructure and work with states and localities to improve their ability to detect and identify malicious cyber activity while also developing processes for co-ordinating mitigation efforts.²⁷ CISA offers free, voluntary assistance to state and local election officials and authorities to support their infrastructure's security.

The Federal Bureau of Investigation (FBI) Foreign Influence Task Force (FITF) was formed in 2017 with the purpose of identifying and counteracting malign foreign influence operations including those intended to influence political sentiment and public discourse. The taskforce is composed of representatives from various divisions within the FBI and addresses aspects such as finance violations and financing elections from abroad, voter suppression, foreign intelligence, and specific cyber intrusions.²⁸

²³ See [data](#) from United States Census Bureau from November 2018. The [EAC](#) reports that 17.7 million people with disabilities voted in the 2020 elections and increase of over a million from the 2018 mid-term elections.

²⁴ During the 2020 elections as many as 2,500 local election administrations supplemented financial shortfalls with funding provided by a few private donors, most notably by the Center for Tech and Civic Life. In response to the lack of regulation to safeguard the independence of the election administration, 11 states passed regulation prohibiting private funding for election administration.

²⁵ See [witness testimony from election officials](#) in three states to the Senate Committee on Rules and Administration. Also, see a report by the Brennan Center on [threats against election officials](#).

²⁶ The [taskforce](#) includes several entities within the DoJ, including the Criminal, Civil Rights, and National Security Divisions, and the FBI, as well as key interagency partners, such as the Department of Homeland Security. Arrests have been made through the taskforce in [Texas](#) and [Nevada](#).

²⁷ [Election infrastructure](#) is defined as: “storage facilities, polling places, and centralized vote tabulations locations used to support the election process, and information and communications technology to include voter registration databases, voting machines, and other systems to manage the election process and report and display results on behalf of state and local governments”. It is a subsector of one of 17 national critical infrastructures sectors.

²⁸ In addition, [the FITF](#) co-ordinates its work with other federal agencies, such as Department of Homeland Security, communicate with other governments and with private entities – social media, banks, media, providing outreach materials on how to protect vote and identity in cyber space, during the electoral operations.

In addition to the USD 380 million allocated by Congress in 2018 for states to improve election administration, including through enhanced technology and security, appropriations to support election administration have also been made since then though these have been significantly smaller.²⁹ The EAC is responsible for authorizing the grants, based on applications that include a short justification of how funds will be spent and a commitment to match 20 per cent of the costs, and spend those funds disbursed by 2024. Most ODIHR NAM interlocutors expressed confidence in the adequacy of cybersecurity infrastructure, highlighting improvements made since 2016.

F. VOTER RIGHTS, REGISTRATION, AND IDENTIFICATION

1. Voter Rights

US Citizens who are at least 18 years old on election day and are residents of a state have the right to vote. While some 600,000 citizens residing in the District of Columbia have the right to vote in presidential elections, they and some 3.5 million citizens who reside in US territories, over 90 per cent of whom are ethnic and racial minorities, lack full representation in Congress.³⁰

An estimated 5.2 million citizens are disenfranchised due to a criminal conviction, 58 per cent of whom have already served their sentences.³¹ Racial minorities are disproportionately affected by felony disenfranchisement and it is estimated that, as of 2020, 1.8 million African Americans are unable to vote as a result of these policies. Prisoner and ex-prisoner voting rights are determined by state law and vary considerably, with only Maine, Vermont, the District of Columbia, and Puerto Rico allowing citizens to vote from prison.³² In the remaining 48 states convicted felons, those awaiting trial or those on parole, are deprived of their right to vote.³³ In line with prior ODIHR recommendations, there have been positive trends towards the restoration of voting rights for ex-prisoners.³⁴ Most states, however, impose burdensome procedures for the reinstatement of voting rights.³⁵

Restrictions on voting rights based on intellectual and psychosocial disability or guardianship vary among states. Only 10 states have no restrictions on the right to vote based on disability in their state constitutions or election law while 39 states have laws that bar voting by individuals who are under guardianship.³⁶ An estimated 1.5 million US adult citizens are under guardianship. Some of these restrictions are contrary to international standards on the rights of persons with disabilities.

²⁹ The Consolidated Appropriations Act of 2022 provides USD 75 million to the EAC, which is significantly less than the previous two election cycles, which the EAC explained as arising from the urgency for cybersecurity improvements in 2018 and 2020.

³⁰ Resident of US overseas territories also do not have the right to vote in presidential elections. See the 2021 US Commission on Civil Rights [report on voting rights in US territories](#).

³¹ See The Sentencing Project 2021 [Primer on Voting Rights in the Era of Mass Incarceration](#). See also UN CCPR “[Concluding observations on the fourth periodic report of the United States of America](#)” (2014), CCPR/C/USA/CO/4, para. 24.

³² Primarily, these laws concern ‘ex-felons’. In the US, a felony is typically defined as a serious crime punishable by a term of imprisonment of at least one year.

³³ In 11 states, prisoners and ex-prisoners permanently lose their right to vote unless pardoned by the state governor.

³⁴ Connecticut, New York and Washington passed [bills restoring voting rights to citizens on parole](#) in 2021.

³⁵ See the [NCSL database on felon voting rights](#). Recent cases of former felons facing being arrested for illegally voting or registering to vote have been reported in [Texas](#), [Tennessee](#), and [Florida](#).

³⁶ See Bazelon center [Guide to Voting Rights for People with Mental Disabilities](#), “[Beyond Guardianship: Toward Alternatives That Promote Greater Self-Determination](#)”, and Pew Trusts “[Thousands Lose Right to Vote Under ‘Incompetence’ Laws](#)”.

2. Voter Registration

Voter registration is active.³⁷ Registration takes place in the jurisdiction of the voters' residence, most often at the county level and states maintain voter registers. The NVRA and HAVA set minimum conditions for registration though available methods for registration and requirements vary by state with voters generally being able to register in person, by post, online or through an authorized third party. The NVRA requires states to make their driver license application form also serve as a voter registration application and 23 states implement 'automatic' or "motor voter" registration.³⁸ The EAC is mandated to provide a federal postal registration form that all states accept. HAVA requires first-time voters registering by post to provide proof of identity. Four states have laws requiring documentary proof of citizenship for registration though these have previously been judged unconstitutional.³⁹

The NVRA requires registration to remain open at least up to 30 days before election day, however some states extend the deadline beyond the 30 days with 21 states and the District of Columbia allowing registration on election day.⁴⁰ Currently, 42 states and the District of Columbia offer online registration.⁴¹

The NVRA and HAVA provide the framework for voter list maintenance including the removal of deceased persons from the voter rolls as well as individuals with criminal convictions and those who have been deemed incapacitated. The NVRA also prohibits states from removing registrants from the voter list within 90 days of an election. HAVA requires states to establish state-wide voter registration databases and determines basic requirements for their maintenance. States are tasked with co-ordinating with state agency records on felon status and deaths, and the removal of duplicates from the voter list. The procedures for these vary across the states.

HAVA also mandates states to co-ordinate and match their voter registration databases with state and federal databases to ensure the accuracy of state voter registers.⁴² Most states upgraded their voter registration systems as part of broader efforts to enhance protection against possible cyber-attacks from foreign actors in the wake of the 2016 elections. Currently 33 states and the District of Columbia participate in the inter-state Electronic Registration Information Center (ERIC) project which aims to identify duplicate records and inaccuracies, and to ensure the integrity and accuracy of voter

³⁷ Voter registration is required in 49 states and the District of Columbia; North Dakota is the only state that does not require registration.

³⁸ In these cases, voters are automatically registered at the time of applying for or renewing a driver's license. Depending on the state individuals have the opportunity to opt-out either at the point of service or after receiving a post-transaction notification.

³⁹ Alabama, Arizona, Georgia and Kansas have laws requiring documentary proof of citizenship. Kansas' law was judged unconstitutional. See [Fish v. Kobach](#) and [League of Women Voters v. Harrington](#).

⁴⁰ North Dakota does not register voters, but voters are required to provide valid proof of ID and residency to the polls in order to vote. Montana changed its law though continues to allow registration on early voting days and up until the day before the election.

⁴¹ Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, Nevada, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia. States which have adopted online registration measures since the last general elections, New York, New Jersey, Michigan, and Oklahoma.

⁴² Databases include the state database of the Motor Vehicle Authority and the federal database of the Social Security Agency, as well as state records of deceased people and prisoners.

registers.⁴³ Where potential duplicate records are identified, states are required to attempt to contact the individuals concerned before removing their names from voter lists.

Many ODIHR NAM interlocutors noted that access to voter registration is disproportionately more difficult for voters living in urban areas, low-income voters, and Native Americans, with these groups continuing to have lower than average registration rates.

3. Voter Identification

Voter identification requirements vary across the states, with 35 states requiring voters to show identification before voting, 17 of which require photo identification and 18 that require non-photo identification.⁴⁴ The remaining states use other identifying information provided at the polling place, such as matching signatures or signed affidavits. HAVA requires that provisional ballots be provided to voters who believe they are registered at a locality but could not be found on the voter list. State regulations and deadlines for verification and counting of provisional ballots vary widely. Identification of voters for postal ballots (absentee ballots) has been a central area of concern with Florida, Georgia and Texas adding voter identification requirements to absentee ballot request applications and absentee ballot returns.

Voter identification cards remain a politically contentious issue, with ODIHR NAM interlocutors offering diverging perspectives on the risk posed by multiple voting and the necessary emphasis on the balance between electoral integrity and inclusive participation. Some ODIHR NAM interlocutors highlighted the lack of a central federal voter register as a barrier to determining whether individuals are registered and voting in more than one state.

G. CANDIDATE REGISTRATION

Candidates for the Senate must be at least 30 years old and a citizen for at least 9 years. Candidates for the House of Representatives must be at least 25 years old and a citizen for at least 7 years. Both Senators and Representatives, when elected, must be residents of the state in which they are elected.

Additional candidacy requirements at the state level vary considerably. In general, parties may nominate candidates if they obtained a certain percentage of votes in previous elections or if they submit a number of signatures, although thresholds vary by state. Several ODIHR NAM interlocutors noted that, in some states, these requirements may be challenging for smaller parties or independent candidates. Most states allow for voters to “write-in” candidates who are not included on the ballot.

Congressional candidates representing the Democratic and Republican parties are selected in primary elections which take place on different dates in different states.⁴⁵

⁴³ Alabama, Nebraska and Oklahoma joined [ERIC](#) since 2020. Another programme the Interstate Voter Cross-Check Program (IVCP) was indefinitely suspended in 2019 following a [class action lawsuit](#) brought against the programme over questions of informational privacy.

⁴⁴ [On 18 March 2022, a law passed changing Arkansas' voter ID law](#), was deemed unconstitutional. [Montana SB 169](#), enacted in 2021 removed student identification cards from the statutory list of primary forms of acceptable voter ID in the state.

⁴⁵ The primaries started in early March and will last until 12 September.

H. ALTERNATIVE VOTING METHODS

Early in-person and postal voting had been well established practices prior to the COVID-19 outbreak and the 2020 elections, with usually more than one-third of voters using one of these methods. The temporary expansion of access to such voting methods resulted in more voters voting by mail than any other method and roughly equal numbers of voters voting on earlier days as those voting on election day. These methods resulted in contentious debate during the elections and have been the subject of legislation at the state level seeking to more closely regulate such practices.

Forty-five states, and the District of Columbia offer early in-person voting with varying timelines for beginning and ending the process, stipulations for voting locations and opening and closing hours of polling places.⁴⁶ Legislation pertaining to early voting enacted in various states since 2020 generally was limited to adjusting the number of days of early voting without drastic changes to the practice itself.⁴⁷ Texas and Georgia ended overnight and drive through voting and the use of mobile voting, respectively. The DoJ guidance on protecting the rights of voters with disabilities does not explicitly specify the extent to which federal accessibility requirements are applicable to early in-person voting.⁴⁸

Seven States and the District of Columbia are all-mail-ballot states, meaning that all voters receive a ballot in the mail and can return it as such or vote in person during early voting or on election day.⁴⁹ Additionally 27 states offer “no-excuse absentee voting” in which any registered voter can request a mail ballot without having to provide justification. In order to receive a mail ballot in any of the other states, voters are required to provide evidence of need based on the states’ criteria for valid excuses. Florida, Georgia and Texas added voter identification requirements to absentee ballot request applications and absentee ballot returns. Methods and locations for returning ballots as well as deadlines for receipt of completed ballots vary considerably between states.

The Department of Defense (DoD), under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and the Military and Overseas Voting Empowerment Act (MOVE), manages the Federal Voting Assistance Program, which facilitates voter registration and ballot requests for military and overseas voters, as well as providing information to voters and election officials. States are required to distribute ballots to voters abroad at least 45 days prior to election day. Out-of-country voters, who have not received a ballot in time to return it before election day, can use a ‘back-up’ Federal Write-In Absentee Ballot (FWAB), which is accepted by all states. Previous ODIHR recommendations have noted that the electronic submission of marked ballots from out-of-country voters, permitted in 32 states, runs contrary to OSCE commitments to maintain the secrecy of the vote.

Most ODIHR NAM interlocutors expressed confidence in the methods for early and postal voting, but many raised concerns about the capacity for less experienced poll workers to count and tabulate mail ballots in a timely fashion given the varying deadlines. Some ODIHR NAM interlocutors were concerned that stricter ID requirements and earlier deadlines for return in some states would result in a high level of rejection of ballots.

⁴⁶ See NCSL resources on [early voting](#).

⁴⁷ Iowa decreased the number of days from 29 to 20. Kentucky added three days, while Indiana, Louisiana, and Oklahoma all extended early voting days. Georgia standardized the number of early voting days available in all counties days across the state adding weekend days to the schedule.

⁴⁸ See 2017 Government Accountability Office report “[Observations on Polling Place Accessibility and Related Federal Guidance](#).”

⁴⁹ California, Colorado, Hawaii, Nevada, Oregon, Utah, Vermont Washington

I. NEW VOTING TECHNOLOGIES

Voting technology solutions are used extensively, with types of technology varying considerably across and within states. Most states use more than one type of NVT, either because of county variations or to accommodate voters with disabilities or language needs. In line with a previous ODIHR recommendation, jurisdictions have tended to transition from entirely electronic voter machines towards paper-based voting solutions, with 41 states and the District of Columbia using voter-verified paper audit trail (VVPAT) and fewer states using exclusively Direct Recording Electronic voting machines without a paper trail.

In 39 states and the District of Columbia post-election audits of the equipment and procedures by checking paper ballots or records against the results produced by the voting system, are prescribed. These audits can lead to a full recount if errors are detected.⁵⁰

J. ELECTION CAMPAIGN

While election campaigning itself is generally unregulated, strong legal guarantees protect fundamental freedoms associated with campaigning. The possibility to organize rallies is subject to permission from local authorities and application of a fixed fee in some states. ODIHR NAM interlocutors did not anticipate any barriers to the freedom to campaign freely but many were concerned by increasingly inflammatory speech targeting political opponents and election officials which some feared might result in election related violence. In keeping with previous elections the use of online and social media is expected to be prominent. Many ODIHR NAM interlocutors expressed concern about potential misinformation and disinformation on online and social media particularly as it relates to the administration and the outcome of the election.

Most ODIHR NAM interlocutors expect the campaign to be polarized with a focus on more competitive congressional races. Key topics are expected to be the economy and rising inflation, second amendment rights, debates over reproductive rights, racial justice, and the rights of LGBTI people. Foreign policy issues such as the US withdrawal from Afghanistan in 2021 have been eclipsed by the war in Ukraine. Election integrity is also likely to be a key campaign issue with many candidates running on a platform questioning the integrity of the outcome of the 2020 elections, including some running for positions set to have key administrative roles in the 2024 general election.

K. CAMPAIGN FINANCE

Civil oversight of campaign finance is vested in the six-member and bipartisan Federal Election Commission (FEC), with the law requiring the votes of at least four commissioners in order to make decisions and issue advisory opinions. The FEC has been faced with a backlog of cases owing partly to a lack of quorum in 2019 and 2020, and votes on regulatory issues often deadlock along party lines.

⁵¹

⁵⁰ Twenty states and the District of Columbia provide for [automatic recounts](#), which are conducted if the margin between the top two candidates is within certain parameters. In other states, a candidate or a voter may request a recount, often at their own cost. See also NCSL webpage on [post-election audits](#).

⁵¹ The FEC had been without quorum for most of the previous election cycle, the commission reached quorum following the approval of three new commissioners in December 2020. On 24 May 2022, the Senate voted to confirm Dara Lindenbaum as a Democratic Commissioner to replace Steven Walther whose term expired.

Election campaigns can receive contributions from individuals, political parties, and Political Action Committees (PACs), though direct donations from trade unions and corporations are forbidden, as are foreign or anonymous donations.⁵² Corporations and trade unions can contribute to PACs, with some limitations in place. Public financing is not available for congressional elections. There are no expenditure limits, as the US Supreme Court judged such limitations as constraints to free speech as enshrined in the First Amendment to the US Constitution. The Court also extended the right to “independent speech” to legal entities, including so-called Super PACs, allowing these entities to spend without limit.⁵³ To be considered independent, outside groups cannot co-ordinate spending with a candidate or party. A longstanding ODIHR recommendation to review and clarify the FEC’s co-ordination rules remains unaddressed.

On 16 May 2022, in an appeal made by Senator Ted Cruz in relation to federal legislation and FEC regulations restricting the amount that a candidate may be repaid from post-election contributions for loans they may make to their own campaign ahead of the election to USD 250,000 to be paid within 20 days of the election, the United States Supreme Court ruled these limitations abridged First Amendment rights by deterring candidates from lending money to their own campaigns.⁵⁴

Candidates, political parties, and PACs are required to file regular reports to the FEC on funds raised and spent.⁵⁵ The reports list donors who contributed over USD 200, along with their address, employer and job title. The FEC publishes the reports on its website within 48 hours of receipt. However, insofar as election campaigning is not their primary activity, some non-profit organizations (501(c) organizations) are not obliged to disclose their donors to the FEC, or the Internal Revenue Service. ODIHR has previously recommended that disclosure requirements be applied to all persons and groups engaged in campaigning regardless of their form or whether they are registered with the FEC.⁵⁶ Most ODIHR NAM interlocutors shared concerns about the lack of transparency in campaign financing with a specific emphasis on spending by independent groups which they perceive as potentially obscuring sources of campaign financing and providing avenues to avoid disclosure.

L. MEDIA

The media landscape, while extremely polarized, is pluralistic and diverse with more than 17,000 commercial and public broadcast stations.⁵⁷ Despite the large volume of media outlets, ownership of these outlets is concentrated in the hands of a few entities.⁵⁸ The environment is traditionally

⁵² Individuals may contribute up to USD 2,900 per election to a candidate, USD 10,000 per calendar year to a state party, USD 36,500 per calendar year to a national party, and USD 5,000 per calendar year to a PAC. See, the [FEC’s full breakdown on contribution limits](#). See also, [McCutcheon v. FEC](#) where aggregate limits on the amount an individual may contribute during a two-year period to federal candidates, parties and PACs were struck down. In October 2022 the FEC ruled that foreign entities could [fund campaigns for ballot initiatives](#) as these do not constitute elections under the Federal Election Campaign Act.

⁵³ See, respectively, [Buckley v. Valeo](#) and [Citizens United v. FEC](#).

⁵⁴ See US Supreme Court Opinion on [FEC v. Ted Cruz for Senate](#).

⁵⁵ For PACs that either contribute or spend at least USD 1,000 to influence an election.

⁵⁶ See also, the [2011 GRECO Evaluation Report on the US on the Transparency of Party Funding](#) and the [2021 GRECO Second Compliance Report on the US](#).

⁵⁷ Registered broadcast media include over 1,700 commercial and public television stations and more than 15,000 radio stations.

⁵⁸ Six major companies control approximately 90 per cent of media content: AT&T (CNN), CBS, Comcast (NBC, MSNBC, BuzzFeed), Disney (ABC), News Corp (Fox News, Wall Street Journal, New York Post) and Viacom.

dominated by major television networks and cable channels. There are approximately 1,300 print publications. Two public networks, Public Broadcasting Service (PBS), and National Public Radio (NPR) operate across the country as separate entities, with the combined system reaching more than 98 per cent of the country's population through free services. Media consumption of political news, particularly among young and middle-aged groups, has mostly shifted to online media sources and social networks.

The legal framework for traditional media is characterized by a robust protection for media independence, with various self-regulation mechanisms and Supreme Court decisions affirming that no limits should constrain freedom of speech. The 1996 Telecommunications Act and Federal Communication Commission (FCC) regulations outline the basic framework for broadcasters to adhere to during elections. The FCC reviews complaints related to broadcast media coverage of candidates but does not conduct any systematic media monitoring. Print media are not bound by any statutory requirements.

Commercial broadcasters are required to provide “reasonable access” to all legally qualified federal candidates at any time and rules require stations to charge only the lowest unit charge to candidates requesting to purchase airtime in the 60 days preceding a general election. Candidates can purchase paid political airtime at the lowest sum charged for a comparable advertisement on the channel. The source of sponsorship must be identified for all political advertising and broadcasters are obliged to maintain a publicly accessible ‘political file’ of all requests to purchase airtime.

In addition, the “equal opportunity” rule means that if a broadcaster grants airtime to one candidate it must allow equal conditions for other candidates in that contest. This rule, however, has a number of exceptions aimed at protecting editorial freedom, including appearance on newscasts, scheduled interviews, and debates. The FCC has interpreted that the equal opportunity rule only applies to candidates, not their supporters. As such, the rule does not apply where the candidate's voice or image is not featured. The Public Broadcasting Service (PBS) is prohibited from endorsing or opposing candidates for public office and cannot air paid advertisements. In her 2021 report the OSCE Representative for Freedom of the Media (RFoM) addressed the decline in safety of journalists in the US and the urgent need to restore public trust in the media as well as the need to tackle the challenges of disinformation and misinformation, while protecting free speech.⁵⁹

M. ELECTION OBSERVATION

In line with its OSCE commitments, the US Government has invited ODIHR to observe the upcoming elections. Observation is regulated by state law, which does not always and explicitly provide for international observers. As of the most recent 2020 elections, five states and the District of Columbia explicitly permit observation by international observers in their state laws.⁶⁰ Restrictions on

⁵⁹ See the OSCE [RFoM regular report to the OSCE Permanent Council](#) for the period 14 May – 22 November 2021. The OSCE RFoM has [previously expressed](#) concern that the decision by US authorities to require media entities from other countries to register themselves as foreign agents has a negative impact on media freedom. See also a tweet by the OSCE RFoM [from 24 March 2020](#).

⁶⁰ California, Hawaii, Missouri, New Mexico and Utah.

observation are in place in eighteen states.⁶¹ Such restrictions on election observers are not in line with OSCE commitments.⁶²

The DoJ intends to deploy monitors to follow state compliance with federal election law. Poll watching by political parties and civil society is expected to be widespread. Many of these groups plan to deploy lawyers to provide immediate support in case of disputes, as well as volunteers to facilitate voter access. All ODIHR NAM interlocutors appraised the high levels of national scrutiny, noting that it provides an important level of transparency. However many ODIHR NAM interlocutors expressed concern that in the context of charged election misinformation the activities of some untrained observers might result in the intimidation of voters and election officials.

IV. CONCLUSIONS AND RECOMMENDATIONS

The majority of ODIHR NAM interlocutors expressed confidence in the election administration and their ability to conduct elections professionally and impartially, including on election day, but many expressed alarm at the increasing incidence of rhetoric calling into question the integrity of election officials which has diminished trust in elections and has frequently led to threats against election workers.

While only some previous ODIHR recommendations have been addressed, most interlocutors noted the value of a potential ODIHR observation activity for these elections. Elements of the electoral process that the ODIHR NAM considers as deserving specific attention include the stability of the legal framework, the implementation of alternative voting methods, campaign finance, the conduct of the electoral campaign as well as voter rights, registration and identification. ODIHR NAM interlocutors also noted that, given the highly polarized environment, and the diminishing trust in the integrity of elections, external and independent overview of the electoral process, including of the election day proceedings would be beneficial.

On this basis, the ODIHR NAM recommends the deployment of an Election Observation Mission (EOM) to observe the mid-term congressional elections. In addition to a core team of analysts, the mission recommends the secondment of 100 long-term observers from OSCE participating States to follow the electoral process countrywide, and 400 short-term observers to follow election day proceedings. In line with the ODIHR's standard methodology, the EOM would contain a media monitoring element.

⁶¹ Alabama, Alaska, Arizona, Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Mississippi, Minnesota, New Jersey, Texas, North Carolina, Louisiana, Oklahoma, Ohio and Pennsylvania do not allow for presence of international observers in polling stations by law. In Georgia, the election officials permitted the ODIHR LEOM observers to observe the process as general public. The remaining 27 states have statutory language that may provide for international observers.

⁶² Paragraph 8 of the [1990 OSCE Copenhagen Document](#) provides that “the participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place”. The last resolution of the National Association of Secretaries of State welcoming OSCE international election observers expired in summer 2020 and was not renewed.

ANNEX: LIST OF MEETINGS

Department of State

Douglas Jones, Deputy Assistant Secretary, Bureau of European and Eurasian Affairs
Vanessa Arness, OSCE Desk Officer

Department of Justice

Cristopher Herren, Voting Section Chief
Karen Stevens, Senior Counsel, Civil Rights Division

Department of Defense

Scott Wiedmann, Deputy Director, Federal Voting Assistance Program
Sara Hedlund - Program Analyst, FVAP
Clarissa Rodriguez, Program Analyst, Federal Voting Assistance Program

Department of Homeland Security

Kim Wyman, Senior Election Security Lead
David Kuennen, Cybersecurity Specialist, Election Security Initiative
Adeline Piotrowski, International Affairs Advisor
Caleb Klakring, International Affairs Analyst

Federal Bureau of Investigation

Laura Dehmlow Section Chief Foreign Influence Task Force
Lindsay Capodilupo, Election Crimes Coordinator

Federal Election Commission

Ellen Weintraub, Commissioner

Federal Communications Commission

Gary Schoman, Special Counsel for Political Programming
Robert Baker, Policy Division Assistant Chief
Sima Nilsson, Policy Division Attorney

Election Assistance Commission

Thomas Hicks, Chairman
Mark Robbins, Acting Executive Director
Kristen Muthig, Director of Communications

House of Representatives Committee on House Administration

Georgina Cannan, Elections Counsel

Senate Committee on Rules and Administration

Elizabeth Farrar, Deputy Staff Director
Tommy Walker, Policy Director
Matthew Shapanka, Chief Counsel
Allison Hunn, Senior Counsel and Policy Advisor
Greta Bedekovics, Policy Advisor

National Association of Secretaries of State

Leslie D. Reynolds, Executive Director
Maria Benson, Communications Director

National Conference of State Legislators

Susan Frederick, Senior Federal Affairs Counsel
Wendy Underhill, Director, Elections & Redistricting
Nicole Ezeh, Legislative Specialist

National Association of State Election Directors

Amy Cohen, Executive Director

National Council on Independent Living

Sarah Blahovec, Voting and Civic Engagement Director

US Commission on Security and Co-operation in Europe

Robert Hand, Senior Policy Advisor, Secretary of the U.S. Delegation to the OSCE Parliamentary Assembly
William Connor, Senior House Staff Representative for Rep. Cohen
Michael Cecire, Senior Policy Advisor
Shannon Simrell, Senior Policy Advisor, Commission Representative to the U.S. Mission to the OSCE
Janice Helwig, Senior Policy Advisor
Stacy Hope, Director of Communications
Francois Hernandez, Staff Assistant
Mollie Blum, Kampelman Policy Fellow
Jessika Nebrat, Kampelman Policy Fellow
Jennie Piotrkowski, Kampelman Communications Fellow

Democratic National Committee

Reyna Walters-Morgan, Director of Civic Engagement and Voter Protection

Republican National Committee

**An invitation was sent to the Republican National Committee. The meeting did not take place due to technical issues.*

Brennan Center for Justice

Elizabeth Howard, Cybersecurity and Elections Counsel
Daniel I. Weiner, Senior Counsel, Democracy Program

Center for Election Innovation and Research

David J. Becker, Executive Director

The Heritage Foundation

Hans A. von Spakovsky, Manager, Election Law Reform Initiative

National Democratic Institute

Richard L. Klein, Senior Advisor, Elections

The Carter Center

Avery Davis-Roberts, Associate Director, Democracy Program

International Community

Representatives of diplomatic missions of OSCE participating States⁶³

⁶³ The ODIHR NAM extended an invitation to representations of all OSCE participating States resident in the United States of America.