**Attachment**

**To:** Pillars of the Community

**Re:** **Preparing for Federal Intervention in Election Administration (Planning Best Practices)**

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## Planning Best Practices

An effective response to federal contact usually depends on preparation. Accordingly, this attachment tailors general best practices to election offices to help them anticipate what might happen; respond thoughtfully; and maintain custody and continuity in the event of federal access to or removal of election materials. It does not constitute the provision of legal advice. Election officials called on to address these issues will do so in specific circumstances and in consultation with their own counsel on how to proceed.

### I. Prepare in Advance

The first set of best practices address procedures for responding to federal requests, legal process, and investigative contact with personnel *before an incident occurs*.

| Best Practice | Application |
|---|---|
| **Identify the legal custodian of each category of election material.** | Election administrators would identify the election office or official responsible for safekeeping election materials, including preserving, maintaining, and administering access to those materials. Administrators would also identify materials held by vendors, contractors, or cloud providers and determine what contractual or legal rights the jurisdiction retains over those records and their custodians. |
| **Determine who may accept service and consent to access.** | Each election office would designate, consistent with applicable law, one or a small number of individuals who are authorized to accept legal process; provide voluntary access to nonpublic areas, records, or systems; and disclose protected information. Staff who lack such authority—which should be the majority of personnel—would be instructed that their responsibility is solely to obtain the identity and agency of anyone attempting to gain access and then promptly to refer that individual to the designated decision-maker. |
| **Prepare polling-site access rules and verification procedures.** | State or local election officials would prepare a concise reference resource identifying applicable rules governing facility access, observers, weapons, restricted zones, ballot secrecy, custody, and disclosure of voter information. Officials would classify facility areas in advance (e.g., public, observer, staff-only) and specify the access rules for each category. Procedures would explain how election workers can check credentials, gather the information needed to confirm a federal official's asserted right to be present at the election site, and communicate that information to the state or local election officials with decision-making authority. The protocol would address scenarios including DOJ monitoring requests, federal officers patrolling or establishing a checkpoint at or near an election site, attempts to question poll workers or voters, or law enforcement or others seeking entry to restricted areas. |

| Best Practice | Application |
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| **Prepare a warrant-execution protocol.** | The warrant-execution protocol would alert election workers to which election officials they should contact, including counsel and designated senior election officials, in the event of a search warrant. It would clearly instruct election workers not to obstruct the search; to obtain and preserve a copy of the warrant if possible; not to consent to access by the agents beyond the areas defined by the warrant; to document the areas, systems, and materials accessed; and to confirm that officers take an inventory of any property seized and provide a receipt for property taken. |
| **Prepare forms for documenting federal access and property removal.** | Election offices would have a standard incident form that records the names and agencies of those seeking access, information, or records; the legal authority they present; the date and times federal personnel were present; areas and systems accessed; records copied; property removed; seals opened or replaced; and effects on election operations or voter access. The office would also be prepared to preserve relevant surveillance footage, access-control records, system logs, and ordinary chain-of-custody documentation. Officials would assign documentation responsibility and designate a spokesperson, with backups. |
| **Designate an office liaison and backup.** | Election officials would designate an operational decision-maker, legal counsel, and liaison responsible for communicating with federal personnel, with backups available throughout the voting, counting, and canvassing processes. Frontline workers would receive a single initial contact and instructions for reaching an alternative if that person is unavailable. The plan would distinguish decisions frontline workers can make under standing instructions from those requiring supervisory or legal review. Designating a liaison does not mean that person would answer substantive investigative questions; the liaison's function would be to coordinate the office's response and communications. |
| **Coordinate with election and facility officials.** | Officials would establish contacts with state election officials, state and local law enforcement, facility managers, and relevant federal offices where appropriate. If a specific federal presence is anticipated, officials would seek advance information about the personnel, mission, location, duration, and proposed activities. Any arrangements would identify their scope and the officials approving them, including responsibility for communicating changes to site personnel. State officials would transmit notice of anticipated federal activity to affected local jurisdictions, and local officials would report unexpected federal activity to the state. |
| **Plan for polling-site disruptions.** | Continuity plans would address contingencies for the presence of federal officials confusing, intimidating, or obstructing voters; an election worker becoming unavailable; or election equipment being taken out of service. Officials would identify replacement staffing, approved backup |

| Best Practice | Application |
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| | procedures, and alternative operational plans. Each contingency would specify who can activate it, what additional authorization is required, and how to maintain ballot custody and voter notice. |
| **Establish a routing protocol for investigative contact.** | Offices would adopt and distribute a written protocol that clearly identifies whom to contact in the event of federal intervention of any kind, regardless of the hours at which such an event occurs. The protocol would also include a short script for responding to any federal personnel. |
| **Address vendor notice and cooperation obligations in advance.** | Election administrators would clarify the requirements and notice obligations of their agreements with voting-system vendors, IT providers, contractors, and cloud providers in the event that federal officials seek records, data, equipment, or account access directly from the provider. Relevant questions would include whether the provider must notify the election office when the provider receives legal process or other requests for information; who has legal custody of election-related data; and what information or assistance the service provider may furnish to federal officials absent notification or consent of the state or local jurisdiction. |
| **Conduct tabletop exercises for both a subpoena and an election-day warrant.** | Election offices could consider testing these procedures before they are needed. A subpoena exercise would test service, escalation, preservation, collection of information needed by counsel, and continuity planning. Practice responding to a voluntary interview request, including asking whether participation is voluntary and requesting time to consult counsel. An election-day warrant exercise would test immediate notification, liaison, and documentation procedures, protection of unaffected operations, and contingencies if agents remove ballots, equipment, or other materials needed to administer the election. |

## II. Respond in Real Time

The following best practices address real-time contact from federal officials.

| Best Practice | Application |
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| **Obtain and copy any request or process.** | Personnel would obtain and preserve a copy of any written request, § 20703 demand, subpoena, court order, or warrant. They would record when and how it was received, the names and agencies of the federal officials involved, and any oral or written deadlines or instructions. If the request is oral, personnel would ask the official to provide it in writing. If contact occurs in person, they would ask each agent for his or her name, agency, and card. If agents will not provide cards, election officials would record names and badge numbers. |

| Best Practice | Application |
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| **For an informal request, determine whether compliance is voluntary; do not consent unless authorized.** | Personnel would ask whether federal officials are requesting voluntary cooperation or asserting legal authority to require access. If officials assert compulsory authority, personnel would ask to see the legal process on which they rely. Personnel who lack authority to consent would say so and refer the request to the designated official or counsel. |
| **Respond to a request for an interview.** | The standard practice is to ask whether you are free to leave or end the interview and whether answering the questions is voluntary. Election officials would inform agents that they will not answer questions without counsel present and would ask to contact their designated officials and counsel. If personnel have already started answering questions, they may stop. But they would not lie, and would not guess. |
| **Accept service where authorized, but do not confuse service with compliance.** | Personnel authorized to accept a § 20703 demand, subpoena, or other legal process would accept and document service without agreeing that the office must comply in the manner requested. A subpoena, for example, compels testimony or production but does *not* authorize agents to conduct an immediate search of the office or to interrogate, interview, or question anyone on the scene. A § 20703 demand likewise provides for "inspection, reproduction, and copying" of covered records *at the custodian's office*. Personnel would promptly transmit the process to counsel for review. |
| **Do not obstruct or physically interfere with an authorized search or seizure.** | Personnel would obtain a copy of the warrant and contact designated counsel immediately. Without interfering with execution, the designated liaison would identify the places and property described in the warrant and, where permitted, observe and document the search. Personnel would not affirmatively consent to searches or access beyond what the warrant specifically authorizes. If agents seek materials outside the warrant's apparent scope, personnel would promptly alert counsel and may state the office's objection, but would not physically interfere. |
| **Document the execution and preserve evidence.** | Where permitted, the liaison would record the areas, materials, equipment, and systems accessed; materials copied or removed; seals opened or replaced; and any effects on election operations. Personnel would preserve relevant surveillance footage, access-control records, system logs, and existing chain-of-custody documentation. Election officials would obtain and retain the warrant, inventory, and receipt for property taken. For a demand, subpoena, or other process that permits review before compliance, personnel would not produce records until counsel has |

| Best Practice | Application |
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| | assessed the government's authority and the request's scope, as well as applicable privilege, ballot-secrecy, voter-confidentiality, security, and chain-of-custody concerns. |
| **Record communications and deadlines.** | The election office would maintain a record of communications with federal officials, counsel, vendors, and other relevant parties and calendar every response, appearance, or production deadline. An ordinary incident report is not automatically privileged. Seek counsel's advice about documenting substantive answers and any personal exposure, while meeting applicable reporting requirements. |

## III. Assess and Ensure Continuity

After federal officials access or remove election materials or take action involving election personnel, the election office would promptly assess what occurred, restore election operations where possible, and identify any need for legal relief.

| Best Practice | Application |
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| **Confirm inventory and reconstruct chain of custody.** | The office would determine precisely what material federal officials accessed and compare its records against any inventory or receipt provided by the government. Consistent with state and local law, personnel would document any gaps or discrepancies and reconstruct the chain of custody using contemporaneous notes, surveillance footage, access-control records, system logs, seal records, and other available documentation. |
| **Assess whether any search exceeded a warrant.** | Counsel would compare what agents searched or seized against the places, materials, and information described in the warrant and evaluate any objections to the manner in which the search was conducted. |
| **Seek access, copies, return, or emergency relief where necessary.** | If federal officials retain materials needed for ongoing election functions, counsel would promptly assess available means to preserve the jurisdiction's access to them. Where seizure threatens imminent voting, tabulation, canvassing, recount, or certification obligations, counsel would assess whether expedited judicial relief is warranted. |
| **Examine and secure affected equipment and systems.** | Election administrators would determine whether federal access to voting equipment, removable media, election-management systems, or other technology affected the security or integrity of those systems. Before returning affected equipment to service, administrators would follow applicable state and local requirements and established security procedures, including any required testing, validation, or recertification. |

| Best Practice | Application |
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| **Address election deadlines and operational effects.** | Administrators would immediately identify any effect on voting, tabulation, canvassing, audits, recounts, or certification and determine whether alternative equipment, copies of records, backup data, substitute facilities, or other continuity measures are needed. |
| **Prepare accurate internal and public communications.** | The office would ensure that communications concerning the encounter are based on verified information and are consistent across election, legal, information-security, and public-information personnel. At a minimum, administrators would be prepared to accurately describe what materials or systems were affected, what election functions remain operational, and what steps the office is taking to preserve chain of custody and continuity. |

## IV. Respond to Federal Personnel at the Polls

The following best practices would apply if federal personnel appear at or near an election site.

| Best Practice | Application |
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| **Protect people and maintain operations.** | If federal officials arrive, election workers would first assess whether an immediate threat requires emergency assistance or established protective procedures. Where safely possible, they would continue ordinary voter service or counting and maintain access to the polls. The presence of federal personnel would not automatically trigger a change to, or shutdown of, regular election operations. |
| **Notify the designated official and identify the encounter.** | Election workers would promptly contact the designated supervisor, who would involve counsel and any other relevant liaisons as appropriate. Where staffing permits, one election worker would interact with federal personnel while another documents the encounter. Officials would identify the personnel, proposed conduct, and asserted authority and obtain relevant documents and contact information. |
| **Evaluate activity outside the facility.** | If federal personnel station themselves outside a facility, the designated supervisor or liaison would assess whether their positioning or conduct obstructs access, creates a checkpoint, or involves questioning voters. Where appropriate, the liaison would request repositioning or other adjustments to preserve accessible routes to the election site while counsel reviews any disputed authority. Workers would document the personnel's location, statements, and effects on voters without physically attempting to move them. Counsel would be contacted immediately, regardless of the activities of the federal officials. |

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| **Address requests for entry, observation, or assistance.** | Officials would apply the jurisdiction's established access protocol and verify any asserted order, credential, consent, or assistance arrangement. Election workers would refer requests exceeding their delegated authority to the designated official and should not volunteer additional access, materials, or system credentials. For authorized observation or assistance, officials would communicate the applicable location and activity limits and arrange accompaniment where appropriate. If personnel insist on disputed access, workers would record the assertion and obtain immediate supervisory review without physically blocking or attempting to impede them. |
| **Escalate disputed directions.** | Instructions to close a facility, stop counting, change eligibility procedures, or otherwise alter operations would be referred immediately to the designated decision-maker and counsel. That official would identify the precise direction and asserted basis, evaluate the operational consequences, and communicate any objection. Where feasible, the official would seek clarification or an arrangement that preserves election operations. Counsel would assess whether urgent judicial relief is needed. |
| **Document conduct and its effects.** | At polling sites, election workers would document where personnel were positioned, whether they approached or questioned voters, and any effect on voter access. Relevant effects could include blocked access to election sites, voter departures, delays, and staff removal. |
| **Communicate changes.** | The designated election official would provide accurate, accessible information to election workers about any confirmed changes, or lack thereof, and how voters can continue participating. |