

COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT

Suffolk, ss.

No. SJC-2020-\_\_\_\_\_

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REBECCA GROSSMAN, BECKY GROSSMAN FOR CONGRESS,  
JONATHAN LEVENFELD, SOPHIE KRIPP and SHIRLEY D. GROSSMAN, on  
behalf of themselves and others similarly situated,

PETITIONERS,

v.

WILLIAM FRANCIS GALVIN, in his Official Capacity as  
Secretary of the Commonwealth of Massachusetts,

RESPONDENT.

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**EMERGENCY PETITION FOR RELIEF**  
**PURSUANT TO G. L. C. 214, § 1 AND G. L. C. 231A, § 1**

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## INTRODUCTION

Petitioners seek emergency relief in order to prevent the disenfranchisement of innumerable registered Massachusetts voters who have sought or will seek to vote by mail in the upcoming September 1st primary election and in order to prevent the de facto elimination of either their rights to vote in that primary or to have their votes counted, or both. As applied under the circumstances, the limitation that only mail-in ballots that are actually received by the date of the September 1st primary will be counted does not merely threaten to eliminate untold numbers of voters' rights to vote and have their votes counted, but it is virtually certain to do that, effectively eviscerating the rights of voters who wish to vote by mail and who have fully complied for their part with the law permitting them to do so. Without such relief, voters all across Massachusetts who have already complied with Massachusetts law or who will do so will, by operation of that law, be prevented from either (1) voting at all; or (2) having their votes counted in those elections.

At stake, very simply, is the Constitutional right of citizens to vote, a right repeatedly recognized and zealously protected by Massachusetts courts, including this one. See Goldstein v. Secretary of Commonwealth, 484 Mass. 516, 523-24 (2020) ("Article 9 of the Massachusetts Declaration of Rights

provides, with impressive brevity and clarity, that “[a]ll elections ought to be free; and all the inhabitants of this Commonwealth, having such qualifications as they shall establish by their framers of government, have an equal right to elect officers and to be elected, for public employments’”, recognizing that the “right to vote is a fundamental constitutional right in Massachusetts”); McCavitt v. Registrar of Voters of Brockton, 385 Mass. 833, 844 (1982) (“An absentee voter should not be disenfranchised if he substantially complies with the election law”).

As set forth herein, Democratic primary elections are being held across the Commonwealth on September 1st. Because of the devastating, debilitating and dislocating impact of COVID-19 on Massachusetts residents and local governments across the Commonwealth, and because the Commonwealth deemed it unconscionable and unacceptable to force voters to choose between risking their own health and that of their families by physically going to public places to vote in person, on one hand, and exercising their Constitutional right to vote, on the other, the Massachusetts Legislature passed an emergency law on July 2, 2020, offering all Massachusetts voters the alternative of voting by mail. As a result of the combined effect of COVID-19 and this law, and as the Secretary of the Commonwealth has publicly stated, the number of Massachusetts voters seeking to

vote by mail is likely to be unprecedented and massive.

Under the emergency Act of the Legislature, voters have until August 26, 2020 to transmit their applications for mail-in ballots to the proper offices within their town or city. That means that localities must then mail the actual ballots back to the voters, and the voters have to complete their ballots and mail their ballots in, all such that they are actually received by September 1, 2020 — a mere 6 days later. Under Massachusetts law, in order for mail-in ballots to be counted, they must be actually received by no later than September 1, 2020. In other words, regardless of when in advance of September 1st voters postmark their mail-in ballots, their votes will not be counted unless actually received by September 1st. As set forth below, however, unless the Secretary is directed to ensure that ballots properly postmarked by September 1st are counted even if the United States Postal Service (the "Postal Service") cannot or does not deliver them by September 1st, innumerable Massachusetts voters, perhaps not merely thousands but tens of thousands of them or even more, will be deprived of their right to vote and/or to have their votes counted, in violation of bedrock Constitutional law, for one or more of the following reasons.

First, in a formal notification to the Secretary dated July 30, 2020, the General Counsel of the Postal Service informed the

Secretary in no uncertain terms that under the Massachusetts emergency Act, "deadlines for requesting and casting mail-in ballots are incongruous with the Postal Service's delivery standards," creating the "significant risk" that voters who comply with Massachusetts law will, through no fault of their own, be disenfranchised from their vote. See Addendum ("Add.") Ex. 1 (emphasis added). Whether because of the direct and indirect effects of the pandemic on the Postal Service or because of actions or operations of the Postal Service reported widely in the media in recent days, he informed the Secretary that "domestic voters should generally mail their completed ballots at least one week before the state's due date." Id.

In other words, the Postal Service itself went on record on July 30, 2020 that in order for voters to get their mail-in ballots received by Massachusetts' due date (September 1st), they will have to mail their ballots at a minimum of seven days earlier, or August 25th. However, under Massachusetts law, voters have up to August 26th to apply for a mail-in ballot, meaning that they will be legally entitled to have a ballot mailed to them if their applications are received by the local authority on August 26th – a day after the latest date Postal Service states all ballots should be mailed in if they are to be counted.

It is obvious that uncountable Massachusetts voters will be

denied the right to vote even if they comply with Massachusetts law. Massachusetts authorities have to receive the voters' applications, process them, then mail them back to the voters requesting them - a process which, according to the Postal Service, may take a week or more - and then, even if voters fill out the ballots immediately and immediately place their ballots in a post box, it may take another week or more to get to the local authority. Put another way, Massachusetts voters who fully comply with Massachusetts law and get their application for a ballot in to the local authority by August 26th, or even earlier, will as a practical matter not be able to get their ballots back by September 1st, as is required under the current operation of Massachusetts law to have them counted.

At the outset, therefore, there is an internal collision of provisions of Massachusetts law that will deprive Massachusetts voters of the Constitutional right to vote. Under the present regime, voters can comply with the Massachusetts law providing them until August 26th to get their applications for a ballot in. However, by the Postal Service's own assessment, even if the local authorities are able to place the ballot in the mail back to the voter on the very day the application is received, the voter will not even receive his or her ballot before September 1st, let alone be able to mail it back in time to be counted by September 1st.

Second, although Petitioners submit that this Court need not go any further before appreciating that without emergency relief Massachusetts voters will be deprived of their Constitutional right to vote, they have submitted evidence from affiants who are registered voters in Massachusetts who requested their mail-ballots approximately two weeks ago and still have not received them. There is no reason to believe these voters' experiences are unique. Indeed, local town clerks are inundated with applications for mail-in ballots. By way of limited example, on August 18, 2020, the City of Newton Clerk's office sent a staff-wide email desperately seeking assistance to help process requests for mail-in ballots, stating:

The City Clerk's Office is in need of your help. Secretary of State William Galvin's office has mailed out nearly 4.5 million vote-by-mail ballot applications for this fall's elections. The City Clerk's Office is anticipating that due to the COVID-19 pandemic, the response and interest in mail-in voting will significantly increase. They have already received well over 10,000 responses and are expecting many more.

In order to ensure proper staffing for this very important need, and support the existing staff with what will be a challenging elections season, the City is seeking applications for candidates interested in providing temporary, hourly, paid, elections assistance. We are asking you to spread the word . . .

Add. Ex. 2 (emphasis added). It can be reasonably inferred that voters who have applied by mail for ballots all through the month of August will not receive their ballots in time to then

turn around and mail the completed ballots back more than a week before September 1st, such that the ballots arrive in time to be counted by that date.

Third, the dramatically higher-than-usual number of applications for mail-in ballots, combined with local governments' significantly decreased capacity to process them, coupled further with the state deadlines being "incongruous with the Postal Service's delivery standards" and the steps that have apparently been taken to undermine the processing and delivery capacity of the Postal Service, will disenfranchise voters and impact candidates for elected office. Put simply, unless voters are assured that ballots mailed before September 1st will be counted, many will be deterred from voting altogether, concluding, justifiably, that in these particular circumstances exercising their Constitutional rights is a wasted exercise.

Neither the Legislature nor the Secretary has taken any steps to amend the deadlines, provide deadlines for when local municipalities must respond to a voter's request for a mail-in ballot, or ensure that all requested mail-in ballots are received at least a week before the September 1st deadline, as advised by the General Counsel to the Postal Service.

The Petitioners respectfully submit that the unconstitutional disenfranchisement of voters in the upcoming

primary is unacceptable, antithetical to established Constitutional principles, and not justified by any State interest in refusing to count votes postmarked by September 1st but received thereafter. Under the present circumstances, the requirement for mail-in ballots to be received by the September 1st primary in order to be counted impermissibly burdens the fundamental rights of these voters and candidates and cannot be reconciled with the Massachusetts and United States Constitutions. As a result, Petitioners respectfully request that this Court order the Secretary to direct local election officials to accept and count all mail-in ballots that are postmarked by September 1st and received within ten days of that date, assuming that the ballots otherwise comply with the election laws.

This requested relief is narrowly tailored to remedy the Constitutional violations. See Goldstein, 484 Mass. at 527-532 (extending the deadlines for candidates to submit their nomination papers and allowing for the use of electronic signatures in connection with nomination papers). It is also consistent with the existing election laws which provide, for purposes of general elections, a grace period of three to ten days for mail-in ballots to be received as long as they are

postmarked by the date of the election.<sup>1</sup>

**PETITIONERS**

All Petitioners are registered Massachusetts voters. Rebecca Grossman is a candidate running for the Democratic Nomination for Congress in Massachusetts' Fourth Congressional District, who is on the ballot for the September 1st Democratic primary. Rebecca Grossman is petitioning on behalf of all Massachusetts voters as well as candidates currently running for office in Massachusetts in connection with the September 1st primary who desire a free and fair election in which every voter has his or her voted counted. To that end, in bringing this Emergency Petition for Relief, Rebecca Grossman is representing the voters of the Commonwealth who have been or will be disenfranchised as a result of the application of this law in the present circumstances. See Add. Ex. 3 (R. Grossman Aff., at ¶ 5).

Petitioner Rebecca Grossman resides in Newton, Massachusetts. She is an attorney, former Assistant District Attorney for Middlesex County, and At Large member of the Newton City Council. She is running in the Democratic Primary to be the United States Representative for Massachusetts' Fourth

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<sup>1</sup> Counting votes after September 1st is historically routine. As set forth herein, Massachusetts primaries have regularly been held and primary votes counted after September 1st with no adverse impact on preparation for general elections in November.

Congressional District, which encompasses thirty-four (34) cities and towns and over 501,000 registered voters. She and her husband requested their vote by mail ballots two (2) weeks ago in early August and still have not received their ballots by mail. See Add. Ex. 3 (R. Grossman Aff., at ¶¶ 2-4, 8, 13, 14).

Petitioner Becky Grossman for Congress is a principal campaign committee, established pursuant to 2 U.S.C. § 432(e), and designated by Rebecca Grossman, as a candidate for Congress, as her principal campaign committee for purposes of the Federal Election Campaign Act. It is registered with the Federal Election Commission. See Add. Ex. 3 (R. Grossman Aff., at ¶ 10).

Petitioner Shirley D. Grossman, who is 98 years old, resides in Auburndale, Massachusetts. She is a registered voter in Massachusetts. On or about August 1, 2020, her application to request a mail-in ballot to vote in the upcoming state elections was placed in a secure drop-box for mail-in voting. Nearly two and a half weeks have passed and Shirley Grossman still has not received her mail-in ballot for the primary election. See Add. Ex. 4 (S. Grossman Aff., at ¶¶ 1-3, 7, 8).

Petitioner Sophie Kripp resides in Franklin, Massachusetts and is a registered voter in Massachusetts. Kripp placed her application to request a mail-in ballot to vote in the upcoming

state elections in the U.S. mail during the week of August 3, 2020. Over a week and a half has passed, and Kripp still has not received her mail-in ballot for the primary election. See Add. Ex. 5 (Kripp Aff., at ¶¶ 2, 3, 7, 8).

Petitioner Jonathan Levenfeld resides in Cambridge, Massachusetts and is a registered voter in Massachusetts. Despite having been registered to vote, Levenfeld inexplicably never received his application to request a mail-in ballot. See Add. Ex. 6 (Levenfeld Aff., at ¶¶ 2-4, 7, 8). In light of the fact that Levenfeld has not even received his application to request a mail-in ballot and in light of recent news reports about how long it is expected to take ballots to arrive to the proper place once mailed, Levenfeld feels that he has no choice but to vote in person, which he wished to avoid in light of the health risks caused by the COVID-19 pandemic. *Id.*, ¶ 11.

Defendant William Francis Galvin is the Secretary of the Commonwealth of Massachusetts (the "Secretary"), and is being sued in his official capacity. The Secretary is responsible for overseeing elections in Massachusetts. M.G.L. c. 53, § 11; see also *id.* §§9, 10, 48. The Secretary has publicly recognized that, in light of the COVID-19 pandemic, Massachusetts voters will need to use voting by mail for the September 1st primary and the November 3rd general election, stating:

[The Trump administration is] well aware that voters

need to use vote by mail and that the numbers [of absentee ballots] will be much higher. They knew that. Everyone knows that. There are going to be more people voting by mail in this election probably than any other presidential election in recent times. You may have to go back to World War II [to find more].

Add. Ex. 3 (R. Grossman Aff., at ¶ 44).

**THE REQUESTED RELIEF IS APPROPRIATE IN THIS COURT PURSUANT TO  
M.G.L. C. 214, § 1 AND M.G.L. C. 231A, § 1**

This Petition challenges the constitutionality, as applied under the current circumstances, of a state election law that imposes unnecessary and unjustifiable deadlines, in the midst of an unprecedented public health crisis, for requesting and casting mail-in ballots for the September 1st primary that have been acknowledged by the General Counsel of the Postal Service to be “incongruous with the Postal Service’s delivery standards.” This, the Postal Service states, creates a “significant risk” that voters who comply with Massachusetts law will, through no fault of their own, be disenfranchised from their Constitutional right to vote. This “significant risk” of Constitutional disenfranchisement is further exacerbated by local governments across Massachusetts being overburdened by the devastating effects of COVID-19, which are therefore unable in many instances to timely get mail-in ballots to voters wishing to vote by mail. It is exacerbated further by the Postal Service having apparently taken steps which adversely affect Massachusetts voters’ ability to vote

by mail. As a result, voters across the Commonwealth, including in the Fourth Congressional District, are going to be prevented from voting and having their votes count in the September 1st primary.

Petitioners seek relief from this Court in order to expeditiously secure a conclusive ruling on the merits, and provide guidance for voters, candidates and election officials at the state and local levels. Given the unprecedented acknowledgment by the federal government that application of Massachusetts election laws will lead to voters being deprived of their fundamental right to vote protected by Article 9 of the Declaration of Rights and the unprecedented burden and limitations imposed by the COVID-19 pandemic on local election officials tasked with timely transmitting, and ensuring the timely receipt of, mail-in applications and ballots, the Court's jurisdiction should be appropriately exercised.

Specifically, jurisdiction over this Petition is proper in this Court pursuant to M.G.L. c. 214, § 1, conferring on this Court "original and concurrent jurisdiction of all cases and matters of equity cognizable under the general principles of equity jurisprudence," and M.G.L. c. 231A § 1, establishing that this court "may on appropriate proceedings make binding declarations of right, duty, status and other legal relations sought thereby." This Court has applied these authorities to

adjudicate disputes relating to the Commonwealth's election laws, particularly given the unprecedented threat to fair elections in light of the COVID-19 pandemic. See, e.g., Bertin v. Secretary of the Commonwealth, SJC No. 2020-0520; Goldstein v. Secretary of the Commonwealth, 484 Mass. 516, 525 (2020) ("We need not dwell long on how dramatically conditions have changed in Massachusetts since the Governor first announced a state of emergency arising from the COVID-19 pandemic"); Libertarian Ass'n of Mass. v. Secretary of the Commonwealth, 462 Mass. 538, 540-41 (2012); Wyler v. Secretary of the Commonwealth, 441 Mass. 22, 22-24 (2004).

#### **FACTUAL BACKGROUND**

##### **I. THE EMERGENCY ACT AUTHORIZING VOTING BY MAIL IN CONNECTION WITH THE SEPTEMBER 1ST PRIMARY AND NOVEMBER 3RD GENERAL ELECTION**

In early March 2020, the World Health Organization classified the COVID-19 outbreak as a "pandemic." Beginning on March 10, 2020, in response to the global pandemic and growing public health emergency caused by the outbreak of COVID-19, Governor Baker issued the first in a series of executive orders closing schools, non-essential businesses, and directing residents and workers to stay at home. In his Executive Order declaring a State of Emergency, Governor Baker recognized:

the worldwide outbreak of COVID-19 and the effects of its extreme risk of person-to-person transmission

throughout the United States and the Commonwealth significantly affect the life and health of our people, as well as the economy, and is a disaster that impacts the health, security, and safety of the public.

See Massachusetts Executive Order No. 591 (March 10, 2020) (emphasis added).

In response to this public health crisis, Governor Baker issued an Executive Order on March 23, 2020 that all businesses and other organizations that do not provide “COVID-19 Essential Services” must “close their physical workplaces and facilities ... to workers, customers, and the public” by noon on March 24 and not reopen before noon on April 7, 2020.<sup>2</sup> The Governor subsequently extended that Order.<sup>3</sup>

In response to the public health and safety restriction on the holding of elections caused by the COVID-19 pandemic, the Massachusetts Legislature on July 2, 2020 passed an emergency law entitled “An Act relative to voting options in response to COVID-19” (the “Act”). H. 4820, 191st Gen. Ct. (Mass. 2020) (enacted July 6, 2020). A key feature of the Act provides that the Secretary “shall” send every registered voter in the

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<sup>2</sup> See Massachusetts COVID-19 Order No. 13 (March 23, 2020), available at [www.mass.gov/doc/march-23-2020-essential-services-and-revised-gatherings-order/download](http://www.mass.gov/doc/march-23-2020-essential-services-and-revised-gatherings-order/download).

<sup>3</sup> See Massachusetts COVID-19 Order No. 21 (March 31, 2020), available at [www.mass.gov/doc/march-31-2020-essential-services-extension-order/download](http://www.mass.gov/doc/march-31-2020-essential-services-extension-order/download).

Commonwealth an application to request a mail-in ballot (an "Application") to vote in the upcoming elections, which is pre-addressed to the local election official with postage guaranteed. Id. § 6(d)(1)-(2), (4). The Act requires the Secretary to send the Applications to voters by July 15. Id. However, the Secretary did not send those Applications until July 22, 2020. See Add. Ex. 3 (R. Grossman Aff., at ¶ 20).

Under the Act, any voter wishing to vote early by mail in the September 1st primary election must complete the application to vote early by mail and shall return said application to the appropriate city or town clerk. Under the Act, any application to vote by mail in the primary election must be received in the office of the local election official before 5 P.M. on Wednesday, August 26, 2020. Id. § 6(e)(1-2).

Once the voter has received his/her mail-in ballot from the local town clerk, he/she may complete and return the ballot by: (i) delivering it in person to the office of the appropriate city or town clerk; (ii) dropping it in a secured municipal drop box; or (iii) mailing it to the appropriate city or town clerk.<sup>4</sup> All early voting ballots submitted by mail, delivered in person

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<sup>4</sup> Of course, requiring a voter to travel to a public building in the middle of a pandemic undermines the voter's reason for voting by mail in the first place, namely, the need to remain socially distant from others so as to protect their health and the health of their loved ones.

to the office of the city or town clerk or returned to a secured municipal drop box as provided by this section shall be received by the city or town clerk before the hour fixed for closing the polls on the day of the primary election. Id. § 6(h)(1-2).

The Secretary of State's office has publicly stated that all primary mail-in ballots must arrive at the voter's local election office by 8 p.m. on September 1, 2020 in order to be counted. See Add. Ex. 3 (R. Grossman Aff., Ex. B thereto) ("It doesn't matter when it's postmarked," said Debra O'Malley, a spokesperson for Secretary of State William Galvin").

Given that the Act allows voters until August 26, 2020 to request their application to vote by mail to their local town clerk, that only provides four (4) business days for the local clerk to mail the ballot and for the voter to then complete the ballot and mail it back to the local clerk such that it is received on or before September 1, 2020. While mail-in ballots must be received for the primary election on or before September 1, 2020 regardless of when they are postmarked, the Act provides that voting ballots mailed for the general election will be counted as long they are received not later than 5 P.M. on November 6, 2020 and mailed on or before November 3, 2020 (Election Day). See Act at § 6(h)(3) and M.G.L. c. 54,

§§95 and 99 (ballots from overseas may be counted if received within ten days of the election). There is no logical basis for this difference.

**II. THE JULY 30, 2020 LETTER FROM THE GENERAL COUNSEL OF THE U.S. POSTAL SERVICE TO THE SECRETARY OF THE COMMONWEALTH**

On or about July 30, 2020, just weeks after the Act was passed, the General Counsel of the Postal Service sent a letter to the Secretary raising concerns about the “significant risk” that Massachusetts voters who fully comply with state law will nonetheless be disenfranchised from their Constitutional right to vote. In that letter, the General Counsel of the Postal Service did not mince his words:

The purpose of this letter is to focus specifically on the deadlines for requesting and casting ballots by mail. In particular, we wanted to note that, under our reading of Massachusetts’ election laws, certain deadlines for requesting and casting mail-in ballots are incongruous with the Postal Service’s delivery standards. This mismatch creates a risk that ballots requested near the deadline under state law will not be returned by mail in time to be counted under your laws as we understand them.

Add. Ex. 1 (emphasis added).

In order to address this “incongruity” between the Massachusetts election laws and the delivery standards of the Postal Service, the General Counsel recommended to the Secretary to “adher[e] to the following timeframe when using the mail to transmit ballots to domestic voters”:

- **Ballot requests:** Where voters will both receive

and send a ballot by mail, voters should submit their ballot request early enough so that it is received by their election officials at least 15 days before Election Day at a minimum, and preferably long before that time.

- **Mailing blank ballots to voters:** In responding to a ballot request, election officials should consider that the ballot needs to be in the hands of the voter so that he or she has adequate time to complete it and put it back in the mail stream so that it can be processed and delivered by the applicable deadline. Accordingly, the Postal Service recommends that election officials use First-Class Mail to transmit blank ballots and allow 1 week for delivery to voters.
- **Mailing completed ballots to election officials:** To allow enough time for ballots to be returned to election officials, domestic voters should generally mail their completed ballots at least one week before the state's due date. In states that allow mail-in ballots to be counted if they are *both* postmarked by Election Day *and* received by election officials by a specific date that is less than a week after Election Day, voters should mail their ballots at least one week before they must be received by election officials. . . .

Addendum Ex. 1 (emphasis added).

The Postal Service further cautioned that if these time standards were not adhered to, there would be a "significant risk" that voters who complied with Massachusetts law would, through no fault of their own, would be disenfranchised from their vote:

Under our reading of your state's election laws, as in effect on July 27, 2020, certain state-law requirements and deadlines appear to be incompatible with the Postal Service's delivery standards and the

recommended timeframe noted above. As a result, to the extent that the mail is used to transmit ballots to and from voters, there is a significant risk that, at least in certain circumstances, ballots may be requested in a manner that is consistent with your election rules and returned promptly, and yet not be returned in time to be counted. . . .

If a voter submits a request at or near the ballot-request deadline, and if the requested ballot is transmitted to the voter by mail, there is a significant risk that the ballot will not reach the voter before Election Day, and accordingly that the voter will not be able to use the ballot to cast his or her vote. That risk is exacerbated by the fact that the law does not appear to impose a time period by which election officials must transmit a ballot to the voter in response to a request.

Id. (emphasis added).

It further advised the Secretary of State that:

[T]he Postal Service cannot adjust its delivery standards to accommodate the requirements of state election law. For this reason, the Postal Service asks that election officials keep the Postal Service's delivery standards and recommendations in mind when making decisions as to the appropriate means used to send a piece of Election Mail to voters, and when informing voters how to successfully participate in an election where they choose to use the mail. It is particularly important that voters be made aware of the transit times for mail (including mail-in ballots) so that they can make informed decisions about whether and when to (1) request a mail-in ballot, and (2) mail a completed ballot back to election officials.

Id. (emphasis added).

**III. SINCE THE POSTAL SERVICE'S ADVISORY, NEITHER THE SECRETARY NOR THE LEGISLATURE HAS ACTED TO PROTECT THE CONSTITUTIONAL RIGHTS OF VOTERS WITH RESPECT TO THE SEPTEMBER 1ST PRIMARY**

Since the Postal Service issued its letter, neither the

Massachusetts Legislature, nor the Secretary has taken any steps to amend the deadlines under the Act, or otherwise ensure that all requested mail-in ballots are sent to voters at least a week before the September 1st deadline. Similarly, neither the Legislature nor the Secretary has addressed the fact that the Act does not impose a time period by which election officials must transmit a ballot to the voter in response to a request – a compounding risk specifically identified by the Postal Service.

For their part, local clerks have been overwhelmed with processing the ongoing requests for mail-in ballots, doing so under the existing pressures and limitations created by the COVID-19 pandemic. Indeed, the email sent at 4:30 pm on August 18 by a City of Newton official to the staff in the clerk's office is illustrative of the burden placed on all municipal clerks in getting voters their mail-in ballots. See Add. Ex. 2.

**IV. PETITIONERS AND VOTERS WHO HAVE PROMPTLY REQUESTED THEIR PRIMARY BALLOTS WEEKS AGO STILL HAVE NOT RECEIVED THEM FROM LOCAL OFFICIALS**

Separate and apart from any voters who will be requesting their vote by mail ballots in advance of the August 26th deadline, voters who have already applied for their mail-in ballots weeks ago are still waiting to receive them from local officials. For example, Rebecca Grossman and her

husband requested their mail-in ballots in early August, but they are still waiting to receive them. See Add. Ex. 3 (R. Grossman Aff., at ¶ 8). Similarly, the other affiants requested their mail-in ballots as far back as two and a half weeks ago and still have not received their ballots. See, e.g., Add. Ex. 4 (S. Grossman Aff., at ¶¶7-11) (requested two and a half weeks ago); Add. Ex. 8 (M. Sherman Aff., at ¶¶ 8-9) (requested over two weeks ago); Add. Ex. 7 (J. Sherman Aff., at ¶¶ 8-9) (requested over two weeks ago); Add. Ex. 5 (S. Kripp Aff., at ¶¶ 7-8) (requested a week and a half ago).

There is no reason to believe these voters' experiences are unique, and unless they are, it can be reasonably inferred that Massachusetts voters who have applied by mail for ballots during the month of August 2020 will not receive their ballots in time to then turn around and mail the ballots back more than a week before September 1st, such that the ballots arrive in time to be counted by that date. This, of course, is highly likely to cause voters to conclude that they will be unable to vote due to a lack of a mail-in ballot, that they will be forced to vote in person, or that their timely and properly postmarked ballots will not be counted because they will not be received before September 1st. See, e.g., Add. Ex. 4 (S. Grossman Aff., at ¶¶ 10-11); Add. Ex. 5 (S. Kripp Aff., at ¶¶ 10-11); Add. Ex. 6 (Levenfeld Aff., at ¶¶ 11-12); Add. Ex. 7 (J.

Sherman Aff. at ¶¶11-12); Add. Ex. 8 (M. Sherman Aff. at ¶¶ 11-12); Add. Ex. 9 (K. Morfill Aff., at ¶¶ 11-12); Add. Ex. 10 (J. Levine Aff., at ¶¶ 10-11); Add. Ex. 11 (C. Hess Aff., at ¶¶ 9-13); Add. Ex. 12 (S. Hess Aff., at ¶¶ 9-13); Add. Ex. 13 (J. Aliber Aff., at ¶¶ 9-13); Add. Ex. 13 (C. Spence Aff., at ¶¶ 7-13).

**V. THE DISENFRANCHISEMENT OF VOTERS IS FURTHER EXACERBATED BY STEPS RECENTLY TAKEN BY THE POSTAL SERVICES THAT ARE LIKELY TO UNDERMINE VOTING BY MAIL**

If the burdens on voters' Constitutional right to vote under Massachusetts election laws were not great enough, Postmaster General Luis DeJoy recently implemented policy changes impacting the Postal Service, including cost-cutting measures. It appears that the Commonwealth of Massachusetts has begun experiencing some of the Postal Services' cost-cutting measures, including slashed overtime, staff cuts and decreased shifts. See Add. Ex. 3 (R. Grossman Aff., at ¶ 36).

This, of course, further undermines voters' faith in the electoral process and creates the likelihood that some voters, and probably many, are going to conclude that their votes will not count because they will not be received in time, and therefore, will not even bother to mail their votes in. This is another wholesale category of voters who will,

in effect, be disenfranchised.<sup>5</sup>

**CONSTITUTIONAL BASES FOR RELIEF**

**I. AS APPLIED UNDER THE CURRENT CIRCUMSTANCES, THE VOTE BY MAIL ELECTION LAW UNCONSTITUTIONALLY INFRINGES ON BOTH CANDIDATES' AND VOTERS' FUNDAMENTAL RIGHTS UNDER THE MASSACHUSETTS AND U.S. CONSTITUTIONS**

This petition is governed by several well-established Constitutional protections afforded to both voters and candidates for elected office under both the Massachusetts Constitution and the U.S. Constitution. Article 9 of the Massachusetts Declaration of Rights provides that “[a]ll elections ought to be free; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments.” Goldstein, 484 Mass. at 523-524.

As a result, “voting has long been recognized as a fundamental political right and indeed the ‘preservative of all rights’” secured under the Massachusetts Constitution.<sup>6</sup> See

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<sup>5</sup> Indeed, the Secretary has acknowledged this and urged citizens to file lawsuits against the Trump Administration. However, lawsuits concerning the de-funding of the Postal Service immediately before the primary and general election does nothing to ensure that voters have their votes, which are properly mailed, counted in connection with the September 1st primary.

<sup>6</sup> This Court has recognized that “the Massachusetts Declaration of Rights may be more protective of voting rights than the Federal Constitution.” Goldstein, 484 Mass. at 524. The Federal Constitution protects the right to vote as fundamental as a matter of equal protection as long as the State grants that

Chelsea Collaborative, Inc. v. Secretary of Commonwealth, 480 Mass. 27, 32 (2018); Dane v. Registrars of Voters of Concord, 374 Mass. 152, 160 (1978) (right to vote is protected as “natural, essential, and unalienable right[ ]” under Article 1 of the Declaration of Rights); Swift v. Registrars of Voters of Quincy, 281 Mass. 271, 276 (1932) (“The right to vote is a precious personal prerogative to be sedulously guarded” under “[a]rts. 4, 7, 8, [and] 9 of the Declaration of Rights”). Moreover, these fundamental Constitutional protections extend to absentee voting. See McCavitt v. Registrars of Voters of Brockton, 385 Mass. 833, 844 (1982) (“The same principles govern absentee voting. The right to absentee vote is ‘as sacred, as much to be protected and favored ... as the right of voting by personal presence’”).

Similarly, as this Court recently recognized in modifying election law requirements that were rendered impracticable in light of the COVID-19 pandemic:

The right to seek elected office, like the related right to vote, is a fundamental constitutional right in Massachusetts. . . .Over the ensuing 240 years since the adoption of our Declaration of Rights in 1780, art. 9 has served to protect the “fundamental” and “intertwine[d]” rights of candidates to gain access to the ballot and of voters to cast their

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right to its citizens because “[t]he right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.” Chelsea, 480 Mass. at 32, n.19. (citations omitted).

ballots as they see fit.

Goldstein, 484 Mass. at 523-524.

Against the backdrop of the "sacred" right to vote, protected by the state and federal constitutions, this Court has long-recognized that the object of elections is to ascertain the popular will, and not to thwart it and the object of election laws is to secure the rights of duly qualified voters, and not to defeat them. Brady v. State Ballot Law Commission, 485 Mass. 345 (2020) (holding that candidate complied in substance with electronic voter signature procedure); Swift v. Registrars of Voters of Quincy, 281 Mass. 271, 277 (1932) (ruling that ballots should be counted regardless of irregularities not caused by the voters). Consequently, this Court "resolve[s] voting disputes, where at all possible, in favor of the voter," repeatedly recognizing that an "absentee voter should not be disenfranchised if he substantially complies with the election law." McCavitt, 385 Mass. at 837, 844 (emphasis added). See also Fyntrilakis v. City of Springfield, 47 Mass. App. Ct. 464, 469 (1999) ("It is a fundamental principle that a voter who has cast his ballot in good faith should not be disenfranchised because of the failure of a ministerial officer to perform some duty imposed upon him by law").

Indeed, the Legislature itself has not required strict

compliance with election laws and has directed courts not to reject a ballot for an "immaterial addition, omission, or irregularity." M.G.L. c. 54, § 97. As this Court has recognized, "[i]n keeping with this statement of legislative intent, we have reasoned that 'an absentee voter should not be disenfranchised if he substantially complies with the election law.'" Connolly v. Secretary of Commonwealth 404 Mass. 556, 562 (1989). See also Brady, 485 Mass. at 352 ("As we have previously explained, access to the ballot is a fundamental right, essential to the success of democracy").

In light of the well-established law, Massachusetts voters and the candidates on the ballot for the September 1st primary are faced with an election law that, as applied under the current circumstances, unconstitutionally frustrates the fundamental right to vote and disenfranchises voters in light of (1) the acknowledged limitations of the Postal Service that will prevent voters from either receiving their ballot or having it received by September 1st in order to be counted; (2) the overwhelming ongoing burden on local cities and towns to comply with the vote by mail election law; and (3) the apparent active efforts of the federal government to impose additional limitations and burdens on the postal service in Massachusetts.

**A. The September 1st Deadline For Receiving And Counting Ballots Under The Act Does Not Withstand Strict Scrutiny In Light Of Circumstances Beyond The Control Of Voters**

The Commonwealth has an obligation to ensure that “our democratic processes remain fair, honest, and orderly.” Libertarian Ass’n of Mass., 462 Mass. at 560 (2012). However, as recognized by this Court, laws that regulate elections may become unconstitutional in light of changed circumstances that impair the Constitutional right to vote, including the burdens imposed by the COVID-19 pandemic.

[A]s we have recognized, statutory requirements that were once considered constitutionally permissible may later be found to interfere significantly with a fundamental right as societal conditions and technology change. And similarly, statutory requirements that in ordinary times impose only modest burdens on prospective candidates for public office may significantly interfere with the fundamental right to run for political office in a time of a pandemic.

Goldstein, 484 Mass. at 525 (internal citations omitted).

These are not ordinary times.

When considering a challenge to a state election law, this Court has used a “sliding scale” approach, balancing the “‘character and magnitude’ of the burden the State’s rule imposes on [the plaintiffs’] rights against the interests the State contends justify that burden, and consider[ing] the extent to which the State’s concerns make the burden necessary.” Goldstein, 484 Mass. at 524; Libertarian Ass’n of Mass., 462

Mass. at 560. However, this Court applies strict scrutiny to a voting requirement that, under the circumstances, “significantly interferes” with the fundamental right to vote. Goldstein, 484 Mass. at 524-525 (applying strict scrutiny to the minimum signature requirements for candidates to get on the ballot given the circumstances created by the COVID-19 pandemic). Here, there is no genuine dispute that the deadlines imposed by the Act for the September 1st primary, requiring that ballots be received by September 1 in order to be counted, significantly interferes with the fundamental right to vote.

First, the unprecedented COVID-19 pandemic, which has resulted in a declared state of emergency in Massachusetts, has severely limited the ability and desire of citizens to safely congregate and associate in private and public settings, including polling places, for fear of contracting the virus, which can spread at an alarming rate. See Goldstein, 484 Mass. at 522-523 and 536-537 (“our electoral process seems dangerously unequipped to adapt to the new paradigm” created by the COVID-19 pandemic). As the Secretary has publicly acknowledged, this has created an unprecedented desire by citizens to use the Act to cast their ballots by mail. See Add. Ex. 3 (R. Grossman Aff., at ¶ 44) (“There are going to be more people voting by mail in this election probably than any

other presidential election in recent times. You may have to go back to World War II" to find more).

Second, the General Counsel of the Postal Service has informed the Secretary in no uncertain terms that the deadlines for requesting and casting mail-in ballots are "incongruous" with the Postal Service's delivery standards and that disconnect creates a virtual guarantee that ballots requested near the deadline under state law will not be returned by mail in time to be counted under Massachusetts law. Indeed, under the law, voters have until August 26, 2020 to submit their application to vote by mail to their local town clerk, which only provides four (4) business days for the local clerk to mail the ballot, have the voter complete the ballot, and then mail it back to the local clerk such that it is received on or before September 1, 2020. This is a logistical impossibility, as confirmed by the Postal Service.

Third, even voters who have already acted weeks ago to request their mail-in ballots have not received them from their various local election officials given the incredible burden that local municipalities are under due to the COVID pandemic. Under the guidance issued by the Postal Service, these ballots will have to be delivered to voters no later than August 25th in order for there to be any hope that they

might actually be received by September 1st.

Fourth, the significant interference with voters' ability to fully utilize voting by mail is further exacerbated by the apparent efforts within the federal government to interfere with voting by mail by taking steps to hamper the Postal Service in advance of the general election. This conduct has itself sown doubt and confusion in voters about the primary election and whether their mail-in ballots will be received in time to be counted.

The burden on Petitioners' rights (and the rights of those similarly situated) is unquestionably severe. They face the Hobson's Choice of abandoning their right to vote by mail and risking their health and that of their loved ones by travelling to a public polling place or town election office or, assuming their ballot arrives in time, mailing it knowing there is a substantial risk that it will not be counted. As a result, the State is called upon to demonstrate that the existing September 1st deadline to receive mail-in ballots is narrowly tailored to a compelling interest, which it cannot do.

**B. The Vote By Mail Election Law Is Not Narrowly Drawn To A Compelling State Interest, Given the Circumstances**

**1. The State's Interest In Refusing To Count Timely and Properly Postmarked Ballots That Are Received After September 1st Is Not Compelling Under the Circumstances**

As a general matter, the Commonwealth has a well-recognized

interest in facilitating the achievement of a reasonably prompt determination of the result of the election. See McCavitt, 385 Mass. at 844 (recognizing "the achievement of a reasonably prompt determination of the result of the election" as a proper government interest). However, these are not ordinary times. The Commonwealth's interest in expediency cannot trump the fundamental Constitutional rights of voters, particularly where voters can comply with the letter of the law in exercising their right to vote by mail and still not have their votes counted due to the inability of the Postal Service to timely deliver their ballots so that they are received by local election officials by September 1, 2020. See Fyntrilakis, 47 Mass. App. Ct. at 469 ("It is a fundamental principle that a voter who has cast his ballot in good faith should not be disenfranchised because of the failure of a ministerial officer to perform some duty imposed upon him by law"); McCavitt, 385 Mass. at 844 ("absentee voter should not be disenfranchised if he substantially complies with the election law").

Present conditions sever the link between a legitimate justification and the drastic burden on Constitutional rights which is imposed by the law. Those conditions include: (1) the acknowledged substantial increase in voting by mail anticipated by the Secretary; (2) the increased burden that voting by mail places on local town election officials responsible for

processing in-coming applications for ballots, sending those ballots to voters, and then receiving those ballots from voters - doing so with a decreased capacity given the financial, staffing and other burdens created by the COVID-19 pandemic; (3) the acknowledged inability of the federal postal service to timely deliver applications for ballots and ballots under the state election law; and (4) the recent steps taken by the Postal Service that are likely to undermine voting by mail.

**2. Other, Less Stringent, Deadlines Adequately Address The Commonwealth's Interests, While Ensuring That Voters Are Not Disenfranchised**

Here, the Court does not need to search far for less restrictive alternatives to ensure both that voters are not disenfranchised and that the Commonwealth can promptly determine the winners of the September 1st primary and prepare for the November 3rd general election. The Secretary can simply direct local election officials to accept and count all mail-in ballots that are postmarked by September 1st and received within ten days of September 1st, assuming that the ballots otherwise comply with the election laws. Indeed, this is entirely consistent with the existing election laws.

For example, the Legislature provided that voting ballots mailed for the general election will be counted as long they are received not later than 5 P.M. on November 6, 2020 and mailed on or before November 3, 2020 (Election Day). See Act at § 6(h)(3).

The Legislature also provides that the general election ballots mailed from outside the United States will be counted if they are received within ten (10) days of the election and postmarked on or before the day of the election. See M.G.L. c. 54, §§95 and 99. Moreover, the 10-day grace period until September 11, 2020 to allow for the operation of the mail system is also consistent with when primaries have historically been held in Massachusetts, including primaries as late as September 14, 17, and 19. See Add. Ex. 3 (R. Grossman Aff., at ¶ 16). The timing of this primary has no impact on the Commonwealth's ability to prepare for a general election in November.

**II. THIS COURT HAS THE AUTHORITY TO ORDER THE SECRETARY OF THE COMMONWEALTH TO DIRECT LOCAL ELECTION OFFICIALS TO COUNT ALL MAIL-IN BALLOTS THAT ARE POSTMARKED BY SEPTEMBER 1st AND RECEIVED WITHIN 10 DAYS OF SEPTEMBER 1st, ASSUMING THAT THEY OTHERWISE COMPLY WITH THE VOTE BY MAIL ELECTION LAW**

As recently recognized by this Court in Goldstein,

As a general matter, the principle of separation of powers set forth in Art. 30 of the Massachusetts Declaration of Rights prevents the "judiciary [from] substituting its notions of correct policy for that of a popularly elected Legislature." (citation omitted). But where fundamental constitutional rights are violated, and where the Legislature fails to remedy the constitutional deficiencies after having had the opportunity to do so, and where an aggrieved litigant files suit seeking remedial relief for the constitutional violation, the judiciary must provide such a remedy.

Here, where the filing deadline for nomination papers fast approaches, and the Legislature has yet to take decisive action, we have little choice but to provide equitable relief, pursuant to G.L. c. 214, §1, to

protect the constitutional rights of the plaintiffs and those similarly situated.

Goldstein, 484 Mass. at 527 (emphasis added), (internal citations omitted). Here, faced with the Postal Service's public warning that the deadlines under the state election laws are "incongruous with the Postal Service's delivery standards" and creates the "significant risk that . . . ballots may be requested in a manner that is consistent with [Massachusetts] election rules and returned promptly, and yet not be returned in time to be counted," neither the Legislature, nor the Secretary has acted.

Specifically, the Legislature has not moved to relax or extend the deadlines despite the Postal Service advising the Secretary that:

- "voters should submit their ballot request early enough so that it is received by their election officials at least 15 days before Election Day at a minimum, and preferably long before that time";
- "In responding to a ballot request, election officials should consider that the ballot needs to be in the hands of the voter so that he or she has adequate time to complete it and put it back in the mail stream so that it can be processed and delivered by the applicable deadline. Accordingly, the Postal Service recommends that election officials use First-Class Mail to transmit blank ballots and allow 1 week for delivery to voters"; and
- "To allow enough time for ballots to be returned to election officials, domestic voters should generally mail their completed ballots at least one week

before the state's due date."

Add. Ex. 3 (R. Grossman Aff., ¶ 29 and Ex. A thereto) (emphasis added). Similarly, the Secretary has not issued any regulations under the Act, provided deadlines to local officials regarding when they must mail a ballot in response to a voter's application, or allowed for ballots postmarked on or before the September 1st primary to be counted. The September 1st primary is just 13 days away.

While the Court cannot control the U.S. mail system, it can ensure that those ballots mailed on or before the September 1st primary are counted as long as they are received within 10 days of the primary. As set forth above, this requested equitable relief is entirely consistent with the Legislature's recognition that there be a delay of three to ten days for elected officials to receive ballots by mail in connection with a general election. As a result, the requested relief is "no more intrusive than it ought reasonably be to ensure the accomplishment of the legally justified result." See Goldstein, 484 Mass. at 527-528 (extending the deadlines for candidates to submit their nomination papers and allowing for the use of electronic signatures in connection with nomination papers).<sup>7</sup>

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<sup>7</sup> As this Court recognized in Goldstein, the requested relief is not unprecedented as "[o]ther States, addressing the potential

## CONCLUSION

Massachusetts is currently experiencing a severe public health crisis, in which people have been directed to stay at home and minimize in-person contact to contain COVID-19. This, in turn, has created an expansive desire by voters to rely on the vote by mail provisions of the state election laws. However, as acknowledged by the Postal Service, the deadlines are incompatible with the operations of the mail service such that voters, through no fault of their own, will be disenfranchised from their Constitutional right to vote.

Without immediate relief from this Court, Petitioners and all other candidates and voters similarly situated will face a deprivation of their most basic Constitutional rights.

## REQUESTED RELIEF

Given the patent constitutional violations identified herein, and in light of the failure by the Legislature and the Secretary to act in a timely manner, this Court should:

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for voter disenfranchisement in the face of natural disasters, have similarly provided narrowly tailored equitable relief to protect the constitutional rights of voters." Goldstein, 484 Mass. at 531, n.14. See Morley, *Election Emergencies: Voting in the Wake of Natural Disasters and Terrorist Attacks*, 67 EMORY L.J. 545, 545 (2018); Georgia Coalition for the People's Agenda, Inc. v. Deal, 214 F. Supp. 3d 1344 (S.D. Ga. 2016) (ordering extension of voter registration deadline where hurricane caused elections office to close, delayed mail service, and forced citizens to take shelter); Florida Democratic Party v. Scott, 215 F. Supp. 3d 1250 (N.D. Fla. 2016) (extending voter registration deadline after hurricane foreclosed in-person and by-mail voter registration).

- A. Accept this Emergency Petition. Petitioners respectfully request a telephonic hearing and expedited treatment.
- B. Issue a declaratory judgment that, in light of the emergency circumstances brought about by the COVID-19 pandemic and that deadlines for requesting and casting mail-in ballots are incongruous with the Postal Service's delivery standards, that the deadline for when mail-in ballots for the September 1st primary must be received in order to be counted impose an unconstitutionally severe burden on the fundamental rights of all Massachusetts voters and candidates, and is thus void.
- C. The Court should exercise its equitable jurisdiction to order the Secretary to direct local election officials to accept and count all mail-in ballots that are postmarked by September 1st primary and received within ten days of September 1, assuming that the ballots otherwise comply with the election laws.
- D. Relief should apply to all voters, to prevent serial litigation and achieve a global resolution of the burden imposed on fundamental rights by the Vote By Mail Election Law's operation.
- E. Issue appropriate injunctive relief to effectuate its declaratory judgment in advance of the upcoming September 1st primary, including enjoining the Secretary from requiring that primary ballots must arrive at voters' local election offices, whether by mail or hand-delivered, by 8 p.m. on September 1, 2020 in order to be counted.
- F. Order any other relief this Court deems appropriate.

Respectfully submitted,

/s/ Jeffrey S. Robbins

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Dated: August 19, 2020

**CERTIFICATE OF SERVICE**

I, Joseph D. Lipchitz, a member of the Bar of this Court, hereby certify that on this day, August 19, 2020, the foregoing Petition and accompanying documents were electronically served on counsel to the Secretary of Commonwealth by emails sent to Assistant Attorney General Anne Sterman and Assistant Attorney General Elizabeth Kaplan.

/s/ Joseph D. Lipchitz

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# **EXHIBIT 1**



July 30, 2020

Honorable William Galvin  
Secretary of the Commonwealth of Massachusetts  
State House  
24 Beacon Street, Room 337  
Boston, MA 02133-1099

Dear Secretary Galvin:

Re: Deadlines for Mailing Ballots

With the 2020 General Election rapidly approaching, this letter follows up on my letter dated May 29, 2020, which I sent to election officials throughout the country. That letter highlighted some key aspects of the Postal Service's delivery processes. The purpose of this letter is to focus specifically on the deadlines for requesting and casting ballots by mail. In particular, we wanted to note that, under our reading of Massachusetts' election laws, certain deadlines for requesting and casting mail-in ballots are incongruous with the Postal Service's delivery standards. This mismatch creates a risk that ballots requested near the deadline under state law will not be returned by mail in time to be counted under your laws as we understand them.

As I stated in my May 29 letter, the two main classes of mail that are used for ballots are First-Class Mail and USPS Marketing Mail, the latter of which includes the Nonprofit postage rate. Voters must use First-Class Mail (or an expedited level of service) to mail their ballots and ballot requests, while state or local election officials may generally use either First-Class Mail or Marketing Mail to mail blank ballots to voters. While the specific transit times for either class of mail cannot be guaranteed, and depend on factors such as a given mailpiece's place of origin and destination, most domestic First-Class Mail is delivered 2-5 days after it is received by the Postal Service, and most domestic Marketing Mail is delivered 3-10 days after it is received.

To account for these delivery standards and to allow for contingencies (e.g., weather issues or unforeseen events), the Postal Service strongly recommends adhering to the following timeframe when using the mail to transmit ballots to domestic voters:

- **Ballot requests:** Where voters will both receive and send a ballot by mail, voters should submit their ballot request early enough so that it is received by their election officials at least 15 days before Election Day at a minimum, and preferably long before that time.
- **Mailing blank ballots to voters:** In responding to a ballot request, election officials should consider that the ballot needs to be in the hands of the voter so that he or she has adequate time to complete it and put it back in the mail stream so that it can be processed and delivered by the applicable deadline. Accordingly, the Postal Service recommends that election officials use First-Class Mail to transmit blank ballots and allow 1 week for delivery to voters. Using Marketing Mail will result in slower delivery times and will increase the risk that voters will not receive their ballots in time to return them by mail.

- **Mailing completed ballots to election officials:** To allow enough time for ballots to be returned to election officials, domestic voters should generally mail their completed ballots at least one week before the state's due date. In states that allow mail-in ballots to be counted if they are *both* postmarked by Election Day *and* received by election officials by a specific date that is less than a week after Election Day, voters should mail their ballots at least one week before they must be received by election officials. So, for example, if state law requires a mail-in ballot to be postmarked by Tuesday, November 3, and received by Friday, November 6, voters should mail their ballot by Friday, October 30, to allow enough time for the ballots to be delivered by November 6. Voters must also be aware of the posted collection times on collection boxes and at the Postal Service's retail facilities and that ballots entered after the last posted collection time on a given day will not be postmarked until the following business day.

Under our reading of your state's election laws, as in effect on July 27, 2020, certain state-law requirements and deadlines appear to be incompatible with the Postal Service's delivery standards and the recommended timeframe noted above. As a result, to the extent that the mail is used to transmit ballots to and from voters, there is a significant risk that, at least in certain circumstances, ballots may be requested in a manner that is consistent with your election rules and returned promptly, and yet not be returned in time to be counted.

Specifically, it appears that a voter may generally request a ballot as late as 4 business days before the November general election, and that a completed ballot must be postmarked by Election Day and received by election officials within 3 days after the election. If a voter submits a request at or near the ballot-request deadline, and if the requested ballot is transmitted to the voter by mail, there is a significant risk that the ballot will not reach the voter before Election Day, and accordingly that the voter will not be able to use the ballot to cast his or her vote. That risk is exacerbated by the fact that the law does not appear to impose a time period by which election officials must transmit a ballot to the voter in response to a request. Even if the requested ballot reaches the voter by Election Day, there is a risk that, given the delivery standards for First-Class Mail, a completed ballot postmarked on or close to Election Day will not be delivered in time to meet the state's receipt deadline of November 6. As noted above, voters who choose to mail their ballots should do so no later than Friday, October 30.

To be clear, the Postal Service is not purporting to definitively interpret the requirements of your state's election laws, and also is not recommending that such laws be changed to accommodate the Postal Service's delivery standards. By the same token, however, the Postal Service cannot adjust its delivery standards to accommodate the requirements of state election law. For this reason, the Postal Service asks that election officials keep the Postal Service's delivery standards and recommendations in mind when making decisions as to the appropriate means used to send a piece of Election Mail to voters, and when informing voters how to successfully participate in an election where they choose to use the mail. It is particularly important that voters be made aware of the transit times for mail (including mail-in ballots) so that they can make informed decisions about whether and when to (1) request a mail-in ballot, and (2) mail a completed ballot back to election officials.

We remain committed to sustaining the mail as a secure, efficient, and effective means to allow citizens to participate in the electoral process when election officials determine to utilize the mail as a part of their election system. Ensuring that you have an understanding of our operational capabilities and recommended timelines, and can educate voters accordingly, is important to achieving a successful election season. Please reach out to your assigned election mail coordinator to discuss the logistics of your mailings and the services that are available as well as any questions you may have. A list of election mail coordinators may be found on our website at: <https://about.usps.com/election-mail/politicalection-mail-coordinators.pdf>.

# **EXHIBIT 2**

**From:** Michelle Pizzi O'Brien <[mpizziobrien@newtonma.gov](mailto:mpizziobrien@newtonma.gov)>

**Sent:** Tuesday, August 18, 2020 4:30:50 PM

**To:** Michelle Pizzi O'Brien <[mpizziobrien@newtonma.gov](mailto:mpizziobrien@newtonma.gov)>

**Subject:** City Clerk's Office

Dear Newton Staff,

The City Clerk's Office is in need of your help.

Secretary of State William Galvin's office has mailed out nearly 4.5 million vote-by-mail ballot applications for this fall's elections. The City Clerk's Office is anticipating that due to the COVID-19 pandemic, the response and interest in mail-in voting will significantly increase. They have already received well over 10,000 responses and are expecting many more.

In order to ensure proper staffing for this very important need, and support the existing staff with what will be a challenging elections season, the City is seeking applications for candidates interested in providing temporary, hourly, paid, elections assistance.

We are asking you to spread the word to anyone you feel might make a good member of the Clerk's Office team during this extremely important election period. Provided below is a link to the online posting on the City's Employment Opportunities page (Newton Hyrell). We encourage you to make an employee referral. We are all in this together!

Thank you for your help.

Michelle

[\*Temporary Election Clerk Online Posting\*](#)

From the desk of ...

Michelle Pizzi O'Brien, M.P.A.

Director of Human Resources

City of Newton

PH: 617-796-1240

*Pronouns: she/her/hers*

When responding, please be aware that the Massachusetts Secretary of State has determined that most email is public record and therefore cannot be kept confidential.

# **EXHIBIT 3**

**COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT**

Suffolk, ss.

No. SJC-2020-\_\_\_\_\_

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REBECCA GROSSMAN, BECKY GROSSMAN FOR CONGRESS,  
JONATHAN LEVENFELD, SOPHIE KRIPP, and SHIRLEY D.  
GROSSMAN, on behalf of themselves and others similarly  
situated,

PETITIONERS,

v.

WILLIAM FRANCIS GALVIN, in his Official  
Capacity as Secretary of the Commonwealth  
of Massachusetts,

RESPONDENT.

---

**AFFIDAVIT OF REBECCA GROSSMAN IN SUPPORT OF THE  
EMERGENCY PETITION FOR RELIEF**

1. I, Rebecca Grossman, state the following based upon my own personal knowledge and belief:

2. I reside in Newton, Massachusetts, with my husband Ben, and our two children. I am a candidate for the Democratic nomination for Congress in Massachusetts' Fourth Congressional District.

3. I am an attorney and At Large member of the Newton City Council, representing residents of one of the District's largest cities.

4. Before joining the Council, I served as an

Assistant District Attorney for Middlesex County and was an Associate at the law firm of Goodwin Procter. I received my undergraduate degree in economics at Cornell University and earned a J.D. and M.B.A. from Harvard Law School and Harvard Business School.

5. I submit this affidavit in support of the Emergency Petition for Relief, filed in order to prevent the disenfranchisement of innumerable registered Massachusetts voters and the de facto elimination of either their right to vote or their right to have their votes counted in the upcoming September 1st Democratic primary. Because of the devastating, debilitating and dislocating impact of COVID-19 on Massachusetts residents and local governments across the Commonwealth, the Massachusetts Legislature passed an emergency law on July 2, 2020, offering all Massachusetts voters the alternative of voting by mail. As a result of the combined effect of COVID-19 and this law, and as the Secretary of the Commonwealth has publicly stated, the number of Massachusetts voters seeking to vote by mail is expected to be unprecedented -- and massive, and both the Secretary of the Commonwealth and numerous local officials have, to my knowledge, publicly stated as much. In bringing the Emergency Petition for Relief, I

am representing the voters of the Commonwealth who have been or will be disenfranchised as a result of the application of this law under the present circumstances, as well as on behalf of other candidates for public office in Massachusetts who will naturally be affected by such disenfranchisement.

6. Under the emergency act of the Legislature, voters have until August 26, 2020 to get their applications for ballots by mail in to their localities. That means that (1) localities must then mail the ballots back to the voters, and (2) the voters have to complete their ballots and mail them in such that they are actually received by September 1, 2020, and all of this must occur within 6 days after the August 26 deadline for applying for ballots in the first place. Under Massachusetts law, in order for mail-in ballots to be counted, they must be actually received by no later than September 1, 2020. In other words, regardless of when voters postmark their mail-in ballots, voters' votes will not be counted unless actually received by September 1st. The General Counsel to the U.S. Postal Service has informed the Secretary of the Commonwealth that the deadlines under the emergency law are "incongruous" with the delivery standards for the Postal

Service, creating the "serious risk" that voters will be disenfranchised. See Exhibit A.

7. The disenfranchisement of voters will take several forms. First, the Postal Service itself went on record on July 30, 2020 stating that in order for voters to get their mail-in ballots received by Massachusetts' due date -- here September 1st -- Massachusetts voters will have to mail their ballots in by a minimum of seven days earlier, or August 25th. However, under Massachusetts law, voters have up to August 26th to apply for a ballot, meaning that they will be legally entitled to have a ballot mailed to them if their applications are received by the local authority on August 26th -- a day after the latest date the Postal Service advises all ballots need to be filled out and mailed in if they are to be counted.

8. Second, there are voters who have already requested their mail-in ballots over two weeks ago who still have not received them. It cannot be predicted when they will receive them and, in any event, by the Postal Service's own assessment, if they do not receive them by August 24th (i.e. the Postal Service's seven day minimum for allowing mail-in ballots to arrive) and then immediately -- without even a day's delay -- mail them

back, there is, by the Postal Service's own calculation, either a significant risk or a probability that their votes will not be received in time to be counted. Indeed, I applied for a mail-in ballot in early August, and, as of today's date, I still have not received that ballot.

9. Third, given the combined effect of the conflict between the Massachusetts laws and the Postal Service's limitations, the inability of local governments to use the mail to get voters their ballots in time to mail them back in time, and the stated inability of the Postal Service to get mailed ballots back to the local authorities by September 1st, there are voters who will be deterred or discouraged from voting altogether, concluding, with justification, that in this particular case exercising their constitutional right is an impossibility.

**Petitioner Becky Grossman For Congress**

10. Petitioner Becky Grossman for Congress (the "Committee") is a principal campaign committee, established pursuant to 2 U.S.C. § 432(e), and designated by me as a candidate for Congress as my principal campaign committee for purposes of the Federal Election Campaign Act. It is registered with the

Federal Election Commission.

11. The Committee's responsibilities include, but are not limited to, assisting supporters and voters with obtaining ballots so that they can meaningfully participate in the upcoming elections, including the September 1, 2020 primary.

### **The Massachusetts Congressional Elections**

12. The 2020 U.S. House of Representatives elections in Massachusetts will take place on November 3, 2020. All Massachusetts Congressional Districts are contested races, so voters will elect nine candidates to serve in the U.S. House from each of the Commonwealth's nine congressional districts.

13. I am running in the Democratic Primary to be the United States Representative for Massachusetts' Fourth Congressional District. The district encompasses portions of five (5) different counties -- Bristol, Middlesex, Norfolk, Plymouth, and Worcester -- and thirty-four (34) cities and towns (Attleboro, Berkley, Dighton, Easton, Fall River, Freetown, Mansfield, North Attleborough, Norton, Raynham, Rehoboth, Seekonk, Somerset, Swansea, Taunton, Hopkinton, Newton, Bellingham, Brookline, Dover, Foxborough, Franklin, Medfield, Medway,

Millis, Needham, Norfolk, Plainville, Sharon, Wellesley, Wrentham, Lakeville, Hopedale, and Milford).

14. The Fourth Congressional District encompasses over 501,000 registered voters.

15. The Democratic Party primary to determine which Democratic candidate will run in the Commonwealth's general election on November 3, 2020 is scheduled to occur on Tuesday, September 1, 2020. A primary election is an election in which registered voters select a candidate whom they believe should be a political party's nominee for elected office to run in the general election.

16. The September 1, 2020 primary is earlier in the year than prior Massachusetts primaries. By way of limited example, some of the Commonwealth's past primaries have occurred on the following dates:

- September 9, 2014;
- September 14, 2010;
- September 19, 2006; and
- September 17, 2002.

Put another way, primary elections have frequently been held, and primary votes counted, well into the month of September, without any effect on either the date of the

November elections or the holding of those elections.

**The COVID-19 Pandemic And Mail-In Voting In  
Connection With The September 1st Primary**

17. In early March 2020, the World Health Organization classified the COVID-19 outbreak as a "pandemic." Beginning on March 10, 2020, in response to the global pandemic and growing public health emergency caused by the outbreak of COVID-19, Governor Baker issued the first in a series of executive orders closing schools, non-essential businesses, and directing residents and workers to stay at home. In his Executive Order declaring a State of Emergency, Governor Baker recognized:

the worldwide outbreak of COVID-19 and the effects of its extreme risk of person-to-person transmission throughout the United States and the Commonwealth significantly affect the life and health of our people, as well as the economy, and is a disaster that impacts the health, security, and safety of the public[.]

See Executive Order No. 591, dated March 10, 2020 (emphasis added).

18. In response to this public health crisis, Governor Baker issued an Executive Order on March 23, 2020 providing that all businesses and other organizations that do not provide "COVID-19 Essential Services" must "close their physical workplaces and

facilities . . . to workers, customers, and the public” by noon on March 24 and not reopen before noon on April 7, 2020.<sup>1</sup> The Governor subsequently extended that Order, barring non-essential businesses from reopening their “bricks-and-mortar premises” before May 4, 2020, which was subsequently extended into June.<sup>2</sup>

19. In response to the public health and other exigencies affecting elections caused by the COVID-19 pandemic, the Massachusetts Legislature on July 2, 2020 passed an emergency law entitled “An Act relative to voting options in response to COVID-19” (the “Act”). H. Bill No. 4820, 191st Gen. Ct. (Mass. 2020) (enacted July 6, 2020). On July 6, the Governor of the Commonwealth signed the Act into law. The Act introduces a variety of temporary reforms that provide Massachusetts voters with alternatives to the traditional practice of voting in person on Election Day in the upcoming primary and general elections.

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<sup>1</sup> See COVID-19 Order No. 13, available at [www.mass.gov/doc/march-23-2020-essential-services-and-revised-gatherings-order/download](http://www.mass.gov/doc/march-23-2020-essential-services-and-revised-gatherings-order/download), attached hereto as Exhibit C.

<sup>2</sup> See COVID-19 Order No. 21, available at [www.mass.gov/doc/march-31-2020-essential-services-extension-order/download](http://www.mass.gov/doc/march-31-2020-essential-services-extension-order/download), attached hereto as Exhibit D.

20. A key feature of the Act provides that the Secretary "shall" send every registered voter in the Commonwealth an application to request a mail-in ballot (an "Application") to vote in the upcoming elections, which is pre-addressed to the local election official with postage guaranteed. Id. § 6(d)(1)-(2), (4). The Act requires the Secretary to send the Applications to voters by July 15. Id. However, upon information and belief, those Applications were not sent out until July 22, 2020. See *Mass. 2020 Primary: What To Know About Voting By Mail Or At The Polls*, WBUR News, July 24, 2020 (available at <https://www.wbur.org/news/2020/07/24/2020-covid-mail-early-in-person-voting-guide>). A true and accurate copy of this article is attached hereto as Exhibit E.

21. The Act further provides that the election officers and registrars of every city or town shall include an application for a voter to be permitted to vote early by mail with the acknowledgement notice sent to any person registering to vote or changing their voter registration address: "(i) on or after July 1, 2020 and on or before August 22, 2020 for the primary election". Id. § 6(d)(3)(i).

22. Moreover, under the Act, any voter wishing to

vote early by mail in the primary election must complete the application to vote early by mail and shall return said application to the appropriate city or town clerk. However, under the Act, any application to vote early by mail in the primary election must be received in the office of the local election official before 5 P.M. on Wednesday, August 26, 2020. Id. § 6(e)(1-2).

23. However, the Act does not establish deadlines for when the local official must mail out the ballot to the requested voter once an application is received, and the local governments charged with this responsibility have, in my personal observation, been greatly overburdened by the combined effects of COVID-19 and the massive number of applications for mail-in ballots.

24. Once the voter receives a vote by mail ballot from the local town clerk, he or she may complete and return the ballot by: "(i) delivering it in person to the office of the appropriate city or town clerk; (ii) dropping it in a secured municipal drop box; or (iii) mailing it to the appropriate city or town clerk." Id. § 6(h)(1-2). "All early voting ballots submitted by mail, delivered in person to the office of the city or town clerk or returned to a secured municipal drop box as provided by this section shall be received by the

city or town clerk before the hour fixed for closing the polls on the day of the primary election". Id. § 6(h)(3).

25. Secretary of State Galvin's office has publicly stated that all primary ballots must arrive at the voter's local election office, whether by mail or hand-delivered, by 8 p.m. on September 1, 2020 in order to be counted. See *Answers To Your Questions About Voting By Mail*, THE BOSTON GLOBE, July 20, 2020 (available at <https://www.bostonglobe.com/2020/07/20/metro/answers-your-questions-about-voting-by-mail/>) ("It doesn't matter when it's postmarked," said Debra O'Malley, a spokesperson for Secretary of State William Galvin"). A true and accurate copy of this article is attached hereto as Exhibit B.

26. Given that the Act allows voters until August 26, 2020 to submit their applications to vote by mail to their local town clerk, that only provides four (4) business days for the following to occur: (1) the local clerk to mail the voter the ballot, (2) the voter to complete the ballot, and (3) the voter to put the ballot back in the mail and for the Postal Service to then deliver it back to the local clerk so

that it is received on or before September 1, 2020. This is a virtual logistical impossibility, particularly given the burden that local municipalities are under due to the COVID-19 pandemic, the delays by the Postal Service, and the Postal Service's own assessment that the last part of that process -- the mailing of the ballots back to the local clerk -- will take a minimum of seven days.

27. While mail-in ballots must be received for the primary election on or before September 1, 2020, regardless of when they are postmarked, the Act provides that voting ballots mailed for the general election will be counted as long they are received no later than 5 P.M. on November 6, 2020 and mailed on or before November 3, 2020 (Election Day). See Act at § 6(h)(3) and M.G.L. ch. 54, §§ 95 and 99 (ballots from overseas may be counted if received within ten days of the election). In other words, while Massachusetts law excludes from tabulation primary ballots postmarked before the election but received thereafter, it permits the counting of such ballots for general elections. There is no apparent logic to this distinction.

**The July 30, 2020 Letter From The General Counsel of the Postal Service To Secretary of the Commonwealth**

28. On or about July 30, 2020, the General Counsel of the Postal Service sent a letter to the Secretary of the Commonwealth of Massachusetts identifying concerns about the "significant risk" that Massachusetts voters who fully comply with state law will nonetheless be disenfranchised from their Constitutional right to vote. A true and accurate copy of that letter is attached as Exhibit A. In that letter, the General Counsel of the Postal Service did not mince his words:

The purpose of this letter is to focus specifically on the deadlines for requesting and casting ballots by mail. In particular, we wanted to note that, under our reading of Massachusetts' election laws, certain deadlines for requesting and casting mail-in ballots are incongruous with the Postal Service's delivery standards. This mismatch creates a risk that ballots requested near the deadline under state law will not be returned by mail in time to be counted under your laws as we understand them.

Exhibit A (emphasis added).

29. In order to account for this "incongruity" between the Massachusetts election laws and the delivery standards of the Postal Service, the General Counsel advised that the Secretary of the Commonwealth "adher[e] to the following timeframe when using the

mail to transmit ballots to domestic voters”:

- **Ballot requests:** Where voters will both receive and send a ballot by mail, voters should submit their ballot request early enough so that it is received by their election officials at least 15 days before Election Day at a minimum, and preferably long before that time.
- **Mailing blank ballots to voters:** In responding to a ballot request, election officials should consider that the ballot needs to be in the hands of the voter so that he or she has adequate time to complete it and put it back in the mail stream so that it can be processed and delivered by the applicable deadline. Accordingly, the Postal Service recommends that election officials use First-Class Mail to transmit blank ballots and allow 1 week for delivery to voters. Using Marketing Mail will result in slower delivery times and will increase the risk that voters will not receive their ballots in time to return them by mail.
- **Mailing completed ballots to election officials:** To allow enough time for ballots to be returned to election officials, domestic voters should generally mail their completed ballots at least one week before the state's due date. In states that allow mail-in ballots to be counted if they are *both* postmarked by Election Day *and* received by election officials by a specific date that is less than a week after Election Day, voters should mail their ballots at least one week before they must be received by election officials. So, for example, if state law requires a mail-in ballot to be postmarked by Tuesday, November 3, and received by Friday,

November 6, voters should mail their ballot by Friday, October 30, to allow enough time for the ballots to be delivered by November 6. Voters must also be aware of the posted collection times on collection boxes and at the Postal Service's retail facilities and that ballots entered after the last posted collection time on a given day will not be postmarked until the following business day.

Exhibit A (emphasis added).

30. The General Counsel of the Postal Service further cautioned that, if these time standards were not adhered to, there would be a "significant risk" that voters who complied with Massachusetts law would, through no fault of their own, be disenfranchised from their vote:

Under our reading of your state's election laws, as in effect on July 27, 2020, certain state-law requirements and deadlines appear to be incompatible with the Postal Service's delivery standards and the recommended timeframe noted above. As a result, to the extent that the mail is used to transmit ballots to and from voters, there is a significant risk that, at least in certain circumstances, ballots may be requested in a manner that is consistent with your election rules and returned promptly, and yet not be returned in time to be counted.

. . .

If a voter submits a request at or near the ballot-request deadline, and if the requested ballot is transmitted to the voter by mail, there is a significant risk that the ballot will not reach the voter before

Election Day, and accordingly that the voter will not be able to use the ballot to cast his or her vote. That risk is exacerbated by the fact that the law does not appear to impose a time period by which election officials must transmit a ballot to the voter in response to a request.

Exhibit A (emphasis added).

31. The General Counsel for the Postal Service further advised the Secretary of State that:

[T]he Postal Service cannot adjust its delivery standards to accommodate the requirements of state election law. For this reason, the Postal Service asks that election officials keep the Postal Service's delivery standards and recommendations in mind when making decisions as to the appropriate means used to send a piece of Election Mail to voters, and when informing voters how to successfully participate in an election where they choose to use the mail. It is particularly important that voters be made aware of the transit times for mail (including mail-in ballots) so that they can make informed decisions about whether and when to (1) request a mail-in ballot, and (2) mail a completed ballot back to election officials.

Exhibit A (emphasis added).

**The Postal Service's Warning To The Secretary of State Comes Against The Backdrop of Steps Taken by The Postal Service To Limit Service In Massachusetts And Elsewhere**

32. President Trump has publicly criticized mail-in voting for months, generally asserting that it will lead to "voter fraud."

33. By way of limited example, on July 30, 2020, President Trump tweeted:

With Universal Mail-In Voting (not Absentee Voting, which is good), 2020 will be the most INACCURATE & FRAUDULENT Election in history. It will be a great embarrassment to the USA. Delay the Election until people can properly, securely and safely vote???

@realDonaldTrump, TWITTER, July 30, 2020, 8:46 AM

(available at

[https://twitter.com/realDonaldTrump/status/12888181603](https://twitter.com/realDonaldTrump/status/1288818160389558273)

[89558273](https://twitter.com/realDonaldTrump/status/1288818160389558273)); see also *President Trump, lagging in the*

*polls, floats idea of delaying election*, THE BOSTON

GLOBE, July 30, 2020 (available at

[https://www.bostonglobe.com/2020/07/30/nation/presid](https://www.bostonglobe.com/2020/07/30/nation/president-trump-lagging-polls-floats-idea-delaying-election/?p1=Article%20Inline%20Text%20Link)

[ent-trump-lagging-polls-floats-idea-delaying-](https://www.bostonglobe.com/2020/07/30/nation/president-trump-lagging-polls-floats-idea-delaying-election/?p1=Article%20Inline%20Text%20Link)

[election/?p1=Article Inline Text Link](https://www.bostonglobe.com/2020/07/30/nation/president-trump-lagging-polls-floats-idea-delaying-election/?p1=Article%20Inline%20Text%20Link)). A true and

accurate copy of President's Trump tweet and this

article are attached hereto as Exhibits F and G.

34. As recently as August 13, 2020, President Trump declared that he opposes additional funding for the Postal Service specifically because he does not want such funds to be used for mail-in voting for the 2020 election. By way of example, President Trump stated in an interview with Fox News on August 13, 2020:

[The Democrats] want three and a half billion dollars for something that'll turn out to be fraudulent, that's election money basically. They want three and a half billion dollars for the mail-in votes. Universal mail-in ballots. They want \$25 billion, billion, for the Post Office. Now they need that money in order to make the Post Office work so it can take all of these millions and millions of ballots . . . . But if they don't get those two items that means you can't have universal mail-in voting because you they're not equipped to have it . . . .

*Trump says he opposes funding USPS because of mail-in voting, CNN, August 13, 2020 (available at <https://www.cnn.com/2020/08/13/politics/trump-usps-funding-comments-2020-election/index.html>) (emphasis added).* A true and accurate copy of this article is attached hereto as Exhibit H.

35. More directly, Postmaster General Luis DeJoy recently implemented policy changes impacting the Postal Service, including cost-cutting measures. In fact, Postmaster DeJoy acknowledged that recent procedural changes have impacted "overall service levels[.]" See In new letter, USPS chief acknowledges 'unintended consequences' of recent policy changes, CNN, August 14, 2020 (available at [https://www.cnn.com/2020/08/14/politics/dejoy-usps-changes-2020-election/index.html?utm\\_term=image&utm\\_source=twCNNp&u](https://www.cnn.com/2020/08/14/politics/dejoy-usps-changes-2020-election/index.html?utm_term=image&utm_source=twCNNp&u)

[tm content=2020-08-14T14%3A04%3A07&utm medium=social](https://www.washingtonpost.com/business/2020/07/14/postal-service-trump-dejoy-delay-mail/));

*Postal Service memos detail 'difficult' changes, including slower mail*, THE WASHINGTON POST, July 14, 2020 (available at <https://www.washingtonpost.com/business/2020/07/14/postal-service-trump-dejoy-delay-mail/>).

True and accurate copies of these articles are attached hereto as Exhibits I and J.

36. It appears that the Commonwealth of Massachusetts has begun experiencing some of the Postal Service's cost-cutting measures. According to a recent article in the Boston Herald, there have been measures implemented to scale back services of the Postal Service in Massachusetts:

The U.S. Postal Service has stopped giving overtime, cut staff and won't fill shifts as mail piles up in post offices, a leader of a Massachusetts postal workers union told the Herald on Sunday. "They've just kind of slowed everything down," said John Flattery, president of the American Postal Workers Union, Central Massachusetts Area chapter Local 4553. "It's just being purposely delayed, and it's frustrating to watch," he said. "It's scaring the hell out of a lot of people in the Post Office."

. . .

"They've stopped giving overtime," Flattery said. "If a carrier calls in sick, they won't cover the route. They've cut staff at offices." These changes have all led to mail

getting delayed and piling up, he said. When asked if he's confident the postal service can handle its role in the fall elections, Flattery said, "If they would let us do our job, then no problem at all. . . . We just feel like a pawn with mail-in voting right now."

*Massachusetts postal workers union chief on mail delays:*

'It's frustrating to watch', THE BOSTON HERALD, August 16, 2020 (available at

<https://www.bostonherald.com/2020/08/16/massachusetts-postal-workers-union-chief-on-mail-delays-its-frustrating-to-watch/>).

A true and accurate copy of this article is attached hereto as Exhibit K.

37. Additionally, there are reports circulating that the Postal Service "plans to get rid of hundreds of pieces of letter-sorting equipment at facilities across the country, including two in Massachusetts . . . ." 'Grave Concerns': Mass.

*Politicians React to US Postal Service Cuts in Boston, Brockton*, NBC BOSTON, August 14, 2020 (updated August 15, 2020) (available at

<https://www.nbcboston.com/news/local/grave-concerns-mass-politicians-react-to-usps-cuts-in-boston-brockton/2177973/>).

A true and accurate copy of this article is attached hereto as Exhibit L.

38. Additionally, there are reports of a recent

photograph taken in Massachusetts "showing three United States Postal Service drop boxes on the back of a truck in Brighton . . . ." *New Concerns in Mass. After Photo Shows US Postal Service Drop Boxes on Back of Truck*, NBC BOSTON, August 15, 2020 (available at <https://www.nbcboston.com/news/local/new-concerns-in-mass-after-photo-shows-us-postal-service-drop-boxes-on-back-of-truck/2178269/>). A true and accurate copy of this article is attached hereto as Exhibit M.

**Strains On City Clerks And Town Clerks Impacting Their Ability To Process Applications And Ballots**

39. Unsurprisingly, there has been a steep increase in mail-in vote applications in Massachusetts. This has put a strain on cities and towns, who are responsible for processing the mail-in voting applications and may not be equipped with adequate staff and resources to do so. Attached hereto as Exhibit N is an email dated August 18, 2020 sent at 4:30 p.m. from an official of the City of Newton, Massachusetts, stating that "the City Clerk's Office is in need of your help." The email further states that the City Clerk's Office is "anticipating that due to the COVID-19 pandemic, the response and interest in mail-in voting will significantly increase," warning that the

City is expecting "a challenging elections season."

40. According to a recent article published by WBUR News, "[l]ocal officials say the sheer volume of ballot applications coming in – and the truncated timeline in which they must be processed – has been a significant challenge. Voters must return their applications by Aug. 26, but with a strained U.S. Postal Service seeing substantial delays, several clerks said the deadline is too late to ensure that ballots are returned to them by mail by 8 p.m. on election day as required." *Local Clerks Face A Deluge Of Vote-By-Mail Applications – And A Fast-Approaching Deadline*, WBUR NEWS, August 13, 2020 (available at <https://www.wbur.org/news/2020/08/13/clerks-challenge-mail-in-deadline>). A true and accurate copy of this article is attached hereto as Exhibit O.

41. Likewise, Northborough Town Clerk Andy Dowd, legislative chair of the Massachusetts Town Clerks Association, recently publicly stated:

I don't think I've ever in 16 years as a town clerk been as concerned about an election as I am about the November election . . . . Given the volume of mail-in requests that we're likely to receive, I'm very concerned it's going to overwhelm the system as it currently works in Massachusetts.

*Town clerks say they can't handle flood of mail-in ballots*, COMMONWEALTH MAGAZINE, June 4, 2020 (available at <https://commonwealthmagazine.org/politics/town-clerks-say-they-cant-handle-flood-of-mail-in-ballots/>). A true and accurate copy of this article is attached hereto as Exhibit P.

**Secretary Galvin's Public Statements In Response To  
The Postal Service's Issuance Of The July 30, 2020  
Letter**

42. Secretary Galvin has publicly stated that, with respect to the upcoming election, President Trump "will do anything he can to discourage participation, to create a false issue." See Exhibit G.

43. Additionally, Secretary Galvin has made public statements regarding the Postal Service's July 30, 2020 letter.

44. By way of example, the Boston Globe recently reported that that Secretary Galvin called the Postal Service's July 30, 2020 letter "a bureaucratic action to cover themselves . . . ." The Boston Globe further reported that Secretary Galvin stated:

They're well aware that voters need to use vote by mail and that the numbers [of absentee ballots] will be much higher. They knew that. Everyone knows that . . . . There are going to be more people voting by mail in this election probably than any other presidential election in recent times. You

may have to go back to World War II to find more . . . .

*Mass. among states warned by Postal Service that mail-in ballots could go uncounted amid delays*, THE BOSTON GLOBE, August 14, 2020 (available at <https://www.bostonglobe.com/2020/08/14/nation/mass-among-states-warned-by-postal-service-that-mail-in-ballots-could-go-uncounted-amid-delays/>). A true and accurate copy of this article is attached hereto as Exhibit Q.

**Since The July 30, 2020 Letter, Neither The Secretary Of The Commonwealth, Nor The Legislature Has Implemented Any Policies To Ensure That Voters Are Educated About The Risk Highlighted By The Postal Service Or To Ensure That Cities And Towns Promptly Provide Vote by Mail Applications To Registered Voters On A Uniform Time Frame**

45. Since the General Counsel of the Postal Service issued the July 30, 2020 letter, neither the Massachusetts Legislature, nor the Secretary of State has taken any steps to ensure that Massachusetts voters are educated on the threat to their Constitutional rights to vote posed by the disconnect between the Massachusetts election laws and the operation of the Postal Service.

46. Notably, Secretary Galvin has not promulgated any regulations or guidance to further

clarify the Act, amend the deadlines, or issue deadlines to local officials on when they must respond to a voter's request for a mail-in ballot.

47. The Commonwealth's complete failure to act in light of the Postal Service's letter will inevitably lead to the deprivation of multiple residents' Constitutional right to vote.

#### **Voters Are Concerned About Being Disenfranchised**

48. As part of my campaign efforts, I speak with voters from communities all over the Fourth Congressional District. Voters have repeatedly expressed their concerns for their safety and the safety of their loved ones going physically to the polls to cast their ballots and, simultaneously, their lack of faith that any ballot cast by mail will actually be counted as part of the primary and general elections.

49. This lack of faith in the electoral process creates the very concern that voters are going to conclude that their votes will not count because they will not be received in time and, therefore, will not even bother to mail their votes in. This is another wholesale category of voters that will in effect be disenfranchised.

Signed under the pains and penalties of perjury

this 19th day of August, 2020.

  
Rebecca Grossman

37360073.3

# **EXHIBIT A**



July 30, 2020

Honorable William Galvin  
Secretary of the Commonwealth of Massachusetts  
State House  
24 Beacon Street, Room 337  
Boston, MA 02133-1099

Dear Secretary Galvin:

Re: Deadlines for Mailing Ballots

With the 2020 General Election rapidly approaching, this letter follows up on my letter dated May 29, 2020, which I sent to election officials throughout the country. That letter highlighted some key aspects of the Postal Service's delivery processes. The purpose of this letter is to focus specifically on the deadlines for requesting and casting ballots by mail. In particular, we wanted to note that, under our reading of Massachusetts' election laws, certain deadlines for requesting and casting mail-in ballots are incongruous with the Postal Service's delivery standards. This mismatch creates a risk that ballots requested near the deadline under state law will not be returned by mail in time to be counted under your laws as we understand them.

As I stated in my May 29 letter, the two main classes of mail that are used for ballots are First-Class Mail and USPS Marketing Mail, the latter of which includes the Nonprofit postage rate. Voters must use First-Class Mail (or an expedited level of service) to mail their ballots and ballot requests, while state or local election officials may generally use either First-Class Mail or Marketing Mail to mail blank ballots to voters. While the specific transit times for either class of mail cannot be guaranteed, and depend on factors such as a given mailpiece's place of origin and destination, most domestic First-Class Mail is delivered 2-5 days after it is received by the Postal Service, and most domestic Marketing Mail is delivered 3-10 days after it is received.

To account for these delivery standards and to allow for contingencies (e.g., weather issues or unforeseen events), the Postal Service strongly recommends adhering to the following timeframe when using the mail to transmit ballots to domestic voters:

- **Ballot requests:** Where voters will both receive and send a ballot by mail, voters should submit their ballot request early enough so that it is received by their election officials at least 15 days before Election Day at a minimum, and preferably long before that time.
- **Mailing blank ballots to voters:** In responding to a ballot request, election officials should consider that the ballot needs to be in the hands of the voter so that he or she has adequate time to complete it and put it back in the mail stream so that it can be processed and delivered by the applicable deadline. Accordingly, the Postal Service recommends that election officials use First-Class Mail to transmit blank ballots and allow 1 week for delivery to voters. Using Marketing Mail will result in slower delivery times and will increase the risk that voters will not receive their ballots in time to return them by mail.

- **Mailing completed ballots to election officials:** To allow enough time for ballots to be returned to election officials, domestic voters should generally mail their completed ballots at least one week before the state's due date. In states that allow mail-in ballots to be counted if they are *both* postmarked by Election Day *and* received by election officials by a specific date that is less than a week after Election Day, voters should mail their ballots at least one week before they must be received by election officials. So, for example, if state law requires a mail-in ballot to be postmarked by Tuesday, November 3, and received by Friday, November 6, voters should mail their ballot by Friday, October 30, to allow enough time for the ballots to be delivered by November 6. Voters must also be aware of the posted collection times on collection boxes and at the Postal Service's retail facilities and that ballots entered after the last posted collection time on a given day will not be postmarked until the following business day.

Under our reading of your state's election laws, as in effect on July 27, 2020, certain state-law requirements and deadlines appear to be incompatible with the Postal Service's delivery standards and the recommended timeframe noted above. As a result, to the extent that the mail is used to transmit ballots to and from voters, there is a significant risk that, at least in certain circumstances, ballots may be requested in a manner that is consistent with your election rules and returned promptly, and yet not be returned in time to be counted.

Specifically, it appears that a voter may generally request a ballot as late as 4 business days before the November general election, and that a completed ballot must be postmarked by Election Day and received by election officials within 3 days after the election. If a voter submits a request at or near the ballot-request deadline, and if the requested ballot is transmitted to the voter by mail, there is a significant risk that the ballot will not reach the voter before Election Day, and accordingly that the voter will not be able to use the ballot to cast his or her vote. That risk is exacerbated by the fact that the law does not appear to impose a time period by which election officials must transmit a ballot to the voter in response to a request. Even if the requested ballot reaches the voter by Election Day, there is a risk that, given the delivery standards for First-Class Mail, a completed ballot postmarked on or close to Election Day will not be delivered in time to meet the state's receipt deadline of November 6. As noted above, voters who choose to mail their ballots should do so no later than Friday, October 30.

To be clear, the Postal Service is not purporting to definitively interpret the requirements of your state's election laws, and also is not recommending that such laws be changed to accommodate the Postal Service's delivery standards. By the same token, however, the Postal Service cannot adjust its delivery standards to accommodate the requirements of state election law. For this reason, the Postal Service asks that election officials keep the Postal Service's delivery standards and recommendations in mind when making decisions as to the appropriate means used to send a piece of Election Mail to voters, and when informing voters how to successfully participate in an election where they choose to use the mail. It is particularly important that voters be made aware of the transit times for mail (including mail-in ballots) so that they can make informed decisions about whether and when to (1) request a mail-in ballot, and (2) mail a completed ballot back to election officials.

We remain committed to sustaining the mail as a secure, efficient, and effective means to allow citizens to participate in the electoral process when election officials determine to utilize the mail as a part of their election system. Ensuring that you have an understanding of our operational capabilities and recommended timelines, and can educate voters accordingly, is important to achieving a successful election season. Please reach out to your assigned election mail coordinator to discuss the logistics of your mailings and the services that are available as well as any questions you may have. A list of election mail coordinators may be found on our website at: <https://about.usps.com/election-mail/politicalection-mail-coordinators.pdf>.

# **EXHIBIT B**

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# Answers to your questions about voting by mail

By [Christina Prignano](#) Globe Staff, Updated July 20, 2020, 11:27 a.m.



STEPHANIE ZOLLSHAN/THE BERKSHIRE EAGLE VIA AP

[A new law](#) allows any voter in Massachusetts to cast their ballot by mail in the fall. The new legislation is intended to allow voters to safely exercise their right to vote without risking illness as the coronavirus pandemic remains a threat heading into election season.

But if you are used to voting in person, you might have questions about how all this will work, especially given that the next statewide election – where voters will weigh in on several primary races – is just around the corner, on Sept. 1.

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Here's what you need to know about vote-by-mail.

### **First things first: Can I still vote in person?**

Yes. Universal vote-by-mail does not mean mandatory vote-by-mail. It simply means any voter can now vote absentee if they want. The bill also aims to give voters plenty of options to avoid crowds at polling places on Election Day, including early voting periods for both the primary and general elections: The early voting period for the primary is Aug. 22 to Aug. 28, while the early voting period for the general election is Oct. 17 to Oct. 30.

Additionally, new social distancing requirements will be in place to ensure enough space between people at polling places.

### **If I wish to vote by mail, how does it work?**

Every registered voter in the Commonwealth — about 4.6 million people — will be mailed an application to request a ballot for both the Sept. 1 state primary and the Nov. 3 general election. Applications for the Sept. 1 primary already have been mailed out by Secretary of State William Galvin's office, and many voters have begun receiving them. You can also download the application [here](#).

If you decide to vote by mail, simply fill out the application and mail it to your city or town clerk's office. No postage is required. For the primary, voters who are not enrolled in a political party will be asked to select which party's primary they wish to vote in.

Once the application is accepted, the clerk's office will send you a ballot and an affidavit you'll need to sign that states you're following all applicable laws and regulations. You can pick your candidates and then return the forms to the clerk's office. You can track your ballot using [this tool](#) on the Secretary of State's website.

### **What are the deadlines?**

Voters must submit their applications to get a ballot to their city or town clerk by 5 p.m. on Wednesday, Aug. 26, for the state primary election, and 5 p.m. on Wednesday, Oct. 28 for the general election.

As for when voters must mail in their ballots, the deadlines are slightly different for the primary and the general election.

All ballots must arrive at the voter's local election office, whether by mail or hand-delivered, by 8 p.m. on Sept. 1 (Election Day) in order to be counted. "It doesn't matter when it's postmarked," said Debra O'Malley, a spokesperson for Secretary of State William Galvin.

But for the November general election, if you are mailing the ballot from within the United States, it must be postmarked by Nov. 3 (Election Day), and received by 5 p.m. on

Nov. 6.

O'Malley advises voters to return their ballots as early as they can. If you wait until Election Day to mail out your ballot, "you're taking a risk that it won't reach your election office on Nov. 6," she said.

### **What about the 'I voted' stickers?**

Aside from exercising your constitutional rights, the "I voted" sticker is one of the best parts of Election Day. So will you be able to proudly show off your civic participation to your family (and social media followers) if you vote by mail? Maybe.

"We don't provide the stickers," O'Malley said, explaining that it's up to each city or town to purchase stickers, and [with the crush of extra work](#), stickers might not be a priority.

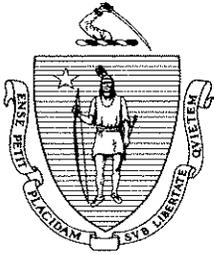
"They are going to be doing a lot of mailing and stuffing," O'Malley said of local election officials. "Anything you add to that ballot package slows it down . . . If they can, I'm sure they will, but unfortunately that might not happen."

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Christina Prignano can be reached at [christina.prignano@globe.com](mailto:christina.prignano@globe.com). Follow her on Twitter [@cprignano](https://twitter.com/cprignano).

[Show 20 comments](#)

# EXHIBIT C



OFFICE OF THE GOVERNOR  
**COMMONWEALTH OF MASSACHUSETTS**  
STATE HOUSE • BOSTON, MA 02133  
(617) 725-4000

**CHARLES D. BAKER**  
GOVERNOR

**KARYN E. POLITO**  
LIEUTENANT GOVERNOR

**ORDER ASSURING CONTINUED OPERATION OF ESSENTIAL SERVICES  
IN THE COMMONWEALTH, CLOSING CERTAIN WORKPLACES,  
AND PROHIBITING GATHERINGS OF MORE THAN 10 PEOPLE**

COVID-19 Order No. 13

**WHEREAS**, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus (“COVID-19”);

**WHEREAS**, on March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization;

**WHEREAS**, the number of presumptive positive and confirmed cases of COVID-19 continues to rise exponentially in the Commonwealth. As of March 22, 2020, the Department of Public Health had reported 646 cases of COVID-19, including 5 deaths, with 13 of the 14 counties in the Commonwealth impacted;

**WHEREAS**, the Department of Public Health is urging all residents of the Commonwealth to limit activities outside of the home and to practice social distancing at all times, both inside and outside of the home to limit the spread of this highly contagious and potentially deadly virus;

**WHEREAS**, on March 19, 2020, the Federal Cybersecurity and Infrastructure Security Agency issued guidance to assist States that identifies 14 critical infrastructure sectors whose workers provide services and functions that are essential to maintain in order to support a strong response to the COVID-19 pandemic;

**WHEREAS**, as Governor, I have identified additional services and functions that likewise are essential to promote the public health and welfare of the Commonwealth, and

therefore it is imperative to ensure that workers providing critical services and functions in these State and Federally designated sectors may continue to work to ensure community resilience and continuity of response efforts; and

**WHEREAS**, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise any and all authority over persons and property necessary or expedient for meeting a state of emergency, including but not limited to authority over public assemblages in order to protect the health and safety of persons, regulating the sale of articles of food and household articles, and policing, protection, and preservation of public and private property;

**NOW, THEREFORE**, in order to minimize all unnecessary activities outside of the home during the state of emergency, I hereby order the following:

1. Maintaining Operation of COVID-19 Essential Services and Workforces

The production and service sectors identified in Exhibit A are hereby designated as “COVID-19 Essential Services.” The workforces engaged and working in these production and service sectors are hereby designated as “COVID-19 Essential Workforces.” I shall amend and publish updates to Exhibit A as I determine necessary in response to conditions as they develop.

Businesses and other organizations that provide the services and functions identified as COVID-19 Essential Services in Exhibit A are urged to continue operations during the state of emergency, but to do so with allowance for social distancing protocols consistent with guidance provided by the Department of Public Health.

Restaurants, bars, and other retail establishments that sell food and beverage products to the public provide COVID-19 Essential Services and are designated as such in Exhibit A. These establishments are therefore encouraged to continue to offer food and beverages for take-out and by delivery provided that they follow the social distancing protocols set forth in Department of Public Health guidance. Restaurants, bars, or other establishments that offer food or beverages to the public shall not permit on-premises consumption of food or beverages.

2. Temporary Closing of Other Businesses and Organizations

All businesses and other organizations that do not provide COVID-19 Essential Services shall close their physical workplaces and facilities (“brick-and-mortar premises”) to workers, customers, and the public as of 12:00 noon on March 24, 2020 and shall not re-open to workers, customers, or the public before 12:00 noon on April 7, 2020. Churches, temples, mosques, and other places of worship shall not be required to close their brick and mortar premises to workers or the public; provided, however, that such institutions shall be required to comply with all limitations on gatherings established in section 3 below.

Businesses and other organizations that do not provide COVID-19 Essential Services are encouraged to continue operations where they are able to operate through remote means that do not require workers, customers, or the public to enter or appear at the brick-and-mortar premises closed by this Order.

3. Limitations on Gatherings

Gatherings of more than 10 people are prohibited throughout the Commonwealth. Gatherings subject to this Order include, without limitation, community, civic, public, leisure, faith-based, or sporting events, concerts, conferences, conventions, fundraisers, parades, fairs, festivals, weddings, funerals, and any similar event or activity that brings together more than 10 persons in any confined indoor or outdoor space. This limitation shall not apply to the operations or activities of any business or organization in its provision or delivery of COVID-19 Essential Services.

This Order does not prohibit gatherings of more than 10 people in an unenclosed, outdoor space such as a park, athletic field, or parking lot.

Athletic and recreational activities that bring participants into close, physical contact are prohibited even when involving 10 or fewer people and regardless of where conducted.

4. Exceptions

(a) This Order shall not apply to any municipal legislative body or to the General Court or to the Judiciary.

(b) This Order shall not apply to residential schools for special needs students. This Order also does not apply to public and private elementary and secondary (K-12) schools in the Commonwealth, which are subject to the March 15, 2020 Order Temporarily Closing All Public and Private Elementary and Secondary Schools, as may be subsequently amended, which suspended all normal, in-person instruction.

(c) This Order does not apply to the operation of child care programs in the Commonwealth, which are subject to the March 18, 2020 Order Temporarily Closing All Child Care Programs and Authorizing the Temporary Creation and Operation of Emergency Child Care Programs, as may be subsequently amended.

5. Implementing Guidance and Enforcement

The Commissioner of Public Health is directed to issue guidance (“DPH Guidance”), subject to my approval, to implement the terms of this Order. The DPH Guidance shall include a requirement that grocery stores and other retailers with substantial retail grocery sales establish special limited access hours during which elderly and other vulnerable populations may have exclusive access to make grocery purchases.

The Department of Public Health, along with any board of health or authorized agent pursuant to G. L. c. 111, § 30, shall enforce this Order and if necessary may do so with the assistance of State or municipal police. Violation of the terms of this Order or the DPH Guidance may result in a criminal penalty pursuant to Section 8 of Chapter 639 of the Acts of 1950 or a civil fine of up to \$300 per violation, in the manner provided for non-criminal disposition of violations of municipal by-law, ordinance, rule, or regulation pursuant to G. L. c. 40, § 21D. A criminal complaint for violation of or a motion for an injunction to enforce this Order or the DPH Guidance shall be filed in the district court with jurisdiction for the municipality in which the violation has been charged.

In addition, I hereby direct the Commissioner of Public Health to act under the authority of G. L. c. 17, § 2A and G. L. c. 111, § 6 or any other appropriate authority to supplement the terms of this Order in the event she determines additional measures are required to ensure that the terms of this Order are observed.

This Order supersedes and makes inoperative any order or rule issued by a municipality that will or might in any way impede or interfere with the achievement of the objectives of this Order. With respect to work and travel in particular, any order or rule issued by a municipality is hereby made inoperative to the extent: (1) such municipal order or rule will or might interfere with provisions of this Order ensuring the continued operation of COVID-19 Essential Services; or (2) such municipal order or rule will or might interfere with the free travel anywhere within the Commonwealth of any person who is a member of any COVID-19 Essential Workforce where such travel is made in connection with the ongoing operation of COVID-19 Essential Services.

This Order rescinds and revokes the Order Prohibiting Gatherings of More than 25 People and On-Premises Consumption of Food or Drink, issued March 15, 2020.

If any provision of this Order or the application thereof to any person or entity or circumstance is determined to be invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Order or the application thereof to other persons, entities, and circumstances.

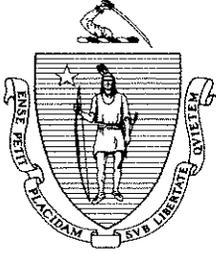
This Order shall be effective at 12:00 noon March 24, 2020 and shall remain in effect through 12:00 noon on April 7, 2020 unless further extended.

Given in Boston at 9:15 AM this 23rd day  
of March, two thousand and twenty

A handwritten signature in black ink, appearing to read "Charles D. Baker", written over a horizontal line.

CHARLES D. BAKER  
GOVERNOR  
Commonwealth of Massachusetts

# **EXHIBIT D**



OFFICE OF THE GOVERNOR  
**COMMONWEALTH OF MASSACHUSETTS**  
STATE HOUSE • BOSTON, MA 02133  
(617) 725-4000

**CHARLES D. BAKER**  
GOVERNOR

**KARYN E. POLITO**  
LIEUTENANT GOVERNOR

**ORDER EXTENDING THE CLOSING OF CERTAIN WORKPLACES  
AND THE PROHIBITION ON GATHERINGS OF MORE THAN 10 PEOPLE**

COVID-19 Order No. 21

Extending the Operation of COVID-19 Order No. 13

**WHEREAS**, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus (“COVID-19”);

**WHEREAS**, on March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization;

**WHEREAS**, the number of presumptive positive and confirmed cases of COVID-19 continues to rise exponentially in the Commonwealth. As of March 30, 2020, the Department of Public Health had reported 5,752 cases of COVID-19, including 56 deaths, with all counties in the Commonwealth impacted;

**WHEREAS**, the Department of Public Health continues to urge all residents of the Commonwealth to limit activities outside of the home and to practice social distancing at all times to limit the spread of this highly contagious and potentially deadly virus;

**WHEREAS**, on March 19, 2020, the Federal Cybersecurity and Infrastructure Security Agency issued guidance to assist States with identifying critical infrastructure sectors whose workers provide services and functions that are essential to maintain in order to support a strong response to the COVID-19 pandemic;

**WHEREAS**, on March 23, 2020, I issued an Order that designated COVID-19 Essential Services, temporarily closed the bricks-and-mortar premises of businesses and organizations that do not provide COVID-19 Essential Services, and prohibited gatherings of more than 10 people;

**WHEREAS**, on March 28, 2020, the Federal Cybersecurity and Infrastructure Security Agency issued updated guidance on the identification of critical infrastructure sectors during the COVID-19 Response;

**WHEREAS**, as Governor, I have identified additional services and functions that likewise are essential to promote the public health and welfare of the Commonwealth, and therefore it is imperative to ensure that workers providing critical services and functions in these State and Federally designated sectors may continue to work to ensure community resilience and continuity of response efforts; and

**WHEREAS**, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise any and all authority over persons and property necessary or expedient for meeting a state of emergency, including but not limited to authority over public assemblages in order to protect the health and safety of persons, transportation and travel by any means or mode, regulating the sale of articles of food and household articles, and policing, protection, and preservation of public and private property;

**NOW, THEREFORE**, I hereby order the following:

The provisions of the March 23, 2020 Order Assuring Continued Operation of Essential Services in the Commonwealth, Closing Certain Workplaces, and Prohibiting Gatherings of More than 10 People (“COVID-19 Order No. 13”) are hereby extended until May 4, 2020. Accordingly, all businesses and other organizations that do not provide COVID-19 Essential Services shall not re-open their bricks-and-mortar premises to workers, customers, or the public before May 4, 2020.

Gatherings of more than 10 people also remain prohibited until May 4, 2020.

Effective at 12:00 noon on April 1, 2020, Exhibit A of the previously issued COVID-19 Order No. 13 is hereby replaced with the attached, updated Exhibit A of even date with this Order to reflect the revised guidance of the Federal Cybersecurity and Infrastructure Security Agency and the additional services and functions that I, as Governor, have identified as essential to promote the public health and welfare of the Commonwealth.

The Commissioner of Public Health shall continue to issue guidance as necessary and subject to my approval to implement the terms of COVID-19 Order No. 13.

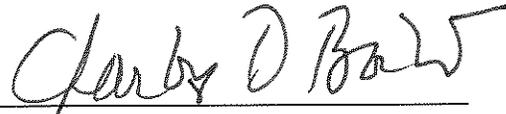
The Massachusetts Department of Transportation, in consultation with the Division of Capital and Asset Management and Maintenance, shall issue guidance and enforcement procedures for the safe operation of public works construction sites, consistent with the terms of Exhibit A of COVID-19 Order No. 13.

The Department of Public Health, along with any board of health or authorized agent pursuant to G. L. c. 111, § 30, shall continue to enforce the terms of COVID-19 Order No. 13 and implementing guidance issued under the authority of that Order as here amended.

In addition, I renew my directive to the Commissioner of Public Health to act under the authority of G. L. c. 17, § 2A and G. L. c. 111, § 6 or any other appropriate authority to supplement the terms of COVID-19 Order No. 13 in the event she determines additional measures are required to ensure that its terms are observed.

This Order is effective immediately and shall remain in effect until May 4, 2020 unless further extended.

Given in Boston at 1:35 PM this 31st day  
of March, two thousand and twenty

A handwritten signature in black ink, appearing to read "Charles D. Baker", written over a horizontal line.

CHARLES D. BAKER  
GOVERNOR

Commonwealth of Massachusetts

# **EXHIBIT E**

# Mass. 2020 Primary: What To Know About Voting By Mail Or At The Polls

Wilder FlemingTwitter Lisa CreamerTwitter

There are now more ways to cast a ballot in Massachusetts than ever before.

Thanks to a new voting law spurred by the coronavirus pandemic, voters in the 2020 state primary and the November general election may now vote by mail. Earlier this month, the office of Secretary of State Bill Galvin began sending out ballot applications for voters seeking to vote by mail.

Story continues below

## Most Viewed Stories

Get the editor's can't miss stories of the week, and tips for navigating life – and weekends – during the coronavirus outbreak. [Sign up now.](#)

In another first for Massachusetts voters, early voting will also be allowed for the primary election — not just the general election — at certain polling locations. And of course, old-fashioned in-person voting won't be stopped by the virus on either day.

“I'm very optimistic that people are going to be happy with having so many different options for how to vote,” said Sen. Barry Finegold, who led the push for the voting legislation in the state Senate. It was [signed into law](#) by Gov. Charlie Baker on July 6.

The voter access expansions only apply to the 2020 elections — for now.

“I think we're going to learn a lot,” Finegold said. “And hopefully what we learn from this election, we might include in future elections.”

Here's everything you need to know about casting your ballot in the Sept. 1 primary.

## How To Vote By Mail

Under the new law, Secretary of the Commonwealth Bill Galvin was mandated to send out ballot applications to all 4.5 million eligible registered voters in the state by July 15. (That deadline was missed due to problems related to postage costs that eventually were rectified — but the expected delayed rollout sparked a lawsuit filed before the state's highest court. Plaintiffs in that case have since filed a motion to dismiss the case, a spokeswoman for Galvin's office said.)

As of Wednesday, July 22, Galvin's office said it had sent out all vote-by-mail ballot applications. A spokeswoman noted that all registered voters should have received their ballot applications by Friday, July 24.

## Requesting A Vote-By-Mail Ballot

Registered voters must ensure that completed applications reach their local election offices by no later than Aug. 26 — via post or drop-off. A postmarked date won't count if it arrives later. And, Galvin's office notes

that because mail can "take up to a week to be delivered in one direction," voters should really plan to apply for a ballot with a two- to three-week buffer. (Here's how to [locate the address](#) of your local election office.)

Voters can also download and print their own [vote-by-mail application here](#). Technically, voters also can [request a ballot](#) on a plain piece of paper, Galvin said, as long as it contains the right information.

"Any written request, so long as it has a signature on it — it can be an electronic signature, but we need a signature — with the address of the voter, where they reside and where they're registered from [will work]," Galvin said. "And if it's to be sent to a location other than where they reside, they'll need to provide that as well. ... And if they're an independent [unenrolled voter], they'll need to select a party ballot."

If you didn't get a ballot application, it is likely because you haven't yet registered to vote. You can [check your voter registration here](#). You can register [online](#), by [mail](#) or at your city or town hall. The registration deadline for the 2020 primary is Aug. 22.

Once your registration is squared away, you can again write to request a vote-by-mail ballot application or print it, or, if you're more of a phone person, you can ask for an application by calling 1-800-462-VOTE (8683).

### **Unenrolled? Select A Party**

Unenrolled — or what many refer to as "independent" -- voters must check a box on the vote-by-mail applications indicating whether they want a Democratic or Republican primary ballot. It's essentially the same process at the polls; voters can only cast ballots in one party's primary.

### **Delivering Your Mail-In Ballot**

Once your application is approved, the state will mail an election ballot to your address. You then must get that ballot to local election officials by no later than 8 p.m. on Sept. 1.

When you get your ballot in the mail, it will come with an envelope to send it back, postage prepaid by the government. Mailed primary ballots received after Sept. 1 will *not* be counted.

"They have to be received by the day of the election. It's no good simply postmarking the date of the election," Galvin told WBUR. "For the election in November, there's a little more time because we have to keep the books open for military and overseas ballots."

Mail-in ballots must be returned by mail or in person to your local election office to be counted. (Some cities or towns may also provide designated municipal drop boxes for submitting completed mail-in ballots.) Election offices include city or town clerks and local election commissions; find yours [here](#).

### **Tracking Your Vote-By-Mail Ballot**

Voters who send in their vote-by-mail ballots can use the state's portal to [track their ballots here](#). For the most up to date information on the status of your ballot application, [call your local election office](#).

Some final thoughts on this: Say you change your mind about voting by mail after you've already requested a ballot. You decide you want to vote at the polls instead, or you realize your mailed ballot won't make it to election officials by Sept. 1. As long as election officials do not confirm that they received your mailed ballot, like traditional absentee ballots, you can still vote in-person on Election Day or vote early. You also can try to vote in person after sending in a mailed ballot if, for whatever reason, your mailed ballot is rejected.

Just keep in mind that if your election office accepted your ballot, you cannot vote again.

## Voting Early, In Person

Early in-person voting for the state primary runs from Saturday, Aug. 22, until Friday, Aug. 28.

On these dates, voters can visit specific local polling stations in person to cast their ballots. The [state's website states](#) that a list of early voting dates, times and locations for each community will be posted at least one week before early voting begins.

"Once you've voted early, that's it. You can't change your mind and vote again," Galvin said. "So if you have any indecision about who you're voting for ... then you probably shouldn't vote by mail. If you're going to wait for the last debate in the case of a race for any office, you shouldn't vote by mail."

## Voting In Person, On Election Day

Finally, voters may still cast their primary ballots at the polls on Election Day, Sept. 1. Here's how to identify [your local polling station](#).

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**Questions?** *If you have questions about voting in the state primary, please email WBUR's Lisa Creamer at [acreamer@bu.edu](mailto:acreamer@bu.edu), or WBUR's Wilder Fleming at [wilderf@bu.edu](mailto:wilderf@bu.edu).*

**Correction:** *A previous version of this article misstated the types of locations accepting completed vote-by-mail primary ballots. This story has been updated. We regret the error.*

# **EXHIBIT F**



← Tweet



 **Donald J. Trump**   
@realDonaldTrump

With Universal Mail-In Voting (not Absentee Voting, which is good), 2020 will be the most INACCURATE & FRAUDULENT Election in history. It will be a great embarrassment to the USA. Delay the Election until people can properly, securely and safely vote???

7:46 AM · Jul 30, 2020 · Twitter for iPhone

133.5K Retweets and comments 244.2K Likes



 **Andrea Junker** @Strandjunker · Jul 30  
Replying to @realDonaldTrump  
What the actual fuck is wrong with you?  
565 1K 26.9K

 **GeorginaPond** @georginapond1 · Jul 30

16 37 279

 **Parry Headrick** @pheadrick · Jul 30  
Replying to @realDonaldTrump  
Donald John Trump is a clear and present danger to the U.S. and the world.  
He must be removed.  
257 154 3.5K

 **Alyssa** @Alyssa\_R0see · Jul 30  
Care to elaborate on that?  
15 2 19  
[1 more reply](#)

 **Rick** @VoteBlueNov3rd · Jul 30  
Replying to @realDonaldTrump  
Mail-in and absentee voting are exactly the same thing  
125 34 1.6K

 **Myles McKeagan** @hibbidybibbidy · Aug 3  
They absolutely are not the same. You have to provide ID to get an absentee ballot. No where even close!

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 **Donald J. Trump**   
@realDonaldTrump [Follow](#)  
45th President of the United States of America

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**Democratic National Convention: A 'Roll Call Across America' takes place**

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**The Drake** @if\_you\_see\_kaye · Jul 30

Replying to @realDonaldTrump

I'm an American in Canada that votes by mail. Each ballot has a bar code. The ballot is also checked against my signature and with voter registration. It can't be used but once. Their scare tactics are just that. They don't want you voting.

#VoteByMail2020  
#VoterSupression

27 99 724

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**Christopher Zullo** @ChrisJZullo · Jul 30

Replying to @realDonaldTrump

Voter fraud is a Republican tactic to pass laws that restrict voting rights. There are more deaths by lawnmowers than prosecuted cases of fraud. Voting by mail is perfectly good enough for Donald Trump and his family, but not the American people. Fight COVID. Vote by mail!

68 289 1.9K



**Mrs. Krassenstein** @HKrassenstein · Jul 30

Replying to @realDonaldTrump

Absentee Ballots are the exact same thing as Mail-in ballots. The only difference is that Absentee Ballots are Mail-in Ballots in states that also allow people to vote in person. That's the only difference.

732 2.8K 29.2K



**Mrs. Krassenstein** @HKrassenstein · Jul 30

In order to get a Mail-in Ballot, you still must request one, just like you do to get an Absentee Ballot. It's called registering to vote. In Absentee Ballot states, when you register, you can select "mail-in". In Mail-in states, everyone selects "mail-in". There is no difference

416 1.6K 15.9K

[2 more replies](#)

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# **EXHIBIT G**

# President Trump, lagging in the polls, floats idea of delaying election - The Boston Globe

*Yvonne Abraham*

Trump does not have the constitutional authority to make such a decision. Though the administration of elections is largely left to state and local governments, the date of the general election is spelled out in federal statutes. And Article II of the US Constitution explicitly gives Congress authority to set the date of the election.

Get Today in Politics in your inbox A digest of the top political stories from the Globe, sent to your inbox Monday-Friday.

There is also no evidence that mail-in voting is vulnerable to fraud. Even prior to the pandemic, five states, including heavily Republican Utah, implemented universal mail in voting. But Trump has called remote voting options the “biggest risk” to his reelection and his campaign and the Republican Party have sued to combat the practice, which was once a significant advantage for the GOP.

Despite a lack of evidence of fraud, Trump has used mail in voting to cast doubt on the legitimacy of the election. He refused in an interview just weeks ago with Fox News to commit to accept the results of the upcoming White House election, recalling a similar threat he made weeks before the 2016 vote.

“I have to see. Look ... I have to see,” Trump told moderator Chris Wallace during a wide-ranging interview on “Fox News Sunday.” “No, I’m not going to just say ‘yes.’ I’m not going to say ‘no,’ and I didn’t last time, either.”

Massachusetts Secretary of State William F. Galvin, the state’s top elections official, told the Globe he’s less concerned with Trump’s “bogus” attempts to sow doubts about the election than he is about his administration making more subtle moves to “create problems around it.”

“The question is [whether] he’s going to interfere with any of the activities with vote by mail,” the Brighton Democrat said, noting the recent elevation of a [major Trump and GOP donor to postmaster general](#).

Galvin also pointed to Trump’s efforts to reshape the Census — including by pushing to [exclude undocumented immigrants](#) from being counted or asking for extra funding to complete it “[as quickly](#)” as possible — as evidence of the president’s attempt to reshape long-held democratic processes.

“He’s doing these sort of sneaky little things,” Galvin said. “I am more concerned about that kind of nibbling at the process than I am about an outright effort to prevent the election. . . . It’s clear that he’ll do anything he can to discourage participation, to create a false issue.”

In his tweet, Trump also sought to draw a distinction between “universal” mail-in voting and absentee voting, which he said “is good” and is also a process Trump

himself has used.

But the expansion of voting by mail, including a law [passed in Massachusetts](#), simply allows more voters to vote absentee, albeit without needing one of the previous required excuses.

“There’s no difference. It’s the same process,” Galvin said. He added: “The election will be held. The things [Trump] says, there’s no point wasting energy on being outraged.”

Trump’s comments were met with a fierce and swift blowback from both parties Thursday. Attorney General Maura Healey dismissed Trump’s criticisms of voting by mail, writing in a message on Twitter that “our elections will be safe, fair, and on time —because state [attorneys general] will fight for them.”

“We knew this was coming,” Healey said of Trump’s comments. “This man clings to power.”

Senate Majority Leader Mitch McConnell also immediately dismissed the idea in a television interview Thursday.

“Never in the history of the country, through wars, depressions, and the Civil War have we ever not had a federally scheduled election on time, and we’ll find a way to do that again this November 3,” [McConnell said](#). “We’ll cope with whatever the situation is and have the election on November 3 as already scheduled.”

Governor Charlie Baker told reporters during a press briefing that he didn’t support delaying the presidential election.

“We’ve had elections in the midst of world wars,” Baker said. “We’ve had elections in the midst of civil war. We’ve had elections many times in this country during terrible, awful circumstances.”

Baker said “there’s no reason why this one can’t happen when it’s supposed to happen.”

Senator Edward J. Markey and Representative Joseph P. Kennedy, running in the Senate Democratic primary, each condemned Trump on Twitter.

“We cannot and will not let this authoritarian criminal delay our election, undermine our democracy, and silence the American people,” Markey said in a tweet.

“Donald Trump is a threat to Democracy,” Kennedy wrote.

Trump’s tweet came just minutes after a report from the federal government found that the US economy had shrunk at a 33 percent annual rate in the second quarter, shattering previous records. A Thursday report from the Department of Labor also showed more than one million newly unemployed Americans are still filing initial claims for unemployment insurance each week as coronavirus-related shutdowns continue to hammer the job market.

Trump has trailed as much as 15 points behind Biden in recent national polls, a trend that accelerated as the US saw a resurgence of the coronavirus pandemic. In one poll, respondents said they trust Biden over Trump to handle the pandemic [by more than 20 points](#).

*Material from the Associated Press was used in this report. Travis Andersen of the Globe staff contributed.*

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# **EXHIBIT H**

# Trump says he opposes funding USPS because of mail-in voting

By [Ellie Kaufman](#) , [Marshall Cohen](#) , [Jason Hoffman](#) and [Nicky Robertson](#), CNN

Updated 7:35 PM ET, Thu August 13, 2020

**(CNN)** — President Donald Trump said Thursday that he opposes much-needed funding for the United States Postal Service because he doesn't want to see it used for mail-in voting this November.

By directly linking USPS funding to mail-in voting, Trump is fueling allegations that he is trying to manipulate the postal system for political gain. The pandemic has led to record-shattering levels of voting-by-mail, but Trump has tried to restrict the voting method because he says it will hurt his re-election and Republicans across the board.

During an interview on Fox News, Trump said that if USPS does not receive the additional \$25 billion funding request that Democrats included in the ongoing stimulus negotiations, then he believes the Post Office won't be able to handle the influx of mail-in ballots in the upcoming election.

"They want three and a half billion dollars for something that'll turn out to be fraudulent, that's election money basically. They want three and a half billion dollars for the mail-in votes. Universal mail-in ballots. They want \$25 billion, billion, for the Post Office. Now they need that money in order to make the Post Office work so it can take all of these millions and millions of ballots," Trump said, repeating his false claims that mail-in voting would be "fraudulent."

"But if they don't get those two items that means you can't have universal mail-in voting because you they're not equipped to have it," Trump added.

Trump has criticized mail-in voting for months, baselessly asserting that it will lead to voter fraud.

[There is not widespread voter fraud](#) in US elections, and nonpartisan experts say neither party automatically benefits when states expand access to mail-in voting.

House Speaker Nancy Pelosi responded to Trump's claims during an interview on MSNBC, saying the \$25 billion for USPS was proposed by the agency's Board of Governors, not Democrats.

"In the legislation we have \$25 billion, that is the number that is recommended by the Board of Governors of the US postal service," Pelosi said in the interview, also noting that "a bipartisan Board of Governors, 100% appointed by Donald Trump, they recommended \$25 billion dollars."

Pelosi added that in previous congressional bills on the coronavirus, "the President has stood in the way of any money for the postal service."

Presumptive Democratic presidential nominee Joe Biden's campaign called Trump's comments an "assault on our democracy," in a statement.

"The President of the United States is sabotaging a basic service that hundreds of millions of people rely upon, cutting a critical lifeline for rural economies and for delivery of medicines, because he wants to deprive

Americans of their fundamental right to vote safely during the most catastrophic public health crisis in over 100 years," Biden campaign spokesman Andrew Bates said in a statement.

Colorado Secretary of State Jena Griswold, a Democrat, said in a tweet that Trump's comments are "voter suppression, plain and simple."

The President had previously stated that USPS would not have the ability to handle the increase in mail-in votes that will be sent in this year due to the coronavirus pandemic, a claim the Postal Service has rebuffed.

"The Postal Service has ample capacity to adjust our nationwide processing and delivery network to meet projected Election and Political Mail volume, including any additional volume that may result as a response to the Covid-19 pandemic," the agency said in a statement.

David Becker, executive director of the nonpartisan Center for Election Innovation and Research, said Trump's attacks on USPS hurt voters, including many of his own supporters who vote-by-mail.

"He's openly encouraging his voters to use that, but he's hurting those same voters by opposing bipartisan efforts to provide enough funding to ensure all voters in those states, including his own, can vote by mail without problems," Becker said.

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# EXHIBIT I

# In new letter, USPS chief acknowledges 'unintended consequences' of recent policy changes



By [Kristen Holmes](#) and [Veronica Stracqualursi](#), CNN

Updated 9:43 AM ET, Fri August 14, 2020



**Postal worker says USPS not providing same service since Trump appointee 02:57**

**(CNN)** — Postmaster General Louis DeJoy acknowledged to United States Postal Service employees this week that recent procedural changes have had "unintended consequences," but described them as necessary.

"Unfortunately, this transformative initiative has had unintended consequences that impacted our overall service levels," DeJoy wrote in a memo sent this week and obtained by CNN.

"However, recent changes are not the only contributing factors. Over the years we have grown undisciplined in our mail and package processing schedules, causing an increase in delayed mail between processing facilities and delivery units."

As he faces [mounting criticism](#) for changes that have slowed delivery and capacity ahead of the November election, DeJoy also claimed in the letter the policy moves would increase "performance for the election and upcoming peak season and maintain the high level of public trust we have earned for dedication and commitment to our customers throughout our history."

The Postmaster General, who started in June, also addressed the [new postal service restructuring](#), calling it a "strategic plan to achieve operation excellence and financial stability."

DeJoy described the financial situation of USPS as "dire" due to declines in mail volume and the coronavirus pandemic.

Despite Democrats' attempts to get billions in stimulus funding for USPS, DeJoy said the agency's "critics are quick to point to our finance, yet they offer no solutions."

The USPS' new procedural changes were laid out in a [July memo](#) and include staff hours being cut. [CNN also obtained documents](#) that indicate plans to remove hundreds of high-volume mail-processing machines from facilities across the country.

The cost cutting measures have led to delays across the country in mail delivery and [raised concerns](#) about the potential impact on mail-in voting in the November election, which is expected to increase as the country grapples with the Covid-19 pandemic.

Democratic lawmakers [last week called](#) on the Postal Service inspector general to investigate the operational changes at the agency. They accused the Trump administration of "deliberate sabotage to disrupt mail service" and DeJoy, a major Republican donor and Trump ally, of partisanship.

President Donald Trump has repeatedly alleged, [without proof, that vote by mail](#) is ripe for fraud and would cost him and other Republican candidates votes, though there is no evidence of widespread vote fraud and experts say neither party automatically benefits from expanding mail-in voting.

DeJoy [said last week](#) that the US Postal Service is "not slowing down election mail or any other mail" and has "ample capacity to deliver all election mail securely and on time."

He also said that while he shares a "good relationship" with Trump, "the notion that I would ever make decisions concerning the Postal Service at the direction of the President or anyone else in the administration is wholly off-base."

*CNN's Jessica Dean, Caroline Kelly, Jeremy Herb and Zachary B. Wolf contributed to this report.*

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# **EXHIBIT J**

# Postal Service memos detail 'difficult' changes, including slower mail delivery

By Jacob Bogage [close](#) [Jacob Bogage](#) [Business reporter](#) [Email](#) [Email](#) [Bio](#) [Bio](#) [Follow](#) [Follow](#)

The new head of the U.S. Postal Service established major operational changes Monday that could slow down mail delivery, warning employees the agency would not survive unless it made “difficult” changes to cut costs. But critics say such a philosophical sea change would sacrifice operational efficiency and cede its competitive edge to UPS, FedEx and other private-sector rivals.

Postmaster General Louis DeJoy told employees to leave mail behind at distribution centers if it delayed letter carriers from their routes, according to internal USPS documents obtained by The Washington Post and verified by the American Postal Workers Union and three people with knowledge of their contents, but who spoke on the condition of anonymity to avoid retribution.

“If the plants run late, they will keep the mail for the next day,” according to a document titled, “New PMG’s [Postmaster General’s] expectations and plan.” Traditionally, postal workers are trained not to leave letters behind and to make multiple delivery trips to ensure timely distribution of letters and parcels.

The memo cited U.S. Steel, a onetime industry titan that was slow to adapt to market changes, to illustrate what is at stake. “In 1975 they were the largest company in the world,” the memo states. “They are gone.” (U.S. Steel is a \$1.7 billion company with 27,500 employees.)

Analysts say the documents present a stark reimagining of the USPS that could chase away customers — especially if the White House gets the steep package rate increases it wants — and put the already beleaguered agency in deeper financial peril as private-sector competitors embark on hiring sprees to build out their own delivery networks.

Congress authorized the USPS to borrow an additional \$10 billion from the Treasury Department for emergency operations in an early [coronavirus](#) relief bill. But postal leaders have yet to access the money over disagreements with Treasury Secretary Steven Mnuchin, who attached terms on the loan that would turn over operations of much of the Postal Service to his department.

The Postal Service’s governing board [appointed DeJoy](#), a major Trump donor and seasoned logistics executive, in the middle of that back-and-forth.

Steep drop-offs in first-class and marketing mail, the Postal Service’s most profitable items, have exacerbated the USPS’s cash crisis; postal leaders predicted at the start of the pandemic that their [agency would be insolvent by October](#) without congressional intervention. Single-piece, first-class mail volume fell 15 to 20 percent week to week in April and May, agency leaders told lawmakers last month. Marketing mail, the hardest-hit segment, tumbled 30 to 50 percent week to week during the same period.

Skyrocketing package volume, up 60 to 80 percent in May as the coronavirus pandemic made consumers more reliant on delivery services, has [propped up the Postal Service's finances](#) and staved off immediate financial calamity. But the packages also have intensified the USPS's competition with Amazon, FedEx and UPS, industry leaders looking to capitalize on enduring changes in consumer habits brought on by shelter-in-place orders. (Amazon founder and chief executive Jeff Bezos owns The Washington Post.)

The Trump administration has consolidated control over the Postal Service, traditionally an apolitical institution, during the pandemic by making a financial lifeline for the nation's mail service contingent upon the White House political agenda. President Trump in April called the agency ["a joke"](#) and demanded it quadruple package rates before he'd authorize any emergency aid or loans.

The Postal Service's future needs to be as a low-cost package carrier, industry analysts contend, as parcels make up a growing portion of the agency's volume and profits, and paper mail volumes continue to decline as coupons and bills increasingly move online. Postal leaders project the agency could run out of money between March and October 2021.

"If this is true, it would be a real concern to customers if service were slowed, especially in light of the fact that the Postal Service may get more rate authority, meaning higher rates, later this year or early next year," said Art Sackler, manager of the Coalition for a 21st Century Postal Service, an industry group whose members include Amazon, eBay and other commercial mailers.

"This is framing the U.S. Postal Service, a 245-year-old government agency, and comparing it to its competitors that could conceivably go bankrupt," said Philip Rubio, a professor of history at North Carolina A&T State University and a former postal worker. "Comparing it to U.S. Steel says exactly that 'We are a business, not service.' That's troubling."

The changes also worry vote-by-mail advocates, who insist that any policy that slows delivery could imperil access to mailed and absentee ballots. It reinforces the need, they say, for Congress to provide the agency emergency coronavirus funding.

"Attacks on USPS not only threaten our economy and the jobs of 600,000 workers. With our states now reliant on mail voting to continue elections during the pandemic, the destabilizing of the post office is a direct attack on American democracy itself," said Rep. Bill Pascrell Jr. (D-N.J.). "It has been 59 days since the House passed \$25 billion to keep USPS alive. The Senate must pass it now. Democracy hangs in the balance."

The Postal Service said in a statement that it was "developing a business plan to ensure that we will be financially stable and able to continue to provide reliable, affordable, safe and secure delivery of mail, packages and other communications to all Americans as a vital part of the nation's critical infrastructure."

It said the plan was not finalized, but would include "new and creative ways for us to fulfill our mission, and we will focus immediately on efficiency and items that we can control, including adherence to the effective operating plans that we have developed."

But the documents circulated Monday on shop floors around the country called for specific changes in the way postal workers will do their jobs.

“Every single employee will receive this information, no matter what job they perform, so remember that YOU are an integral part of the success we will have — again, by working together,” the second document states.

“The shifts are simple, but they will be challenging, as we seek to change our culture and move away from past practices previously used,” it adds.

The first memo says the agency will prohibit overtime and strictly curtail the use of other measures local postmasters use to ameliorate staffing shortages.

Even a common method for mail delivery — “park points,” in which letter carriers park their mail trucks at the end of a street, deliver mail items by foot for several blocks, then return to the trucks and drive on — is under scrutiny. The document bans carriers from taking more than four “park points” on their routes and claims “park points are abused, not cost effective and taken advantage of.”

“It’s like a riot act,” Rubio said.

“Overtime is being used because people need their packages in this pandemic,” said Mark Dimondstein, president of the American Postal Workers Union, which represents 200,000 USPS employees. “They need their mail in this pandemic. They need their medicines in this pandemic. They need their census forms. They need ballot information.”

[The second memo](#) says the Postal Service will first look to cut its transportation costs, and estimates that late and extra trips cost the agency \$200 million annually in “added expenses,” or about the same amount the agency lost in May. The memo warns postal workers that it may be “difficult” to “see mail left behind or mail on the workroom floor,” but that the agency “will address root causes of these delays and adjust the very next day.”

Postal union leaders condemned the measures and said customer service is being sacrificed for only meager cost savings.

“I would tell our members that this is not something that as postal workers we should accept,” Dimondstein said. “It’s not something that the union you belong to is going to accept.”

# **EXHIBIT K**

## Massachusetts postal workers union chief on mail delays: 'It's frustrating to watch'

The U.S. Postal Service has stopped giving overtime, cut staff and won't fill shifts as mail piles up in post offices, a leader of a Massachusetts postal workers union told the Herald on Sunday.

"They've just kind of slowed everything down," said John Flattery, president of the American Postal Workers Union, Central Massachusetts Area chapter Local 4553.

"It's just being purposely delayed, and it's frustrating to watch," he said. "It's scaring the hell out of a lot of people in the Post Office."

These delays come ahead of the September primary election and November general election, when mail-in voting will be at an all-time high because of the coronavirus pandemic.

In the last month, Flattery said he's receiving calls every day from his union members about different issues after the new USPS leader came on board.

Louis DeJoy, the new postmaster general who previously donated millions of dollars to the Trump campaign, directed the changes.

"They've stopped giving overtime," Flattery said. "If a carrier calls in sick, they won't cover the route. They've cut staff at offices."

These changes have all led to mail getting delayed and piling up, he said.

When asked if he's confident the postal service can handle its role in the fall elections, Flattery said, "If they would let us do our job, then no problem at all. ... We just feel like a pawn with mail-in voting right now."

The USPS [has warned Massachusetts officials](#) that there is "significant risk" that some mail-in ballots this fall won't end up counted even if they're sent in in time under state law.

USPS spokesman Steve Doherty said in a statement about the warning, "Some states have reported Election Mail volumes that are 10 times higher than any previous year. The Postal Service is well prepared and has ample capacity to deliver America's election mail. However, the increases in volume and the effect of when volumes were mailed in the primary elections presented a need to ensure the Postal Service's recommendations were reemphasized to elections officials."

For decades, the USPS has been the most trusted federal agency, Flattery said, citing the Pew Research Center.

He added, "Don't destroy the postal service. We're one of the federal agencies that does what it's actually supposed to do."

*Reporter Sean Philip Cotter contributed to this report.*

# **EXHIBIT L**

## **‘Grave Concerns’: Mass. Politicians React to US Postal Service Cuts in Boston, Brockton**

The United States Postal Service plans to get rid of hundreds of pieces of letter-sorting equipment at facilities across the country, including two in Massachusetts, and [has also warned the state that it may not be able to return mail-in ballots in time to be counted for the presidential election](#), according to an internal Postal Service document and a letter obtained by NBC News.

The document, which was created in May, lists the agency’s processing and distribution centers in both Boston and Brockton as being slated for cuts.

In addition, a letter sent by the Postal Service’s top attorney to Massachusetts Secretary of State William Galvin on July 30 warned that there is a “significant risk,” that the agency might not be able to return mail-in ballots in time to be counted.

### **More on the U.S.P.S. and Mail-in Voting**



Democratic members of the Massachusetts congressional delegation said Friday that the cuts to the Postal Service threaten the election.

“I think that there is a conspiracy between Donald Trump and the postmaster general, Louis DeJoy, to steal this election,” said Sen. Ed Markey.

Congressman Joe Kennedy III, who is vying to replace Sen. Markey, echoed those concerns.

“I’ve got grave concerns as to what the intent and the effect behind this decision is,” he said.

In a statement to NBC10 Boston, the Postal Service said: “The Postal Service routinely moves equipment around its network as necessary to match changing mail and package volumes. Package volume is up, but mail volume continues to decline.”

President Trump, who has opposed billions of dollars in additional funding for the cash-strapped agency, has said he fears that mail-in voting could lead to voter fraud, something experts noted is extremely rare.

The president, however, indicated on Friday that he would agree to additional funding for the Postal Service if

Democrats give him an acceptable coronavirus relief bill to sign.

## United States Postal Service and the Election



# **EXHIBIT M**

# New Concerns in Mass. After Photo Shows US Postal Service Drop Boxes on Back of Truck

A photo snapped Friday and posted on Twitter the same day showing three United States Postal Service drop boxes on the back of a truck in Brighton sparked concerns as the agency charged with delivering mail-in ballots again found itself thrust into the center of a presidential election controversy.

The photo was taken near the Brighton post office on Washington Street the same day [a letter from July surfaced in which the Postal Service's top attorney, Thomas Marshall, warned 46 states, including Massachusetts, that there's a "significant risk," that mail-in ballots may "not be returned in time to be counted."](#)

Rhode Island was the only New England state that didn't receive a letter.

That letter came on the heels of [another revelation that the agency planned to get rid of hundreds of pieces of letter-sorting equipment at several of its facilities nationwide, including one in Boston and another in Brockton.](#)

2:30

Mail-in Voting Concerns in Massachusetts

Democratic members of the Massachusetts congressional delegation said Friday that the cuts to the Postal Service threaten the election.

**More on Concerns About the U.S.P.S. in Massachusetts**



President Donald Trump initially opposed billions of dollars in emergency funding for the cash-strapped agency to help it handle mail-in ballots, but he suggested Friday that he would agree to additional funding if Democrats sent him an acceptable coronavirus relief bill to sign.

“We have a constitutional crisis here, and it has come upon us in the eleventh hour,” said Rep. Stephen Lynch, a Democrat who represents Massachusetts’ 8th congressional district. “We have asked the postmaster general to come before our committee, but we’re also considering legal action.”

The Postal Service couldn’t be reached for comment Saturday, but it has said in the past that it routinely removes underused drop

boxes.

The postmaster general, Louis DeJoy, a Republican donor who was appointed by President Trump in May, is scheduled to testify before a congressional committee on Sept. 17.

### United States Postal Service and the Election



# **EXHIBIT N**

**From:** Michelle Pizzi O'Brien <[mpizziobrien@newtonma.gov](mailto:mpizziobrien@newtonma.gov)>

**Sent:** Tuesday, August 18, 2020 4:30:50 PM

**To:** Michelle Pizzi O'Brien <[mpizziobrien@newtonma.gov](mailto:mpizziobrien@newtonma.gov)>

**Subject:** City Clerk's Office

Dear Newton Staff,

The City Clerk's Office is in need of your help.

Secretary of State William Galvin's office has mailed out nearly 4.5 million vote-by-mail ballot applications for this fall's elections. The City Clerk's Office is anticipating that due to the COVID-19 pandemic, the response and interest in mail-in voting will significantly increase. They have already received well over 10,000 responses and are expecting many more.

In order to ensure proper staffing for this very important need, and support the existing staff with what will be a challenging elections season, the City is seeking applications for candidates interested in providing temporary, hourly, paid, elections assistance.

We are asking you to spread the word to anyone you feel might make a good member of the Clerk's Office team during this extremely important election period. Provided below is a link to the online posting on the City's Employment Opportunities page (Newton Hyrell). We encourage you to make an employee referral. We are all in this together!

Thank you for your help.

Michelle

[\*Temporary Election Clerk Online Posting\*](#)

From the desk of ...

Michelle Pizzi O'Brien, M.P.A.

Director of Human Resources

City of Newton

PH: 617-796-1240

*Pronouns: she/her/hers*

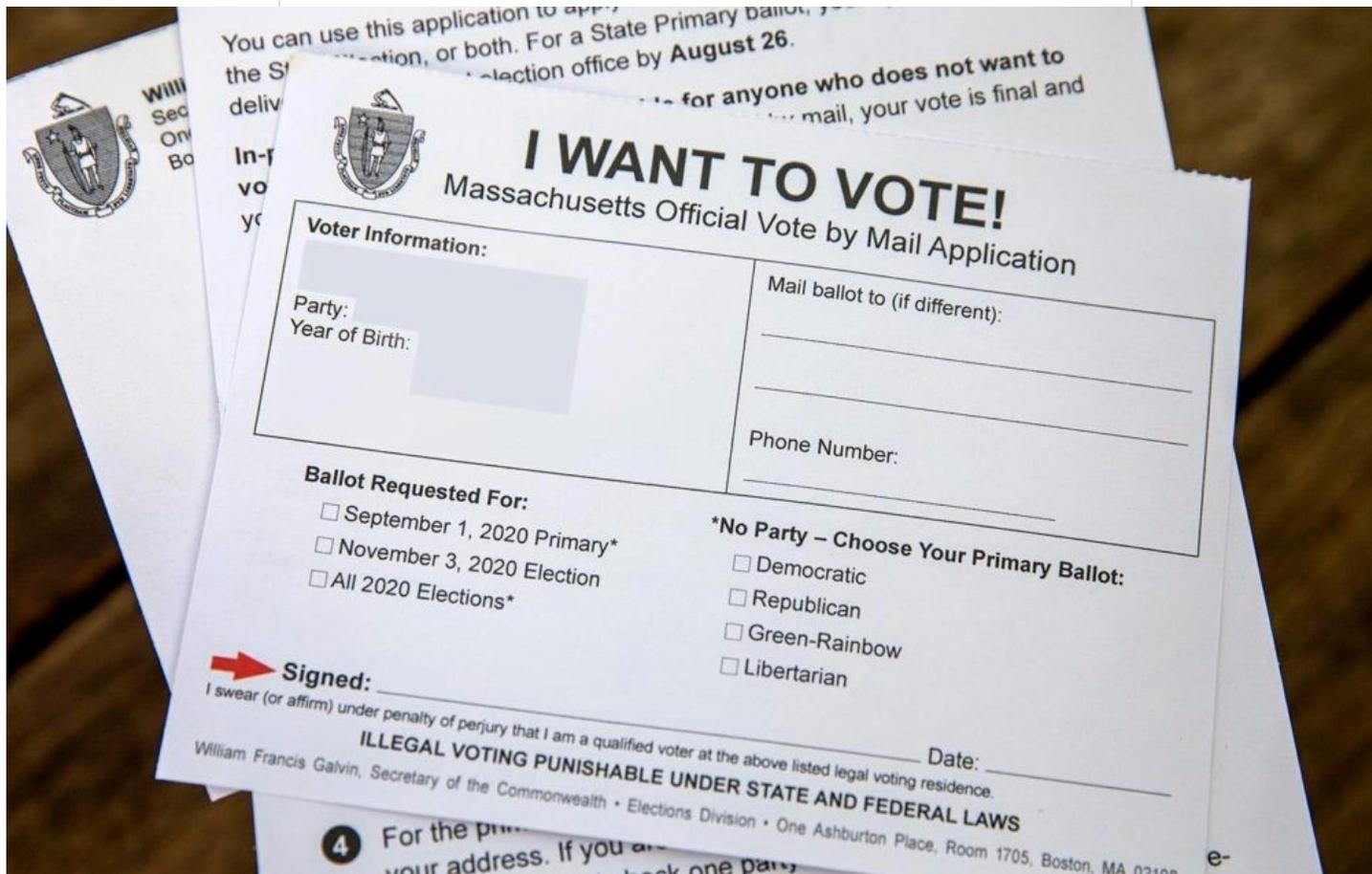
When responding, please be aware that the Massachusetts Secretary of State has determined that most email is public record and therefore cannot be kept confidential.

# EXHIBIT O

# Local Clerks Face A Deluge Of Vote-By-Mail Applications — And A Fast-Approaching Deadline

August 13, 2020

By Meg McIntyre, State House News Service



A Massachusetts vote-by-mail application. (Robin Lubbock/WBUR)

With the state primary less than a month away, city and town clerks are staring down a deadline to process an unprecedented tidal wave of mail-in ballot applications, a challenge intensified by limited local staffing and financial resources.

In July, Gov. Charlie Baker [signed an election reform bill](#) allowing all

Massachusetts voters to cast their ballots by mail without an excuse in 2020. The legislation, prompted by the COVID-19 crisis, also established in-person early voting for a state primary for the first time, and expanded early voting dates for the upcoming November election.

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*Get up to speed on the local coronavirus outbreak, Election 2020 and other news Boston is talking about. Add our daily newsletter to your morning routine. [Sign up now.](#)*

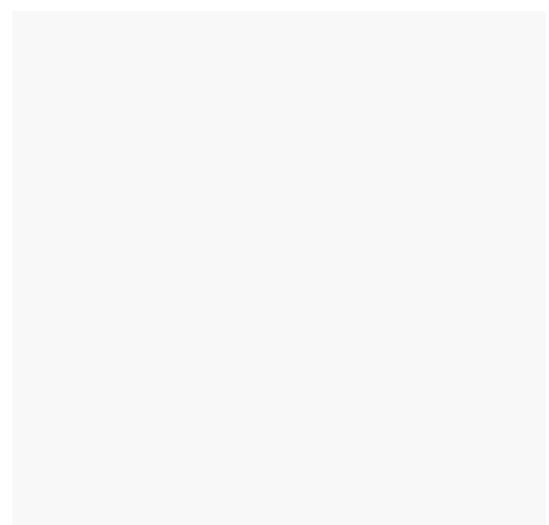
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The Secretary of State's Office was charged with sending vote-by-mail applications to all 4.5 million registered voters by July 15. But the work of processing the applications, as well as the cost for overtime pay and postage to mail the ballots out, falls to the cities and towns themselves.

"We're going to have to stay late to do this work. We're salaried, but our staff, our hourly, they're going to have to be paid for overtime. We didn't budget for any of this previously," Jayne Boissonneault, assistant town clerk in Dracut, told the News Service. "So we're going to be around the clock — we're going to be working Saturdays and Sundays."

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**Mass. 2020 Primary: What To Know About Voting By Mail Or At The Polls**

WBUR News Jul 24, 2020

Local officials say the sheer volume of ballot applications coming in — and the truncated timeline in which they must be processed — has been a significant challenge. Voters must return their applications by Aug. 26, but with a strained U.S. Postal Service seeing substantial delays, several clerks said the deadline is too late to ensure that ballots are returned to them by mail by 8 p.m. on election day as required.

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WBUR News 04:04 Aug 17, 2020

For many communities, the increase in applications has been astronomical.

In a typical election, Fall River might receive about a dozen absentee ballot applications, according to Kelly Souza-Young, chairperson of the Board of Election Commissioners. As of the first week of August, the city had already received approximately 7,000 for the Sept. 1 primary, she said. Dracut had received more than 2,000 that week, compared to a few hundred in previous primary elections, according to Boissonneault.

In Brookline, officials expect a turnout of more than 20,000, with 50 to 60 percent of voters likely casting their ballots by mail. The town was able to hire about 10 extra temporary staff to help with preparations, said Jeff Nutting, who spoke on behalf of the town clerk's office.

Other communities, such as Dracut, have tapped volunteers to help support their staff, and still others, including Fall River, are considering recruiting poll workers to help get ballots in the mail.

"Brookline has the resources, but these are tough times for municipalities, so it's a challenge," Nutting said. "But on the other hand, they're helping a

lot of people vote that might not otherwise vote."

### "That's What Clerks Do"

Though managing the vote-by-mail process is keeping them busy, clerks are also in the throes of preparing for election day and early in-person voting, which is set to take place from Aug. 22 to 28. In light of the pandemic, they're now tasked with reconfiguring precincts, creating cleaning plans and securing personal protective equipment and plexiglass shields to ensure voters' and workers' safety.

Some communities have struggled to find poll workers, as some who may be more susceptible to COVID-19 have opted not to return for this election. Barnstable County has offered up county employees to fill the gaps at the polls, according to Barnstable Town Clerk Ann Quirk, while officials in Brookline have recruited college students for the job.

Despite the increased workload, cities and towns have so far not received any additional funding from the state to cover their costs. Local clerks say that while the Secretary of State's Office has provided excellent technical support, the costs associated with this year's primary are an added pressure on communities that are already reeling from the budget implications of the coronavirus pandemic.

However, election officials are hopeful that some funding may eventually come to municipalities, as the Legislature has previously approved reimbursements for early voting costs after the Office of the State Auditor declared parts of the early voting law unfunded mandates in 2017.

According to Nancy Talbot, president of the Massachusetts Town Clerks' Association, the organization's executive board recently met with the state auditor's office to discuss the issue, and clerks across the state have been directed to track their expenses for potential reimbursements down the

road.

Spokesperson Debra O'Malley said the Secretary of State's Office is aware of the burden being placed on local clerks. The office made changes to its voter database ahead of the Sept. 1 primary in an effort to streamline the process, she said, such as a barcode system that allows staff to scan the applications to quickly pull up a voter's information.

O'Malley noted that the cost of early voting has been a concern for municipalities since it began in 2016.

"The obvious issue here is that it does require the towns to front the money," O'Malley said. "But unfortunately that is what the law requires, and the Legislature hasn't allocated any money to them for those costs as of yet."

Voters were also given the option to request a mail-in ballot for both the September and November elections at one time, which should hopefully mean fewer applications coming in ahead of the general election, she said. The office is in the process of finalizing regulations that would allow clerks to begin processing mail-in ballots before election day, with the goal of easing their workload on the day itself.

Talbot, who is the town clerk in Ware, said local clerks should be applauded for their efforts, especially in light of the unique challenges they're facing this year.

"Is it taking its toll on our physical health? Absolutely. Are we worried and anxious that we may not be able to complete the task? Absolutely. Will we come through with doing what we need to?" she said. "Yes, I believe we will, because that's what clerks do."

## Related:

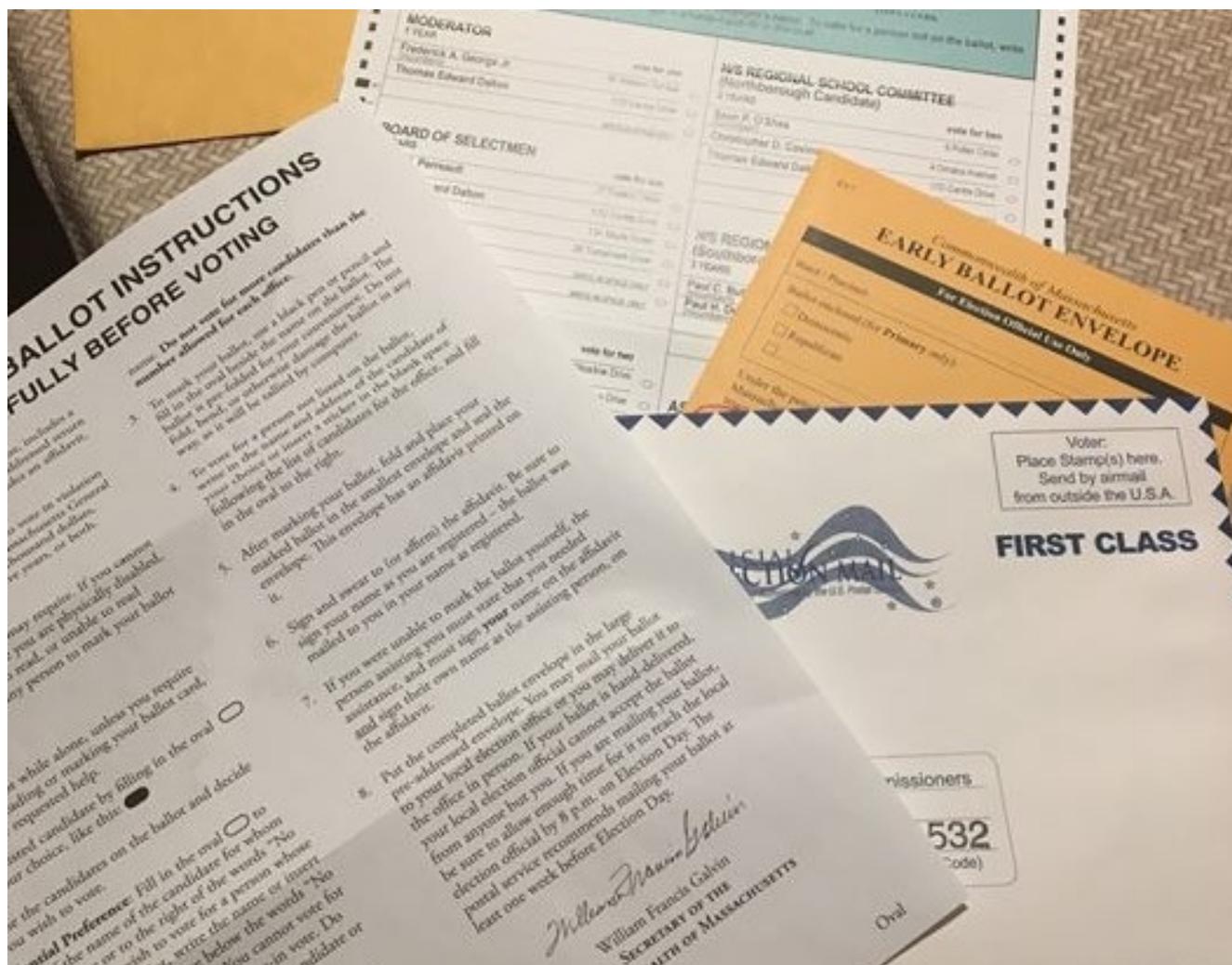
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- [Mass. 2020 Primary: What To Know About Voting By Mail Or At The Polls](#)
- [WBUR Poll: 4 In 10 Mass. Voters Plan To Cast Ballots By Mail](#)

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# **EXHIBIT P**



Packaging used by the town of Northborough to send early ballots out by mail in a 2020 town election. (Courtesy Town Clerk Andrew Dowd)

POLITICS / STATE GOVERNMENT

# Town clerks say they can't handle flood of mail-in ballots

Special elections show difficulties of voting plans considered for fall



SHIRA SCHOENBERG Jun 4, 2020

EVERYONE IS IN favor making sure all voters can cast ballots this fall, even if coronavirus

fears mean they don't necessarily do so in person at a polling place. But it's one thing to champion the cause of democracy through vote-by-mail proposals, it's another to be in charge of handling the thousands of ballots that would arrive at municipal offices under such plans in the days leading up to the election.

"I don't think I've ever in 16 years as a town clerk been as concerned about an election as I am about the November election," said Northborough Town Clerk Andy Dowd, legislative chair of the Massachusetts Town Clerks Association. "Given the volume of mail-in requests that we're likely to receive, I'm very concerned it's going to overwhelm the system as it currently works in Massachusetts."

As state policymakers consider a vast expansion of vote-by-mail for the September primary and November general election, town clerks are warning that changes need to be made to the vote-by-mail process if they have any hope of handling a deluge of mail-in ballots.

On a typical Election Day in Plymouth, the clerk drives around to each precinct delivering the two dozen or so absentee ballots that have come in late and must be tabulated.

For the May 19 special election for state Senate, Plymouth officials received 869 ballots between late Monday afternoon and Tuesday at 8 p.m. when the polls closed. Counting them took until Wednesday morning. Preliminary results Tuesday night showed the Republican candidate ahead by more than 200 votes in Plymouth, but by Wednesday, the Democrat had won the town by more than 300 votes.

"That's not a good way to run the election," said Town Clerk Lawrence Pizer.

After 28 years on the job, Pizer will retire in a few weeks, partially because he does not want to run the November election, with the state potentially still in the grip of the coronavirus pandemic. His experience running the May election, he said, "was horrible."

Today, absentee balloting is only available in state elections for specific reasons – if someone has a disability or religious conflict or is out of town. But the coronavirus pandemic is raising concerns about the safety of many people gathering in a polling place.

The Massachusetts House on Wednesday began considering a bill that would let anyone who wants to vote early by mail do so for the 2020 state primary and general election. The secretary of state would send every registered voter an application for a mail-in ballot, which voters could return to their city or town clerk. (The House adjourned abruptly due to downtown protests, with plans to continue debating the bill Thursday.) Other permutations of the bill are circulating on Beacon Hill, including one pushed by voting rights activists that would mail every voter a ballot.

The Legislature already allowed absentee voting for any COVID-19-related reason in municipal elections this year and in two state Senate special elections on May 19 and two state House special elections June 2. Those elections provide some insight into the challenges election officials will face with a larger expansion of vote-by-mail.

Final numbers are not yet available in the June 2 House elections, but local election officials reported just under 3,000 ballots cast by mail in the 37<sup>th</sup> Middlesex District and just over 550 mail-in ballots in the 3<sup>rd</sup> Bristol District, according to the secretary of state's office.

In the South Shore and Cape Cod special Senate election, the percentage of voters who voted by mail ranged from 27 percent in Kingston and Pembroke to 59 percent in Falmouth. In the second Senate race, for an open seat in Western Massachusetts, some small towns had no mail-in ballots, while more than half of Easthampton voters voted by mail as did more than 40 percent of voters in Westfield and Tolland.

Clerks say if a similarly large share of voters cast ballots by mail in a presidential election – where total turnout will be much higher — processing that volume of mail will be nearly impossible. In the 2016 presidential election, 3.38 million Bay Staters cast ballots – so if turnout is similar and 40 percent vote by mail, that would mean more than 1.3 million mail-in ballots.

Secretary of State William Galvin, the state's top election official who supports expanded mail-in voting, insists that handling such a volume of mailed ballots is feasible. Because it will be a legislative mandate, Galvin said the state will have to fund it, so city and town clerks will be reimbursed if they need to hire additional staff to mail or process ballots. "We're

exploring various options to make sure they have enough help,” Galvin said.

Galvin said overall, he thinks the municipal and special elections “went well” and added, “We’re also learning from our experiences.”

In Plymouth, Pizer said the special election saw 12 percent turnout, and officials processed 3,200 applications for mail-in ballots. Previously, the highest number of absentee ballots ever requested, in a presidential election, was 1,700. Turnout in presidential elections often approaches 80 percent.

Pizer said there were other challenges beyond the mail-in ballots. There was a lack of staffing to prepare, since only limited numbers of staff were allowed in his office. Fewer than 40 percent of usual poll workers agreed to work. Pizer did not travel between precincts on Election Day to provide oversight, due to the risk of spreading coronavirus. Pizer said Galvin’s office provided protective equipment to poll workers without guidance on how it should be used or whether to restrict polling places’ capacity.

Still, many clerks named the volume of mail-in ballots as their top challenge.

Clerks say part of the problem is that processing absentee ballot requests is a time-consuming, labor intensive process. When a voter submits an application, their name and mailing address is manually entered into the state’s voter registration database. A set of mailing labels and bar codes are printed. Packets must be assembled, with a ballot, instructions, labels, and three envelopes — one to send the packet to the voter, then the ballot is placed inside two envelopes to be returned.

“It’s a very time-consuming process that’s not at all automated unfortunately,” Dowd said.

When ballots are returned, they are kept in the envelope until Election Day, when they are fed into voting machines at each voter’s precinct, where results are tabulated after the polls close.

“The basic process has not changed in 36 years I’ve been in the office,” said Easthampton clerk Barbara LaBombard.

LaBombard said she has just two people and two computers in her office. She was able to mail out 1,100 ballots for the special Senate election. But she fears what will happen in the fall when turnout is higher. “If we get 10 times as many ballots, I don’t know what we’re going to do,” she said.

Sandwich Town Clerk Taylor White said voting by mail is “really an antiquated process.” “Our system in Massachusetts is designed for voters to show up to the polls on Election Day,” White said.

White said with 2,500 mail-in ballots in the recent Senate special election, “We were working day and night for weeks and weeks to make sure all those ballots were sent out.”

Several clerks said the labor-intensive process increases the opportunity for human errors – for example, entering the wrong zip code or not noticing that two applications are attached to one email.

Heavy reliance on mail also means ballot arrival is dependent on the US Postal Service. In Falmouth, which distributed 7,000 mail-in ballots during the recent special election, Town Clerk Michael Palmer said around 200 ballots arrived at his office on Wednesday or Thursday – too late to be counted. In total, 1,000 ballots did not get returned or got returned late. “People wait to the end, and the issue with mail is we have no control over the post office,” Palmer said.

Town clerks say there are steps state officials can take to improve the process. Applications could include voter-specific bar codes, so they could be scanned in, rather than manually entered. Ballots could also be fed into the vote-counting machine as they arrive to avoid an Election Day bottleneck.

Waltham Assistant City Clerk Joe Vizard suggested that the secretary of state’s office send out mail-in ballots, rather than local clerks. “Otherwise, we’re relying on city and town clerks to come up with 351 different ways to make sure people get these ballots,” he said.

Vizard said Waltham has never before gotten more than 2,000 ballot requests, but he

estimates he could get 14,000 during the presidential election. He worries some people will not get their ballots on time. “Clerks will come up with plans, but to turn your city and town clerks’ offices into 351 mailing houses for three weeks when we all have other challenges going on at that time, I think, is inviting a problem,” Vizard said.

Galvin said he is exploring what can be done to improve the process, but he must consider cybersecurity and feasibility. “We’re exploring anything we can do to automate or speed up the process, but we can’t compromise the security of the system,” Galvin said. He said creating a system to mail ballots from a central location is simply “not reasonable” given that the September primary is only three months away.

Tagged in: mail-in ballots/ vote-by-mail

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# EXHIBIT Q

## Mass. among states warned by Postal Service that mail-in ballots could go uncounted amid delays - The Boston Globe

The warnings come as a new postmaster general, a donor to President Trump, is slashing costs across the agency, and Trump himself has waged an extended assault on voting by mail, leveling repeated and unsubstantiated claims that it is rife for voter fraud.

Galvin, the state's top elections official, said Friday that the Postal Service's letter is, at best, "a bureaucratic action to cover themselves" should ballots arrive late.

"At worst, it's an effort to create doubt and confusion" similar to Trump's repeated attacks on voting by mail, the seven-term Democrat said. "Instead of helping, the Postal Service is adding to that.

"They're well aware that voters need to use vote by mail and that the numbers [of absentee ballots] will be much higher. They knew that. Everyone knows that," Galvin said. "There are going to be more people voting by mail in this election probably than any other presidential election in recent times. You may have to go back to World War II" to find more.

The two-page letter is similar to detailed warnings the Postal Service sent to 46 states and Washington D.C., saying that it can't guarantee all ballots cast by mail could arrive in time, the Post reported Friday. A USPS spokeswoman told the newspaper that the letters are an effort to ask "election officials and voters to realistically consider how the mail works."

A [new law](#) Governor Charlie Baker signed in July allowed every registered Massachusetts voter to cast an absentee ballot by mail amid the novel coronavirus pandemic. More than a dozen states have taken similar action to expand voting in the face of COVID-19, the [Globe has reported](#).

The letter to Massachusetts, provided to the Globe on Friday by Galvin's office, noted that voters can request a ballot as late as four business days before the Nov. 3 general election, and that a completed ballot must be postmarked by Election Day and received by local elections officials within three days after the election.

But the Postal Service said if voters wait to act close to the deadlines, they run the risk of being disenfranchised. It recommends instead that voters send in ballots at least one week before the deadline.

"There is a significant risk that, at least in certain circumstances, ballots may be requested in a manner that is consistent with your election rules and returned promptly, and yet not be returned in time to be counted," Marshall wrote.

Galvin said he and local election officials have repeatedly urged voters, should they choose to vote by mail, to return their ballots as early as possible to avoid any issues.

With the Sept. 1 primary less than 2 1/2 weeks away, and voting by mail already

underway, Galvin said he has concerns about that election, but is more worried about the November election, when there is expected to be far more people casting ballots.

Voting by mail has been the center of a partisan storm for months, driven predominantly by Trump's repeated claims that it will invite fraud. On Thursday, he [vowed to block emergency funding](#) for the Postal Service in any coronavirus relief package, saying that without it, a largely mail-in voting election would not be possible.

Trump last month went as last month to [suggest that the election should be delayed](#) until people can "properly" vote, claiming November's vote "will be the most INACCURATE & FRAUDULENT Election in history."

Congressional Democrats, including Senator Elizabeth Warren, have also [called for an investigation](#) of newly installed Postmaster General Louis DeJoy, a Trump donor, over new cost-cutting measures he's instituted that postal workers say have delayed mail delivery.

Warren's office said Friday the Postal Service Inspector General had agreed to launch a probe, including into "all recent staffing and policy changes."

Galvin, a Brighton Democrat, said he's been urging party officials, campaigns, and other advocates to consider filing lawsuits against the Trump administration, in an effort to draw out internal communications that could shed light on DeJoy's moves, including whether they are politically driven.

"Instead of wasting a lot of time to try to persuade them politically or trying to get information out of them [in hearings], the better way is to go to court. That's the only way they understand," Galvin said. "The best way to get results is to litigate."

Local election officials have said they're preparing for unprecedented demand after Galvin's office sent vote-by-mail applications to the state's 4.6 million registered voters last month under the [new law](#) designed to offer more voting options amid the coronavirus pandemic.

Galvin declined to say Friday how many ballots had been requested, saying he expects to have a firm number by Tuesday, when he's scheduled a news conference.

But there have been hiccups already. Galvin estimated that his office had "well over" 100,000 ballot applications bounce back to it because they went to voters who no longer live at their listed address — a result he said wasn't unexpected and will help his office clean up its voter rolls.

"Some of it was conspiratorial. 'Oh this is fraud,'" he said of complaints about multiple applications landing in some mailboxes, including for people who no longer lived at the address. "It's not."

In an ironic twist, Galvin said his Elections Division wasn't immediately aware of the July 30 letter from the USPS because the Postal Service addressed it to the wrong location.

It was sent to the State House, even though Galvin's elections office is located across the street in Ashburton Place.

"It wasn't efficiently sent," Galvin said.

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Matt Stout can be reached at [matt.stout@globe.com](mailto:matt.stout@globe.com). Follow him on Twitter [@mattpstout](https://twitter.com/mattpstout)

# **EXHIBIT 4**

**COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT**

Suffolk, ss.

No. SJ-2020-\_\_\_\_\_

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REBECCA GROSSMAN, BECKY GROSSMAN FOR CONGRESS,  
JONATHAN LEVENFELD, SOPHIE KRIPP, and SHIRLEY D.  
GROSSMAN, on behalf of themselves and others similarly  
situated,

PETITIONERS,

v.

WILLIAM FRANCIS GALVIN, in his Official  
Capacity as Secretary of the Commonwealth  
of Massachusetts,

RESPONDENT.

---

**AFFIDAVIT OF SHIRLEY D. GROSSMAN IN SUPPORT OF THE  
EMERGENCY PETITION FOR RELIEF**

I, Shirley D. Grossman, state the following  
based upon my own personal knowledge and belief:

1. I am 98 years old.
2. I reside in Auburndale, Massachusetts.
3. I am registered to vote in the Commonwealth  
of Massachusetts.
4. I am aware of the upcoming September 1st  
primary in Massachusetts, and I intend to cast a vote  
in the primary.

5. I am also aware that, in response to the COVID-19 pandemic, the Commonwealth of Massachusetts passed a law that requires the Secretary of the Commonwealth to provide every registered voter in the Commonwealth with the option of submitting an application to request a mail-in ballot.

6. I am concerned about voting in person due to the COVID-19 pandemic; therefore, I prefer to vote in the upcoming primary and general elections in Massachusetts by mail.

7. Accordingly, I filled out an application to request a mail-in ballot to vote in the upcoming elections ("Application"), and, on or about August 1, 2020, my Application was placed in a secure drop-box for mail-in voting located in front of Newton City Hall.

8. It has been almost two and a half weeks since my Application was placed in a secure drop-box for mail-in voting, and, to date, I still have not received my mail-in ballot.

9. It is my understanding that my primary ballot must be received by my local election official by September 1, 2020 in order for my vote to be counted

in the primary.

10. In light of the fact that I have not yet received my primary ballot and in light of recent news reports about how long it is expected to take ballots to arrive to the proper place once mailed, I am very concerned that my primary ballot will not be received by my local election official by September 1, 2020 and therefore that my vote will not be counted as a vote cast in the upcoming primary.

11. I have wanted to vote in this primary for some time, and very much still want to vote and have my vote counted. The effect of not being able to have my vote counted, through no fault of my own, is simply to deprive me, effectively, of the right to vote.

Signed under the pains and penalties of perjury  
this 18th day of August, 2020.

---

Shirley D. Grossman

# **EXHIBIT 5**

**COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT**

Suffolk, ss.

No. SJ-2020-\_\_\_\_\_

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REBECCA GROSSMAN, BECKY GROSSMAN FOR CONGRESS,  
JONATHAN LEVENFELD, SOPHIE KRIPP, and SHIRLEY D.  
GROSSMAN, on behalf of themselves and others similarly  
situated,

PETITIONERS,

v.

WILLIAM FRANCIS GALVIN, in his Official  
Capacity as Secretary of the Commonwealth  
of Massachusetts,

RESPONDENT.

---

**AFFIDAVIT OF SOPHIE KRIPP IN SUPPORT OF THE  
EMERGENCY PETITION FOR RELIEF**

I, Sophie Kripp, state the following based upon  
my own personal knowledge and belief:

1. I am over 18 years of age.
2. I reside in Franklin, Massachusetts.
3. I am registered to vote in the Commonwealth  
of Massachusetts.
4. I am aware of the upcoming September 1st  
primary in Massachusetts, and I intend to cast a vote  
in the primary.

5. I am also aware that, in response to the COVID-19 pandemic, the Commonwealth of Massachusetts passed a law that requires the Secretary of the Commonwealth to provide every registered voter in the Commonwealth with the option of submitting an application to request a mail-in ballot.

6. I am concerned about voting in person due to the COVID-19 pandemic; therefore, I prefer to vote in the upcoming primary and general elections in Massachusetts by mail.

7. Accordingly, I filled out an application to request a mail-in ballot to vote in the upcoming elections ("Application"), and, on or about the week of August 3, 2020, I placed my Application in the U.S. mail for mailing to the local election official.

8. It has been approximately a week and a half since I placed my Application in the U.S. mail, and, to date, I still have not received my mail-in ballot.

9. It is my understanding that my primary ballot must be received by my local election official by September 1, 2020 in order for my vote to be counted in the primary.

10. In light of the fact that I have not yet

received my primary ballot and in light of recent news reports about how long it is expected to take ballots to arrive to the proper place once mailed, I am very concerned that my primary ballot will not be received by my local election official by September 1, 2020 and therefore that my vote will not be counted as a vote cast in the upcoming primary.

11. I have wanted to vote in this primary for some time, and very much still want to vote and have my vote counted. The effect of not being able to have my vote counted, through no fault of my own, is simply to deprive me, effectively, of the right to vote.

Signed under the pains and penalties of perjury  
this 18th day of August, 2020.

  
A handwritten signature in cursive script that reads "Sophie Kripp".

---

Sophie Kripp

# **EXHIBIT 6**

**COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT**

Suffolk, ss.

No. SJ-2020-\_\_\_\_\_

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REBECCA GROSSMAN, BECKY GROSSMAN FOR CONGRESS,  
JONATHAN LEVENFELD, SOPHIE KRIPP, and SHIRLEY D.  
GROSSMAN, on behalf of themselves and others similarly  
situated,

PETITIONERS,

v.

WILLIAM FRANCIS GALVIN, in his Official  
Capacity as Secretary of the Commonwealth  
of Massachusetts,

RESPONDENT.

---

**AFFIDAVIT OF JONATHAN LEVENFELD IN SUPPORT OF THE  
EMERGENCY PETITION FOR RELIEF**

I, Jonathan Levenfeld, state the following based upon my own personal knowledge and belief:

1. I am over 18 years of age.
2. I reside in Cambridge, Massachusetts.
3. I am registered to vote in the Commonwealth of Massachusetts.
4. My registered voting address is 31 Follen Street, Cambridge, Massachusetts 02138 ("my Address").
5. I am aware of the upcoming September 1st

primary in Massachusetts, and I intend to cast a vote in the primary.

6. I am also aware that, in response to the COVID-19 pandemic, the Commonwealth of Massachusetts passed a law that requires the Secretary of the Commonwealth to provide every registered voter in the Commonwealth with the option of submitting an application to request a mail-in ballot.

7. I am concerned about voting in person due to the COVID-19 pandemic; therefore, I prefer to vote in the upcoming primary and general elections in Massachusetts by mail.

8. However, to date, I have not received any application to request a mail-in ballot to vote in the upcoming elections ("my Application") at my Address.

9. Inexplicably, despite the fact that I have not received my Application from the Commonwealth of Massachusetts, others who reside at the same address as I do in Cambridge, Massachusetts, including my mother and step-father, have received applications to request mail-in ballots to vote in upcoming elections.

10. It is my understanding that my primary

ballot must be received by my local election official by September 1, 2020 in order for my vote to be counted in the primary.

11. In light of the fact that I have not even received my application to request a mail-in ballot and in light of recent news reports about how long it is expected to take ballots to arrive to the proper place once mailed, I feel that I have no choice but to vote in person, which I had very much wished to avoid in light of the COVID-19 pandemic.

12. I have wanted to vote in this primary for some time, and very much still want to vote and have my vote counted. The effect of not being able to vote by mail, through no fault of my own, is simply to deprive me, effectively, of my right to vote by mail.

Signed under the pains and penalties of perjury  
this 18th day of August, 2020.

A handwritten signature in black ink that reads "Jonathan Levenfeld". The signature is written in a cursive style with a large initial 'J'.

---

Jonathan Levenfeld

# **EXHIBIT 7**

**COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT**

Suffolk, ss.

No. SJ-2020-\_\_\_\_\_

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REBECCA GROSSMAN, BECKY GROSSMAN FOR CONGRESS,  
JONATHAN LEVENFELD, SOPHIE KRIPP, and SHIRLEY D.  
GROSSMAN, on behalf of themselves and others similarly  
situated,

PETITIONERS,

v.

WILLIAM FRANCIS GALVIN, in his Official  
Capacity as Secretary of the Commonwealth  
of Massachusetts,

RESPONDENT.

---

**AFFIDAVIT OF JOEL B. SHERMAN IN SUPPORT OF THE  
EMERGENCY PETITION FOR RELIEF**

I, Joel B. Sherman, state the following based upon my own personal knowledge and belief:

1. I am over 18 years of age.
2. I reside in Cambridge, Massachusetts.
3. I am married to Marian Sue Sherman.
4. I am registered to vote in the Commonwealth of Massachusetts.
5. I am aware of the upcoming September 1st primary in Massachusetts, and I intend to cast a vote in the primary.

6. I am also aware that, in response to the COVID-19 pandemic, the Commonwealth of Massachusetts passed a law that requires the Secretary of the Commonwealth to provide every registered voter in the Commonwealth with the option of submitting an application to request a mail-in ballot.

7. I am concerned about voting in person due to the COVID-19 pandemic; therefore, I prefer to vote in the upcoming primary and general elections in Massachusetts by mail.

8. Accordingly, I filled out an application to request a mail-in ballot to vote in the upcoming elections ("Application"), and, on or about August 3, 2020, my wife, Marian Sue Sherman, placed my application in the U.S. mail for mailing to the local election official.

9. It has been over two weeks since my Application was placed in the U.S. mail, and, to date, I still have not received my mail-in ballot.

10. It is my understanding that my primary ballot must be received by my local election official by September 1, 2020 in order for my vote to be counted in the primary.

11. In light of the fact that I have not yet received my primary ballot and in light of recent news reports about how long it is expected to take ballots to arrive to the proper place once mailed, I am very concerned that my primary ballot will not be received by my local election official by September 1, 2020 and therefore that my vote will not be counted as a vote cast in the upcoming primary.

12. I have wanted to vote in this primary for some time, and very much still want to vote and have my vote counted. The effect of not being able to have my vote counted, through no fault of my own, is simply to deprive me, effectively, of the right to vote.

Signed under the pains and penalties of perjury  
this 18th day of August, 2020.

  
Joel B. Sherman

# **EXHIBIT 8**

**COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT**

Suffolk, ss.

No. SJ-2020-\_\_\_\_\_

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REBECCA GROSSMAN, BECKY GROSSMAN FOR CONGRESS,  
JONATHAN LEVENFELD, SOPHIE KRIPP, and SHIRLEY D.  
GROSSMAN, on behalf of themselves and others similarly  
situated,

PETITIONERS,

v.

WILLIAM FRANCIS GALVIN, in his Official  
Capacity as Secretary of the Commonwealth  
of Massachusetts,

RESPONDENT.

---

**AFFIDAVIT OF MARIAN SUE SHERMAN IN SUPPORT OF THE  
EMERGENCY PETITION FOR RELIEF**

I, Marian Sue Sherman, state the following  
based upon my own personal knowledge and belief:

1. I am over 18 years of age.
2. I reside in Cambridge, Massachusetts.
3. I am married to Joel B. Sherman.
4. I am registered to vote in the Commonwealth  
of Massachusetts.
5. I am aware of the upcoming September 1st  
primary in Massachusetts, and I intend to cast a vote  
in the primary.

5. I am also aware that, in response to the COVID-19 pandemic, the Commonwealth of Massachusetts passed a law that requires the Secretary of the Commonwealth to provide every registered voter in the Commonwealth with the option of submitting an application to request a mail-in ballot.

7. I am concerned about voting in person due to the COVID-19 pandemic; therefore, I prefer to vote in the upcoming primary and general elections in Massachusetts by mail.

8. Accordingly, I filled out an application to request a mail-in ballot to vote in the upcoming elections ("Application"), and, on or about August 3, 2020, I placed my Application, along with husband's application, in the U.S. mail for mailing to the local election official.

9. It has been over two weeks since I placed my Application in the U.S. mail, and, to date, I still have not received my mail-in ballot.

10. It is my understanding that my primary ballot must be received by my local election official by September 1, 2020 in order for my vote to be counted in the primary.

11. In light of the fact that I have not yet received my primary ballot and in light of recent news reports about how long it is expected to take ballots to arrive to the proper place once mailed, I am very concerned that my primary ballot will not be received by my local election official by September 1, 2020 and therefore that my vote will not be counted as a vote cast in the upcoming primary.

12. I have wanted to vote in this primary for some time, and very much still want to vote and have my vote counted. The effect of not being able to have my vote counted, through no fault of my own, is simply to deprive me, effectively, of the right to vote.

Signed under the pains and penalties of perjury  
this 18th day of August, 2020.

  
Marian Sue Sherman  
Marian Sue Sherman

# **EXHIBIT 9**

**COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT**

Suffolk, ss.

No. SJ-2020-\_\_\_\_\_

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REBECCA GROSSMAN, BECKY GROSSMAN FOR CONGRESS,  
JONATHAN LEVENFELD, SOPHIE KRIPP, and SHIRLEY D.  
GROSSMAN, on behalf of themselves and others similarly  
situated,

PETITIONERS,

v.

WILLIAM FRANCIS GALVIN, in his Official  
Capacity as Secretary of the Commonwealth  
of Massachusetts,

RESPONDENT.

---

**AFFIDAVIT OF KATHERINE MORFILL IN SUPPORT OF THE  
EMERGENCY PETITION FOR RELIEF**

I, Katherine Morfill, state the following based upon my own personal knowledge and belief:

1. I am over 18 years of age.
2. I reside in Haverhill, Massachusetts.
3. I am registered to vote in the Commonwealth of Massachusetts.
4. I am aware of the upcoming September 1st primary in Massachusetts, and I intend to cast a vote in the primary.

5. I am also aware that, in response to the COVID-19 pandemic, the Commonwealth of Massachusetts passed a law that requires the Secretary of the Commonwealth of Massachusetts to provide every registered voter in the Commonwealth with the option of submitting an application to request a mail-in ballot.

6. I am concerned about voting in person due to the COVID-19 pandemic; therefore, I prefer to vote in the upcoming primary and general elections in Massachusetts by mail.

7. Accordingly, I filled out an application to request a mail-in ballot to vote in the upcoming elections ("Application"), and, on or before August 3, 2020, I placed my Application in the U.S. mail for mailing to the local election official.

8. It was not until August 17, 2020 that I received my primary ballot, which was approximately two weeks weeks after I placed my Application in the mail.

9. It is my understanding that my primary ballot must be received by my local election official by September 1, 2020 in order for my vote to be counted

in the primary.

10. In light of the fact that I just recently received my primary ballot and in light of recent news reports about how long it is expected to take ballots to arrive to the proper place once mailed, I am very concerned that my primary ballot will not be received by my local election official by September 1, 2020 and therefore that my vote will not be counted as a vote cast in the upcoming primary.

11. I have wanted to vote in this primary for some time, and very much still want to vote and have my vote counted. The effect of not being able to have my vote counted, through no fault of my own, is simply to deprive me, effectively, of the right to vote.

Signed under the pains and penalties of  
perjury this 18th day of August, 2020.

*Katrina A. Myler*

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# **EXHIBIT 10**

**COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT**

Suffolk, ss.

No. SJ-2020-\_\_\_\_\_

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REBECCA GROSSMAN, BECKY GROSSMAN FOR CONGRESS,  
JONATHAN LEVENFELD, SOPHIE KRIPP, and SHIRLEY D.  
GROSSMAN, on behalf of themselves and others similarly  
situated,

PETITIONERS,

v.

WILLIAM FRANCIS GALVIN, in his Official  
Capacity as Secretary of the Commonwealth  
of Massachusetts,

RESPONDENT.

---

**AFFIDAVIT OF JOSHUA LEVINE IN SUPPORT OF THE  
EMERGENCY PETITION FOR RELIEF**

I, Joshua Levine, state the following based upon my own personal knowledge and belief:

1. I am over 18 years of age.
2. I reside in Sharon, Massachusetts.
3. I am registered to vote in the Commonwealth of Massachusetts.
4. I am aware of the upcoming September 1st primary in Massachusetts, and I intend to cast a vote in the primary.

5. I am also aware that, in response to the COVID-19 pandemic, the Commonwealth of Massachusetts passed a law that requires the Secretary of the Commonwealth to provide every registered voter in the Commonwealth with the option of submitting an application to request a mail-in ballot.

6. I am concerned about voting in person due to the COVID-19 pandemic; therefore, I prefer to vote in the upcoming primary and general elections in Massachusetts by mail.

7. Accordingly, I filled out an application to request a mail-in ballot to vote in the upcoming elections ("Application"), and, on or about August 10, 2020, I hand delivered my Application directly to Sharon Town Hall.

8. It was not until August 18, 2020 that I received my primary ballot, which was over a week after I hand delivered my Application to Sharon Town Hall.

9. It is my understanding that my primary ballot must be received by my local election official by September 1, 2020 in order for my vote to be counted in the primary.

10. In light of the fact that I just recently received my primary ballot and in light of recent news reports about how long it is expected to take ballots to arrive to the proper place once mailed, I am very concerned that my primary ballot will not be received by my local election official by September 1, 2020 if I elect to mail it to my local election official and therefore that my vote would not be counted as a vote cast in the upcoming primary. Therefore, I am concerned that I will have to submit my mail-in ballot in person in order for it to arrive to my local election official by September 1, 2020.

11. I have wanted to vote in this primary for some time, and very much still want to vote and have my vote counted. The effect of not being able to have my vote counted, through no fault of my own, is simply to deprive me, effectively, of the right to vote.

Signed under the pains and penalties of perjury  
this 18th day of August, 2020.

*Joshua Levine*  
\_\_\_\_\_  
Joshua Levine

# **EXHIBIT 11**

**COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT**

Suffolk, ss.

No. SJ-2020-\_\_\_\_\_

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REBECCA GROSSMAN, BECKY GROSSMAN FOR CONGRESS,  
JONATHAN LEVENFELD, SOPHIE KRIPP, and SHIRLEY D.  
GROSSMAN, on behalf of themselves and others similarly  
situated,

PETITIONERS,

v.

WILLIAM FRANCIS GALVIN, in his Official  
Capacity as Secretary of the Commonwealth  
of Massachusetts,

RESPONDENT.

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**AFFIDAVIT OF CHRIS M. HESS IN SUPPORT OF THE  
EMERGENCY PETITION FOR RELIEF**

I, Chris M. Hess, state the following based upon my own personal knowledge and belief:

1. I am over 18 years of age.
2. I reside in Lexington, Massachusetts.
3. My wife is Jennifer Aliber.
4. My daughter is Sophia Q. Hess.
5. I am registered to vote in the Commonwealth of Massachusetts.
6. I am aware of the upcoming September 1st

primary in Massachusetts, and I intend to cast a vote in the primary.

7. I am also aware that, in response to the COVID-19 pandemic, the Commonwealth of Massachusetts passed a law that requires the Secretary of the Commonwealth to provide every registered voter in the Commonwealth with the option of submitting an application to request a mail-in ballot.

8. I am concerned about voting in person due to the COVID-19 pandemic; therefore, I prefer to vote in the upcoming primary and general elections in Massachusetts by mail.

9. Accordingly, I filled out an application to request a mail-in ballot to vote in the upcoming elections ("Application"), and, on August 17, 2020, I placed my Application, along with applications for mail-in ballots for my wife, Jennifer Aliber, and my daughter, Sophia Hess, in the U.S. mail for mailing to the local election official. It is my understanding that the deadline for submitting such applications to my local election official is August 26, 2020.

10. It is my understanding that my primary ballot must be received by my local election official

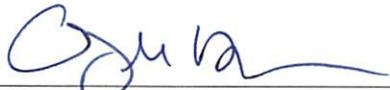
by September 1, 2020 in order for my vote to be counted in the primary.

11. Despite the fact that I mailed my Application over a week before the August 26, 2020 deadline for submission of such applications to my local election official, I am very concerned that I will not receive my mail-in ballot with sufficient time for me to fill it out and guarantee that it will subsequently be received by my local election official by September 1, 2020, particularly in light of recent news reports about how long it is expected to take ballots to arrive to the proper place once mailed.

12. If I do not receive my primary ballot soon, I may have no choice but to vote in person, which I had very much wished to avoid in light of the COVID-19 pandemic.

13. I have wanted to vote in this primary for some time, and very much still want to vote and have my vote counted. The effect of not being able to vote by mail, through no fault of my own, is simply to deprive me, effectively, of my right to vote by mail.

Signed under the pains and penalties of perjury  
this 18th day of August, 2020.

  
\_\_\_\_\_  
Christopher M. Hess

# **EXHIBIT 12**

**COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT**

Suffolk, ss.

No. SJ-2020-\_\_\_\_\_

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REBECCA GROSSMAN, BECKY GROSSMAN FOR CONGRESS,  
JONATHAN LEVENFELD, SOPHIE KRIPP, and SHIRLEY D.  
GROSSMAN, on behalf of themselves and others similarly  
situated,

PETITIONERS,

v.

WILLIAM FRANCIS GALVIN, in his Official  
Capacity as Secretary of the Commonwealth  
of Massachusetts,

RESPONDENT.

---

**AFFIDAVIT OF SOPHIA Q. HESS IN SUPPORT OF THE  
EMERGENCY PETITION FOR RELIEF**

I, Sophia Q. Hess, state the following based upon my own personal knowledge and belief:

1. I am over 18 years of age.
2. I reside in Lexington, Massachusetts.
3. My mother is Jennifer Aliber.
4. My father is Chris M. Hess.
5. I am registered to vote in the Commonwealth of Massachusetts.
6. I am aware of the upcoming September 1st

primary in Massachusetts, and I intend to cast a vote in the primary.

7. I am also aware that, in response to the COVID-19 pandemic, the Commonwealth of Massachusetts passed a law that requires the Secretary of the Commonwealth to provide every registered voter in the Commonwealth with the option of submitting an application to request a mail-in ballot.

8. I am concerned about voting in person due to the COVID-19 pandemic; therefore, I prefer to vote in the upcoming primary and general elections in Massachusetts by mail.

9. Accordingly, I filled out an application to request a mail-in ballot to vote in the upcoming elections ("Application"), and, on August 17, 2020, my father, Chris Hess, placed my Application in the U.S. mail for mailing to the local election official. It is my understanding that the deadline for submitting such applications to my local election official is August 26, 2020.

10. It is my understanding that my primary ballot must be received by my local election official by September 1, 2020 in order for my vote to be counted

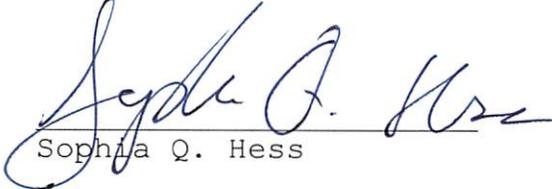
in the primary.

11. Despite the fact that my Application was mailed over a week before the August 26, 2020 deadline for submission of such applications to my local election official, I am very concerned that I will not receive my mail-in ballot with sufficient time for me to fill it out and guarantee that it will subsequently be received by my local election official by September 1, 2020, particularly in light of recent news reports about how long it is expected to take ballots to arrive to the proper place once mailed.

12. If I do not receive my primary ballot soon, I may have no choice but to vote in person, which I had very much wished to avoid in light of the COVID-19 pandemic.

13. I have wanted to vote in this primary for some time, and very much still want to vote and have my vote counted. The effect of not being able to vote by mail, through no fault of my own, is simply to deprive me, effectively, of my right to vote by mail.

Signed under the pains and penalties of perjury  
this 18th day of August, 2020.

  
Sophia Q. Hess

# **EXHIBIT 13**

**COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT**

Suffolk, ss.

No. SJ-2020-\_\_\_\_\_

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REBECCA GROSSMAN, BECKY GROSSMAN FOR CONGRESS,  
JONATHAN LEVENFELD, SOPHIE KRIPP, and SHIRLEY D.  
GROSSMAN, on behalf of themselves and others similarly  
situated,

PETITIONERS,

v.

WILLIAM FRANCIS GALVIN, in his Official  
Capacity as Secretary of the Commonwealth  
of Massachusetts,

RESPONDENT.

---

**AFFIDAVIT OF JENNIFER ALIBER IN SUPPORT OF THE  
EMERGENCY PETITION FOR RELIEF**

I, Jennifer Alibur, state the following based upon my own personal knowledge and belief:

1. I am over 18 years of age.
2. I reside in Lexington, Massachusetts.
3. My daughter is Sophia Q. Hess.
4. My husband is Chris M. Hess.
5. I am registered to vote in the Commonwealth of Massachusetts.
6. I am aware of the upcoming September 1st

primary in Massachusetts, and I intend to cast a vote in the primary.

7. I am also aware that, in response to the COVID-19 pandemic, the Commonwealth of Massachusetts passed a law that requires the Secretary of the Commonwealth to provide every registered voter in the Commonwealth with the option of submitting an application to request a mail-in ballot.

8. I am concerned about voting in person due to the COVID-19 pandemic; therefore, I prefer to vote in the upcoming primary and general elections in Massachusetts by mail.

9. Accordingly, I filled out an application to request a mail-in ballot to vote in the upcoming elections ("Application"), and, on August 17, 2020, my husband, Chris Hess, placed my Application in the U.S. mail for mailing to the local election official. It is my understanding that the deadline for submitting such applications to my local election official is August 26, 2020.

10. It is my understanding that my primary ballot must be received by my local election official by September 1, 2020 in order for my vote to be counted

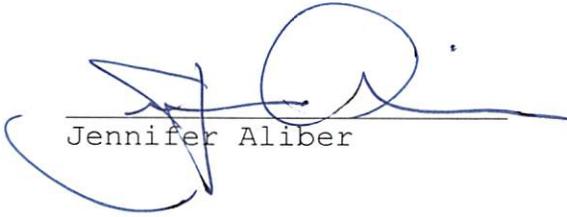
in the primary.

11. Despite the fact that my Application was mailed over a week before the August 26, 2020 deadline for submission of such applications to my local election official, I am very concerned that I will not receive my mail-in ballot with sufficient time for me to fill it out and guarantee that it will subsequently be received by my local election official by September 1, 2020, particularly in light of recent news reports about how long it is expected to take ballots to arrive to the proper place once mailed.

12. If I do not receive my primary ballot soon, I may have no choice but to vote in person, which I had very much wished to avoid in light of the COVID-19 pandemic.

13. I have wanted to vote in this primary for some time, and very much still want to vote and have my vote counted. The effect of not being able to vote by mail, through no fault of my own, is simply to deprive me, effectively, of my right to vote by mail.

Signed under the pains and penalties of perjury  
this 18th day of August, 2020.



Jennifer Aliber

# **EXHIBIT 14**

**COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT**

Suffolk, ss.

No. SJ-2020-\_\_\_\_\_

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REBECCA GROSSMAN, BECKY GROSSMAN FOR CONGRESS,  
JONATHAN LEVENFELD, SOPHIE KRIPP, and SHIRLEY D.  
GROSSMAN, on behalf of themselves and others similarly  
situated,

PETITIONERS,

v.

WILLIAM FRANCIS GALVIN, in his Official  
Capacity as Secretary of the Commonwealth  
of Massachusetts,

RESPONDENT.

---

**AFFIDAVIT OF COLLEEN SPENCE IN SUPPORT OF THE  
EMERGENCY PETITION FOR RELIEF**

I, Colleen Spence, state the following based upon  
my own personal knowledge and belief:

1. I am over 18 years of age.
2. I reside in Pembroke, Massachusetts.
3. I am registered to vote in the Commonwealth  
of Massachusetts.
4. I am aware of the upcoming September 1st  
primary in Massachusetts, and I intend to cast a vote  
in the primary.

5. I am also aware that, in response to the COVID-19 pandemic, the Commonwealth of Massachusetts passed a law that requires the Secretary of the Commonwealth of Massachusetts to provide every registered voter in the Commonwealth with the option of submitting an application to request a mail-in ballot.

6. I am concerned about voting in person due to the COVID-19 pandemic; therefore, I prefer to vote in the upcoming primary and general elections in Massachusetts by mail.

7. Accordingly, I filled out an application to request a mail-in ballot to vote in the upcoming elections ("Application"), and, sometime during the week of July 20, 2020, I placed my Application in the U.S. mail for mailing to the local election official.

8. It was not until August 8, 2020 that I received my primary ballot, which was approximately two weeks after I placed my Application in the mail.

9. It is my understanding that my primary ballot must be received by my local election official by September 1, 2020 in order for my vote to be counted in the primary.

10. In light of the fact that I just recently received my primary ballot and in light of recent news reports about how long it is expected to take ballots to arrive to the proper place once mailed, I am very concerned that my primary ballot will not be received by my local election official by September 1, 2020 and therefore that my vote will not be counted as a vote cast in the upcoming primary.

11. I have wanted to vote in this primary for some time, and very much still want to vote and have my vote counted. The effect of not being able to have my vote counted, through no fault of my own, is simply to deprive me, effectively, of the right to vote.

Signed under the pains and penalties of  
perjury this 18th day of August, 2020.

Colleen Spence 8/18/20  
Colleen Spence