



Safeguarding Election Materials

Policy recommendations for safeguarding election materials from federal interference

State and local election officials across the country work tirelessly to ensure that every stage of the voting process is safe and secure. Their responsibilities include protecting voters' right to cast a confidential ballot, safeguarding voter registration records that may contain personal identifying information like social security numbers, and securing voting technology—such as the tabulators that count ballots—from hacking and unauthorized access. For that reason, election officials maintain rigorous chain-of-custody procedures that document who has access to ballots, voting equipment, and other sensitive materials at every stage of the election process, helping to protect both the integrity of the election and public confidence in its outcome. Election offices invest millions of dollars and countless hours of manpower per year to shield data and materials from foreign and domestic threats to our most fundamental institution of democracy: voting.

Unfortunately, in recent years, malicious actors in several states have attempted, sometimes successfully, to seize or otherwise unlawfully access ballots, voting equipment, and election records as part of an ongoing attempt to dispute the results of accurate and securely executed elections. These actions put the integrity of our entire voting system in jeopardy, risking the disclosure of confidential materials or compromising the technology election officials have come to rely upon to accurately count votes and release results. The consequences are significant: voter privacy may be jeopardized, election infrastructure may become more vulnerable, and public confidence in the accuracy and legitimacy of election outcomes may be undermined.

Legislatures, courts, election administrators, and advocates must work together to address this threat and ensure that ballots, machines, and other election materials remain secure, as the risk is not abstract. In one of the most egregious recent examples, Riverside County, California Sheriff Chad Bianco—at the time a candidate for Governor—confiscated over 650,000 ballots from the November 2025 special election based on spurious claims of fraud. Despite a concerning lack of evidence, a judge issued a sealed warrant that gave Bianco access to over 1,500 boxes of election materials.¹ It took nearly a month after

¹ Anat Rubin & Jessica Pishko, *Internal Emails Show How Fringe Groups Fueled Sheriff Chad Bianco's Ballot Seizure*, CalMatters (Apr. 21, 2026), <https://calmatters.org/investigation/2026/04/chad-bianco-emails/>; David Gilbert, *Ballots Have Been Seized Across the US. No*



Bianco and his team first seized ballots for a lawsuit to be filed, and for Bianco's review of them to be halted.²

Bianco is not the only individual who has expressed interest in or taken steps to gain unsupervised access to election machines, voted ballots, cast voter records, or voter registration data for illegitimate reasons, and he is unlikely to be the last. In Arizona, Senate Republican leaders subpoenaed Maricopa County after the 2020 election to obtain nearly 2.1 million cast ballots as well as other data, like the county's voter rolls.³ These records were provided to "CyberNinjas," a partisan-affiliated private contractor that conducted a fraudulent "audit" without the oversight of election officials, using subpar procedures that failed to guarantee the security of the materials and records being used.⁴ These scenarios are no longer anomalies. States must act with decisiveness to protect the security and chain of custody of ballots and other vital election materials while still protecting legitimate investigations, and audits that follow statutory or regulatory procedures.

The following policy recommendations provide a framework for strengthening protections against the access, removal, or examination of election materials and equipment for illegitimate purposes.

1. Prohibit ballots and election equipment from being removed from an election official's custody, including during criminal investigations

While most states have chain-of-custody laws that strongly suggest or recommend that original ballots and election equipment must remain under the control of election officials, state lawmakers and policymakers should provide stronger safeguards by explicitly prohibiting their removal from election officials' custody, even during legal proceedings (including criminal investigations), unless there is meaningful evidence that the materials

One Knows What Will Happen Next, WIRED, <https://www.wired.com/story/ballots-have-been-seized-across-the-us-no-one-knows-what-will-happen-next/> (last visited Sept. 14, 2026).

² Patrick Marley, *California's top court halts sheriff's seizure of half a million ballots*, Wash. Post (Apr. 8, 2026), <https://www.washingtonpost.com/politics/2026/04/07/chad-bianco-riverside-ballot-seizure/>.

³ Jeremy Duda, *Judge sides with Senate, says Maricopa must turn over election materials for audit*, Ariz. Mirror (Feb. 26, 2021), <https://azmirror.com/2021/02/26/judge-sides-with-senate-says-maricopa-must-turn-over-election-materials-for-audit/>.

⁴ Jen Fifield, *Election Records Handed Over to the FBI in Maricopa County, Arizona, Could Be Fatally Flawed, Experts Say*, ProPublica (Mar. 12, 2026, 1:30 PM), <https://www.propublica.org/article/maricopa-county-arizona-election-records-fbi>.



are likely to be tampered with or destroyed in election officials' custody. In such rare cases, alternative custody arrangements that continue to safeguard chain of custody and voter privacy—such as transfer to other trained election officials in the relevant jurisdiction or court-supervised custody—should be considered. These safeguards should be crafted to ensure that ballots and election equipment remain in the custody or under the control of election officials until these materials are destroyed. In states where the legislature has broad subpoena or investigative powers, this prohibition should be crafted to apply to state legislative investigations as well (assuming that the state constitution permits this).

States should also work with election officials to include in statute or administrative guidance the specific recourse election officials have if they are presented with a warrant that authorizes the seizure of election materials. The Pennsylvania Department of State recently issued guidance instructing election officials served with judicial warrants to follow specific steps to mitigate the negative consequences these demands can have on the security of election materials, the privacy of voters, and the timely certification of elections.⁵ Proposed legislation in Colorado demonstrates how stricter chain of custody requirements can be imposed on election officials in the event of the execution of a search warrant at an election office.⁶ State lawmakers and policymakers could also consider creating an emergency petition process that automatically triggers temporary restoration of custody of the materials while a court resolves any contested issues.

While state laws cannot supersede federal law (and therefore a state law cannot categorically prohibit compliance with a valid federal search warrant or subpoena), they can prescribe the procedures that must be followed when a demand for access to election materials comes from a non-federal source.

Legitimate criminal investigations, election contests, audits, and recounts may require the review or examination of ballots or voting equipment to determine if correct procedures were followed, if machines were functioning as intended, to ensure accurate results in an

⁵ Pa. Dep't of State, Directive Concerning Access to Electronic Voting Systems, Including But Not Limited to the Imaging of Software and Memory Files, Access to Related Internal Components, and the Consequences to County Boards for Allowing Such Access, Directive 3 of 2026 (Apr. 6, 2026), https://www.pa.gov/content/dam/copapwp-pagov/en/dos/resources/voting-and-elections/directives-and-guidance/2026/2026-directive3_on-access-to-voting-systems.pdf.

⁶ H.B. 26-1113, 75th Gen. Assemb., Reg. Sess. (Colo. 2026) (enacted June 1, 2026), <https://leg.colorado.gov/bills/hb26-1113>.



extremely close election, and to confirm compliance with other administrative processes.⁷ In these instances, ballots and other election materials must remain available for inspection and, potentially, copying, but states should establish clear procedures that permit inspection and examination of these materials without ever transferring custody of the originals away from election officials.⁸ When possible, such inspections should be supervised by bipartisan teams of observers and/or a court-appointed special master to ensure no bad actors are able to take advantage of this process for partisan or other malicious purposes.

Prescribing procedures and additional protections that must be followed when a demand for access to election materials comes from a non-federal source reduces the risk that courts will interpret state or local investigative authority as providing an exception to chain-of-custody laws and permitting the improper seizure of election materials. In the context of election audits and recounts, establishing and maintaining standard procedures that allow observation by both political parties is essential to building and maintaining confidence in our electoral system.

2. Create internal election security procedures to prevent unscrupulous election officials from voluntarily granting others access to election materials

The previous recommendation addresses scenarios in which external actors—meaning individuals who are not election officials—attempt to use their investigatory authority to compel election officials to relinquish custody of election materials. But threats to the security of election materials can also come from within the election system, such as when election officials voluntarily provide unauthorized individuals with access to election

⁷ While Campaign Legal Center’s general policy recommendation is for ballots to remain in the custody of election officials in all circumstances, some states have existing laws or procedures that require courts or the legislature to take custody of all or a portion of ballots during certain post-election processes.

⁸ The following sample language is adapted from Cal. Elec. Code § 15551 (2026):

During any criminal investigation, election contest, recount, audit, state legislative investigation or other official investigation, duly authorized election officials shall retain custody of all relevant ballots, electronic poll books, election management systems, voting machines, and other voting equipment, and shall make such materials available for inspection by the authority legally authorized to conduct the investigation, contest, recount, or audit. No warrant or subpoena shall be issued to the contrary.



materials for illegitimate purposes.

A comprehensive approach to protecting ballots should therefore include safeguards that apply to election officials who misuse their positions in ways that threaten the security or integrity of election materials. A Colorado law enacted in 2022 provides one model for such protections, establishing internal election security requirements and imposing criminal penalties on election officials who provide unauthorized parties with access to sensitive election materials.⁹

3. Require election officials to promptly notify designated state authorities regarding subpoenas or warrants for election materials

While a state law prohibiting the removal of ballots from election official custody cannot supersede a valid federal warrant for the seizure of those ballots or a subpoena commanding their production, states can and should require election officials who receive a demand or request for election materials from state or federal law enforcement to immediately notify and consult with designated state authorities, such as the Attorney General, Secretary of State, and state board of elections. This notification and consultation process will ensure that the state's chain of command is engaged and receives relevant information expeditiously that it may use to contest any demands that could potentially jeopardize election security, voter privacy, or chain-of-custody procedures.

Recently passed legislation in California and proposed legislation in Connecticut and New York includes provisions that could serve as a model for other states considering comparable protections.¹⁰ Guidance to election officials issued by Pennsylvania's Department of State contains a similar notice requirement.¹¹

⁹ S.B. 22-153, 73d Gen. Assemb., 2d Reg. Sess. (Colo. 2022).

¹⁰ S.B. 73, 2025–2026 Reg. Sess. (Cal. 2026); 2026 Conn. Pub. Acts 42 (H.B. 5001); S. 10599, 249th Leg., Reg. Sess. (N.Y. 2026)..

¹¹ Pa. Dep't of State, Directive 3 of 2026: Directive Concerning Access to Electronic Voting Systems, Including But Not Limited to the Imaging of Software and Memory Files, Access to Related Internal Components, and the Consequences to County Boards for Allowing Such Access 2 (Apr. 6, 2026), https://www.pa.gov/content/dam/copapwp-pagov/en/dos/resources/voting-and-elections/directives-and-guidance/2026/2026-directive3_on-access-to-voting-systems.pdf.

4. Align criminal procedure laws with election custody protections

Protections contained in election codes may be undermined if criminal procedure statutes or rules permit courts or investigators to obtain election materials through warrants or subpoenas.

State lawmakers and policymakers should ensure that criminal procedure laws mirror election law custody requirements. They should also consider subjecting access to election materials to heightened judicial review. Laws that establish special protections for other types of sensitive materials, such as records from victims' services programs, can serve as a model here.¹²

5. Prohibit unofficial audits and recounts

Audits and recounts are post-election procedures that ensure the integrity and accuracy of the vote counting process. Performed by local and state election officials, a recount is meant to confirm the accuracy of the initial count if results are particularly close or within a specific margin. Similarly, election audits are performed in all 50 states by local election officials to ensure that counting methods (like tabulators or voting machines) were working properly, that all applicable state and federal laws were followed, and that only eligible voters participated.¹³

While both of these processes are essential for guaranteeing an accurate and fair election, they necessarily involve access to confidential documents and technology that, if

¹² The following sample language was adapted from Wash. Rev. Code § 70.125.065 (2026), a Washington statute that sets out procedures for defense attorneys to obtain records of community assault programs:

Materials and records in the custody of an election official shall not be made available for any criminal investigation unless:

- (1) A written pretrial motion is made to the court requesting access to the materials and records in the custody of the election official;
- (2) The written motion is accompanied by an affidavit or affidavits setting forth specifically the reasons why access to the materials and records in the custody of the election official is being requested;
- (3) The court reviews the materials and records in camera to determine whether they are relevant and whether the probative value of the records is outweighed by privacy considerations and election integrity interests;
- (4) The court enters an order stating that access to the materials and records or any part of materials and records has been granted and setting forth the basis for the court's findings.
- (5) The materials and records shall remain in the custody of the election official, who will make them available for inspection.

¹³ *Every State Has Now Enacted a Post-Election Audit Law*, Nat'l Conf. of State Legislatures (July 17, 2026), <https://www.ncsl.org/state-legislatures-news/details/every-state-has-now-enacted-a-post-election-audit-law>.



mishandled, are vulnerable to exploitation or misuse. For that reason, audits and recounts are typically conducted by trained election professionals, who understand and uphold the sensitivity of the materials they are handling and operate under established procedures and bipartisan or nonpartisan oversight.

While state laws addressing recounts, audits, and ballot chain-of-custody generally imply that post-election processes must be carried out under the supervision of local and state election officials, a prohibition on “unofficial” audits or recounts should be made explicit. An “unofficial” audit or recount is one that takes place outside of the audit and recount procedures authorized by state law but involves access to election materials and equipment. This recommendation is not intended to prohibit independent researchers, campaigns, political parties, or members of the public from conducting their own analyses of publicly available election data, tabulated vote totals, or other lawfully disclosed records. Rather, it is intended to prevent unauthorized access to election materials and equipment that could compromise ballot security, chain of custody, voter privacy, or public confidence in election administration.¹⁴ In the past, partisan actors have exploited ambiguities in state laws to seize and provide ballots to individuals or organizations who have conducted unauthorized reviews outside of the safeguards and procedures established by state election laws.

¹⁴ Some states have laws that allow public inspection and copying of ballots under certain circumstances, see, e.g., Colo. Rev. Stat. § 24-72-205.5, and that prohibiting individuals from using such access to conduct (and presumably publicly announce the results of) unofficial audits or recounts may be challenged as a violation of the First Amendment. In such states, it may be more prudent to adopt a statute that prohibits state or local election officials from using the results of any unofficial audit or recount for an official purpose.