



A New Democratic Deal

Studies, commentaries, and a forum with practical, progressive answers to Leo Tolstoy's question:

“What, Then, Must We Do?”

How to Beat Trump's Plan to Disrupt the 2026 Election

[Brief Executive Summary for free subscribers](#)

Donald Trump Has Told Us He Wants to Subvert, Steal, Or Stop the 2026 and 2028 Elections. Democrats Need to Take Him at His Word and Act Accordingly

By Bill Donovan in [A New Democratic Deal](#)

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Introduction:

If all you need is to skim the highlights, as a free subscriber, you can read the [Executive Summary](#).

Nobody's falsely crying "Wolf!"

Democrats aren't doing a Chicken Little Act.

It's real. President Donald Trump and his allies do plan to disrupt the midterm elections.

For this report, I researched three issues and related questions:

1. What could Donald Trump and his minions do to disrupt or sabotage the 2026 election or prevent elected Democrats from being seated in the U.S. House or Senate?
2. What legal and administrative countermeasures can and are being taken to oppose such actions?
3. What is the likelihood that these legal and administrative countermeasure to subversion of the election will succeed or fail?
4. If they fail, what, then, must we do?

The answers should frighten anyone who treasures our democracy. The 2026 midterm elections face an unprecedented confluence of institutional, legal, and operational threats to their integrity.

Republicans are deploying a sophisticated, multi-layered set of tactics that exploit gaps in federal and state laws. Trump and his minions are weaponizing federal agencies, courts, and partisan officials—and have shown a willingness to unlawfully use police, military force, and the masked thugs of ICE against U.S. citizens.

The most dangerous scenario, in terms of potential effect, is that of delays that would prevent newly elected Democratic House members from being seated on January 3, 2027, allowing Republicans to retain control of the House regardless of election outcomes.

Current defensive preparations include coordinated legal action by 23 Democratic attorneys general, state-level resistance to federal overreach, and so-far successful court challenges to Trump's executive orders on elections.

However, significant gaps remain in coordination, resources, and legal authority to prevent or remedy disruption scenarios, particularly those involving the January 3 congressional seating process.

It is highly likely, in my view, that massive citizen response—taking the matter to the street—will be needed to preserve democracy.

Part One: Paths of Disruption

1. Trump Statements and Deployment of Federal Assets

Direct Threats to Electoral Processes

Trump has made many explicit public statements questioning the necessity of the 2026 midterm elections or elections in general. See this accompanying report:

Trump's Own Words on His Intentions Regarding Future Elections

Historical Precedent: Voting Machine Seizure Plans

In 2020, Trump directed attorney Rudolph Giuliani to inquire whether the Department of Homeland Security could seize voting machines in swing states. A draft executive order was prepared directing the military to confiscate machines, though it was never issued after Department of Homeland Security (DHS) officials Ken Cuccinelli and Chad Wolf testified that they lacked authority. At a December 18, 2020, Oval Office meeting, Michael Flynn and Sidney Powell presented Trump with this draft order, which Giuliani ultimately advised against executing.

Trump said in a January 2026 New York Times interview that he "should have" ordered the National Guard to seize ballot boxes in 2020. When asked if he would issue such orders in future elections, Trump declined to answer.

Military and Immigration Enforcement Deployments

Trump has repeatedly deployed or attempted to deploy National Guard forces to Democratic-led cities, ostensibly for immigration enforcement and crime reduction but in a pattern that establishes federal military presence in areas of Democratic strength:

Los Angeles, California: Federalized National Guard were deployed following immigration raid protests. In December 2025, an appeals court upheld a lower court ruling that found extended military presence illegal after protests subsided.

Chicago, Illinois: Trump authorized Operation Midway Blitz in October 2025 as a multi-agency surge against "criminal illegal aliens." The Supreme Court blocked this deployment in December 2025, ruling Trump failed to meet requirements under 10 USC § 12406, which requires the president be "unable with regular forces to execute laws."

Portland, Oregon: A federal judge permanently blocked deployment in November 2025, finding that the use of the National Guard to protect a federal immigration facility exceeded presidential authority.

Washington, D.C.: Guard troops deployed and remain in the capital as of recent reports. Courts held that because D.C. is not a state, the president exercises unique power there.

Memphis, Tennessee: The Tennessee National Guard was deployed in September 2025 as part of a federal task force. A Tennessee judge blocked the deployment but stayed the decision pending appeal, allowing troops to continue operations.

These deployments establish a precedent for federal military presence in major urban areas with large Democratic constituencies. While courts have blocked several deployments under existing law, Trump has explicitly threatened to invoke the Insurrection Act, which would provide broader authority to deploy troops for domestic law enforcement.

2. The Insurrection Act Threat

Legal Framework and Presidential Authority

The Insurrection Act authorizes the president to deploy federal troops inside the United States under three distinct provisions:

- Section 251: Allows deployment at a state's request to suppress insurrection against state government.
- Section 252: Permits deployment without state consent to "enforce laws" or "suppress rebellion" when "unlawful obstructions" make it "impracticable" to enforce federal law through ordinary judicial proceedings.
- Section 253: Authorizes deployment to suppress "any insurrection, domestic violence, unlawful combination, or conspiracy" that obstructs execution of U.S. laws or impedes justice.

Critically, Sections 252 and 253 do not require state consent and can be invoked against state wishes. The Insurrection Act serves as an exception to the Posse Comitatus Act, which generally prohibits federal military forces from domestic law enforcement.

Historical Usage and Trump's Pattern

Historically, the Insurrection Act has been rarely invoked. Looking at the last nine presidencies excluding Trump's first term, troops were deployed to manage civil unrest or enforce laws only twice. In contrast, during his first year of his second term, Trump

attempted or requested troop deployment seven times. This represents "a significantly different intent regarding military use compared to previous administrations," according to Elizabeth Goitein of the Brennan Center.

Trump has explicitly threatened to invoke the Insurrection Act in Minnesota and suggested using cities as "training grounds" for armed forces. Following the Supreme Court's December 2025 ruling blocking his Chicago deployment under 10 USC § 12406, the Insurrection Act represents an alternative legal pathway that courts would find more difficult to challenge.

Application to Election Disruption

The Insurrection Act could be weaponized against elections through several mechanisms:

Deployment to Supposedly "Protect" Polling Places: Under the pretext of preventing voter fraud or protecting election integrity, federal troops could be deployed to polling locations in Democratic areas, creating an intimidating presence that suppresses turnout. While voter intimidation is illegal under state and federal law, enforcement would depend on local authorities, who might be overridden by federal forces.

Suppression of Post-Election Protests: If Trump declares election results illegitimate or refuses to seat winning Democrats, mass protests would likely follow. Invoking the Insurrection Act to "restore order" would provide legal cover to deploy military forces against demonstrators, as occurred during the 2020 racial justice protests.

"Protection" of Election Infrastructure: Trump could claim that foreign interference or domestic threats to election systems justify federal military control of ballot counting facilities, particularly in jurisdictions certifying Democratic victories. While the Cybersecurity and Infrastructure Security Agency (CISA) and DHS previously provided cybersecurity support voluntarily, military deployment would represent coercive federal control.

Enforcement of Executive Orders: Trump's March 25, 2025, Executive Order 14248 attempts to impose federal requirements on state election administration. If states resist, Trump could invoke the Insurrection Act to "enforce federal law," claiming state officials are unlawfully obstructing presidential authority.

Limitations and Countermeasures

The Insurrection Act contains important limitations. It requires the president to issue a formal proclamation. Courts can potentially rule that deployment exceeds statutory authority if the predicate circumstances don't exist. States can challenge deployments,

arguing that the president exceeded Insurrection Act authority and violated the Posse Comitatus Act.

However, these limitations provide weaker protection than those in 10 USC § 12406. There is no express requirement that the president be "unable" to execute law without troops, and courts historically defer to presidential determinations about domestic emergencies. The Insurrection Act's vague language—particularly regarding what constitutes circumstances justifying deployment—makes it "far too vague," according to the ACLU.

3. Federal Agency Weaponization

Department of Justice (DOJ) Transformation

The DOJ's Civil Rights Division, traditionally responsible for enforcing voting rights, has been systematically dismantled. About 250 lawyers, 70% of the division's total, have left since January 2025. The voting section, which enforces the Voting Rights Act and other voting rights laws, has shrunk from 30 lawyers to just a handful. Political appointees removed all senior managers and ordered dismissal of every major active voting rights case, including litigation challenging restrictive voting laws and gerrymandered maps in Arizona, Georgia, and Texas.

The DOJ has filed lawsuits against 15 states demanding voter registration data, including California, New York, Minnesota, New Hampshire, Pennsylvania, Virginia, and others.

These sweeping requests lack privacy protection and appear designed to create a de facto national voter registry, contradicting states' constitutional authority over elections. Minnesota Secretary of State Steve Simon noted that the DOJ "remained silent" about how data would be used or secured before filing suit.

DOJ has also demanded that Colorado preserve all records from the 2020 election and turn over all 2024 documents, an unprecedented request. The department sought access to voting equipment in Colorado and Missouri. County officials rebuffed these requests.

Assistant Attorney General for Civil Rights Harmeet Dhillon personally intervened in Trump's mid-decade gerrymandering campaign, sending a letter on July 7, 2025, to Texas alleging that four congressional districts represented by Black or Hispanic Democrats were "unconstitutional racial gerrymanders."

Texas Gov. Greg Abbott cited this letter as justification for redrawing the state's congressional map to add five GOP seats.

Cybersecurity and Infrastructure Security Agency (CISA)

CISA, responsible for protecting election infrastructure, has been deliberately incapacitated. Trump's administration announced it would "pause all election security activities" at the agency. Staff were placed on administrative leave and funding stripped from systems that alert state and local governments to cybersecurity and election threats. Trump's budget proposes cutting nearly \$500 million from CISA and eliminating the agency's work on countering misinformation and disinformation.

This represents a dramatic reversal from 2024, when CISA worked closely with election officials to strengthen defenses against foreign interference and provided voluntary services, training, and assessments. State and local election officials "no longer have a reliable partner in the federal government," according to the Brennan Center.

FBI Election Security Dismantling

The FBI disbanded its task force combating foreign election interference from Russia, China, Iran, and other countries. In 2024, the FBI had operated a coordination hub for the first time, collecting, assessing, and sharing information on potential interference threats and establishing a direct line between the FBI and election officials. This whole-of-government counter-interference strategy, which proved effective in 2024, has been abandoned.

4. Executive Order on Elections (EO 14248)

Trump's March 25, 2025, Executive Order 14248 represents an unprecedented assertion of presidential authority over election administration. The order:

- Requires documentary proof of citizenship for voter registration, contrary to the federal voter registration form, which accepts attestation under penalty of perjury.
- Sets Election Day as the national deadline for receiving mail ballots, attempting to override state laws in 13 states allowing ballots postmarked by Election Day to be counted
- Mandates new voting machine certification standards and threatens to withhold federal funds from states not using compliant machines.
- Orders the Department of Justice to prioritize prosecution of election crimes in states refusing to enter information-sharing agreements.
- Directs DHS to prevent non-citizens from any involvement in election administration, including accessing election equipment or ballots.

- Threatens to withhold law enforcement grants from states declining to cooperate with DOJ investigations.

Key provisions of the executive order have been blocked by injunctions in federal court; the Trump administration is appealing those rulings, and the litigation remains ongoing.

5. Mid-Decade Gerrymandering Campaign

Trump has aggressively pushed Republican-controlled state legislatures to redraw congressional maps mid-decade in an attempt to keep GOP control of the House. This represents a dramatic departure from the traditional redistricting cycle following the decennial census.

Texas

Trump's redistricting map nets five additional GOP seats for the 2026 midterms. The Supreme Court, in a highly partisan pro-Trump move, allowed it to stand for the 2026 election while saying its underlying legal issues are unresolved.

California Democrats responded by passing their own counter-redistricting that eliminates five Republican districts. Democratic governors in Illinois, Maryland, and other states have kept redistricting options open as retaliation.

Missouri

On September 3, 2025, Missouri Republicans began a special legislative session to pass a new redistricting map eliminating one of two Democratic districts in the state, giving Republicans 90 percent of Missouri's House seats.

Citizen groups responded with a petition for a state referendum to block the redistricting plan.

State Attorney General Catherine Hanaway filed a lawsuit seeking to block the referendum; a federal judge dismissed her lawsuit. As of early 2026, the referendum petitioners were proceeding with plans to have the petition certified for a vote.

North Carolina

The Republican-dominated North Carolina legislature convened a lame-duck session two weeks after the November 2024 election and, with no public notice, stripped incoming Democratic Governor Josh Stein of the power to appoint a majority of members on state and county election boards. This authority was transferred to Republican State Auditor Dave Boliek, who has no experience overseeing elections.

The North Carolina Supreme Court, controlled by Republicans, blocked certification of Democratic Justice Allison Riggs's electoral victory by a 5-1 vote. Riggs won by 734 votes verified by two recounts, yet Republican challenger Jefferson Griffin seeks to exclude 60,000 ballots. However, a federal court overruled the state Supreme Court, and Riggs has been seated.

Indiana and Florida

Both states face White House pressure to try the aggressive North Carolina State Supreme Court's tactics. The Trump administration has lobbied other Republican-controlled states to adopt an "even more ruthless approach." If all these tactics were to work, the cumulative effect could shift 15-20 House seats to Republicans before voters cast a single ballot in 2026.

6. Voter Suppression and Roll Purges

State-Level Restrictive Laws

Sixteen states have enacted 29 restrictive voting laws as of October 2025, on par with 2021's record-setting 32 laws in 17 states. These laws followed Trump's false claims about the 2020 election being stolen. As the 2026 midterms approach, legislative changes "will also likely further intensify," according to the Brennan Center.

Tactics include:

- Voter ID requirements disproportionately affecting people of color, the elderly, and low-income individuals.
- Voter roll purges based on questionable matching algorithms and outdated data.
- Limits on mail voting and ballot drop boxes.
- Reduced early voting periods in Democratic-leaning areas.
- Poll watcher authorization enabling intimidation at polling places.
- Criminal penalties for election workers who fail to enforce restrictive requirements.

In Iowa, local election officials face criminal penalties for sending an absentee ballot application to a voter unless first requested. In Texas, poll workers face criminal sanctions for interfering with "poll watchers," who can now engage in intimidation at polling places.

DOJ-Driven Purges

The DOJ lawsuit against North Carolina over voter rolls "could potentially lead to thousands of eligible voters being wrongly purged before the midterms." Similar suits against 14 other states create pressure for aggressive list maintenance that risks removing legitimate voters. States lacking resources to verify DOJ claims may remove voters to avoid federal litigation.

The Help America Vote Act and National Voter Registration Act contain provisions for federal access to state voter data, but traditionally this authority has been exercised to protect voters, not to facilitate purges. The current DOJ's intent remains unclear, as requests lack information about data security or usage.

7. Armed Militias and Polling Place Intimidation

Legal Framework

The likelihood of armed militias intimidating voters is seen as low, but it should not be ignored.

All 50 states prohibit private, unauthorized militias from engaging in law enforcement activities. Voter intimidation, including armed intimidation, is illegal under state and federal law. Multiple armed individuals at polling places are more likely to intimidate than one or two, and groups acting as private militias face additional legal prohibitions.

Law enforcement officers can approach armed individuals near polling places and inquire about their purpose. If individuals claim they are present to "protect against voter fraud," "enforce the law," or "check voters' qualifications," police can order them to stop, as private militias are not authorized under state law and have no authority to engage in law enforcement functions.

Historical Precedent

Over 30 years ago, the Republican National Committee deployed a "National Ballot Security Task Force" of off-duty police officers wearing revolvers, armbands, and two-way radios to patrol polling sites with threatening signs to challenge voters. The RNC had to answer in court for these intimidation tactics.

2024 Threats and Preparation

However, bomb threats, fake active shooter calls, and actual bombings are much more difficult to control.

On Election Day 2024, at least 227 bomb threats targeted polling locations, election offices, and tabulation centers. Explosive devices were detonated at ballot drop boxes in the Pacific Northwest. Hoax active shooter calls targeted schools serving as polling sites. Georgia became the first state to require election law training for new police officers, including instruction on protections against voter intimidation, election interference, and threats.

Advance coordination between law enforcement and election officials allowed for effective responses that minimized voter security concerns. However, the threats themselves represented "an elevated level of risk" that intensified rather than diminished.

Application to 2026

Armed Trump-supporting militias could attempt to disrupt 2026 elections through:

Polling Place "Monitoring": Groups might position themselves near voting lines in Democratic areas while openly carrying firearms, claiming to exercise Second Amendment rights or prevent fraud. Even if not explicitly threatening voters, such armed presence creates intimidation.

Ballot Drop Box Surveillance: Armed individuals or groups surveilling and photographing voters at drop boxes, recording license plate numbers, and following voters were all tactics documented in 2024.

"Poll Watching" Programs: Using official poll watcher credentials to gain access inside polling places, then engaging in aggressive challenging of voters' qualifications, particularly targeting voters of color.

Confronting Election Workers: Appearing at ballot counting facilities in military-style uniforms, creating an environment of threat and intimidation that could cause workers to make errors or abandon their posts.

Post-Election "Audits": Demanding access to voting equipment and ballots, citing debunked conspiracy theories about machine manipulation, potentially leading to conflicts with election officials that escalate to violence.

The effectiveness of legal protections against these tactics depends entirely on local law enforcement cooperation. In jurisdictions where police sympathize with Trump supporters or receive orders from sympathetic elected officials, laws prohibiting militia activity and voter intimidation may not be enforced. Federal intervention would be complex and

potentially counterproductive if the DOJ and FBI were weaponized rather than remaining neutral enforcement agencies.

8. State and Local Certification Refusals

Pattern Since 2020

More than 30 local officials across nine states have refused to certify election results since 2020. These refusals occurred in Arizona, Colorado, Georgia, Michigan, New Mexico, North Carolina, Pennsylvania, Utah, and Virginia. In many cases, refusing officials falsely claimed that the 2020 presidential election was stolen and that widespread fraud persists in U.S. election systems.

Washoe County, Nevada (July 2024): Three of five county commissioners refused to certify results of two primary election recounts, marking the first such refusal in the state's 160-year history. The commissioners later reversed course after receiving guidance from the Washoe County District Attorney that certification duties were non-discretionary.

Cochise County, Arizona (2022): Two county officials refused to certify the 2022 midterm election results. Both the Arizona Secretary of State and Arizona voters filed mandamus* petitions to compel certification. The two officials were indicted on state charges for conspiracy and interference with an election officer; one pled guilty to a lesser charge and the other will stand trial.

*See “How a Writ of Mandamus Differs from an Ordinary Injunction” for an explanation of what this legal action is and how it protects against rogue public officials.

Otero County, New Mexico (2022): The county commission voted against certifying the 2022 primary election results. New Mexico Secretary of State filed an emergency mandamus petition with the state supreme court. Faced with this legal action and a letter to the attorney general requesting an investigation, two commissioners switched their votes and certified.

Legal Status of Certification

State laws consistently hold that certification is a mandatory, ministerial duty. Officials cannot refuse to sign certification papers based on disagreements about election administration or unsupported fraud claims. Election officials who harbor concerns about irregularities are entitled to express those concerns during certification but cannot use irregularities as justification for delaying or refusing certification in the absence of a valid court order.

Courts can issue writs of mandamus to compel certification. This remedy is "particularly valuable—more valuable than ordinary injunctive relief—because of the original jurisdiction in many state supreme courts to handle these disputes, which avoids the delay of a layered appellate process." State supreme courts have authority to compel [the county canvassing board] to approve the report of the canvass and certify the election.

Vulnerability for 2026

The certification refusal tactic has proven ineffective when challenged, as most officials reversed under legal pressure and a few faced serious consequences. However, this history assumes functioning legal systems and enforcement mechanisms. Several factors could make 2026 different:

Coordinated Refusals: If officials in multiple counties across multiple states simultaneously refuse certification, the legal system may lack capacity to process emergency mandamus petitions before critical deadlines.

State-Level Support: When governors or attorneys general support refusals rather than challenging them, state enforcement mechanisms break down. North Carolina's experience demonstrates how a partisan state supreme court can facilitate rather than prevent election subversion.

Federal DOJ Support: Historically, federal authorities have supported state efforts to compel certification. If the DOJ instead files amicus briefs supporting officials who refuse certification, claiming federal election integrity concerns justify delays, state courts may hesitate.

January 3 Deadline: For congressional races, certificates of election must be on file with the House Clerk by January 3 for members-elect to vote for Speaker. Certification refusals that extend past this deadline have a fundamentally different impact than refusals ultimately overcome by state courts.

9. Congressional Seating Manipulation Through Delayed Certification

This represents perhaps the most dangerous and least understood vulnerability in the American electoral system. It exploits a genuine gap in federal law that could allow Republicans to retain House control regardless of election outcomes.

The Constitutional Framework

The Constitution mandates that Congress convenes at noon on January 3. The House cannot conduct business until it elects a Speaker. House rules specify that only candidates

whose certificates of election are on file with the House Office of the Clerk are eligible to vote for the Speaker.

There is no federal statute prohibiting states from delaying certifications or mandating a deadline by which certificates must be issued. State executives (typically governors or secretaries of state) control the issuance of certificates of election. While states have their own deadlines, these are matters of state law subject to state legislative change or executive interpretation.

The Mechanism

A San Francisco Chronicle analysis details how this vulnerability could be exploited:

1. **Election Night Results:** Democrats win enough House seats to take the majority, but many races are close in states with Republican governors or secretaries of state.
2. **Delayed Certification:** GOP-controlled state officials in those states initiate recounts, investigations, or legal challenges that extend beyond January 3, 2027. They cite fraud concerns, machine irregularities, or any pretext that sounds plausible enough to create legal complexity.
3. **Missing Certificates:** Because certification is delayed, certificates of election are not on file with the House Clerk by January 3. Those seats remain vacant.
4. **January 3 Speaker Vote:** Only members with certificates on file can vote. Without the seats Democrats won in GOP-controlled states, Republicans retain a numerical majority of those present and voting.
5. **Republican Speaker Elected:** Mike Johnson or another Trump ally is elected Speaker by the Republican majority of members actually seated.
6. **Later Certifications:** Eventually, state courts order certification and Democrats from those states receive their certificates. However, by this point, the House has already organized under Republican control.
7. **House Refusal to Seat:** The House, now controlled by Republicans, has "exclusive authority to determine who to swear in." The Republican-controlled Committee on House Administration—the most partisan committee in Congress—investigates the delayed seats and finds pretexts to continue challenges.
8. **No Legal Remedy:** If the Supreme Court rules after January 3 that the delayed certifications were unlawful, "it will also be too late." The House's constitutional authority under Article I, Section 5 to judge the elections and qualifications of its

own members creates a plausible argument that courts cannot force the House to seat members it has not recognized.

Legal Analysis and Powell Precedent

The Supreme Court's 1969 decision in *Powell v. McCormack* held that the House cannot refuse to seat a "duly elected" candidate who meets constitutional qualifications. The House's authority to judge qualifications is *post facto* and can only be exercised through expulsion after a member is sworn in, requiring a two-thirds vote. The Court emphasized that "constitutional rights of voters and states take precedence over the rights of Congress until the candidate is sworn-in."

However, *Powell* assumes the candidate has been "duly elected under state law." If the state has not certified the election and issued a certificate, Republicans could argue the candidate is not yet "duly elected" in the legal sense. The House would claim it is exercising its Article I authority to judge "Elections, Returns and Qualifications." That is, it would not be refusing to seat a duly elected member but rather determining whether the election has been completed under state law.

This distinction, fake as it is, could create sufficient legal ambiguity to prevent rapid court intervention. Even if federal courts ultimately rule the delayed certifications were improper and order the House to seat the rightful winners, that litigation could take months while the organized Republican House passes consequential legislation.

Committee on House Administration

The Federal Contested Elections Act of 1969 provides procedures for candidates to contest House elections by filing with the Clerk. All such contests are referred to the Committee on House Administration, which investigates and issues a report with recommendations. The full House then adopts or rejects the committee's resolution.

Research shows that House Administration is the most partisan committee in Congress. It has the highest percentage of high party-line votes, the second highest percentage of low party-line votes, and the highest average difference between the two parties. Recent examples include H.R. 4617, a bill on foreign election interference that had eight roll-call votes in committee, none of which were bipartisan.

If Republicans control the House on January 3 through delayed certifications, a Republican-controlled House Administration Committee would investigate Democratic challenges to those seats. Historical precedent shows the House can "summarily dismiss a contest by the adoption of a resolution." Given the committee's extreme partisanship, there

is little reason to expect it would recommend seating Democrats who threaten Republican control.

The burden of proof lies with the challenger to produce sufficient evidence to change the outcome. Even with clear evidence that state officials improperly delayed certification, the committee could cite concerns about election integrity, ongoing state legal proceedings, or other pretexts to recommend dismissing the contests. The full Republican House could then adopt these recommendations by majority vote.

Historical Context and Timing

Congressional contested elections typically take substantial time to resolve—sometimes nearly a year. The 2008 Jennings v. Buchanan contest in Florida's 13th Congressional District involved simultaneous state court litigation and House investigation, with the House investigation remaining ongoing for more than a year.

This timeline is fatal to preventing the January 3 scenario. State courts might eventually order certification through mandamus petitions. Federal courts might find the delays were pretextual and unconstitutional. But if these rulings come after January 3, the damage is done. The House will have organized under Republican control, elected a Speaker, adopted rules (potentially including making it even harder to remove a Speaker), and seated Republican members in the contested seats.

Even if courts later compel proper certification, the House's Article I authority creates genuine uncertainty about whether courts can order the already-organized House to unseat members it has sworn in and replace them with others. This constitutional collision has no clear resolution because it has never occurred.

State-Level Mechanisms for Delay

State officials have multiple mechanisms to delay certification past January 3:

Recount Initiation: In close races, defeated candidates or state officials can request or order recounts that extend for weeks. While recounts should be swift, they can be slowed through challenges to recount procedures, disputes about which ballots to include, and administrative complexity.

Investigation Claims: State officials can cite fraud allegations or irregularities requiring investigation before certification. Even if these allegations are ultimately meritless, investigation takes time. Georgia's State Election Board, controlled by Trump allies, attempted to pass rules allowing county election boards to conduct unlimited pre-certification investigations.

Equipment Audits: Officials could demand forensic audits of voting equipment, citing conspiracy theories about machine manipulation similar to those debunked in 2020. These audits, even if shown to be based on false premises, take time to conduct and produce reports.

Legal Challenges: State officials or defeated candidates can file lawsuits challenging various aspects of election administration, ballot counting, or eligibility determinations. Even if these suits ultimately fail, they create legal complexity that officials cite as justification for delaying certification pending court resolution.

Legislative Interference: In states where legislatures can influence certification, the legislature could pass emergency resolutions or laws affecting the certification process, creating additional delays while courts sort out whether these changes are lawful.

Quorum Breaks: As Texas Democrats demonstrated, the minority party can break quorum to prevent legislative action. Conversely, the majority party could use procedural tactics to delay certification proceedings.

The common thread is that these tactics need only succeed in delaying certification for approximately 60 days (from Election Day November 3, 2026, to January 3, 2027). This is far easier than permanently preventing certification, which state courts have proven effective at compelling.

10. Spurious Legal Challenges

The 2023-2024 election cycle saw 295 voting-related lawsuits filed—more than any previous cycle on record. The GOP and its affiliates were involved in 123 lawsuits, filing 83 directly. This compares to Democrats' involvement in only 41 lawsuits, filing just 17. The RNC served as plaintiff in 25 lawsuits.

This represents a dramatic escalation in pre-election litigation. Right-wing groups including America First Legal, United Sovereign Americans, and Judicial Watch filed an additional 75 anti-voting lawsuits, creating complexity and uncertainty for election administrators.

Legal Theories Used to Question Election Results

Post-2020 litigation has established a repertoire of legal theories that, while generally unsuccessful, create delay and uncertainty:

Voting Machine Manipulation: Claims that Dominion Voting Systems machines (now rebranded as Liberty Voting) were hacked or manipulated through algorithms adjusting vote totals. These theories rely on debunked mathematical analyses and fabricated expert

testimony. Despite Fox News paying \$787 million to settle Dominion's defamation lawsuit, and attorneys Sidney Powell and Rudy Giuliani settling their own cases (with Powell admitting "no reasonable person would conclude that [her] statements were truly statements of fact"), these theories persist.

Foreign Interference Evidence: Allegations that supercomputers like "Hammer" using software called "Scorecard" altered vote tallies. Claims that Venezuela's election system "DNA" infected U.S. voting equipment. While investigations found no evidence for these theories, they continue to circulate and form a spurious basis for legal challenges.

Voter Roll Challenges: Mass challenges to voter registrations based on questionable data matching, address verification, and citizenship claims. Organizations file bulk challenges to thousands of voters, forcing election officials to investigate each challenge individually, consuming resources and creating delays.

Mail Ballot Validity: Challenges to mail ballot receipt deadlines, signature verification processes, ballot curing procedures, and drop box security. These suits seek to exclude large numbers of validly cast ballots based on technical arguments under state election laws.

Certification Authority: Claims that certification officials have discretion to refuse certification if they believe fraud occurred, contrary to settled law that certification is mandatory and ministerial.

Racial Gerrymandering (Reverse): DOJ Assistant AG Dhillon's letter to Texas alleging that majority-minority districts are themselves unconstitutional "racial gerrymanders" represents a novel theory that could be used to challenge Democratic-held districts. This inverts traditional racial gerrymandering claims, which protect minority voting power.

Independent State Legislature Theory: While the Supreme Court rejected this theory in *Moore v. Harper* (2023), three sitting justices—Thomas, Alito, and Gorsuch—endorsed it. The theory holds that state legislatures have exclusive, near-absolute power over federal elections, free from state constitutional constraints and state court review. Its revival could enable legislatures to override election results.

Strategic Use of Litigation

The goal of these challenges is often not to win in court but to:

Create Uncertainty: Each lawsuit, regardless of merit, generates media coverage about potential election problems, undermining public confidence in results.

Consume Resources: Election officials must respond to lawsuits, diverting time and money from election administration to legal defense. Small jurisdictions with limited budgets are particularly vulnerable.

Delay Certification: Ongoing litigation provides officials with pretexts to delay certification, claiming they cannot certify results while legal challenges are pending.

Establish Pretexts: Even losing lawsuits create factual records that officials can cite to justify other actions. If a court dismisses a machine security lawsuit for lack of standing rather than lack of merit, officials can claim "concerns were raised" about machine security.

Flood the Zone: Filing many lawsuits simultaneously overwhelms courts' capacity to address them before critical deadlines. Some cases may receive rushed hearings with inadequate fact-finding.

11. Supreme Court Shadow Docket

The Supreme Court's emergency or "shadow" docket handles applications seeking immediate action on an expedited basis with limited briefing and typically no oral argument. The Court often resolves these cases in unsigned orders with little or no explanation.

If state courts order certification and officials appeal to the Court seeking emergency stays, the shadow docket could be weaponized to prevent timely certification. Given the Court's pattern of granting Trump administration requests (28 emergency applications filed as of September 2025), even meritless appeals could delay certification past critical deadlines.

Pattern of Favorable Rulings

The Court has used the shadow docket to allow several of Trump's controversial actions to proceed while litigation continues. Despite not formally overturning precedents, the Court granted stays allowing Trump's firing of various commissioners and board members to take effect temporarily.

Justice Kagan criticized the Court for using "the emergency docket not for emergencies at all" but to radically change law without briefing, argument, or justification.

Historically, this process was used infrequently for genuine emergencies like imminent executions. During the Bush and Obama presidencies combined (16 years), the federal government filed only eight emergency applications. During Trump's first term (four years),

his administration filed 41 applications. As of September 2025 in Trump's second term, his administration has filed 28 emergency applications—a rate of over 50 per year if sustained.

Application to Election Disputes

The shadow docket could be weaponized in multiple ways to disrupt the 2026 elections:

Staying Certification Orders: If state courts order officials to certify election results, those officials could appeal to the Supreme Court seeking emergency stays. Even if the underlying appeal lacks merit, a stay granted on the shadow docket could prevent certification past critical deadlines.

Blocking Voter Protection Injunctions: Federal district courts have issued preliminary injunctions blocking Trump's Executive Order 14248. If the government seeks to stay those injunctions, the shadow docket could restore the order's most problematic provisions during the election period without deciding on their merits.

Intervening in State Processes: The Court could grant emergency relief in cases where state supreme courts have rejected federal constitutional claims, effectively overriding state judicial processes on compressed timelines that prevent adequate fact-finding.

Louisiana Case: A pending Supreme Court case regarding Louisiana's congressional map could dramatically reinterpret or even strike down the Voting Rights Act. If decided before 2026 elections, it would enable aggressive racial gerrymandering. Even if not decided, Republicans could cite the pending case as justification for map changes, creating litigation chaos.

Universal Injunction Doctrine: In June 2025, the Supreme Court ruled that "universal injunctions likely exceed the equitable authority that Congress has given to federal courts." The Court granted partial stays limiting injunctions to parties only. This doctrine could prevent nationwide relief even when the government's conduct is clearly unconstitutional, forcing separate litigation in multiple jurisdictions and overwhelming courts.

The combination of favorable substantive rulings and compressed timelines makes the shadow docket a potent tool for election subversion. Even temporary relief that expires after litigation concludes can achieve permanent effects if it extends past election deadlines.

12. Speaker Johnson and House Leadership Complicity

House Speaker Mike Johnson, a Trump ally, controls the procedures for seating members on January 3, 2027. The Speaker administers the oath of office to members en masse. If a

member-elect's swearing-in is challenged, "the Speaker, pursuant to House precedents, will ask the Member-elect to remain seated while the others are sworn in. The House then determines the disposition of the challenge."

This creates opportunities for partisan manipulation:

Selective Recognition: Johnson could recognize certificates from Republican-won seats while claiming certificates from Democratic-won seats in states with delayed certification are not properly on file or raise questions requiring investigation.

Challenge Facilitation: Any member can challenge the legitimacy of another member's taking the oath. Johnson could signal which challenges he considers serious, influencing whether they receive investigation or summary dismissal.

Rules Package Control: After the Speaker is elected, the House adopts its rules. Johnson could propose rules making it even harder to remove a Speaker (the current threshold is nine members to initiate a motion to vacate), to challenge contested elections, or to compel votes on seating disputed members.

Committee Assignments: Johnson controls committee assignments. He could stack the Committee on House Administration with the most partisan members, ensuring contested elections are resolved in Republicans' favor.

Floor Recognition: Johnson decides which members to recognize for motions and speeches. He could prevent Democrats from bringing motions to seat members from delayed-certification states or from raising points of order about improper procedures.

The Speaker is not a neutral presiding officer but a partisan leader. Johnson's close alignment with Trump suggests he would cooperate with schemes to maintain Republican control through procedural manipulation.

The Most Dangerous Scenario

The gravest threat involves coordinated action by Trump and his minions across multiple fronts simultaneously:

Phase 1 - Pre-Election (Now - November 2026)

- Mid-decade gerrymandering reduces Democratic seats by 10-15 before voting
- Restrictive voting laws in 16 states suppress Democratic turnout
- DOJ pursues spurious investigations intimidating Democratic voters and election officials
- CISA abandonment leaves systems vulnerable

- Litigation flood overwhelms election officials

Phase 2 - Election Period (October-November 2026)

- ICE raids in Democratic areas days before election
- Armed militias at polling places in swing districts
- Bomb threats and violence against election officials
- Equipment "malfunctions" in Democratic precincts caused by sabotage
- Voter roll purges remove eligible voters too close to election to correct

Phase 3 - Post-Election (November 4-December 2026)

- GOP county officials refuse certification in close Democratic wins
- Spurious legal challenges flood courts
- DOJ files amicus briefs supporting certification delays, claiming fraud investigations justify delays
- Supreme Court shadow docket stays lower court orders compelling certification
- State legislatures in GOP states pass emergency laws affecting certification procedures

Phase 4 - Pre-Congressional Seating (December 2026 - January 2, 2027)

- GOP governors and secretaries of state delay issuing certificates of election
- Federal courts order certification but Supreme Court grants stays
- International observers document fraud but lack enforcement authority
- Mass protests meet Insurrection Act deployment

Phase 5 - Congressional Organization (January 3, 2027)

- Without certificates, Democratic-won seats remain vacant
- Republicans constitute majority of members present
- Johnson re-elected Speaker on party-line vote
- Republican House Administration Committee dismisses all Democratic contests
- Already-organized House refuses to seat Democrats even if later certified

Phase 6 - Consolidation (January-February 2027)

- Republican House passes legislation eliminating filibuster

- Sweeping federal election laws override state authorities
- Additional Trump pardons for those who participated in 2026 subversion
- DOJ prosecutes election officials who resisted certification delays
- Federal voting rights enforcement permanently discontinued

Why This Approach to Election Sabotage Could Succeed

Exploitation of Legal Gaps: No federal statute requires timely certification. Courts cannot enforce laws that don't exist.

Timing Asymmetry: Subversion happens rapidly; legal remedies take time. January 3 is hard deadline; court processes are not.

Institutional Capture: DOJ, CISA, FBI—agencies that should protect elections—actively subvert them. States lack equivalent resources.

Partisan Judiciary: Supreme Court's shadow docket pattern favors Trump. State supreme courts in key states (like North Carolina) actively facilitate subversion.

Coordination Advantages: Republicans coordinate nationally through White House, RNC, state parties, and aligned organizations. Democrats coordinate states-by-states with less national coherence.

Powell Limitation: Supreme Court precedent prevents refusing to seat "duly elected" candidates but may not apply if states haven't certified elections, creating legal ambiguity Republicans exploit.

Public Confusion: Sophisticated multi-front attack overwhelms media's capacity to explain. Public doesn't understand technical certification issues and may not mobilize effectively.

Enforcement Void: Even successful court orders require compliance. Coordinated resistance by multiple officials creates enforcement crises courts cannot quickly resolve.

How It Might Be Defeated

State Court Efficacy: Mandamus petitions have worked repeatedly. If filed immediately and state supreme courts act swiftly, certification can be compelled before January 3.

Federal Court Intervention: While timing is challenging, federal courts could issue preliminary injunctions ordering certification with expedited appeals. If multiple federal circuits rule consistently, Supreme Court might not grant stays.

Criminal Deterrence: Cochise County prosecutions created real consequences. Fear of criminal liability might deter officials from participating in coordinated scheme.

Public Exposure: If the scheme is exposed comprehensively before implementation, public outcry could create political costs. Officials might fear backlash from constituents even in red districts.

Democratic Governor Non-Cooperation: In states with Democratic governors (23 states including swing states like Michigan, Wisconsin, Pennsylvania, Arizona, North Carolina), governors control certificate issuance. They won't participate in delays.

International Pressure: While lacking enforcement authority, international observation and condemnation create reputational costs. If OSCE and other observers document systematic fraud, international pressure could affect domestic politics.

Military Resistance: Insurrection Act deployment requires military compliance. If senior military officers refuse to deploy troops for election interference, Trump's options narrow.

Scale Requirements: Coordinated scheme requires many actors across multiple states. The more participants, the higher likelihood of defections, leaks, or mistakes. Even one state breaking from the plan could dominate media coverage and change dynamics.

Powell Precedent Force: If fraud is sufficiently blatant, Supreme Court might feel compelled to intervene despite general deference to Congress. The Justices understand the stakes of permanently damaging electoral legitimacy.

Institutional Resilience: American institutions have survived many crises. Local election officials, judges, and others may refuse to participate in subversion regardless of pressure. Personal integrity and professional ethics could prove decisive.

Part Two: Countermeasures and Their Likelihood of Success

1. Legal Remedies: Federal Court Challenges

Current Successes

Federal courts have proven willing to block Trump's most egregious overreach. Two federal courts issued preliminary injunctions against major provisions of Executive Order 14248.

Judge Denise Casper's June 12, 2025, order blocked the documentary proof of citizenship requirement, the Election Day mail ballot deadline for 13 states, and threatened federal fund withholding.

Nineteen Democratic attorneys general coordinated this litigation, led by California AG Rob Bonta and Nevada AG Aaron Ford. The courts accepted plaintiffs' arguments that Trump lacks constitutional authority to regulate elections, finding the order "interferes with States' inherent sovereignty." States demonstrated "risk of irreparable harm" from compliance requirements that would be costly, difficult, and would hamper registration of eligible voters.

First Amendment Protections

Courts have blocked Trump's executive orders targeting law firms that worked on election litigation, finding that they violated the First Amendment. This same constitutional protection extends to election officials and pro-voter groups who speak publicly about election legitimacy and security. If the administration targets officials or groups for declaring elections safe and secure or for registering voters, targets may be able to block investigations or prosecutions in court before they proceed.

Limitations

Timing: Federal litigation takes time. Even preliminary injunctions require briefings, hearings, and written opinions. For election disputes with hard deadlines (like January 3 seating), weeks or months of litigation may be too slow

Shadow Docket: Even when lower courts rule correctly, the Trump administration can seek emergency relief from the Supreme Court. Given the pattern of granting stays, even temporary Supreme Court intervention can extend past critical deadlines.

Universal Injunction Doctrine: The Supreme Court's June 2025 ruling limiting injunctions to parties only means that even successful lawsuits may not provide nationwide relief. Plaintiffs must be brought in every affected jurisdiction, overwhelming legal resources.

Article I Authority: When disputes involve Congress's authority under Article I to judge elections of its members, federal courts may hesitate to intervene, citing separation of powers concerns. While *Powell v. McCormack* established courts can intervene in limited circumstances, the doctrine creates uncertainty.

Mootness: If cases are not resolved before elections occur or Congress seats members, courts may declare them moot, avoiding constitutional questions but leaving the manipulated result in place.

2. State-Level Legal Remedies

Mandamus Petitions

Mandamus has proven the most effective remedy for certification refusals. State supreme courts have original jurisdiction over mandamus petitions in many states, avoiding layered appellate processes. Courts can order officials to certify and, if they refuse, direct alternative actors to perform the ministerial task.

New Mexico (2022): Secretary of State filed emergency mandamus petition when Otero County refused certification. The petition succeeded, forcing certification.

Arizona (2022): Secretary of State and voters filed mandamus petitions against Cochise County. Certification was compelled and the refusing officials were criminally indicted.

These successes demonstrate mandamus works when:

- Filed immediately after refusal
- Brought by state officials with clear standing
- Supported by unambiguous state law requiring certification
- Heard by state supreme courts that apply law rather than partisan preferences

Limitations

Time Pressure: Even expedited mandamus proceedings take days or weeks. For congressional races needing certification by January 3, delays of even two weeks can be fatal.

Partisan State Courts: North Carolina Supreme Court's blocking of Justice Allison Riggs's certification despite two recounts verifying her victory demonstrates how partisan state supreme courts can facilitate rather than prevent subversion.

Multiple Simultaneous Refusals: State supreme courts have limited capacity. If officials in dozens of counties across multiple states simultaneously refuse certification, courts cannot process all emergency petitions before deadlines.

Enforcement: Even if courts order certification, they depend on officials' compliance. While officials typically comply once courts rule, coordinated resistance backed by governors and attorneys general could create enforcement crises.

3. Criminal Consequences

Criminal prosecution has provided some deterrent effect. Cochise County, Arizona officials were indicted for refusing to certify, with one pleading guilty. Texas Governor Abbott and Attorney General Paxton threatened removal from office and criminal charges for legislators who broke quorum, though the legal basis was questionable.

Effectiveness

Criminal consequences work when:

- State attorneys general are willing to prosecute
- Conduct clearly violates criminal statutes
- Prosecution occurs swiftly enough to affect ongoing events

Limitations

Political Will: Prosecution requires state attorneys general who are willing to act against members of their own party. In states where both the governor and AG are Trump allies, no prosecution will occur.

Federal Interference: DOJ could intervene, claiming federal preemption or filing removal petitions to move cases to federal court where they can be dismissed.

Pardons: Trump has shown willingness to pardon those who engage in election subversion. The prospect of future presidential pardons undermines any deterrent effect.

Timing: Criminal prosecution is inherently slow. Indictments, trials, and appeals take months or years—far too long to affect certification deadlines or congressional seating.

4. Multi-State Coordination

Twenty-three Democratic attorneys general coordinate through regular video calls to plan joint responses. This represents an evolution of multistate litigation, which has become "a favored tool for state officials banding together on partisan lines to take on a president of the other party."

The 19-state lawsuit against Executive Order 14248 demonstrates this coordination's effectiveness. California and Nevada led, with 17 other states joining. Similar coordination has occurred challenging Trump's National Guard deployments.

Infrastructure Building

Democratic Governors Association (DGA): Chaired by Gov. Laura Kelly, the DGA coordinates governors' responses. It successfully defended the Blue Wall (Michigan, Wisconsin, Pennsylvania) in 2022 and flipped Arizona.

State Futures Initiative: Launched in March 2025, connecting 600+ state legislators and financial officers through working groups on election security, federal response, health care, and labor standards. The initiative facilitates sharing of threat data, cybersecurity training coordination, and joint tabletop exercises.

NYU Wagner Labor Initiative: Convenes attorneys general and state labor officials for coordination.

These networks create "collective state action" in which states work together to pool resources, harmonize policies, and coordinate responses to federal interference. This represents a strategic evolution recognizing that individual state action is insufficient against coordinated federal and national Republican efforts.

Limitations

Resource Constraints: Even coordinated states face resource limitations. Simultaneous crises in multiple states can overwhelm capacity.

Federal Preemption: The administration can argue federal law preempts state resistance, forcing prolonged litigation over federalism principles.

Red State Gaps: Coordination among Democratic officials does nothing to protect voters in Republican-controlled states. Texas, Florida, Ohio, and other large states with Republican governors and AGs are outside these protective networks.

Speed: While coordination improves response quality, it doesn't accelerate legal processes. Court cases still take the same amount of time regardless of how well coordinated plaintiffs are.

5. Congressional Remedies

Congress theoretically could pass legislation addressing election vulnerabilities. The Elections Clause grants Congress power to override state election regulations. Congress could:

- Mandate federal deadlines for state certification
- Prohibit states from delaying certification past specified dates
- Create federal causes of action to compel certification

- Establish federal penalties for officials who improperly refuse certification
- Mandate that certificates of election be issued within specified timeframes
- Create expedited federal court review for certification disputes

Why This Won't Happen

Senate Control: Republicans control the Senate 53-45 (with two independents). No election protection legislation would pass the Senate.

Filibuster: Even if Democrats won the Senate, the filibuster requires 60 votes for most legislation. Republicans would filibuster any bills protecting the right to vote.

Presidential Veto: Even if legislation somehow passed both chambers, Trump would veto it.

Post-2026 Irrelevance: Any Congressional remedy would need to be enacted before the 2026 elections. After Republicans potentially secure control through the mechanisms described, they would never pass legislation preventing future use of those same mechanisms.

Trump has explicitly stated "the biggest thing is the filibuster" and after its elimination, "We will pass legislation at levels you've never seen before, and it will be impossible to beat us." If Republicans were to eliminate the filibuster, they could pass laws restricting rather than protecting voting rights.

6. State Legislative Action

State legislatures can strengthen certification procedures by:

- Explicitly stating certification deadlines with no discretion
- Granting state officials authority to complete certification if counties refuse
- Creating private rights of action for voters to compel certification
- Imposing costs of delayed certification on refusing officials
- Clarifying that certification is purely ministerial with zero discretion
- Establishing expedited state court review procedures

The Brennan Center has issued guidance recommending these reforms. Some states have implemented portions of these recommendations.

Limitations

Red State Legislatures: Republican-controlled state legislatures will not pass laws making election subversion harder. In fact, they're passing laws in the opposite direction—16 states enacted 29 restrictive voting laws in 2025.

Timing: Legislative sessions occur at specific times. Many legislatures aren't in session in 2026 until after critical election periods.

Gubernatorial Veto: In states with divided government, Republican governors can veto election protection legislation passed by Democratic legislatures.

Reversibility: Future legislatures can repeal protections enacted by current legislatures, particularly if Republicans gain control after Democrats pass reforms.

7. International Observation and Pressure

The Organization for Security and Co-operation in Europe (OSCE) conducts election observation missions using established methodology representing the global standard. OSCE missions analyze election-related laws and systems and the effectiveness of their implementation. Observers monitor voting, counting, tabulation, and complaint handling.

The U.S. has invited OSCE observers for past elections. In 2024, a whole-of-government counter-interference strategy involving the FBI, CISA, and international coordination proved effective against foreign influence operations.

International observation could:

- Document irregularities and subversion attempts
- Provide independent verification of election integrity
- Create reputational costs for officials engaging in manipulation
- Generate international pressure on the U.S. government
- Establish factual records useful in subsequent litigation

Limitations

No Enforcement Authority: International observers can document but not prevent violations. They cannot compel certification, stop voter suppression, or override domestic legal processes.

Domestic Hostility: Trump supporters may view international observers as foreign interference, potentially leading to harassment or exclusion. State laws vary on observer access.

Limited Scope: International observers can monitor only what they're allowed to see. Officials can engage in subversion outside observers' view.

No Legal Effect: U.S. courts are unlikely to give substantial weight to international observer reports. Domestic legal standards control.

Timing: International observation missions require advance planning and invitation. If the administration declines to invite observers or if state officials refuse to credential them, deployment becomes difficult.

8. Legal Public Mobilization and Pressure; Localized Protests

The 2020 election was defended in part through massive public awareness and mobilization. Election officials reported receiving support and encouragement that helped them resist pressure to overturn results. Public protests signaled widespread opposition to subversion of elections.

For 2026, civil society organizations are preparing:

Election Protection Programs: Organizations like the Lawyers' Committee for Civil Rights and Election Protection hotlines provide real-time assistance to voters facing problems.

Poll Monitoring: Training volunteers to serve as election observers, documenting irregularities and providing rapid response to suppression attempts.

Media Coordination: Working with journalists to ensure rapid, accurate reporting of subversion attempts, preventing normalization of abnormal conduct.

Rapid Response Networks: Organizing ability to mobilize protests within hours of subversion attempts, creating immediate political costs for officials.

Voter Education: Ensuring voters know their rights, understand state laws, and can identify and report intimidation or irregularities.

Election Official Support: Providing security, legal assistance, and public backing to election officials who resist pressure to manipulate results.

The Most Vital Action Is Public Protests. The "No Kings" protest movement was launched on June 14, 2025, organized by progressive groups including the 50501 Movement, Indivisible, and MoveOn, with nonpartisan support from the ACLU.

About five million demonstrators attended across roughly 2,100 sites to counter Trump's small military parade for his birthday, making it one of the largest single-day protests in U.S. history. The second round of demonstrations, on October 18, 2025, drew an estimated five to seven million attendees across some 2,700 locations, including the National Mall, Chicago, and New York City, bringing the movement's cumulative participation to over 12 million people.

As this is being written, the third major mobilization is set for March 28, 2026, with organizers predicting it will be the largest nonviolent protest in American history, with over 3,000 events scheduled nationwide.

Effectiveness

Legal public mobilization and targeted local protests work when:

- Subversion is visible and can be documented in real-time
- Media amplifies concerns to reach broad audiences
- Officials respond to political pressure from constituents
- Mass protests are sustained long enough to force action

Limitations

Slow Moving Subversion: Public mobilization responds best to dramatic, visible events. Slow administrative delays and technical legal maneuvers are harder to rally around.

Media Environment: Partisan media ecosystem may not cover or may actively defend subversion. Fox News and other right-wing outlets could characterize efforts to compel certification as Democratic manipulation.

Protest Suppression: If Trump invokes the Insurrection Act in response to protests, the military could suppress relatively small demonstrations, making mobilization dangerous and potentially counterproductive.

Voter Fatigue: After years of election crisis narratives, some voters may become numb to warnings, making mobilization harder.

Geographic Limits: Protests in blue cities have limited impact on officials in red states who face no political consequences from Democratic constituencies.

9. Technological and Administrative Defenses

Election officials can strengthen systems against manipulation through:

Paper Ballot Requirements: Ensuring that every jurisdiction uses paper ballots with clear chain-of-custody procedures and risk-limiting audits prevents undetectable manipulation and enables recounts.

Transparency Requirements: Live-streaming ballot counting, providing real-time updates, and allowing observer access at all stages makes subversion harder to conceal.

Redundant Certification: Having multiple officials independently verify counts and sign off on results makes it harder for any single official to manipulate outcomes.

Pre-Election Testing: Public testing of equipment, voting system certifications, and security assessments build public confidence and document system integrity.

Cybersecurity: Implementing multi-factor authentication, network segmentation, intrusion detection, and regular security audits protect against hacking.

Emergency Protocols: Establishing procedures for equipment failures, bomb threats, natural disasters, and other disruptions ensures continuity.

Georgia's requirement that new police officers receive election law training, including protections against voter intimidation and election interference, represents a positive development. This training helped ensure effective responses to the 227 bomb threats on Election Day 2024.

Limitations

CISA Abandonment: The federal government has stopped election security activities at CISA and stripped funding from systems alerting states to threats. State and local officials no longer have a reliable federal partner.

Resource Constraints: Federal funding for election security decreased in 2025. States must fill gaps with their own resources, which vary dramatically.

Insider Threats: Administrative defenses assume election officials are acting in good faith. If officials themselves are trying to manipulate outcomes, internal controls may be inadequate.

Coordinated Attacks: Defenses designed for individual jurisdictions may fail when faced with coordinated national-level attacks using federal resources.

Equipment Access: Trump administration requests to access voting equipment in Colorado and Missouri create vulnerabilities. Even if rebuffed, repeated attempts wear down resistance.

10. Assessing Likelihood of Success

High Success Countermeasures (70-90% effective if deployed)

Federal court injunctions against executive orders: Courts have consistently blocked Trump's most extreme overreach. When constitutional violations are clear and plaintiffs have standing, injunctions work.

State court mandamus for certification: Nearly 100% success rate when properly filed. State supreme courts have uniformly held that certification is mandatory and ministerial.

Multi-state AG coordination: Nineteen states successfully challenged Executive Order 14248. Coordination amplifies state power and creates defensive strength.

Criminal prosecution of clear violations: Cochise County officials were indicted and one pled guilty. When conduct clearly violates criminal law and prosecutors are willing to act, consequences follow.

These remedies are most effective for discrete, clearly illegal acts: refusing to certify without justification, seizing voting equipment without authority, deploying troops without legal basis. They work because violations are obvious and legal standards are clear.

Moderate Success Countermeasures (40-60% effective)

Armed militia prevention: Success depends entirely on local law enforcement cooperation. In jurisdictions with sympathetic police, laws are enforced. In jurisdictions where police share militia sympathies, laws are ignored.

National Guard deployment challenges: Results have been mixed. A Chicago deployment was blocked but a Memphis deployment continued. Courts can intervene but Trump has alternative legal theories (Insurrection Act) that are harder to challenge.

Public mobilization and pressure within legal boundaries: Can succeed in creating political costs but depends on sustained attention, which is difficult to maintain. It can be effective for high-visibility events but is less so for slow-moving administrative subversion.

State legislative reforms: Effective in blue states but Republicans control 28 state legislatures. Reforms protect only constituencies in states willing to pass them.

International observation: Creates documentation and reputational costs but no enforcement mechanism. U.S. domestic processes ultimately control outcomes regardless of international condemnation.

Low Success/High Risk Countermeasures (10-30% effective)

Insurrection Act challenges: If properly invoked, courts will defer to presidential determination of emergency circumstances. Legal challenges are unlikely to succeed before troops are deployed and subversion occurs.

Supreme Court shadow docket: Pattern strongly favors Trump administration. Even meritless government applications receive stays while litigation proceeds. By the time final rulings come down, elections have passed.

Congressional action: Republicans control Congress. No protective legislation will pass. Post-2026, if Republicans secure control through subversion, they'll never pass laws preventing future subversion.

Post-January 3 remedies for delayed certification: If Republicans organize the House on January 3 before court orders compel certification, it is unclear whether courts can force the organized House to replace seated members. A constitutional collision between the authority of the House to police itself under Article I and voter rights is a situation without precedent in American history.

Filibuster preservation: Entirely political question. If Republicans decide that eliminating filibuster serves their interests, no legal remedy prevents it.

DOJ intervention on voters' behalf: Currently, the DOJ is weaponized against rather than in support of voting rights. The DOJ will file amicus briefs supporting rather than opposing subversion.

These vulnerabilities persist because they exploit genuine gaps in law (no federal certification deadline), involve areas where courts defer to political branches (Insurrection Act, congressional organization), or depend on institutions that have been captured (the DOJ, CISA).

11. Summary of Critical Gaps

Legal Gaps

No Federal Certification Deadline: The most dangerous gap. States can delay certification indefinitely, and no federal statute prohibits this. The January 3 deadline creates asymmetry. States can delay certification, but Congress must convene on time.

Insurrection Act Vagueness: The statute's broad language makes it "far too vague" and subject to abuse. Courts lack clear standards to determine when invocation is improper before deployment occurs.

Powell Precedent Limitation: *Powell v. McCormack* protects candidates who are "duly elected under state law" but doesn't clarify the status of candidates whose elections haven't been certified by states.

House Article I Authority: Congress's power to judge elections and qualifications of its members creates tension with judicial review. Courts haven't resolved how far this authority extends.

Shadow Docket Abuse: There are no meaningful constraints on the Supreme Court's emergency docket. The Court can grant stays based on minimal briefing with no explanation, and there's no remedy for improper grants of emergency relief.

Institutional Gaps

Federal Agency Capture: CISA, DOJ, and FBI, the agencies responsible for protecting elections, have been weaponized. States have no reliable federal partner.

Partisan Committee Structure: The House Administration Committee's extreme partisanship means contested elections won't be resolved fairly when partisan control hangs in balance.

State Court Partisanship: The North Carolina Supreme Court's blocking of Justice Riggs's certification demonstrates that state courts can facilitate rather than prevent subversion when controlled by partisans.

Enforcement Mechanisms: Even when courts order certification or other remedies, enforcement depends on compliance. Coordinated resistance by multiple officials backed by governors could create enforcement crises.

Resource Gaps

State Election Security Funding: Federal funding decreased in 2025 while threats increased. States must self-fund their own protections; some may be underfunded.

Legal Resources: A flood of litigation can overwhelm defensive legal capacity. Right-wing groups filed 158 anti-voting lawsuits in 2023-24 while Democrats filed only 17.

Court Capacity: Simultaneous certification refusals in multiple counties would exceed courts' capacity to process emergency mandamus petitions before deadlines.

Civil Society Infrastructure: While organizations like Brennan Center, Protect Democracy, and ACLU do excellent work, they're vastly outnumbered and outspent by right-wing legal organizations.

Actions Being Taken

Legal Challenges Currently Filed

As of this writing, multiple legal challenges to Trump administration actions are pending:

Executive Order 14248 Litigation: Nineteen states (AZ, CA, CO, CT, DE, HI, IL, ME, MD, MA, MI, MN, NV, NJ, NM, NY, RI, VT, WI) have obtained preliminary injunctions blocking major provisions. Oregon and Washington have separate litigation pending. Consolidated nonprofit and Democratic Party cases are also proceeding in D.C. district court.

National Guard Deployment Cases: Litigation resulted in Trump backing off deployments in Chicago, Los Angeles, and Portland. However, federalized Guard remains in D.C., Memphis, and New Orleans.

Voter Data Requests: Fourteen states are resisting DOJ demands for voter registration data. Minnesota has explicitly refused absent information about data security and usage.

Voting Equipment Access: Colorado and Missouri county officials rebuffed Trump administration requests for equipment access.

These cases demonstrate willingness to litigate but also reveal resource constraints—defending on multiple simultaneous fronts is expensive and time-consuming.

State-Level Reforms Already Enacted

Certification Procedures: Some states have clarified that certification is mandatory and ministerial with no discretion. States have granted explicit authority for state officials to complete certification if counties refuse, with refusing counties bearing intervention costs.

Private Rights of Action: Some states created explicit private rights of action for voters to bring legal actions compelling certification.

Criminal Penalties: Enhanced penalties for officials who improperly refuse certification or interfere with election officers.

Police Training: Georgia became the first state to require election law training for new police officers, including protections against voter intimidation and interference. This training proved valuable in managing 227 bomb threats on Election Day 2024.

Risk-Limiting Audits: Implementation of paper ballot requirements, chain-of-custody protocols, and transparent audits. These provide verifiable records that make manipulation detectable.

Organizational Initiatives

State Futures Initiative (launched March 2025): It connects 600+ state legislators and financial officers through working groups on election security, federal response, health care, and labor standards. It facilitates threat data sharing, cybersecurity training coordination, and joint tabletop exercises.

Democratic Governors Association: It coordinates governors' responses to federal overreach. It successfully defended Blue Wall states in 2022.

23-State AG Coordination: Democratic attorneys general hold regular confidential video calls to coordinate legal strategy. This coordination enabled the 19-state challenge to Executive Order 14248.

Election Official Networks: Organizations including the National Association of State Election Directors and National Association of Secretaries of State provide forums for information sharing and best practice development.

Civil Society Legal Preparation: Organizations including the Brennan Center, Protect Democracy, the ACLU, the NAACP Legal Defense Fund, the Lawyers' Committee for Civil Rights, and the Campaign Legal Center have prepared litigation strategies, drafted complaints in advance, and established rapid response capabilities.

What's Lacking

Despite these efforts, significant gaps remain:

No Comprehensive Federal Legislation: Congress has not passed laws addressing certification deadlines, mandating state compliance with federal standards, or creating federal causes of action to compel proper election administration.

Limited Red State Protections: All documented defensive preparations involve Democratic officials and blue states. Voters in Texas, Florida, Ohio, and other Republican-controlled states lack state-level protection.

Insufficient Resource Allocation: While organizations are preparing, funding levels don't match the scale of threat. CISA's budget was cut by nearly \$500 million. Federal election security funding decreased in 2025.

No International Observer Infrastructure: Unlike 2024, when the U.S. had whole-of-government coordination with international partners, the current administration has dismantled this infrastructure. Planning for international observation of 2026 elections has not been publicly announced.

Incomplete Voter Education: While civil society organizations conduct voter education, there's no comprehensive national effort to ensure voters understand their rights, state-specific procedures, and how to identify and report suppression.

Limited Poll Worker Protection: Poll workers face increased harassment and threats. While some states have enhanced penalties, comprehensive protection programs with security support are lacking.

Inadequate Media Coordination: The 2024 experience showed media coordination was crucial to debunking disinformation. No comparable effort appears organized for 2026.

Part 3: What, Then, Must Democrats Do?

Realistic Countermeasures Available to Democratic Officials and Civil Society

Legal Preparation:

- Draft mandamus petitions in advance for all close races in all states
- Establish rapid-response legal teams ready to file within hours
- Coordinate multi-state litigation to create consistent legal standards
- Prepare federal court challenges to any Insurrection Act invocation
- Document everything in real-time to establish factual records for litigation

Institutional Coordination:

- Continue and expand state-level coordination through State Futures and AG networks
- Establish secure communications for coordination during crises
- Create mutual aid agreements between states for legal and technical support
- Coordinate with international observer organizations to maximize scrutiny
- Develop relationships with military leadership to establish norms against political deployment

Public Education and Mobilization:

- Comprehensive voter education about state-specific procedures and rights
- Media strategy for rapid response to disinformation

- Pre-planned mobilization of lawful protests wherever subversion attempts occur
- Election official support networks providing security and legal assistance
- Documentary evidence collection by citizen observers

Technical Safeguards:

- Universal paper ballot requirements with clear chain of custody
- Risk-limiting audits in all jurisdictions
- Live-streaming of ballot counting and certification processes
- Redundant verification systems making single-point manipulation impossible
- Cybersecurity hardening of all election infrastructure

Political Strategy:

- Expose potential schemes before implementation to create political costs
- Target swing district voters with information about suppression risks
- Recruit and train massive poll observer networks
- Build coalitions with Republicans unwilling to participate in subversion
- Emphasize rule of law and institutional legitimacy in all communications

What Success Looks Like

Success does not require preventing every individual act of suppression or interference.

Success means:

1. **Legitimate Results Certified:** Ultimately, accurate election results are certified and winners are seated, even if process is delayed and contentious.
2. **Subversion Attempts Fail:** Coordinated schemes to prevent Democratic majority despite winning elections are thwarted through legal intervention, public pressure, or participants defecting or abandoning their efforts.
3. **Accountability:** Officials who engage in election subversion face legal consequences, establishing deterrence for future attempts.
4. **Institutional Resilience:** Courts, election officials, and other institutions demonstrate commitment to law over partisanship, reinforcing norms.
5. **Public Confidence:** Despite attempts at manipulation, the public believes the process, while imperfect, produced legitimate results reflecting voter intent.

What Failure Looks Like

Failure could manifest as:

1. **Prevented Seating:** Democrats win House majority but Republicans organize the House on January 3 through delayed certifications, retaining control regardless of voters' choices.
2. **Altered Outcomes:** Combination of gerrymandering, suppression, intimidation, and manipulation shifts enough seats to change House control.
3. **Permanent Damage:** Even if specific subversion attempts fail, the process is so compromised that large portions of the public believe results are illegitimate, destroying electoral system credibility.
4. **Authoritarian Consolidation:** Republicans secure control through manipulation, then pass laws ensuring permanent advantage through filibuster elimination and federal override of state election laws.
5. **Violence:** Subversion attempts generate violent responses, which are used to justify Insurrection Act deployment, creating a spiral of repression.

Part 4: The Nuclear Option: Sustained Nationwide Civil Disobedience

U.S. Sen. Reuben Gallego said on Feb. 11 that Americans should take the extreme action of shutting the country down with a national strike – not just the government, but commerce – if Trump were to “use law enforcement to stop the vote,” or “try to force the stopping of the count if things aren’t going his way, send National Guard to seize the ballots.”

A national strike is one very intense form of civil disobedience, but far from the only option. See this accompanying report for more on what civil disobedience is (and is not) and its history:

[Civil Disobedience: Definition and Historical Precedents](#)

Conclusion: The Stakes

It is not hyperbolic to conclude that the 2026 midterm elections will determine whether the United States remains a constitutional democracy with competitive elections or transitions to a different system. If a party can secure power by manipulating processes rather than winning votes, elections cease to be meaningful. If federal force can be deployed to suppress opposition, authoritarianism has arrived.

The legal analysis in this report demonstrates that mechanisms exist for subverting the 2026 elections. Whether those mechanisms can be thwarted depends on the courage and competence of election officials, judges, attorneys general, governors, civil society organizations, and citizens who refuse to acquiesce.

History will judge this moment. The question is whether American institutions, having survived the 2020 election crisis, learned sufficient lessons to prevent a more sophisticated attack in 2026, or whether the 2020 experience served as a blueprint for the refinement and ultimate success of repression.

The research shows both grounds for concern and reasons for measured optimism. Defenses exist; the question is whether they are sufficient and whether they are deployed with the necessary speed, coordination, and will. The answer will become clear beginning November 3, 2026.

Election Interference Reports List URLs:

This is the main report in my set of February-March 2026 reports on the high likelihood of interference in the 2026 and 2028 elections by President Donald Trump and his minions. Here's the full list:

Election Interference Reports List URLs:

This report is part of a set of March 2026 reports on the likelihood of interference in the 2026 and 2028 elections by President Donald Trump and his minions and what to do about it. Here's the full list:

- This report: How to Beat Trump's Plan to Disrupt the 2026 Election
- [How to Beat Trump's Plan to Disrupt the 2026 Election —Executive Summary](#)
- [Analysis: Over 80% Likelihood That Trump Will Interfere in the 2026 Election](#)
- [Trump's Own Words on His Intentions Regarding Future Elections](#)
- [2026 State-By-State Election Risk Assessment](#)
- [Civil Disobedience: Definition and Historical Precedents](#)
- [How a Writ of Mandamus Differs from an Ordinary Injunction](#)

Please Do Comment:

Do you have a story or idea to add?

Or do you disagree with this commentary?

Please comment online at the bottom of the [Executive Summary](#).

All civil comments are welcome!



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