

July 30, 2020

The Honorable Ron Johnson
Chairman
Senate Homeland Security and Governmental Affairs Committee
340 Dirksen Senate Office Building
Washington, DC 20510

Re: Request for Hearings on Voting by Mail and Homeland Security Agents in US Cities

Dear Chairman Johnson:

We write to request that you use your authority as Chairman of the Senate Homeland Security and Governmental Affairs Committee (HSGAC) to hold oversight hearings on the Trump administration's apparently antidemocratic conduct related to two issues directly under your committee's jurisdiction. Recent reports of delays in the United States Postal Service's (USPS) delivery of absentee ballots in the Wisconsin presidential primary, and subsequent steps taken by the new Postmaster General of the United States, raise concerns about Americans' ability to vote safely and effectively in November.¹ The Department of Homeland Security's (DHS) deployment of heavily armed federal agents to American cities over the objection of local elected officials threatens the principles of federalism and free assembly upon which our democratic system is built.² Both of these issues fall squarely within your Committee's jurisdiction and demand congressional oversight.

The United States Postal Service is one of the most trusted and ubiquitous institutions of American government. As Americans have attempted to adjust their lives to the still surging coronavirus pandemic, the USPS Office of Inspector General (OIG) has acknowledged that "there is an expected increase in the number of Americans who will choose to vote by mail and avoid in-person voting."³ Earlier this year, you and several colleagues requested that the USPS "investigate reports of absentee ballots not delivered in a timely manner for the Wisconsin primary election held Tuesday, April 7, 2020."⁴

¹ U.S. Postal Service, Office of the Inspector General, Management Alert, Timeliness of Ballot Mail in the Milwaukee Processing & Distribution Center Service Area, July 7, 2020, available at <https://www.uspsoidg.gov/sites/default/files/document-library-files/2020/20-235-R20.pdf>.

² Jonathan Levinson, Conrad Wilson, James Doubek, & Suzanne Nuyen, Federal Officers Use Unmarked Vehicles To Grab People In Portland, DHS Confirms, *National Public Radio*, July 17, 2020, available at <https://www.npr.org/2020/07/17/892277592/federal-officers-use-unmarked-vehicles-to-grab-protesters-in-portland>; see also, Ben Fox, Heavily Armed US Agents on City Streets: Can Trump Do That?, *Associated Press*, July 22, 2020, available at https://www.washingtonpost.com/politics/heavily-armed-us-agents-on-city-streets-can-trump-do-that/2020/07/22/a130813e-cbd4-11ea-99b0-8426e26d203b_story.html.

³ U.S. Postal Service, Office of the Inspector General, Management Alert, Timeliness of Ballot Mail in the Milwaukee Processing & Distribution Center Service Area, July 7, 2020.

⁴ *Id.*

OIG's report, issued on July 7, 2020, found that while USPS "generally followed its procedures for processing and delivering ballots" in the Wisconsin primary, there was a need "to improve communication and coordination between the Postal Service and election offices and strengthen adherence to procedures."⁵ OIG also identified "potential nationwide issues integrating election office's vote by mail processes with the Postal Service processes which could impact future elections."⁶ Specifically, OIG indicated that there were issues in Milwaukee "related to the timeliness of ballots being mailed to voters, correcting misdelivery of ballots, an inability to track ballots, and inconsistent postmarking of ballots."⁷ OIG also explained that at the national level, there were "potential concerns with the deadlines set by the states to request absentee ballots, ballots postmarks, ballots mailed without mail tracking technology, and the ratio of Political and Election Mail coordinators to election offices in certain locations."⁸

In response to some of these findings, USPS management indicated that it had or would soon implement OIG's recommendations.⁹ But USPS has come under new management since this audit commenced and the agency began taking remedial action. On June 15, 2020, Louis DeJoy, a prominent donor to President Trump and the former lead fundraiser for the Republican National Convention, became the Postmaster General of the United States, and the first in decades to hold the position without prior experience within the agency.¹⁰ In addition to concerns about his qualifications, others have raised questions about DeJoy's ability to address potential financial conflicts of interest implicated by his interests in USPS contractors and competitors like XPO Logistics, J.B. Hunt and UPS.¹¹ While these are all facts that raise legitimate cause for congressional oversight, the most pressing concerns related to Mr. DeJoy's leadership involves voting by mail.

In his first month on the job, the Postmaster General has already taken steps that could undermine efficient voting by mail in November. According to internal USPS memos, DeJoy directed USPS employees that overtime would be limited and that they were prohibited from making late trips in order to ensure timely delivery.¹² DeJoy offered these changes as a way to cut costs, but USPS has acknowledged that they will likely result in delayed mail delivery for a

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Ahiza García-Hodges, [New Postal Service Head is a Top Trump Donor. What Does That Mean for Its Future?](https://www.nbcnews.com/news/us-news/new-usps-head-top-trump-donor-what-does-mean-its-n1231124), *NBCNews*, June 15, 2020, available at <https://www.nbcnews.com/news/us-news/new-usps-head-top-trump-donor-what-does-mean-its-n1231124>.

¹¹ Jacob Bogage, [Trump Ally Takes Over Crisis-Ridden Postal Service as Top Senate Democrat Demands Inquiry on Hiring](https://www.washingtonpost.com/business/2020/06/15/trump-postal-service-dejoy/), *Washington Post*, June 15, 2020, available at <https://www.washingtonpost.com/business/2020/06/15/trump-postal-service-dejoy/>.

¹² Jacob Bogage, [Postal Service Memos Detail 'Difficult' Changes, including Slower Mail Delivery](https://www.washingtonpost.com/business/2020/07/14/postal-service-trump-dejoy-delay-mail/), *Washington Post*, July 14, 2020, available at <https://www.washingtonpost.com/business/2020/07/14/postal-service-trump-dejoy-delay-mail/>; see also, [Internal USPS Document Tells Employees to Leave Mail at Distribution Centers](https://www.washingtonpost.com/context/internal-usps-document-tells-employees-to-leave-mail-at-distribution-centers/175dd1ae-e202-4777-877c-33442338d1cc/?itid=lk_inline_manual_46), *Washington Post*, July 14, 2020, available at https://www.washingtonpost.com/context/internal-usps-document-tells-employees-to-leave-mail-at-distribution-centers/175dd1ae-e202-4777-877c-33442338d1cc/?itid=lk_inline_manual_46.

period of time.¹³ It is unclear whether these changes were made in consultation with OIG, which in 2015 found that expanding voting by mail would increase USPS annual revenue by \$2 million.¹⁴ In light of OIG's report from the 2020 Wisconsin primary as well as Mr. DeJoy's recent actions and his apparent conflicts of interest, congressional oversight is necessary to determine whether USPS has implemented all of the recommendations identified in this report, whether USPS management is being proactive to address the increased national demand for voting by mail this November, and how the Postmaster General's plans for cutting back overtime could impact voting by mail. Holding a public hearing with Mr. DeJoy to discuss the Postal Service's preparations for supporting voting by mail in November is important to ensure that Wisconsin residents and all Americans can have full and fair access to our democracy.

Another key element of our democracy is ensuring that Americans can exercise their First Amendment rights without intimidation from the federal government. Acting Secretary of Homeland Security Chad Wolf's decision to deploy federal officers to quell political protests raises significant concerns regarding the use of federal resources to repress the rights of Americans over the objections of many local elected officials who do not want federal help.¹⁵ Last week, in Portland, OR, unidentified DHS agents wearing military fatigues in unmarked vehicles grabbed and detained protestors.¹⁶ *CNN* noted concerns from civil rights attorneys that this type of detention "is an example of intimidation by federal law enforcement" that threatens their First Amendment right to demonstrate.¹⁷ The Trump-appointed United States Attorney for the District of Oregon requested an investigation into reports of "masked, camouflaged federal authorities without identification badges who are arresting protestors in Portland."¹⁸ The President later announced plans to send a "surge" of federal agents to Milwaukee, Albuquerque, Philadelphia and other U.S. cities he characterized as led by Democrats as he campaigns on promises of "law and order."¹⁹ Instead of prioritizing steps to protect our election infrastructure,

¹³ *Id.*

¹⁴ U.S. Postal Service, Office of the Inspector General, A Vote for Election Mail, Sep. 21, 2015, *available at* <https://www.uspsoidg.gov/blog/vote-election-mail>.

¹⁵ Jonathan Levinson, Conrad Wilson, James Doubek, & Suzanne Nuyen, Federal Officers Use Unmarked Vehicles to Grab People in Portland, DHS Confirms, *National Public Radio*, July 17, 2020.

¹⁶ *Id.* See also, Katie Shepherd and Matt Berman, 'It Was Like Being Preyed Upon': Portland Protesters Say Federal Officers in Unmarked Vans Are Detaining Them, *Washington Post*, July 17, 2020, *available at* <https://www.washingtonpost.com/nation/2020/07/17/portland-protests-federal-arrests/>.

¹⁷ Jonathan Levinson, Conrad Wilson, James Doubek, & Suzanne Nuyen, Federal Officers Use Unmarked Vehicles To Grab People In Portland, DHS Confirms, *National Public Radio*, July 17, 2020.

¹⁸ Amir Vera, Konstantin Toropin and Josh Campbell, US Attorney Requests DHS Investigation after Video Shows Masked, Camouflaged Federal Authorities Arresting Protesters in Portland, *CNN*, July 20, 2020, *available at* <https://www.cnn.com/2020/07/18/us/portland-arrests-federal-authorities/index.html>.

¹⁹ Kevin Liptak, Trump Announces 'Surge' of Federal Officers to Chicago as he Campaigns on 'Law and Order' Mantle, *CNN*, July 22, 2020, *available at* <https://www.cnn.com/2020/07/22/politics/donald-trump-federal-law-enforcement-chicago-albuquerque/index.html>; see also, Lauren Linder, 'It Won't Be Tolerated Here': Milwaukee Co. DA Vows to Prosecute Federal Agents who Break Law, *WTMJ-TV Milwaukee*, July 27, 2020, *available at* <https://www.tmj4.com/news/local-news/it-wont-be-tolerated-here-milwaukee-co-da-vows-to-prosecute-federal-agents-who-break-law>.

Hon. Ron Johnson
July 30, 2020
Page 4

the Trump administration's actions have led to concerns that DHS agents could be used to intimidate voters across the country in the upcoming election.²⁰

As you are well aware, HSGAC is “the Senate’s primary oversight committee with broad jurisdiction over government operations generally and the Department of Homeland Security in particular.”²¹ In addition to DHS, HSGAC’s primary responsibilities include oversight of USPS as well as “the intergovernmental relationships between the U.S. and states and municipalities.”²² Months ahead of the November election, oversight of USPS support for voting by mail and alleged anti-democratic conduct by the acting DHS Secretary should demand your Committee’s full attention. Instead, public reports indicate that you are preparing for Election Day by threatening subpoenas and leading a months-long partisan investigation into the President’s political rival.²³ The selection of these reported oversight priorities appears to be an abdication of both your responsibility to the citizens of Wisconsin to ensure that they have safe and secure access to voting and your duty as Chairman of HSGAC to oversee the Department of Homeland Security, which has been rife with vacancies among its senior leadership.

We urge you to take swift and prompt action including holding public hearings with Postmaster General DeJoy regarding USPS and voting by mail, and with Acting Secretary Wolf regarding the deployment of federal agents to American cities. Your constituents and the American public deserve to learn more about the deeply troubling decisions being made at these federal agencies and their impact on citizens’ access to the vote in November. Thank you for your prompt attention to this request.

Sincerely,



Jay Heck
Executive Director
Common Cause Wisconsin



Noah Bookbinder
Executive Director
Citizens for Responsibility and
Ethics in Washington

cc: The Honorable Gary Peters
Ranking Member
Senate Homeland Security and Governmental Affairs Committee

²⁰ David Atkins, Trump May Use DHS Stormtroopers To Stop People from Voting, *Washington Monthly*, July 18, 2020, available at <https://washingtonmonthly.com/2020/07/18/expect-trump-to-use-dhs-stormtroopers-to-stop-people-from-voting-and-plan-accordingly/>.

²¹ U.S. Senate Committee on Homeland Security & Governmental Affairs, Jurisdiction, available at <https://www.hsgac.senate.gov/about/jurisdiction>, accessed on July 22, 2020.

²² *Id.*

²³ Natasha Bertrand and Andrew Desiderio, Senate Republicans Eye Subpoenas of Biden Advisers in Burisma Probe, *Politico*, July 16, 2020 available at <https://www.politico.com/news/2020/07/16/joe-biden-advisers-burisma-subpoenas-366358>.