

# SOS Mac Warner on Elections: Fix Laws and Punish Bad Actors

By Wendi Strauch Mahoney - May 11, 2023



Mac Warner/SOS/WVa

ⓧ When West Virginia's Secretary of State, Mac Warner, testified before members of the U.S.



opportunistic malfeasance at the state level in the [2020 election](#). His testimony brings substance to the discussion about the 2020 election. He identifies the [exploitable gaps](#) in election administration and provides solutions. Moreover, he told UncoverDC on Tuesday that it's time for citizens, secretaries of state, governors, and lawmakers to work together in earnest to address the laws that invite criminality and opportunistic malfeasance.

## Our Interview with Secretary Warner

As a constitutional lawyer and Secretary of State, his education and on-the-job experience make him well-equipped to restore confidence in [elections](#). He is actively building relationships with other secretaries of state to help them address election integrity in their states.

UncoverDC spoke with him last fall and again this week to explore his thinking on the 2020 election and beyond. While, on the one hand, many of his thoughts on the 2020 election and its administration remain unchanged, his perspective has also shifted due to the evidence released by the Weaponization Committee. His ability to so dispassionately change his perspective on some issues has been refreshing to witness.

Two critical themes emerged in our discussion: his forward-looking focus on state laws and election administration and his sincere anguish over how our intelligence community, the Biden campaign, Big Tech, and the media conspired to steal the 2020 election. It became clear during our conversation that the latter was a more recent point of view that he had reluctantly adopted. As he wrote in his post-hearing testimony, *"He take[s] no pleasure in casting aspersions on any U.S. government agency"* but believes it is *"his duty to speak out."*

As with many who have investigated the 2020 election, Warner sees the myriad ways secretaries of state and election officials may have exploited fuzzy election laws using the pandemic as an excuse. Whether intentional or not, their actions [exposed vulnerabilities](#) in almost every state, giving state legislatures, governors, and secretaries of state a magnificent opportunity to identify and close the gaps.

Going forward, Warner believes the only way to avoid similar opportunistic pitfalls is to *"identify and address the exploited and uncharted territory between what is required or permitted, the territory where the action is neither permitted nor prohibited. The gap that was revealed in 2020,"* he continued, *"is pretty wide. It just hasn't been adequately and consistently addressed"* where it counts, at the state level. State legislators are key players:

**Therefore, we must turn to our state legislatures to expressly prescribe what is, and is not, within those executive branch officials' authority to decide. To increase election confidence and protect the integrity of the 2024 election, legislatures should be called on to amend laws to reduce statutory gaps, tighten ambiguous text, and clean up provisions that can be taken advantage of and cause unintended consequences.**

Equally important to his testimony and our conversation is Sec. Warner's change of heart about the veracity of a "stolen election." Warner told UncoverDC he is "*frankly very angry*" about the letter from the 51 Intelligence Agency officers because he sees it was a "*purposeful lie—a lie to the American people to influence their votes in the presidential election.*"

Before reviewing the evidence, Warner says while he "*never said the election was legitimate,*" he had "*always stopped short of saying it was stolen.*" Not now. Warner says recent testimony from former CIA Director Mike Morrell and the release of emails between Morell and Tony Blinken convinced him of intentional efforts to "*steal the election from President Trump.*" Warner elaborated:

*"This is black and white. This isn't our interpretation or assumption or conspiracy theory. These are black-and-white emails—between what happened with Tony Blinken giving the idea to Mike Morell, Mike Morrell going to the 50 other spies and then getting them to sign on, and then Brennan saying put me on there too. It is why I get so sensitive.*

*And then you have a Big Tech cover-up. Twitter takes Trump off. You have Facebook determining what they can put on and what they can't, taking people down. Google using algorithms to favor Democrats and disfavor Republicans. It is the straw that broke the camel's back. How do you restore confidence in the elections?*

*Well, you restore confidence by calling out the FBI and everyone in the FBI who tolerated it. I can't help it. I go back to the West Point Honor Code. Those who tolerated it are just as guilty and complicit as those who did it. The CIA, NSA, and so forth. This is different from election denial or the numbers. We have Morrell, Brennan, the FBI saying we did it for political reasons, that's the smoking gun that we all need to focus on, and it is new."*

To Warner's point, all of the evidence is meticulously laid out in Wednesday's newly released [65-page interim report](#) from Jim Jordan's Committee on the Judiciary, Select Subcommittee on the Weaponization of the Federal Government.

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Weaponization/[https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-05-10\\_the\\_hunter\\_biden\\_statement\\_how\\_senior\\_intelligence\\_community\\_officials\\_and\\_the\\_biden\\_campaign\\_worked\\_to\\_mislead\\_asm.pdf](https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-05-10_the_hunter_biden_statement_how_senior_intelligence_community_officials_and_the_biden_campaign_worked_to_mislead_asm.pdf)

The contention that Hunter Biden’s laptop was part of a Russian disinformation campaign was a lie. After Wednesday’s report release, Warner issued a [press release](#) calling for the “immediate resignation of the U.S. Secretary of State, Anthony Blinken.”



## Warner's Testimony on Election Irregularities: Fix The Exploited Gaps

While Warner believes elections can be compromised in myriad ways, he says most irregularities can be remedied by adequately maintained voter rolls, secure and accurate voter ID procedures, and adherence to precise state election laws—all issues that have challenged election officials and legislators for decades.

About whether he believes there was fraud, he answered it would be more likely to find laws that were broken *"than it would be to find smoking guns to prove fraud when looking at the way the 2020 election was administered."* Therefore, he advocates for closing the gaps to make fraud crystal clear when it occurs.

The examples from 2020 are easily identified. *"We saw unprecedented numbers of mass mail-in ballots that were sent out to people who didn't ask for them. The use of Drop boxes, many of which were unattended, and the ballots in them were counted. Private entities like the Chan-Zuckerbert initiative flooded local communities"* with funding and political influence operations. All are examples of election-related activity that is *"outside normal election administration,"* according to Warner, and should either be written into law or rejected.

*"In the 2020 election, there were 3 million ballots that were accepted outside the law; what happened with these ballots was not expressly permitted. So the question becomes in the law, if it's not permitted, but it's not prohibited, should those be accepted? Should they be counted? I would argue if the state legislature hasn't expressly permitted it, it should not count, pandemic or no pandemic.*

*For example, that is what the Wisconsin Supreme Court said after the fact when Wisconsin used drop boxes. The court said the state legislature hasn't permitted it. Therefore, you will not use drop boxes in the future, and the ballots that would come into a Dropbox should not be counted in the future."*

## Warner's Testimony on Election Interference: "The Most Insidious Election Interference Operation in our Nation's History"

A 23-year veteran of the U.S. Army and West Point graduate, Warner laments in his [Post-Hearing testimony](#) the "sinister domestic elements that improperly influenced the outcome of the 2020 election."

**The 2020 election was not fairly and consistently administered across our nation. Ominous elements both inside and outside of the U.S. Government deprived Americans of a free and fair election. I will begin with the more nuanced "finger on the scale" type of improprieties, and move to the most blatant, insidious disinformation operation conducted on the American people in our election history. In that regard, yes, the 2020 election was stolen, and we cannot allow it to occur again.**

Mac Warner Post-Hearing Testimony/<https://sos.wv.gov/news/Documents/Warner%205-8->

Warner sees the release of records connected to Hunter Biden's laptop as a powerful, defining moment for the 2020 election. He states in his testimony that "the laptop operation outdistanced run-of-the-mill fraud [and] election irregularities" and was part of "Biden campaign[s] efforts to generate a disinformation, psychological operation." Warner believes the letter from the 51 Intelligence Agency people was powerful enough to sway Americans to vote against Trump in 2020. The government's actions, their apparent collusion with Big tech, and a willing legacy amounted to "the most insidious election interference operation in our nation's history."

**I now turn to an equally important issue and perhaps the most insidious election interference operation in our nation's history. Outdistancing run-of-the-mill fraud, election irregularities, and nefarious assumptions of authority was the direct attack on the people of the United States by veteran intelligence officials at the behest of a presidential candidate.**

**The recent release of records showing the Biden campaign's efforts to generate a disinformation, psychological operation concerning a letter designed to directly impact the outcome of the 2020 presidential election and, without parsing words, effort to steal the election from President Trump.**

*Hunter Biden's Laptop/https://sos.wv.gov/news/Documents/Warner%205-8-2023%20Additional%20Testimony.pdf*

Most importantly, he believes the bad actors and their alibis should be given no quarter.

*"Every one of our Federal Government agencies and personnel that took part in the election interference regarding the Hunter Biden laptop should be excoriated, the participants permanently prohibited from everyone working inside government again, their security clearances revoked, criminal charges brought where appropriate, and any of those individuals currently serving in positions of public [office] should be removed."*

## Warner's Recommendations to Committee on House Administration for Clean Elections

Warner's testimony on April 27 before the Republican-majority Committee on House Administration was to help build a bill known as the [American Confidence in Elections Act](#) (ACE Act). According to its sponsors, the bill is a "key Republican election integrity bill" that aims to reinforce common-sense election integrity tools for states, curb private interference in elections, remove outdated federal policies, and protect political speech—with specific reference to the Disinformation Governance Board, a "Misinformation Czar, or "any board that is similar in nature."

The committee also concurs with Warner's perspective on governmental interference. They also conclude the government and powerful political actors put their collective thumb on the election.

**General Findings**

- States have the primary role in establishing election law and administering elections.
- All eligible voters must be able to vote, and all lawful votes must be counted.
- Political speech is protected speech and all voices—including conservative voices—must be protected.

**State Tools**

- Provides states with tools to boost election integrity and removes outdated federal policies that get in their way.
- Prohibits non-citizen voting, allows states to use REAL ID as proof of citizenship, and directs bipartisan EAC standards board to establish a federal forum that will help states discuss best practices.
- Paired with model state legislation for state legislatures to consider.

**D.C. as Example**

- Will exercise Congress' responsibility over D.C. to implement election integrity measures outlined in the model state legislation.
- Requires photo ID to vote in person or request absentee ballot, requires annual list maintenance, prohibits same-day registration & ballot harvesting, prohibits automatically mailed ballots, requires post-election audits.

**Protecting Free Speech**

- Protects conservative voices and Americans' First Amendment right to speak political views and support candidates, causes and organizations without fear of retribution.
- Strengthens state party committees & non-profit organizations.
- Curbs the use of "Zuckerbucks" and prevents the creation of any "Misinformation Czar."

CHA/Elections/<https://cha.house.gov/american-confidence-elections-act>

Warner has dedicated much of his time in office to addressing gaps in election administration. He is known for working with the W. Virginia legislature to put laws and tools in place to fortify and secure elections. Since taking office in 2017, "over 313,000 outdated, duplicate, out-of-state, deceased, and convicted felon voter files have been eliminated from the state's voter registration lists."

His [April 27 written testimony](#) states, "Our legislature mandates voter rolls be kept up to date [and] requires voter identification." Warner also brings fresh ideas to the table, citing several federal programs that he believes should be modified to help track voter registrations and keep rolls clean.

*"The Federal Post Card Application for registration does not, but should, require voter identity verification as the state or registration requires. Similarly, UOCAVA voters should be required to show proof of citizenship to use the UOCAVA process if a state requires it.*

*CISA should offer the SAVE database in its entirety free of charge to states to use to ensure no ineligible voters are known by the federal government but not communicated to the state election officials. Likewise, the Social Security Administration should offer the master death file to state and local election officials in an accessible manner that is free of cost when used for the purpose of election administration."*

State autonomy is vital, and funding is critical. He and the legislature worked on a [specific law](#) establishing permanent state funding for counties over and above what they had budgeted to keep elections secure and modern. He told UncoverDC that "steady, reliable funding for elections" at the state level prevents reliance on "inconsistent and unpredictable federal funding for election security." He says federal funding can be unreliable and points out that state funding tends to have "fewer strings attached." He cautions against the role of federal agencies in state elections in general.

With that foundation, there are three primary elements to successful election administration:

1. State autonomy;
2. Maintaining voter confidence; and
3. Limited Federal Government involvement in election administration.

### 1. State Autonomy

The Elections Clause expressly gives state legislatures the authority to prescribe the times, places and manner of holding elections.

Citizen confidence is best kept by running elections locally because states, not the federal government, know best how voters want ballots cast and counted. In West Virginia, our part-time legislature is made up of full-time West Virginia citizens who represent the interests of their constituents.

Another key factor of state autonomy is steady, reliable funding to keep elections secure and modern. Recognizing that need, West Virginia has implemented a program that provides permanent state-level funding for voting equipment, physical and cyber security, maintenance, and other local election needs. Joining like-minded states, West Virginia is now less reliant on inconsistent and unpredictable federal funding for election security.

Our state also cherishes voting on election day as the gold standard for election integrity. Voting on election day is both symbolic and an exercise of our civic duty and is as much a celebration of our freedom and liberties as it is our right. West Virginia enjoys a robust election day. Most people vote in person, at a local polling location, and under the watchful eye of trained poll workers of opposite political parties. The personal, private, and secure nature of this long-standing practice yields high ballot acceptance with minimal challenges or rejections, all of which promote confidence and integrity in the process and outcomes.

Beyond election day, West Virginia offers accessible and secure early voting, also done in person, for a period of ten days at designated locations. Absentee-by-mail voting is available for 46 days for those voters who meet a myriad of authorized reasons to vote absentee. Finally, and proudly, for our voters serving in the military, living overseas, living with certain disabilities, and first responders who are not able to vote in person, West Virginia offers the option of receiving, marking, and submitting a ballot using technology, which can be printed, verified, and counted by local election officials on election night with every other ballot.

In sum, states have different histories, customs, and voting experience expectations. There is not—and should not be—a one-size-fits-all policy for election procedures. State autonomy, with legislatures being the primary authority for designing election laws, is key.

Warner April 27 letter/<https://sos.wv.gov/news/Pages/04-27-23-A.aspx>

Warner's written testimony emphasizes his state's commitment to election-day voting wherever possible, limited secure early voting, and request only mail-in voting (absentee voting.) Warner says W. Virginia "enjoys a robust election day" where "most people vote in person, at a local polling location" where the "personal, private, and secure nature of this long-standing practice yields high ballot acceptance" and promotes voter confidence in the process and outcomes of the state's elections.

West Virginia's elections are run mainly with Ballot Marking Devices (BMDs) with a paper ballot. On Monday, UncoverDC spoke with Warner about the nationwide cry for hand-marked paper ballots. He answered he feels "*confident in electronic voting using BMDs that produce a verifiable paper ballot.*" Warner added he has seen plenty of evidence that hand-marked ballots can just as easily be problematic, citing human error as one of the challenges associated with their use.

He also stated that W. Virginia has instituted robust checks and balances and audit processes that help ensure voter confidence in West Virginia elections. A conversation with Deak Kersey, Warner's General Counsel, seemed to confirm that the state has a strong chain of custody and auditing measures, with common sense rules like having a finite number of ballots at each precinct. Kersey said the state has no plans to remove precinct voting.



commitment to addressing how the 2020 election was unfairly administered and “undermined.” Mass mail-in voting, workarounds that skirted state election laws, a lack of “state autonomy,” and counting ballots that did not meet statutory requirements were among the most egregious offenses in 2020. They were not only wrong but also undermined voter confidence and must be corrected.

Warner finds it much more challenging to overcome his distress over public servants’ “nefarious” actions because it is damaging to voter confidence. His response to Wednesday’s interim report is very straightforward. He understands that corrected laws and rules mean little to American voters if the officials involved in election interference do not suffer the consequences of their bad behavior. Warner added:

*“Actions have consequences. Using former federal employees of high-trust government positions in an attempt to influence the outcome of an election cannot be tolerated. In order to have confidence in a trusted and fair 2024 presidential election, we must prove to the American public that those engaging in nefarious behavior will be punished, not promoted.”*

**Wendi Strauch Mahoney**