States United’s Strategy

Our goals at States United are to build trust in elections and in prodemocracy state leaders, to prevent the undermining of free and fair elections, and to defend the will of the American people. Drawing on a century of collective individual experience, as well as what we learned in the fight for democracy in 2020, we have developed four areas of focus for our organization: (1) helping state leaders protect elections; (2) working with law enforcement to prevent political violence; (3) pursuing accountability for those who step outside the bounds of our democracy; and (4) advancing truth and countering disinformation in elections. We believe that success in each of these areas is imperative to protecting American democracy.

Our founding principle of bipartisanship guides our work in each of these four areas. When we bring an ethics complaint as part of our accountability work, for example, we
make sure it carries the credibility of well-known signatories from both parties. When we produce guidance for state election officials or law enforcement agencies, it is informed by the practical experience of members of our advisory board, which includes both Republican and Democratic former state officials. And, of course, our public-facing work is meant to inform members of the public in red states and blue states alike. All Americans, regardless of how they vote, have the right to have their votes counted. And all Americans should be warned about disinformation that seeks to spread lies about our elections.

As a national organization operating at a state level, States United provides a platform for state leaders to share information and learn from one another to execute effective election-protection strategies in their own states. We focus our attention where we believe antidemocracy trends pose the greatest threat and where we find prodemocracy leaders who would benefit from our support. While each state faces an array of challenges to voting rights and election integrity, the antidemocracy forces are applying similar tactics across states.

**Election Protection**

The freedom to vote is the cornerstone of our democracy. It is the freedom that protects all others. As we point out
whenever we get the chance, whatever issue you care about most passionately, free and fair elections must come first.

With a focus on the unique tools available to governors, state attorneys general, secretaries of state, and law enforcement, States United develops and promotes nonpartisan legal and policy strategies to protect the vote. We also publish these resources for the public. We offer pro bono legal support to states, counties, and cities from our in-house team of election lawyers and litigators, and from some of the most prestigious law firms in the country—all of us helping defend existing election laws and fight against proposed antidemocracy legislation.

For example, States United served as pro bono co-counsel, alongside Coppersmith Brockelman PLC, for Arizona secretary of state Katie Hobbs as her office defended against a challenge by the Arizona Republican Party. The original lawsuit, filed directly with the Arizona Supreme Court, challenged the state’s no-excuse mail-in voting system, which was passed with overwhelming bipartisan support and signed into law by a Republican governor in 1991 and which was used by 90 percent of the state's voters in 2020. The suit also challenged Secretary Hobbs’s authority to provide drop box and signature verification guidance to county-level election officials under the Arizona Elections Procedures Manual. Hobbs successfully defended against this suit; the court declined to grant jurisdiction, dismissing the case and keeping early voting options intact. The plaintiffs then filed a new lawsuit on
May 17, 2022, in state trial court raising the same claims. On June 6, an Arizona judge rejected those claims, upholding the state’s no-excuse mail-in voting system.

In Pennsylvania, States United served as pro bono co-counsel for the Commonwealth in a case brought by Attorney General Josh Shapiro. Shapiro filed suit to block a broad-ranging, state Senate subpoena demanding constitutionally protected personal information about more than nine million registered voters with the intention of handing it over to an unknown third-party vendor. We argued that this subpoena was unlawful, and part of a bad-faith investigation by the State Senate into the 2020 election in Pennsylvania. It threatened to chill future voting—potential voters would rightly fear that the mere act of registering to vote could subject their personal information to disclosure. As States United’s legal director, Christine P. Sun, said in announcing the suit, the subpoena was “not a fact-finding mission but rather an attempt to keep the dangerous lies about the 2020 elections alive.”

In Texas, States United represents an El Paso County election official in litigation brought by other parties challenging two 2021 laws passed by the Texas legislature. One of the laws makes voter registration procedures more complicated and confusing. The other law puts unreasonable limits on drive-through voting, early in-person voting, mail-in ballots, and assistance for voters with disabilities. In a friend-of-the-court brief filed in March 2022, the El Paso County
official, Lisa Wise, explained that under the 2021 laws she may be subject to criminal penalties for routine outreach and communication work that she does to help make sure every eligible voter in Texas can cast a ballot. These are three examples among many.

In addition to legal support, we also conduct research and policy analysis across the states. That is, we do the legwork and the homework to help legislators and local officials understand what will happen if proposed new laws and policies take effect. We also track state and local elections and outline the consequences of litigation and judicial opinions. We aim to compile this information, make it accessible, and suggest best practices. The goal is to equip prodemocracy advocates with the most complete and accurate information about how to protect elections in their states.

With A Democracy Crisis in the Making, the report we described in chapter 3, we called attention to maneuvers by partisan state legislatures to seize greater power over elections, all the way to reserving the right to overturn an election result. As we noted in the report’s May 2022 update, these attempts are evolving and accelerating. In anticipation of the 2022 midterm elections, States United Action, our 501(c)(4) organization, created Replacing the Refs, a tool to track all election deniers running for major statewide offices. We first released this tool in February 2022, and we are updating it monthly through November. With these two reports, we strive to quantify and sound an alarm about these
partisan attempts to change the rules and change the referees, respectively.

Finally, we recognize the importance of honest communication and the power of public opinion. We understand that our research and policy initiatives are valuable only if we can broadcast the knowledge we collect quickly and clearly. We work to expose antidemocracy efforts in individual states and demonstrate antidemocracy trends, providing accurate information to help state election officials know what they’re facing and how to fight back. We also conduct polling and message testing to help them find the best ways to relay reliable information to the voters they serve.

For example, in June 2021, we commissioned a report outlining the many problems with an unprofessional—and now infamous—review of the 2020 election that was then under way in Arizona’s Maricopa County. This review was ordered by the Republican-controlled state Senate and carried out by Cyber Ninjas, an unqualified contractor. Our report was written by Trey Grayson, the Republican former secretary of state of Kentucky, and Barry C. Burden, an esteemed professor of political science and the director of the Elections Research Center at the University of Wisconsin. Grayson and Burden faulted the Cyber Ninjas review for a lack of partisan balance, a flawed ballot review process, an unacceptably high level of built-in error, and insufficient security, among other problems. The report was cited
repeatedly by news outlets in Arizona and across the country as they covered the sham review.\textsuperscript{134}

We have worked to understand the antidemocracy playbook backward and forward, and then to make both state officials and the public aware of these tactics. We know that our prodemocracy message is supported by state officials and citizens across the political aisle, and we understand the importance of using bipartisan voices to grow that support and reinforce the truth that election integrity is not a partisan issue. Together, all of us can defend our democracy—but only if we know what threatens it.

**Political Violence Prevention**

The January 6 attack on the US Capitol was the culmination of months of threats against voters, election officials, and our democratic institutions. Since January 6, we have seen increasing levels of hate and threats of violence, fueled by lies and antidemocracy conspiracy theories. The best way to keep elections safe—including officials, voters, and the system itself—is to make sure that law enforcement and local election administrators are working together. This partnership *must* be established and strengthened long before the election itself. States United is unique in its focus on this connection.
In 2020, we issued guidance\textsuperscript{135} and provided toolkits\textsuperscript{136} to local law enforcement officials and other public safety leaders to help them prevent voter intimidation and prepare for mass demonstrations. We worked with our partners at the Institute for Constitutional Advocacy and Protection at Georgetown University Law Center, 21CP Solutions, and the Crime and Justice Institute to develop these tools, to help public safety leaders understand what constitutes voter intimidation and how and why they should speak out against it. We distributed that guidance to police chiefs and state attorneys general across the country. Then we encouraged them (and other law enforcement leaders) to get out in the media every day—on TV, in print, on the radio, in press briefings—to send the clear message that voter intimidation would not be tolerated. States United later received confirmation that at least one violent extremist group posted our guidance to its members and told them not to go to polling places.

State officials across the country have been inundated with threats against themselves and their families. These officials deserve all the help we can give them in determining how to monitor these threats, how and when to respond to them, and when they should call law enforcement for help. Working closely with state officials across different states, we have identified common trends and are working on both short-term solutions and long-term policy responses to keep election officials safe. We facilitate training for law enforcement,
develop guidance on emerging dangers, and help connect election officials with the local security support they need.

In response to threats of violence against our election system, we are working to train election officials on personal and digital safety and working with law enforcement organizations to help officers identify extremists in their ranks. In April 2022, in concert with Georgetown Law’s Institute for Constitutional Advocacy and Protection, we published guidance to equip law enforcement agencies with a deeper understanding of First Amendment considerations as they work to eliminate extremism among officers and staff. We provided a detailed explanation of the relevant legal tests and helped law enforcement agencies understand that, because of their unique public safety role and responsibilities, they generally have broad discretion—without running afoul of the First Amendment—to take disciplinary action against officers who express bigoted or extremist views.

We are also developing new resources to address voter intimidation. In advance of the 2022 midterm elections, we prepared a report examining the relevant laws governing poll observers. These are members of the public permitted to monitor conduct at polling places, and they are a feature of elections in almost every state. They add a degree of transparency in the electoral process that promotes public confidence in elections. However, in some cases, poll observers have caused major disruptions. For example, during the 2020 election in Michigan, large groups of partisan poll observers
crowded polling sites and attempted to enter vote-counting rooms. Our report aims to provide state-by-state legal guidance covering the power, privileges, and limitations of these volunteers. We outline who is eligible to be a poll observer, what poll observers are permitted to do, and what civil and criminal penalties may apply to interfering with the voting process. We make this information available to anyone who asks for it, including statewide election officials, law enforcement professionals, election administrators, and election-protection groups.

**Accountability for Antidemocracy Actors**

To prevent future attacks, our system must hold people accountable when they violate the fundamental precepts of our democracy. If we do not insist on that accountability now, antidemocracy groups will redouble their efforts in 2022 and 2024.

At States United, we work with our partners in the states to hold violators accountable through advocacy, investigations, and litigation. We work on civil, criminal, and regulatory actions against election-related abuses of power. We also address questions regarding electoral corruption, incitement, and misconduct. Finally, we support legislative investigations, as well as court sanctions and disciplinary proceedings against attorneys who file baseless antidemocracy lawsuits.
We believe any meaningful accountability must include bringing to justice the people who struck at the heart of our democracy on January 6, 2021. In conjunction with the Anti-Defamation League and two private law firms, States United is serving as pro bono counsel to the District of Columbia’s attorney general, Karl A. Racine, in his lawsuit against the Proud Boys, Oath Keepers, and other insurrectionists. Attorney General Racine is seeking financial penalties from these far-right militia groups, given their role in planning and carrying out the deadly Capitol attack.140 This lawsuit is the first effort by a governmental entity anywhere in the United States to hold individuals and organizations responsible in civil court for the violence that day.

Accountability also means demanding full transparency in the investigation into January 6. Until we uncover all the facts about the insurrection, free and fair elections remain at heightened risk. We worked with a bipartisan coalition of former federal, state, and local officials to file a friend-of-the-court brief in November 2021 opposing Trump’s attempt to block the release of documents about the insurrection.141 A federal district judge denied Trump’s petition; Trump lost later rounds at a federal appeals court and the Supreme Court.142 In May 2022, States United submitted a written statement to the House of Representatives’ select committee investigating the January 6 attack.143 The statement, signed by a bipartisan group of former state officials, sought to define the attack as inseparable from the broader antidemocracy
movement in the states, before and since. As another critical piece of our accountability work, we have raised concerns and supported ethics complaints against lawyers who abuse their positions as members of the bar and officers of the court.

In October 2021, we filed an ethics complaint against John Eastman, a member of the California Bar, for his role in Trump’s attempts to overturn the 2020 election results. The complaint was supported by twenty-five bipartisan signatories, including former federal district court judges and California Supreme Court justices, numerous former Republican officials, leading law professors, and the Bush and Obama White House ethics advisers. The complaint focused on Eastman’s role in spreading false claims about election fraud, the memos he drafted that formed the basis for the campaign to pressure Vice President Pence to refuse to certify the valid election results, and the frivolous lawsuit *Texas v. Pennsylvania* in which he represented Trump before the US Supreme Court. In a supplemental letter the following month, States United incorporated newly reported information about Eastman’s role in helping Trump pressure Pence, including his conversations with more than three hundred state legislators on January 2, 2021, in which he encouraged them to replace lawfully appointed slates of presidential electors. In March 2022, the State Bar of California announced a formal ethics investigation into Eastman. The bar’s announcement thanked States United and other organizations for their prior
submissions and noted that they would serve as the starting point for the bar’s investigation. States United has since submitted a second supplemental letter, compiling evidence revealed by the House select committee and a federal judge’s findings that Eastman and Trump, in their efforts to persuade Pence to reject or delay the count, likely violated federal criminal law. The second letter suggested that, given Eastman’s past and ongoing conduct, including recent efforts to “decertify” the 2020 electors in Wisconsin, the bar should consider interim remedies against Eastman to protect the public.

Similarly, in May 2022, we submitted an ethics complaint against Jenna Ellis, a Colorado attorney who worked for Trump and his campaign and assisted in Trump’s attempts to overturn the 2020 election results. The complaint asks the Colorado Supreme Court’s Office of Attorney Regulation Counsel to investigate whether Ellis violated her professional and ethical obligations as an attorney by spreading falsehoods about the 2020 election, attempting to persuade Pence to refuse to certify valid electoral votes from six states that Biden won, and providing misleading legal advice premised on the false claims that there were two lawfully certified slates of electors in those states. This complaint, as well, was supported by a bipartisan group of respected and experienced legal experts. We believe these bipartisan efforts to hold violators of democracy accountable are a critical piece of educating the public and protecting the will of American voters.
Truth in Elections

Disinformation is at the heart of the threats to our democracy. Conspiracy theories are being used to undermine trust in elections, justify regressive antivoting laws, recruit an army of election deniers for state and local election positions, discourage voting, and incite political violence. The spread of disinformation has made the job of administering elections much more difficult. States United strives to help states fight back.

To counter the onslaught, we recently added a focus on promoting truth in elections. To that end, we will develop an early warning system for dangerous narratives, prepare state officials to respond to them, encourage social media platforms to take down lies, and pursue accountability for people who use disinformation to undermine our democracy.

As we noted earlier, about a third of the American public wrongly believes that voter fraud determined the outcome of the 2020 election. This myth is sustained and spread by disinformation. One recent example is the coordinated disinformation campaign behind a conspiracy-filled film called 2000 Mules, which seeks to fuel suspicions about the use of ballot drop boxes. The film has been thoroughly discredited by independent fact-checkers but nevertheless is being used by Trump and others as supposed evidence of fraud that altered the outcome of the 2020 election. An extensive network of
bad actors—many seeking fame or profit—is promoting the film. An unfortunate number of people will hear these lies and believe them.

Most concerning is the danger that disinformation will lead to violence. People who believe the 2020 election was stolen from Trump have resorted to threatening election officials and their families. The attack on the Capitol on January 6 was a direct result of a disinformation campaign waged by Trump and his allies. So States United, alongside researchers and analysts, is working on an early warning system to detect the lies that voters are seeing in their states, and then determine which inoculations and countermessages are most effective in fighting them. We are also working to train and brief our state and local partners for this increasingly important part of their jobs.

We face a dangerous asymmetry of election-related information in our media landscape. Online, bad information overwhelms the good. While some are lost down rabbit holes of lies and conspiracy theories, most Americans are seeking the truth about our elections and not always finding it. We and our partners can help by increasing the volume and availability of high-quality, factual information online while we seek to reduce the spread of lies and expose the people and motives behind them. Our four areas of focus are tools aimed at the same goal: supporting pro-democracy state actors in their critical roles as protectors of our American democracy.
GOVERNOR DOUGLAS A. DUCEY

STATE OF ARIZONA

PROCLAMATION

*CERTIFICATE OF ASCERTAINMENT FOR PRESIDENTIAL ELECTORS*

I, Douglas A. Ducey, Governor of the State of Arizona, do hereby certify that:

The Official Canvass of the General Election held on Tuesday, November 3, 2020, shows the following results for the office of Presidential Electors for President and Vice President of the United States, as certified by the boards of supervisors of the several counties of the state of Arizona. The Official Canvass indicates that the following group of eleven individuals:

DEMOCRATIC PARTY PRESIDENTIAL ELECTORS

Presidential Candidate Joseph Biden
Vice Presidential Candidate Kamala Harris

<table>
<thead>
<tr>
<th>NAME</th>
<th>NUMBER OF VOTES</th>
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<tr>
<td>Gallardo, Steve</td>
<td>1,672,143</td>
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<td>Heredia, Luis Alberto</td>
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<tr>
<td>Jackson, Constance</td>
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<td>Kennedy, Sandra D.</td>
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<td>McLaughlin, James</td>
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<tr>
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<td>Romero, Regina</td>
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<td>Rotellini, Felecia</td>
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</tr>
<tr>
<td>Yamashita, Fred</td>
<td>1,672,143</td>
</tr>
</tbody>
</table>

received the highest number of votes cast for any candidate for this office, and having complied with all provisions required by law for candidates in general elections, they are duly elected Presidential Electors.

I further certify that the following Presidential Electors received the number of votes indicated:

Figure 3. The first page of Arizona’s certificate of ascertainment for presidential electors for the 2020 election, certifying a win for the Biden-Harris ticket. National Archives.
GOVERNOR DOUGLAS A. DUCEY
STATE OF ARIZONA
★
PROCLAMATION

Certificate of Final Determination of Presidential Electors

I, Douglas A. Ducey, Governor of the State of Arizona, pursuant to 3 U.S.C. § 6, hereby certify that the Supreme Court of Arizona made a final determination of an untimely filed controversy or contest concerning the appointment of Arizona’s electors in Burk v. Ducey, No. CV-20-0349-AP/EL on January 5, 2021. This case upheld the list of electors that was previously certified and filed with the Archivist.

This action completes all outstanding legal action in Arizona’s state courts regarding electors for which I am aware. A true and correct copy of the Court’s opinion is attached.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

GOVERNOR

DONE at the Capitol in Phoenix on this 6th day of January in the year Two Thousand Twenty-One and of the independence of the United States of America the Two Hundred Forty-Fifth.

ATTEST:

Secretary of State

Figure 4. Arizona Governor Doug Ducey and Secretary of State Katie Hobbs certify the state’s final determination of presidential electors after the resolution of legal action. National Archives.