

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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August 20, 2020

The Honorable Henry Kerner
United States Office of Special Counsel
1730 M Street, NW, Suite 218
Washington, DC 20036

Dear Special Counsel Kerner:

I am writing to ensure that the substantial number of ballots expected to be cast by mail during the 2020 election cycle, in part because of the COVID-19 pandemic, are fairly delivered by the U.S. Postal Service (USPS) without political bias. Since the USPS is expected to handle tens of millions of ballots in the coming months, the Committee is interested in learning more about the Office of Special Counsel's (OSC) role overseeing USPS's processes for preventing and addressing violations of the Hatch Act during the 2020 election cycle.¹

While the vast majority of USPS employees are honest public servants, political bias by the USPS has been well documented in recent years. For example, in July 2017, OSC issued a report that concluded, "USPS management took official actions to enable NALC's [the National Association of Letter Carriers'] political activity. These efforts constitute a systemic violation of the Hatch Act. Specifically, USPS's practice of facilitating carrier [work] releases for the union's political activity resulted in an institutional bias in favor of the NALC's endorsed political candidates [including presidential candidate Hillary Clinton], which the Hatch Act prohibits."² OSC determined that "agency-wide corrective action" was necessary.³

Additionally, in 2017, a postal worker went to federal prison for accepting \$1,000 in bribes from South Texas vote harvesters in exchange for telling them when and where ballots would be delivered on his routes during the 2014 Democratic Party primary contests, so they could obtain the ballots.⁴

¹ The Hatch Act ensures that "federal programs are administered in a nonpartisan fashion." See "Hatch Act Overview," available at <https://osc.gov/Services/Pages/HatchAct.aspx>.

² U.S. Office of Special Counsel, "Report of Hatch Act Investigation: Facilitating Labor Union's Political Activity Through Use of 'Union Official' Leave Without Pay," OSC File No. HA-17-0610 (U.S. Postal Service), July 14, 2017.

³ *Id.*

⁴ J. Christian Adams and Hans von Spakovsky, *An All-Mail Election Would Be Dangerous for Democracy*, *Newsweek*, Jun. 18, 2020, available at <https://www.newsweek.com/all-mail-election-would-dangerous-democracy-opinion-1512000>.

During the 2016 election, a USPS employee supporting Bernie Sanders for President posted on social media “at least 116 partisan political posts while on duty” and was ultimately suspended.⁵ The same employee also wore a USPS logo sweater to work for at least one week with a Bernie Sanders campaign sticker on it.⁶ Other USPS employees have been removed from their positions and suspended for violating the Hatch Act by running for partisan political office while being employed by USPS.⁷

Even though the 2020 general election is not until November, ballots will begin to be mailed in September in a number of states; in North Carolina, for example, ballots will be mailed on September 4.⁸ It is crucial that OSC ensures that USPS not only educate employees about inappropriate political activity but also address Hatch Act violations immediately.

In light of these concerns, I request a staff-level briefing from OSC to update the Committee on its efforts to ensure the integrity of ballots cast by mail that will be handled by USPS during the upcoming November 2020 election, as well as answering the following:

- (1) What steps is OSC taking to prepare employees at USPS for the upcoming election cycle, including whether there are additional Hatch Act trainings for employees handling ballots sent and received in the mail; and what processes are in place for addressing allegations of Hatch Act violations while the USPS is in possession of ballots?
- (2) Has USPS addressed the issues OSC raised in its 2017 report about the carrier work release program, including whether USPS has made the “agency-wide corrective action” that OSC called for?
- (3) Has OSC received any complaints about employees at USPS potentially violating the Hatch Act during the 2020 election cycle?
- (4) Does OSC anticipate releasing any additional Hatch Act guidance in advance of the 2020 election?

This briefing may be conducted remotely. Please make arrangements to schedule the briefing no later than August 28. To schedule the briefing or ask any follow-up or related questions, please contact Committee on Oversight and Reform staff at (202) 225-5074.

⁵ OSC Press Release, *OSC Issues Hatch Act Social Media Guidance in User – Friendly Format, Announces Postal Service Employee Hatch Act Violation Over Social Media Use at Work*, Feb. 13, 2018, available at <https://osc.gov/News/Pages/18-18-Hatch-act-social-media-guidance.aspx>

⁶ *Id.*

⁷ See OSC Press Release, *Judge Orders Removal of Postal Service Employee Who Violated the Hatch Act When She Ran for Political Office*, Aug. 2, 2018, available at <https://osc.gov/News/Pages/18-42-Postal-Service-Hatch-Act.aspx>.

⁸ Harry Enten, *The 2020 Election Actually Starts in One Month*, CNN, Aug. 4, 2020, available at <https://www.cnn.com/2020/08/04/politics/absentee-voting-analysis/index.html>.

The Committee on Oversight and Reform is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. Thank you in advance for your cooperation with this inquiry.

Sincerely,

A handwritten signature in black ink that reads "James Comer". The signature is written in a cursive, slightly slanted style.

James Comer
Ranking Member
Committee on Oversight and Reform

cc: The Honorable Carolyn B. Maloney, Chairwoman, Committee on Oversight and Reform