

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Vote Forward, et al.,

Plaintiffs,

v.

Louis DeJoy, in his official capacity, et al.,

Defendants.

No. 20-cv-2405 (EGS)

DECLARATION OF KEVIN BRAY

I, Kevin Bray, under penalty of perjury and in lieu of affidavit as permitted by 28 U.S.C. § 1746, hereby declare as follows:

1. I have been with the Postal Service for 26 years. In that time, I have served as an operations specialist, manager of in-plant support, and executive manager, area, in-plant support. Currently I am the executive lead for mail processing, in the 2020 elections. In that role, I am responsible for all mail processing during the 2020 election.

2. I am filing this declaration to explain the Postal Service's process of sweeping its plants to ensure that all ballots are dispatched expeditiously, and to ensure that the maximum number of ballots are delivered to Boards of Elections in time to be counted.

3. "Sweep" is the term used when Postal Service employees search plants to be sure that all ballots are accounted for and being processed correctly.¹ This includes searching the

¹ While not relevant to this litigation, sweeps are also intended to identify other election mail and political mail and ensure that it does not get lost.

facility to be sure no ballots are in any unexpected locations, such as in manual operations (around 5 percent of mailpieces are rejected by automated machines and sorted by hand), as well as identifying ballots in the mailstream that are not moving with sufficient speed. The search is not limited to the interior of the plant and encompasses the surrounding area, including the docks and any trailers that might contain mail.

4. During the last days of the election, when all ballots must be dispatched from plants under the extraordinary measures undertaken by the Postal Service, all ballots retrieved during sweeps are expedited through whatever means are necessary to ensure they are delivered in time to be counted, assuming that is physically possible. While some states allow ballots to be counted after election day, the Postal Service, through election day, treats all ballots as if they must be delivered by the close of polls.

5. Due to the large size of postal plants and their surroundings, a sweep takes a considerable amount of time. Depending on the size of the plant, it could take a single employee several hours to complete. Some smaller plants only require 1-2 employees to sweep, while larger plants, such as Los Angeles, require 4-5. The size of the team is designed to make sure it can be completed within an hour. It is not something that a single employee could do on an hourly basis, and it would prevent them from doing any other duties in that time. It would not be possible for a Postal Inspector or manager to sweep a plant while simultaneously observing it to ensure that all election procedures are followed. It would also take a Postal Inspector longer to sweep a plant, because they have less familiarity with the facility.

6. Sweeps have been taking place daily, followed by an “all clear” report, where the facility certifies that it has been searched for ballots and either none were identified, or any that were identified were moved expeditiously when found. This “all clear” certification has been a

requirement since January and is due at 10:00 am local time. It certifies that the plant has been swept and that all mail that was processed the previous night has been dispatched. If a facility fails to clear it must explain why. In addition, Headquarters alerts the relevant Division Director or Regional Vice-President to follow up. All plants have been performing these throughout the year and are experienced with the process.

7. For November 3rd, in addition to the 10:00 am “all clear,” all plants were also instructed to continuously sweep the plants for ballots starting at 7:00 am (when the new shift starts) and continuing as long as Boards of Elections (BoEs) continued to accept mail. All plant staff are on high alert to find any ballots that may not be in the proper place. Any ballots identified in these sweeps were to be moved to the BoEs as quickly as necessary to be counted, outside of the Postal Service’s usual transportation network. This includes arrangements with some BoEs who make plans to come to plants to pick up ballots themselves. Similar hourly sweeps are done for other date-critical events, such as IRS Tax day, and the facilities are experienced with this process. On Election Day, this plan was executed, and the sweeps were carried out.

8. While plants are staffed throughout the day, the vast bulk of mail is processed at the plants starting at 4:00 pm, when some retail facilities close and begin bringing mail to the plant. The busiest hours at a plant are between 4:00 pm and 11:00 pm. Because of this, the vast majority of ballots processed in plants on Election Day would be processed between 4:00 pm and the close of polls. This is why we suggested that time for the Inspection Service, so they would be present to observe compliance with postal operational efforts to postmark and deliver ballots to the Boards of Election by the respective deadlines.

9. At the request of Plaintiffs' counsel, and consistent with our practices described above, the Postal Service sent the attached email to all Plant Managers last night emphasizing that plants must "continu[e] to do regular sweeps to ensure that all ballots can be timely delivered in accordance with the state's Election Day ballot deadline today" and that "[a]ll plants must ensure that we provide a final clean sweep for all Election Mail Ballots for deliveries today in all states for which you provide service." This process is distinct from, but complementary to, the review process conducted by the U.S. Postal Inspection Service.

10. Today, I confirmed that the sweeps were carried out as instructed in plants located in the Central Pennsylvania, Philadelphia, Detroit, Colorado/Wyoming, Atlanta, Houston, Alabama, Northern New England, Greater South Carolina, South Florida, Lakeland, and Arizona districts. I confirmed this by calling and speaking to the relevant plant managers directly.

11. Central Pennsylvania confirmed that it began sweeping the facility at 10:00 am, and continued during the day through the last dispatch.

12. Philadelphia confirmed that it began sweeps at 8:00 am and continued through the last dispatch and pickup.

13. Detroit confirmed that sweeps began at 11:00 am and continued throughout the day through the last dispatch.

14. Colorado/Wyoming confirmed that sweeps began at 10:00 am and continued until all ballots were dispatched or handed off to BoEs.

15. Atlanta confirmed that sweeps began at 10:00 and ran throughout the day until the last dispatch of ballots.

16. I was not able to confirm the Houston start time by the time this declaration was drafted but confirmed that sweeps were ongoing at 12:00 pm through when the last ballots were dispatched.

17. Alabama confirmed that sweeps began at 7:00 am and continued until the 12:00 pm Alabama cutoff time.

18. Northern New England confirmed at it began sweeps at 7:00 am and continued through the last dispatch.

19. Greater South Carolina confirmed that sweeps began at 7:00 am and continued through the last dispatch.

20. South Florida confirmed that sweeps began at 7:00 am and continued through the last dispatch and pickups of ballots.

21. Lakeland confirmed that it began sweeping at 3:00 am and continued through the last dispatch of ballots.

22. Arizona confirmed that it began sweeping at 8:00 am and continued until the last dispatch of ballots to the BoEs.

23. I also understand that questions have been raised about data that identifies ballots that have received an initial or first processing scan within the Postal Service's processing network, but have not received a destination or finalization scan. The lack of a destination or finalization scan does not mean that the ballots were not delivered.

24. There are many reasons that a ballot may not receive a finalization scan. Most significantly, as part of the extraordinary efforts used by the Postal Service to expedite the delivery of ballots, we instructed plants to take ballots out of our normal processing (to "hold them out") for expedited delivery to the BoEs (or organize for pickup by the BoEs). This


process involves an expedited approach to sorting ballots by BoE on our processing equipment, and thus the ballots receive a first scan and are then removed, or “held out” from further processing. This means they would not receive a finalization scan.

25. For example, in North Texas, the processing plant has agreements with most of the state’s Boards of Election to hold out identified ballots for direct delivery to the BOE. In that circumstance, the ballots would show a first processing scan, but would not have a destination scan. Thus, many delivered ballots do not have final or destination scans.

26. Additionally, as a normal part of mail processing, mailpieces sometimes will be rejected through automation. Mailpieces may land in a “reject” bin on a machine during processing, meaning that the machine was unable to sort it. For example, two mailpieces may stick together and the machine cannot independently read their addresses. There are also circumstances where a barcode will be unreadable because of a smudge. These mailpieces can be manually sorted and would not necessarily receive a finalization scan prior to being sent to a delivery unit. As such, the most reliable way to tell that a facility is clear of ballots is the all clear process, rather than by comparing entry and exit scans.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 4th day of November, 2020.

A handwritten signature in black ink, appearing to read "K.P. Bray", written over a horizontal line.

Kevin Bray

From: [Barber, Mike L - Plano, TX](#)
To: [_Plant Mgr - Chesapeake](#); [_Plant Mgr - Coastal Southeast](#); [_Plant Mgr - Lakeshores](#); [_Plant Mgr - Mid-Atlantic](#);
[_Plant Mgr - Mid-South](#); [_Plant Mgr - Midwest](#); [_Plant Mgr - New England](#); [_Plant Mgr - New York Metro](#); [_Plant](#)
[Mgr - Pacific Northwest](#); [_Plant Mgr - Southern California](#); [_Plant Mgr - Southwest](#); [_Plant Mgr - Westshore](#);
[_Proc Division Directors - East](#); [_Proc Division Directors - West](#); [Munoz, Larry P - San Diego, CA](#); [Coleman, Dane](#)
[A - Windsor, CT](#); [MIPS](#)
Cc: [REDACTED]; [Williams Jr, David E - Washington, DC](#)
Subject: Reminder: Sweeps
Date: Tuesday, November 03, 2020 7:37:47 PM

Managers

We're in the final stretch - as we've discussed, please make sure you are continuing to do regular sweeps to ensure all ballots can be timely delivered in accordance with the state's Election Day ballot deadline **today**.

If there are any questions on a state's deadlines or other requirements, contact the Law Department for clarification: [REDACTED], [REDACTED] [@usps.gov](#), and [REDACTED], [REDACTED] [@usps.gov](#).

All plants must ensure that we provide a final clean sweep for all Election Mail Ballots for deliveries **today** in all states for which you provide service.

Consistent with that mandate, mail-in ballots must be swept throughout the night until the final dispatch to your local BOE. Ensure ballots are pulled from all mail processing and manual operations, to include pieces provided directly by Retail offices, for all Board of Elections within your service area.