

Chat with + (b)(6) Will Levi Phone

5/15/2019 8:12:02 PM - 11/27/2020 11:41:48 AM

Export Details:

Device Name Barr OAG 2/10/21

Device ID (b) (6)

Backup Date Wednesday, February 10, 2021 10:25 AM

Backup Director (b) (6)

iOS 14.1

Current Time Zone (UTC-05:00) Eastern Time (US & Canada)

Created with iExplorer v4.4.2.0

Participants:

+ (b)(6) Will Levi Phone

Not Responsive Records

Not Responsive Records

Wednesday, November 4, 2020

Me

<https://twitter.com/JamesOKeefeIII/status/1324174186366074880>

10:48 PM

Me

Please get to right people

10:48 PM

Not Responsive Records

Tuesday, November 10, 2020

+ (b)(6) Will Levi Phone

The number was spam.

9:29 AM

Me



Carone Affidavit.pdf

4:01 PM

Not Responsive Records

Not Responsive Records



5:03 PM

124291189_2829563397279...

Dale Harrison in Colorado. May be manipulation but worth review

5:03 PM

+1 (b)(6) Will Levi Phone

<https://www.newsweek.com/tiktok-bigchoppadoe-faked-video-destroying-trump-ballot-1546234>

5:14 PM

Thursday, November 19, 2020

Not Responsive Records

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

MELLISSA A. CARONE,

Plaintiff,

-vs-

AFFIDAVIT OF MELLISSA A.

CARONE

CITY OF DETROIT: DETROIT ELECTION
COMMISSION; JANICE M. WINFREY, in
her official capacity as the CLERK OF THE
CITY OF DETROIT and the Chairperson of
The DETROIT ELECTION COMMISSION;
CATHY M. GARRETT, in her official
Capacity as the CLERK OF WAYNE COUNTY
BOARD OF CANVASSERS,

Defendants,

FILE NO: _____-AW

JUDGE

BOBBY TENORIO NOTARY PUBLIC - STATE OF MICHIGAN COUNTY OF WASHTENAW My Commission Expires February 19, 2021 Acting in the County of <u>Wayne</u>
--

David A. Kallman (P43200)

Erin E. Mersino (P70886)

Jack C. Jordan (P46551)

Stephan P. Kallman (P75622)

GREAT LAKES JUSTICE CENTER

Attorneys for Plaintiff

5600 W. Mount Hope Hwy.

Lansing, MI 48917

(517) 322-3207/ Fax: (517) 322-3208

AFFIDAVIT

The Affiant, Melissa A. Carone, being the first duly sworn, hereby deposes and states as follows:

1. My name is Mellissa A. Carone, I was contracted by Dominion Voting Services to do IT work at the TCF Center for the November 3, 2020 election, and I am a resident of Wayne County.
2. I arrived at the TCF Center at approximately 6:15 AM November 3, 2020 and worked until 4:00 AM November 4, 2020. I went home to get some sleep, then arrived back at the TCF Center at 10:00 AM in which I stayed until 1:45 PM. During this time I witnessed nothing but fraudulent actions take place.
3. The counters (which were trained very little or not at all), were handed a "batch" (stack of 50) of mail-in ballots in which they would run through the tabulator. The tabulators would get jammed 4-5 times an hour, when they jammed the computer would put out an error that tells the worker the ballot number that was jammed and gives an option to either discard the batch or continue scanning at which the counter should discard the batch, put the issue ballot on top of the batch and rescan the entire batch. I witnessed countless workers rescanning the batches without discarding them first which resulted in ballots being counted 4-5 times.
4. At approximately midnight I was called over to assist one of the counters with a paper jam and noticed his PC had a number of over 400 ballots scanned- which means one batch was counted over 8 times. This happened countless times while I was at the TCF Center. I confronted my manager, Nick Ikonomakis saying how big of a problem this was, Nick told me he didn't want to hear that we have a big problem. He told me we are here to do assist with IT work, not to run their election.
5. The adjudication process, from my understanding there's supposed to be a republican and a democrat judging these ballots. I overheard numerous workers talking during shift change in which over 20 machines had two democrats judging the ballots-resulting in an unfair process.
6. Next, I want to describe what went on during shift change, it was a chaotic disaster. It took over two hours for workers to arrive at their "assigned areas", over 30 workers were taken upstairs and told they didn't have a job for them to do. These people were chosen to be counters, in which 6 workers admitted to me that they received absolutely no training at all.
7. The night shift workers were free to come and go as they pleased, they could go out and smoke from the counting room. This is illegal, as there were boxes and stacks of ballots everywhere, anyone could have taken some out or brought some in, and No one was watching them.
8. There was two vans that pulled into the garage of the counting room, one on day shift and one on night shift. These vans were apparently bringing food into the building because they only had enough food for not even 1/3 of the workers. I never saw any food coming out of these vans, coincidently it was announced on the news that Michigan had discovered over 100,000 more ballots- not even two hours after the last van left.
9. When a worker had a ballot that they either could not read, or it had something spilled on it, they would go to a table that had blank ballots on it and fill it out. They were supposed to be filling them out exactly like the one they had received but this was not the case at all. The workers would also sign the name of the person that the ballot belonged to-which is clearly illegal.
10. Samuel Challandes and one more young man in his mid-20 were responsible for submitting the numbers into the main computer. They had absolutely no overhead, my manager Nick would assist them with any questions but Nick was on the floor assisting with IT most of the time.

BOBBY TENORIO
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF WASHTENAW
My Commission Expires February 19, 2021
Acting in the County of Wayne

0005

11. There was a time I overheard Samuel talking to Nick about losing tons of data, they all got on their phones and stepped to the side of the stage. I asked Nick what was going on and he told me it was all taken care of and not to worry about it. I fully believe that this was something very crucial that they just covered up.
12. I was the only republican working for Dominion Voting, and on the stage there was many terrible comments being made by the city workers and Dominion workers about republicans. I did not give out any indication that I was a republican, I have a family at home and knew I was going to have to walk to my car at the end of my shift. If anyone had an American flag on their shirt or mask, they were automatically deemed to be Trump supporters.
13. I called the FBI and made a report with them, I was told that I will be getting a call back.
14. I am doing my best to make sure something is done about this, I was there and I seen all of this take place.

On this 8th day of November, 2020, before me personally appeared Mellissa A. Carone, who in my presence did execute the foregoing affidavit, and who, being duly sworn, deposes and states that he has read the foregoing affidavit by him subscribed and knows the contents thereof, and that the same is true of his own knowledge and belief, except as to those matters he states to be on information and behalf, and as to those matters he believes them to be true.

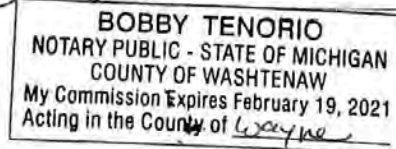
Mellissa A. Carone Mellissa A. Carone 11/08/20

Notary Public, Washtenaw County, Michigan

My Commission Expires: 02 19, 2021
Feb 19, 2021

Bobby Tenorio

11/8/2020



Chat with Mark Meadows

4/24/2020 9:43:54 PM - 12/18/2020 7:47:25 PM

Export Details:

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Device ID (b) (6)

Backup Date Wednesday, February 10, 2021 10:25 AM

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iOS 14.1

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Created with iExplorer v4.4.2.0

Participants:

(b) (6), Mark Meadows

Not Responsive Records

Wednesday, November 4, 2020

Mark Meadows

<https://twitter.com/JamesOKeefeIII/status/1324174186366074880>

10:44 PM

Mark Meadows

I don't know how valid or who would be the best person to investigate but I thought you should be made aware of this. Tom Fitton tweeted it out and it is likely to get some attention

10:44 PM

Me

Got it.

10:46 PM

Not Responsive Records

Tuesday, November 10, 2020

Mark Meadows



Carone Affidavit.pdf

3:36 PM

Referenced FBI in affidavit

3:36 PM

Mark Meadows

<https://twitter.com/JamesOKeefeIII/status/1326323334800437248>

8:07 PM

Mark Meadows

The audio is troublesome

8:07 PM

Wednesday, November 11, 2020

Mark Meadows



124291189_2829563397279...

4:55 PM

Dale Harrison in Colorado. May be manipulation but worth review

4:55 PM

Mark Meadows



Lincoln Project Targeted Har...

9:15 PM

This is all the Lincoln project info

9:15 PM

Not Responsive Records

The Lincoln Project Personally Targeting The Trump Campaign's Lawyers

THE LINCOLN PROJECT DIRECTED ITS FOLLOWERS TO ATTACK THE TRUMP CAMPAIGN'S LEGAL TEAM

On November 10, The Lincoln Project Tweeted The Names, Pictures, Phone Numbers, And Email Addresses Of Two Lawyers That Had Been Retained By The Trump Campaign, Telling Their Followers To "Make Them Famous." (The Lincoln Project, [Twitter](#), 11/11/20)



The Lincoln Project
@ProjectLincoln

Follow

Here are two attorneys attempting to help Trump overturn the will of the Pennsylvanian people.

Ronald Hicks
412.235.1476
rhicks@porterwright.com

Carolyn McGee
412.235.1488
cmcgee@porterwright.com

Make them famous. 🦴



9:14 AM - 10 Nov 2020

The Lincoln Project Sent A Tweet Encouraging Followers To Harass Lawyers Who Work At The Firms Of Jones Day And Porter Wright On LinkedIn. "Defend your democracy: 1. Created a LinkedIn account. 2. Message someone who works at @JonesDay or @PorterWright. 3. Ask them how they can work for an organization trying to overturn the will of the American people." (The Lincoln Project, [Twitter](#), 11/10/20)



The Lincoln Project

@ProjectLincoln



Defend your democracy:

1. Created a LinkedIn account.
2. Message someone who works at @JonesDay or @PorterWright.
3. Ask them how they can work for an organization trying to overturn the will of the American people.

[linkedin.com/company/jones-...](#)

[linkedin.com/company/porter...](#)



Jones Day | LinkedIn

Jones Day | 58,574 followers on LinkedIn. One Firm Worldwide® | One Firm Worldwide® With its singular traditio...
[linkedin.com](#)

12:21 PM · Nov 10, 2020 · Twitter for iPhone

The Lincoln Project's Leadership Personally Called For Harassment Of Lawyers And Law Firms Working For The Trump Campaign

Co-Founder Reed Galen

On November 10, Galen Retweeted A Tweet That Included The Personal Information Of Two Lawyers Representing The Trump Campaign. "Yes! Please go after Porter Wright, too. Two attorney's here named in Philadelphia Inquirer piece both helping Trump suppress the PA vote. Twitter, give 'em a shout! Ronald Hicks 412.235.1476 rhicks@porterwright.com Carolyn McGee 412.235.1488 cmcgee@porterwright.com" (GuyMantis, [Twitter](#), 11/10/20)



Replying to [@reedgalen](#) and [@JonesDay](#)

Yes! Please go after Porter Wright, too. Two attorney's here named in Philadelphia Inquirer piece--both helping Trump suppress the PA vote.

Twitter, give 'em a shout!

Ronald Hicks
412.235.1476
rhicks@porterwright.com

Carolyn McGee
412.235.1488
cmcgee@porterwright.com



1:03 AM · Nov 10, 2020 · Twitter Web App

On November 10, Galen Tweeted Out The Phone Number Of The Law Firm Porter Wright Encouraging His Followers To Call The Law Firm. “@porterwright you can call them at 2027783000 and tell them how you feel about them selling out democracy, if you’re so inclined.” (Reed Galen, [Twitter](#), 11/10/20)



- **Minutes Before, Galen Tweeted That Followers Should “Make Sure [Jones Day Knows] How We Feel About” Its Decision To Represent The Trump Campaign.** “@jonesday is putting money over democracy. Make sure they know how we feel about that.” (Reed Galen, [Twitter](#), 11/10/20)



On November 10, Reed Galen Retweeted A Post Encouraging Followers To Harass Jones Day Partner Sharyl Reisman and Boycott Jones Day, Posting Reisman’s Phone Number And Photo. “Tell Jones Day firmwide hiring partner Sharyl Reisman that her recruiting program is shot. No attorney with a shred of integrity would ever consider working for @JonesDay. #JonesDayBoycott” (Nancy Levine, [Twitter](#), 11/10/20)



Senior Advisor Stuart Stevens

On November 10, Stuart Stevens Retweeted A Tweet Encouraging Him To “Tear” Jones Day And Porter Wright “To Shreds.” “@JonesDay @PorterWright Tear these anti American mercenaries trying to disenfranchise 1 million voters to shreds @ProjectLincoln @SteveSchmidtSES @stuartpstevens @TheRickWilson And law firms? Americans will fight for democracy. And make you radioactive to clients. For free.” (Kurt Eichenwald, [Twitter](#), 11/10/20)



On November 10, Stuart Stevens Retweeted A Post From Former Republican Campaign Strategist Mike Murphy Saying It Is A “Reputation Disaster” That Jones Day Is Representing Trump’s Interest And Asserted That They Will Be Forever Associated With Destroying Faith In U.S. Elections. “This is a real reputation disaster for Jones Day; both with staff and with their #Fortune500 clients, especially those with consumer brands. Do they want to be associated with key lawyers in Trump effort to destroy faith in US elections? Face boycotts?” (Stu Stevens Retweet Of Mike Murphy, [Twitter](#), 11/10/20)

stuart stevens Retweeted



Mike Murphy
@murphymike

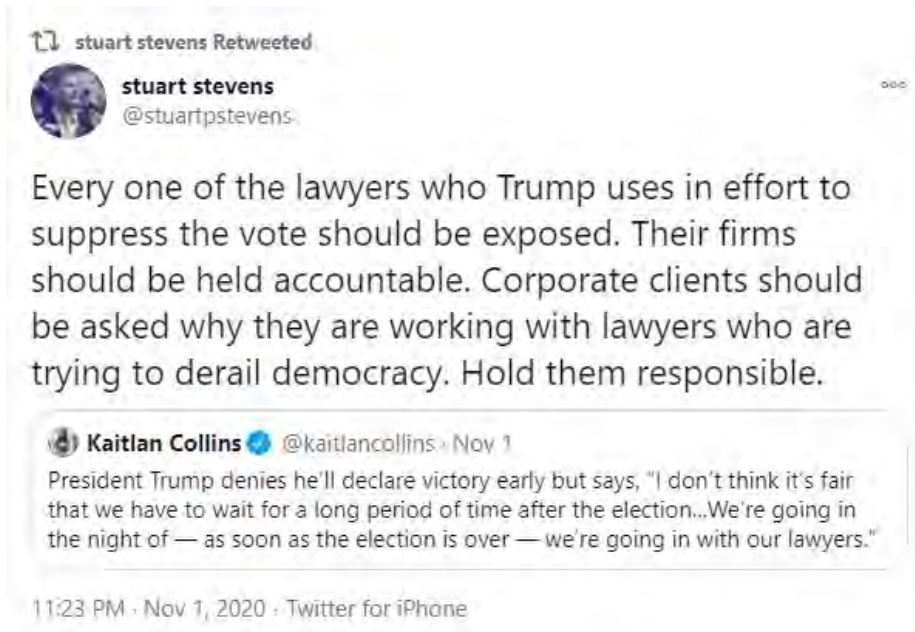
This is a real reputation disaster for Jones Day; both with staff and with their [#Fortune500](#) clients, especially those with consumer brands. Do they want to be associated with key lawyers in Trump effort to destroy faith in US elections? Face boycotts?



Growing Discomfort at Law Firms Representing Trump in Election Lawsuits
Some lawyers at Jones Day and Porter Wright, which have filed suits about the 2020 vote, said they were worried about undermining the electoral system.
[nytimes.com](#)

1:53 AM · Nov 10, 2020 · Twitter for iPhone

On November 1, Ahead Of The Election Stu Stevens Wrote That “Every” Lawyer “Who Trump Uses” And Their Firms “Should Be Held Accountable” Suggesting That Corporate Clients Should Put Pressure On Them. “Every one of the lawyers who Trump uses in effort to suppress the vote should be exposed. Their firms should be held accountable. Corporate clients should be asked why they are working with lawyers who are trying to derail democracy. Hold them responsible.” (Stuart Stevens, [Twitter](#), 11/1/20)



- **Note:** *Stevens retweeted his tweet after the election.*

Co-Founder Rick Wilson

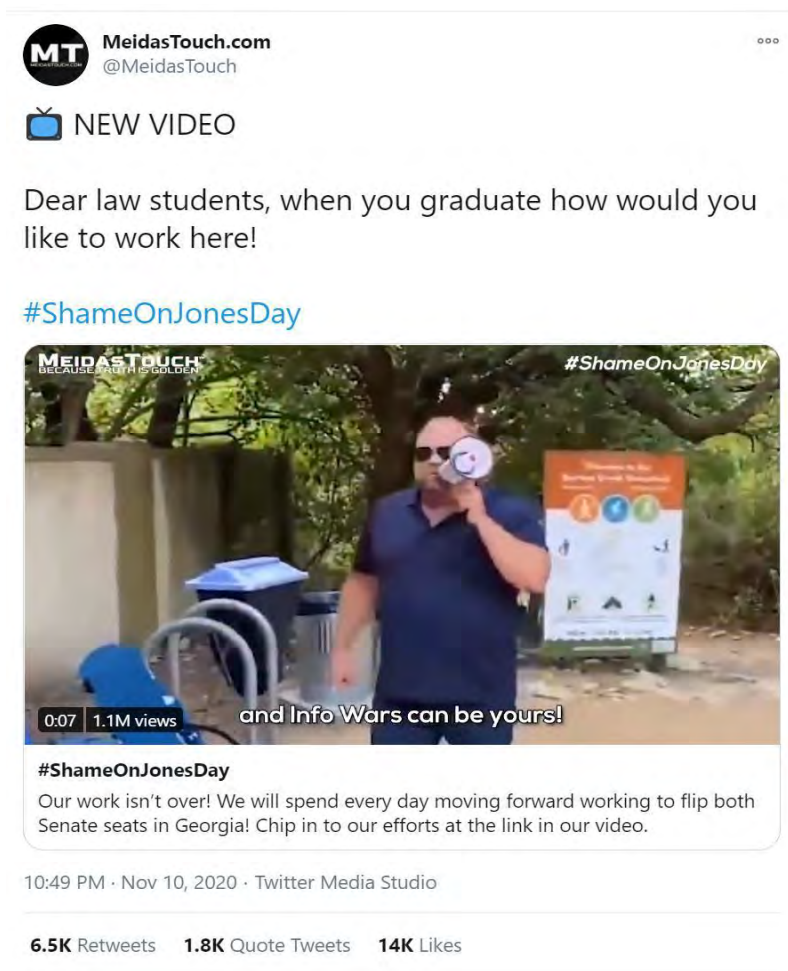
Rick Wilson Said That The Lincoln Project Would Produce TV Ads And A Large Social Media Campaign Targeting Jones Day's Biggest Clients Such As General Motors To Cut Ties with The Firm.

"Wilson said the campaign against Jones Day includes TV ads already in production, and will include a large social media push against the firm and its partners. He said the effort would also target some of Jones Day's largest clients. 'I'd like to know how General Motors justifies working with a company that's aggressively seeking to undermine the validity of a free and fair democratic election,' Wilson told me."

(Greg Sargent, "Inside The Lincoln Project's New Campaign Targeting Trump's Law Firm," [The Washington Post](#), 11/10/20)

OTHERS FOLLOWED THE LEAD OF THE LINCOLN PROJECT TO PERSONALLY ATTACK ANYONE WORKING TO DEFEND PRESIDENT TRUMP

Meidas Touch, A PAC Aimed At Stopping President Trump's Re-Election, Posted A Video With The Hashtag #ShameOnJonesDay, Targeting Law Students And Warning Them To Not Work At Jones Day. (Meidas Touch, [Twitter](#), 11/10/20)



Other Twitter Users Piled On

Note: *The following is a sampling of tweets from ordinary Americans who attacked Jones Day after the Lincoln Project's targeting harassment*

Claire Massey Messaged Jones Day On LinkedIn Calling The Firm “An Embarrassment To The American People.” “Is money so important to your firm that you would throw American democracy under the bus? Is that really how you want to be remembered in the history books? You are an embarrassment to the American people. We will not forget your choice and actions. And if you have forgotten, it’s country over party and not party over country.” (Claire Massey, [Twitter](#), 11/10/20)



Claire "Bear" Biden & Harris Won
@clairermassey

...

Replying to @ProjectLincoln @JonesDay and @PorterWright



Claire Massey

Truth Seeker

now • 🌐

Jones Day @PorterWright

Is money so important to your firm that you would throw American democracy under the bus? Is that really how you want to be remembered in the history books?

You are an embarrassment to the American people. We will not forget your choice and actions. And if you have forgotten, it's country over party and not party over country.



Like



Comment



Share



Send

2:15 PM · Nov 10, 2020 · Twitter for iPhone

Tim Wegener Emailed The Managing Partners At Jones Day And Porter Wright Telling Them He Will Decline To Work With Either Of The Firms, Saying That The Firms Should Be Held Accountable. "As the owner of a small, private equity firm in Dallas, rest assured that if I ever have the opportunity to work with either of your firms, I will decline immediately. Furthermore, if any of your clients are involved with my firm in any way, I will immediately end any and all discussions with that firm until they choose new counsel. You are harming our democracy in ways that may be unrecoverable and for that, you and your firms should be held accountable." (Tim Wegener, [Twitter](#), 11/10/20)



Tim Wegener
@timwegener

Replying to @ProjectLincoln @JonesDay and @PorterWright

Here is my email to the managing partners of both firms.



12:49 PM · Nov 10, 2020 · TweetDeck

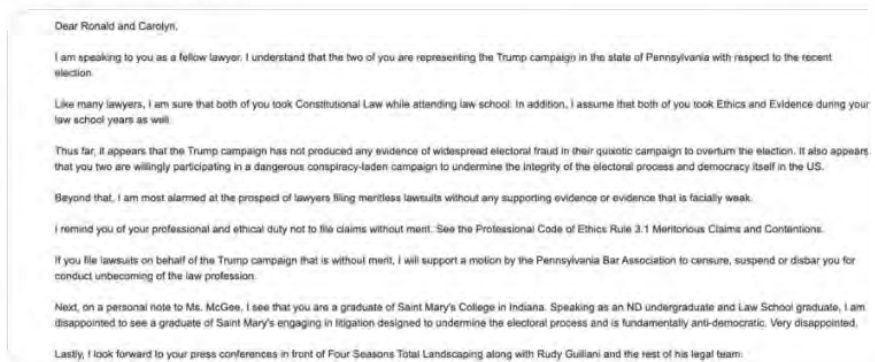
Brian Johns Tweeted Saying He Would “Support A Motion By The Pennsylvania Bar Association To Censure, Suspend Or Disbar You For Conduct Unbecoming Of The Law Profession.” “If you file lawsuits on behalf of the Trump campaign that is without merit, I will support a motion by the Pennsylvania Bar Association to censure, suspend or disbar you for conduct unbecoming of the law profession.” (Brian Johns, [Twitter](#), 11/10/20)



Brian Johns
@TheBrianEJohns

Replying to @ProjectLincoln

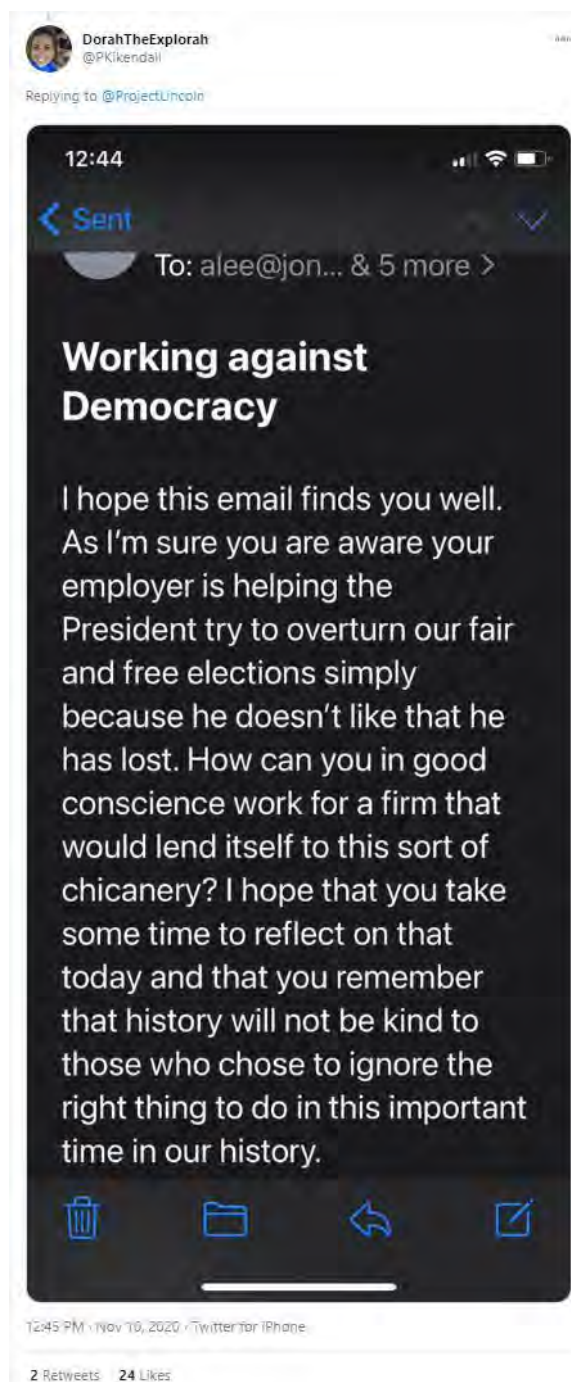
I didn't do it through LinkedIn. I did send them an email. Here it is.



2:34 PM · Nov 10, 2020 · Twitter Web App

A Twitter User By The Name DorahTheExplorah Emailed Jones Day Warning That “History Will Not Be Kind To Those Who Chose To Ignore The Right Thing To Do In This Important Time In Our History.” “I hope that you take some time to reflect on that today and that you remember that history

will not be kind to those who chose to ignore the right thing to do in this important time in our history.”
(DorahTheExplorah, [Twitter](#), 11/10/20)



THE LINCOLN PROJECT RECEIVED CONSIDERABLE CRITICISM FOR THEIR TARGETED HARRASSMENT

The Lincoln Project Was Criticized For Their Harassment Campaign

The Republican National Lawyers Association Put Out A Statement Calling The Lincoln Project's Targeted Harassment Reprehensible. "The right to representation is a fundamental part of our adversarial legal system that protects the rule of law even if it does not always reach the outcomes people would prefer. The reprehensible attacks on lawyers who would have the temerity to represent the President of the United States are only part of a widespread effort to drive those who support President

Trump (apparently all 71 million of us) from all aspects of public life. Even more than they have the last four years, liberals are going to try to make it impossible for anyone to deviate from the liberal orthodoxy. Under a Biden Administration, they would not only have the support of the mainstream media and academia but also the Executive Branch. The RNLA applauds Ron Hicks and his colleagues and Linda Kerns for their zealous representation of their client and service to the American people, even in the face of attacks from the left against their livelihoods and even their ability to practice law.” (“Attacks On Lawyers Representing President Trump Are Reprehensible,” [Republican National Lawyers Association](#), 11/10/20)

Law Professor Orin Kerr Called The Actions By The Lincoln Project A “Terrible Idea.” “I have given money to @ProjectLincoln, and supported their work, but this strikes me as a terrible idea . . . It's a bad idea for two reasons, I think. 1) Going after lawyers for representing unpopular clients in unpopular legal claims has a really bad history, and tends to not go well. Our legal system needs lawyers to take on unpopular clients. Focus on the clients, not the lawyers.” (Orin Kerr, [Twitter](#), 11/10/20)

The Washington Post’s Jennifer Rubin Tweeted At The Lincoln Project To “STOP.” “I agree and implore my friends at @ProjectLincoln to knock this off. There are bar authorities and proper means to do this. Do NOT start a frenzy in an atmosphere in which death threats, unhinged behavior and verbal assaults are the norm. STOP.” (Jennifer Rubin, [Twitter](#), 11/10/20)

Twitter Intervened And Blocked The Lincoln Project’s Account

Twitter Briefly Locked The Lincoln Project’s Account After Their Tweet That Publicized The Names, Photos, And Contact Information For Porter Wright Attorneys Ronald Hicks And Carolyn McGee. “The Lincoln Project was briefly locked out of Twitter on Tuesday after sharing the contact details of two lawyers working on President Donald Trump's election challenges.” (Bill Bostock, “The Lincoln Project, An Anti Trump GOP Group, Got Locked Out Of Twitter For Sharing The Phone Numbers And Emails Of Lawyers Working On Trump's Election Challenges,” [Business Insider](#), 11/11/20)

LINDSEY O. GRAHAM, SOUTH CAROLINA, CHAIRMAN

CHARLES E. GRASSLEY, IOWA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JOSHUA D. HAWLEY, MISSOURI
THOM TILLIS, NORTH CAROLINA
JONI ERNST, IOWA
MIKE CRAPO, IDAHO
JOHN KENNEDY, LOUISIANA
MARSHA BLACKBURN, TENNESSEE

DIANNE FEINSTEIN, CALIFORNIA
PATRICK J. LEAHY, VERMONT
RICHARD J. DURBIN, ILLINOIS
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE HIRONO, HAWAII
CORY A. BOOKER, NEW JERSEY
KAMALA D. HARRIS, CALIFORNIA

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

November 8, 2020

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Ave., N.W.
Washington, D.C. 20535

Dear Attorney General Barr and Director Wray:

Today, my office received the attached affidavit of Richard Hopkins, a postal worker in Erie, Pennsylvania. According to the affidavit, Mr. Hopkins is reporting a scheme to backdate ballots in the Erie Post Office.

I urge you to investigate these claims as soon as possible. It is imperative that the American people have confidence in the 2020 election and all other elections. The expansion of voting by mail has placed the post office at the center of the election and we must ensure that the entire postal system operates with integrity.

Sincerely,

A handwritten signature in blue ink, appearing to read 'L. Graham', is written over the word 'Sincerely,'.

Lindsey O. Graham
Chairman

AFFIDAVIT OF RICHARD HOPKINS

I, Richard Hopkins, declare as follows:

1. I am over the age of eighteen years and am legally competent to make this declaration. I have personal knowledge of the facts contained herein. If called upon, I could and would competently testify under oath as to the facts stated herein.

2. I am an employee of the United States Postal Service. I work as a carrier in the Erie, Pennsylvania post office.

3. Although, as I understand Pennsylvania law, ballots must be postmarked by 8:00 p.m. on Election Day, November 3, 2020 in Pennsylvania, Postmaster Rob Weisenbach directed my co-workers and I to pick up ballots after Election Day and provide them to him. As discussed more fully below, I heard Weisenbach tell a supervisor at my office that Weisenbach was back-dating the postmarks on the ballots to make it appear as though the ballots had been collected on November 3, 2020 despite them in fact being collected on November 4 and possibly later.

4. On November 5, 2020, as I was preparing my mail for delivery, I saw Weisenbach with Darrell Locke, one of the supervisors for the Erie, Pennsylvania post office having a discussion. Weisenbach and Locke discussed how on November 4, 2020, they had back dated the postmark on all but one of the ballots collected on November 4, 2020 to make it appear as though the ballots had instead

been collected on November 3, 2020. I overheard Weisenbach tell Locke that they “messed up yesterday” – November 4, 2020 – by accidentally postmarking one ballot as having been collected November 4, 2020 (when it had actually been collected)

5. Importantly, Weisenbach and his assistant had ordered my co-workers and I to continue picking up ballots after November 3 despite the requirement that ballots be mailed by then. Weisenbach directed that ballots be picked up through Friday, November 6, 2020. Moreover, Weisenbach directed that all ballots picked up through November 6, 2020 were to be given to him, presumably so they could be backdated by him and/or Locke.

6 My understanding of Pennsylvania law is that ballots cannot be counted unless they were mailed by 8:00 p.m. on November 3, 2020. Weisenbach’s comments were deeply concerning to me and appeared to me to be an attempt by Weisenbach and/or Locke to improperly backdate ballots received after the legal deadline so these late ballots could be counted something I understand to be illegal and against Pennsylvania law. Accordingly, I brought Weisenbach’s information to the public through Project Veritas.

7. The next day, November 6, I was interrogated by a USPS postal inspector who, knowing I was the whistleblower who brought Weisenbach’s directives to light, indicated they were investigating the matter. I was also

approached by a representative of the postal worker union who began asking me about old allegations against me which have long been resolved. I refuse to be silenced, so I decided to reveal my identity and have pledged to testify regarding what I heard and what I was ordered to do

I, Richard Hopkins, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief). I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). I further declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct

Executed on this 6th day of November, 2020, at Erie, Pennsylvania.

Richard Hopkins

Richard Hopkins

JURAT

State/Commonwealth of TEXAS)

☐ City ☒ County of Harris)

On 11/06/2020, before me, Joyce A Mickle Miller
Date Notary Name

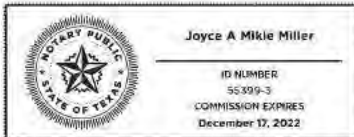
the foregoing instrument was subscribed and sworn (or affirmed) before me by:

Name of Affiant(s)

☐ Personally known to me -- OR --


☐ Proved to me on the basis of the oath of _____ -- OR --
Name of Credible Witness

☒ Proved to me on the basis of satisfactory evidence: driver_license
Type of ID Presented



Electronic Notary Public

WITNESS my hand and official seal.

Notary Public Signature: 

Notary Name: Joyce A Mickle Miller

Notary Commission Number: 55399-3

Notary Commission Expires: 12/17/2022

Notarized online using audio-video communication

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document: AFFIDAVIT

Document Date: 11/06/2020

Number of Pages (including notarial certificate): 4

Notarized online using audio-video communication

(b) (6)

November 11, 2020

William P. Barr
United States Attorney General
Department of Justice
Washington, DC 20530

**RE: ELECTION FRAUD OF JIM CONDOS
AND STATE OF VERMONT**

Mr. Attorney General:

As you are aware from affidavits and documentation previously provided to you, the state of Vermont is an outlaw territory in insurrection against the authority of laws of the United States and denying to its citizens the rights and equal protections of law secured to them by Constitution and laws of the United States. US Attorney Christine Nolan refuses to execute and enforce the laws of the United States in the state of Vermont, and the State of Vermont rules as a despotic state under the extra-constitutional executive authority of a mentally defective governor.

Television news this morning falsely asserts that there have been no complaints of election fraud in Vermont and that Vermont Secretary of State Jim Condos says he could not have done it without the cooperation of town clerks and election officials. Vermont Secretary of State Jim Condos further states that if anyone has any evidence of election fraud, they should bring it forward.

I have reason to allege election fraud in Vermont and I do allege election fraud in Vermont.

There is my own reported incident involving Barre City Clerk and Treasurer Carol Dawes, and the mailing of documents to a fake addressee. Confronted by me in writing about her doings, Carol Dawes did not deny her hand in crime and voter fraud. (Annex 1)

Today I learn of an incident of ballot irregularity involving (b) (6) of Wildersburg Common, Barre, who received two ballots in her name. How many other multiple ballots did Vermont produce?

The political agency of the State of Vermont has strong motive to stuff the ballot box: Vermont wants to run its drug rackets with impunity under the return to the Cole Memorandum that Vermont Democrats trust Joe Biden will provide. The Cole Memorandum levies war against the United States as it attempts to prevent altogether enforcement of statute as intended by legislature.

The Cole Memorandum directs all United States Attorneys to not charge non-violent narcotics offenses and allows non-violent drug dealers to set-up a nationwide distribution network without fear of any arrest by the United States. Conspiracy to prevent altogether statute of the United States is treason.

Burlington City, Vermont has expressed interest in return of the Cole Memorandum, because Burlington, Vermont wants to pursue the "safe shoot-up sites" program of Democrat Sarah George, Chittenden County State's Attorney.

Since June 2011 Vermont Secretary of State Jim Condos has been subject of complaint of document fraud and criminal corruption in public office. (Annex 2)

Vermont Secretary of State Jim Condos does not deny that he has created a fake fund, manufactured fraudulent documents, and communicated false information to the IRS, for the purpose of retaliating against the complaining witness to the Barre City narcotics rackets of United States Senator Patrick Leahy. Senator Leahy has likewise not denied that he has funneled millions of dollars from the federal treasury into the hands of the known narcotics queen of Barre, Eileen Peltier and Downstreet Housing and Community Development of Barre.

In addition to the history of fraud, falsehood and lies of Vermont Secretary of State Jim Condos, there is the public matter of the election fraud scheme of Jim Condos, implemented by him in Vermont in conspiracy with the Governor and General Assembly members of the state. (Annex 3)

Vermont Secretary of State Jim Condos falsely asserted that a mail-in ballot system is necessary in Vermont due to the public health and safety threat of COVID-19 pandemic in Vermont. However, according to the science and data available, there is no COVID-19 pandemic condition in the state of Vermont and there never has been a COVID-19 pandemic condition threat in Vermont. The COVID-19 "pandemic" in Vermont is a hoax and a fraud (Annex 4); and the necessity of a revolutionary change to election process in Vermont by reason of COVID-19 pandemic threat in Vermont is a knowing fraud as well.

The revolutionary election process designed, developed and implemented by Jim Condos resulted in unprecedented election results in Vermont. Unprecedented election results are irregular election results, and irregular election results merit investigation.

Vermont Secretary of State Jim Condos has certified some 40,000 irregular ballots above and beyond typical election history. The sweeping majority of ballots filed and received late were ballots for Biden. The excuse that Democrats favored the mail-in ballot system implemented by Democrats fails to explain why proponents of the mail-in system would wait until the last moments to vote.

The laws of the science of statistics and probabilities do not support the idea that ballots received late would be overwhelmingly one-sided: A close contest should remain consistently close in any sampling of ballots, and never disproportionately flip sides at the end.

In a "Red state" that overwhelmingly re-elected a Republican governor and ousted the Progressive liberal position from the State House, it is not believable that the conservative Vermont electorate would vote "Blue" for the President. It is far more likely that the documented felon and dishonest character, Jim Condos, has subverted election process in Vermont as an operative agent of the "Shop" acting in the service of the illegal narcotics rackets of the State.

I look forward to federal action against the outlaw state of Vermont and its political agency of crime.

I understand the historical significance of prosecuting political parties, but if the republic is to survive, then the law must be equally and objectively applied. Government and elected officials are not independent of the law by reason of political affiliation.

If the country is to be Saved, then the republic must correct itself --- Otherwise, the "Great Experiment of 1776" proves itself at law to be a failure.

I like to believe that you will pick up the shield of law against insurrection and narcotics rackets, narcotics mafia in politics, and intelligence community traitors in elections; and I wish you good luck in that endeavor.

Sincerely,

(b) (6)



CRT voting

(b) (6)

November 5, 2020

U.S. Department of Justice
950 Pennsylvania NW
Washington DC 20530-0001

SUBJECT: VOTER FRAUD

The many ways a person could vote in this election was a perfect setup for voter fraud. It will go down as the death of America's election system. The pandemic was the perfect excuse to manipulate the votes. I never thought I'd live long enough to see the destruction of America and its values. As we celebrate Veterans Day, I think of all the lives that were given so we could live in a free country.

Maybe America has taken its freedom for granted. The last 7 months, we've gotten a little taste of what it's like to live in a socialist/communist country. If people vote criminals in office, they get what they deserve. The Democratic Socialist Party has become the party of DEATH.

(b) (6)

Congress of the United States
House of Representatives
Washington, DC 20515-0904

November 13, 2020

The Honorable William Barr
Attorney General U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Attorney General Barr,

While each state runs its own election process, the United States Department of Justice has an obligation to maintain the integrity of federal elections. The American people must have the utmost confidence that the outcome of the presidential election is legitimate.

Thank you for your November 9th memo authorizing inquiries into substantial allegations of voting irregularities that could affect the election outcome. It is important that the voting and vote counting process be completely transparent, so the American people have full confidence in the result.

The DOJ Civil Rights Division Voting Section enforces the civil provisions of the federal laws that protect the right to vote. This not only means protecting access to the ballot box, but it also ensuring that no vote is devalued by any means of fraud.

When it comes to a federal election, it should not matter whether those judicial orders come from a state or federal court. For example, if a state court orders that observers can watch ballot counting in a federal election, no local election official should be able to defy that order.

Our democracy depends on protecting the integrity of our elections. It is my hope that, with your leadership, we will have a fully transparent process that counts all legally cast ballots, affords all candidates the ability to inspect vote counting, and allows the challenge of any suspected fraudulent activity.

Sincerely,



John H. Rutherford
Member of Congress

November 14th, 2020

Honorable Attorney General of the United States,

I am writing to you because I have known you to be on the side of Truth and Justice. Usually when we see instances of Election Fraud it is quickly swept under the rug under the guise of "we must not destroy the public's trust in the election process". We do not accept that Trump is losing this race fairly. I implore you to immediately investigate fraud and correct this injustice. States should have to re-count or forfeit the race. And there must be pole watchers that have clear rules that call for actually being able to SEE what is going on.

So far, the fraudulent activities seen in various states are:

1. Computer glitch in Michigan. In a very Republican County, a pole worker noticed very unusual results. After investigating the votes in question, they found that 6,000 votes for Trump were placed in Biden's name. This software is used by 47 Counties in Michigan and in some other states.
2. In Philadelphia, a bundle of 27,324 votes came in and when they were processed all the votes were for Biden. Really??
3. A whistleblower came forward in Philadelphia saying that they were told to backdate the ballots which had come in late. There were over 100 affidavits of nonconformance, 100,000 votes counted that were received late.
4. Another whistleblower before the election came forward anonymously. He said he has long been doing Ballot Fraud and is famous for how to cheat on mail in ballots for years and travels to other states to teach them. The process is to steam open the envelope and replace the ballot with one they have filled out. He said all they need is the envelope. Also, they are big on removing the postmark. I heard this once and expected it to go viral, not so. Somehow this information was killed.
5. It appears that the FIX WAS IN. That is why Biden did not need to campaign. The media was behind him all the way along with the BigTech. That resulted in massive suppression of information.

If the Democrats get away with this it will cause more than 50% of the public to lose all faith in the election process.

Trump was so widely loved, there is no way he did not win. We cannot allow the BigTech and the liberal media to take over the strongest country in the world. It will weaken its foundation and, God forbid, will come under the direct influence of China. I call on your faith and your love for this country to please do a diligent investigation of the 2020 election.

Sincerely,

(b) (6)



(b) (6)

November 14th, 2020

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Sincerely,

(b) (6)

CRT Voting

To: Attorney General
William Barr
US Department Of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530-0001

November 08, 2020



(b) (6)

Dear Mr. Barr,

We the People Of the United States would like an investigation into VOTER FRAUD on our elections that is taking place with the Democratic Party trying to steal an election and hide the corruption they have committed. Bejjien Biden couldn't get 10 people to show up to see him. Trump on the other hand had 25,000.00 + people trying to see him each and every rally he held. So many they were turned away for lack of space. Trump Supporters had boat rally's, Car rally's, Parades, Tractor rally's through out the country on their own plus His big cities Rally's. There is NO WAY Joe Biden is a winner.? He has Dementia. Those machines and all the Postal Workers dumping Ballots. Pennsylvania Not letting Ballot workers see what was going on. Wisconsin having more Ballots then people. Georgia, penn., Wisconsin, Michigan, Minnesota all stopping in middle of night and starting up at 2am for 136,000.00 votes for Joe Biden only. Someone programing the machines befor election Day all of this is.. CORRUPTION, CORRUPTION, CORRUPTION!!! Now they are trying to claim themselves the President and vice President. NO WAY!! American people can't take anymore of the corruption. Your gonna start a civil war here. Please STOP this corruption.

Why is it the " Democratic Party " gets away with all this Corruption? We The People are sick of it! You need to do your JOB and stop letting them get away with this CRAP!

Why were they aloud to waste \$40,000.000.00 dollars on a Russia Hoax? We should get our money back, what the Hell! Why isn't anyone going to jail for treason on the Obama side for wire tapping Trump? What happen to the Ebstien case?, he didn't kill himself. Who and how did the Obama team get a 150 billion dollars in cash to give to Iran? Where's the money trail on that. How was Hillary Clinton able to sell URANIUM to Russia? Why don't you get into the Clinton Foundation and follow the money? why did Obama admistration get away with fast and furious?

Please show the American People that you will Not stand for anymore corruption.

Thank you for your time,

Sincerely,

(b) (6)

CRT Voting

To: Attorney General
William Barr
US Department Of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530-0001

November 08, 2020

(b) (6)



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Please show the American People that you will Not stand for anymore corruption.

Thank you for your time,

Sincerely

(b) (6)

(b) (6)

CPI/Voting

November 12, 2020

The Honorable William P. Barr, Esq.,
Attorney General of The United States

Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

MR. Attorney General Barr:

I write to you requesting that your office investigate the corruption that has taken place in this election. I believe that we all have been placed in different position for such a time as this. During the time of King Ahasuerus, God placed Queen Esther in the palaces as his wife to uncover the plot that was against God's people. I believe you have been placed in your position for such a time as this.

"There were 15,000,000 paper ballots illegally sent into the Postal Service and at polling sites to deliberately rig the vote tallies in those States where the Electoral Votes were deliberately fixed by use of stuffed paper ballots, hidden concealed ballot stuffing which took place to deliberately favor the nominee of the Democratic Party Mr. Joseph Biden. A Federal investigation into the illegal BALLOT STUFFING that took place in California, Nevada, Arizona, Georgia, Pennsylvania, Michigan, Wisconsin, South Carolina is fully warranted and necessary".

What does a balance scales represent in America? The balance represent impartiality and the obligation of the law (through its representatives) to weigh the evidence presented to the court. The Eagles is a symbol of power, action, speed and perception. Their vision is sharp which gives them the ability to see the hidden truth and spiritual principles. I know that you are very much aware of this and this is why I plead with you to have your office look into the corruption that is going on before everyone eyes.

The Media has taken it upon them to assist those who are committing these acts of engaging in the illegal ballot stuffing. They have all collude together to rigged the system that we as American hold so sacred. There are three colors in our flag which are symbolic. Red represents hardiness and valor, white symbolizes purity and innocence, and blue represent vigilance, perseverance and justice. As an American and a Republican I stand for Justice and truth this is why I am appealing to you to please look into this dishonest and corrupted illegal ballot stuffing which unlawfully resulted in a premature rush to name Mr. Biden as president elect when the facts show otherwise.

Sincerely

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(b) (6)

Phone:

(b) (6)

Email:

(b) (6)

November 8, 2020

Honorable William P. Barr
Attorney General of the United States of America
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

CPT/Voting

RE: 2020 Presidential Election

Dear Attorney General Barr:

I am writing to you as a concerned citizen of the United States. I believe there has been a great injustice done to the Constitution and to the citizens of America. I believe there has been grave voter fraud perpetrated to change to course of history and for the destruction of America.

I believe the Supreme Court and the Justice Department need to force a recount of the votes prior to mid-night of November 3, 2020 election in the states of Pennsylvania, Michigan, Wisconsin, North Carolina, Georgia, Arizona and Nevada.

If after that recount there is still a question of Donald J. Trump not winning all of those states, then the Supreme Court should set a date and time for a Special Election in those states, run by the Justice Department.

I grew up in Iowa in the 1940's and 1950's. The only four Presidents I have felt safe under have been Eisenhower, Kennedy, Reagan and Trump. All the rest have been career politicians that were beholding to some special interest groups, some foreign power or some One World Order Ideology.

Mr. Biden or Ms. Harris should never be allowed to control our military, our nuclear arsenal or our economy. They should be in prison with Obama, Soros and the Clintons for treason.

Obama stole the 2008 Presidential Election in the following method:

Here are the states that were stolen in the 2008 election and the number of Electoral Votes that each state provided.

Electoral Votes		Popular Votes		
		Obama	McCain	Diff
Florida	27	4,282,074	4,045,624	236,450
Ohio	20	2,933,388	2,674,491	258,897
North Carolina	15	2,142,651	2,128,474	14,177
Virginia	13	1,959,532	1,725,005	234,527
Indiana	11	1,374,039	1,345,648	28,391
Colorado	9	1,288,567	1,073,589	214,978
New Mexico	5	472,422	346,832	125,590
Nevada	5	533,736	412,827	120,909
105		1,233,919		

In Ohio the Democratic Secretary of State allowed absentee ballots to be cast by anyone. Over 260,000 people were bussed in from Illinois, Indiana and Michigan to cast absentee ballots.

Indiana is pure Motor Voter fraud. People who live in Illinois, Michigan and Ohio used relatives addresses in Indiana to get state IDs in order to register to vote in Indiana.

Virginia is Motor Voter fraud, plus the pre-election voting was carried on for more than 30 days. People who live in Washington, DC, Maryland, North Carolina, South Carolina, Georgia, and Tennessee used relatives addresses in Virginia to get state IDs in order to register to vote in Virginia.

North Carolina is Motor Voter fraud, plus pre-election voting was carried on for more than 30 days. People who live in South Carolina, Virginia, Maryland, Georgia, Tennessee and Washington DC used relatives addresses in North Carolina to get state IDs in order to register to vote in North Carolina.

Florida is Motor Voter fraud, plus pre-election voting was carried on for more than 30 days. People who live in South Carolina, Georgia, Alabama and Mississippi used relatives addresses in Florida to get state IDs to register to vote in Florida.

Nevada, New Mexico and Colorado were ACORN sending hundreds of thousands of fraudulent voters names to be added to the voting roles, which the Democratic poll workers stuffed after the polls closed.

Conservative groups attempted to get the lists stopped but due to corrupt Federal judges were unable to get the lists removed prior to the general election.

Here are the states that were stolen in the 2012 election.

Ohio = 18

Obama - 2,697,260
Romney - 2,593,779
Diff - 103,481

Colorado = 9

Obama - 1,238,490
Romney - 1,125,391
Diff - 113,099

Nevada = 6

Obama - 528,801
Romney - 462,422
Diff - 66,379

Florida = 29

Obama - 4,235,270
Romney - 4,162,081
Diff - 73,189

Virginia = 13

Obama - 1,905,528
Romney - 1,789,618
Diff - 115,910

Total Electoral Votes = 75

Would have been

Romney = 281

Obama = 257

I tried to warn Americans about Obama in early 2008. After he was made President, he directed his Secretary of the Treasury to send \$85 billion dollars to his Wall Street backers, to supposedly prop up the economy each month for 72 months. It is documented. That totals a little over \$6 Trillion he stole from the American taxpayers.

I contend ten percent of that each month went to some international bank under the name he used to go to college as a foreign student, Barry Soetoro, under one of nine different SSA numbers provided to him from the dishonest IRS employee who was destroying conservative business owners for 8 years. That would be \$612 Billion he has control of. I also contend he funneled \$2 Trillion of that money to Soros through Wall Street transactions.

Soros and Obama have been funding Antifa and Black Lives Matter since those organizations started. Those organizations are anti-American and should be listed as such.

I would hope the Supreme Court and the Justice Department would not look the other way and do nothing for fear of huge riots once Trump is declared the rightful winner of the 2020 Presidential Election.

Is there any action that can be taken against the six major networks for the lies they tell against Donald J. Trump and the lies tell to hide the crimes committed by the Democrats against the Constitution and against the American people?

Can the executives, producers, directors and anchor personnel be indicted for Treason or Sedition?

Someone needs to do something to correct all of the misinformation that the networks are putting out to the American people.

We also need some laws changed about how Google, Facebook, Twitter and other social media providers have the ability to stop conservatives from telling the truth, while they let the lies flow freely.

Can Pelosi be arrested for her wasting taxpayers money for all of the Air Force jets she used to fly back and forth to California on the weekends, instead of taking commercial air lines, like the rest of us?

Let me leave you with this. I am a born again Christian. I talk to God every day. On November 9, 2016 at 4:15PM, while sitting at my desk at work, God told me the following:

God spoke to me today. He said I am one of his true and faithful prayer warriors.

Donald Trump is America's Solomon.

The Donald is not perfect, and just as I God had some problems with Solomon, with his number of women, I have some problems with Donald Trump.

However, just as Solomon was a wise man and Israel prospered like no time in history, Donald Trump is a wise man, who will restore America and make her prosperous again.

And, just as you faithfully prayed against Obama every day for eight years, I want you to pray hard every day for Donald Trump, for he is My current Solomon.

Therefore because of my faith in God, I know the Department of Justice will take the right action for the good of the Constitution. The Constitution that protects the most important minority in the world, that being, the individual American.

God Bless you, God Bless America and God Bless Donald J. Trump the best President America has ever had.

Sincerely,

(b) (6)



Douglas, Danielle E. (OLA)

From: Douglas, Danielle E. (OLA)
Sent: Tuesday, October 27, 2020 12:17 PM
To: Hankey, Mary Blanche (OLA); Pings, Anne (OLA)
Subject: FW: Letter from NDOH Democratic Congressional Delegation
Attachments: Senator Brown ltr re Election 10-26-2020.pdf

Think this would be you Anne

From: Herdman, Justin E. (USAOHN (b) (6))
Sent: Tuesday, October 27, 2020 11:50 AM
To: Boyd, Stephen E. (OLA (b) (6)) >; Hankey, Mary Blanche (OLA (b) (6))
Douglas, Danielle E. (OLA (b) (6)) >
Subject: Letter from NDOH Democratic Congressional Delegation

Stephen, Mary Blanche, and Danielle,

I received the attached letter from the Democratic Congressional Delegation in northern Ohio. Just sending along as an FYI they also apparently sent one to SDOH as well.

Let me know if you need anything else related to this.

Thanks,

Justin E. Herdman
United States Attorney
Northern District of Ohio
801 West Superior Avenue, Suite 400
Cleveland, OH 44113-1852
Offic (b) (6)
Cel (b) (6)



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Congress of the United States
Washington, DC 20515

October 26, 2020

The Honorable Justin Herdman
United States Attorney for the Northern District of Ohio
801 West Superior Avenue, Suite 400
Cleveland, OH 44113-1852

Dear Mr. Herdman,

For decades, Ohioans have been privileged to have had capable, honest U.S. Attorneys. In these difficult times, we are grateful that you and your staff have carried on this tradition. Since 1980, the Department of Justice (DOJ) has directed its prosecutors to avoid publicly announcing investigations in the days that lead up to an election. This policy has successfully guarded against investigations being used for partisan purposes, a fundamental pillar of the rule of law and our constitutional system. However, we are concerned by several recent events that suggest DOJ's longstanding practice is either being ignored or subverted.

First, we were concerned when the U.S. Attorney for the Middle District of Pennsylvania announced an investigation into ballots being discarded.¹ Regardless of whether a federal investigation was warranted, the public announcement of the investigation, including the release of information detailing which presidential candidate had been selected on those ballots, was an unfortunate deviation from long held practice.^{2,3,4} Even though the U.S. Attorney for the Middle District of Pennsylvania may not have been politically motivated in announcing and prosecuting the investigations, the appearance of political intent undermines the public perception of the integrity of DOJ's activities. We also note that Attorney General Barr's decision to personally brief the President on the investigations furthers the specter of political intent.

Second, we are concerned about the Attorney General's election-year guidance and particularly how it will centralize decision making power with political appointees in Washington, deviating from longstanding DOJ policy.⁵ The new policy allows U.S. Attorneys to publicly announce investigations of postal workers or military employees suspected of election fraud and to do so

¹ Alisa Wiersema, Kendall Karson & Alexandra Mallin, US ATTORNEY IN BATTLEGROUND PENNSYLVANIA INVESTIGATING 'SMALL NUMBER OF MAIL-IN BALLOTS' FOUND IN TRASH ABC NEWS (2020), <https://abcnews.go.com/Politics/us-attorney-battleground-pennsylvania-investigating-small-number-mail/story?id=73230513> (last visited Oct 22, 2020).

² Mark Scolforo, DISCARDED MILITARY BALLOTS WEREN'T FRAUD, PENNSYLVANIA ELECTION CHIEF SAYS MILITARY TIMES (2020), <https://www.militarytimes.com/news/election-2020/2020/09/30/9-discarded-military-ballots-werent-fraud-pennsylvania-election-chief-says/> (last visited Oct 22, 2020).

³ Alisa Wiersema, TEMPORARY CONTRACTOR THREW TRUMP MAIL-IN BALLOTS IN TRASH, PENNSYLVANIA COUNTY OFFICIALS SAY YAHOO! (2020), <https://money.yahoo.com/temporary-contractor-threw-trump-mail-013700277.html> (last visited Oct 22, 2020).

⁴ Robert Faturechi & Justin Elliot, THE JUSTICE DEPARTMENT MAY HAVE VIOLATED ATTORNEY GENERAL BARR'S OWN POLICY MEMO PROPUBLICA (2020), <https://www.propublica.org/article/the-justice-department-may-have-violated-attorney-general-barrs-own-policy-memo> (last visited Oct 22, 2020).

⁵ Fred Wertheimer, BARR IGNORES SETTLED JUSTICE DEPARTMENT POLICIES IN RUN-UP TO 2020 ELECTIONS JUST SECURITY (2020), <https://www.justsecurity.org/70041/barr-ignores-settled-justice-department-policies-in-run-up-to-2020-elections/> (last visited Oct 22, 2020).

before polls close, without regard for the potential impact on the confidence in the election.⁶ While the new guidance is neutral on its face, it could have a dangerous impact if politically-charged investigations are publicly announced as the election approaches. The Attorney General's belief that he has the authority to announce any indictment at any time in the run-up to the election is troubling especially in light of the increasing boldness with which Russian, Chinese and other foreign adversaries are seeking to sow discord while our nation chooses its leaders.⁷ As a nation, we must rise above this discord and ensure the machinery of justice is not turned inward.

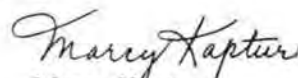
With these concerns in mind, we ask that you commit to taking clear, decisive steps to ensure that the Ohioans you serve will have every opportunity to vote freely and fairly. Should any election-related litigation arise, we ask that you commit to the standards of care and discretion that have been the hallmarks of the investigations you have undertaken as U.S. Attorney and consistent with DOJ's longstanding practice.⁸

Our nation must hold true to our cherished history of legal, societal and constitutional norms. Our democracy has survived because citizens have confidence that their voices will be heard and that their votes will be counted, consistent with the sacred constitutional guarantee of equal protection under the law. We therefore implore you to continue pursuing justice in a way that will not risk providing fodder to those who seek to do harm to America. Thank you for your dedicated service to our nation.

Sincerely,



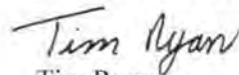
Sherrod Brown
United States Senator



Marcy Kaptur
Member of Congress



Marcia L. Fudge
Member of Congress



Tim Ryan
Member of Congress



Joyce Beatty
Member of Congress

CC: The Honorable David M. Devillers, United States Attorney for the Southern District of Ohio

⁶ Robert Faturechi & Justin Elliott, DOJ FREES FEDERAL PROSECUTORS TO TAKE STEPS THAT COULD INTERFERE WITH ELECTIONS, WEAKENING LONG-STANDING POLICY PROPUBLICA (2020), <https://www.propublica.org/article/doj-frees-federal-prosecutors-to-take-steps-that-could-interfere-with-elections-weakening-long-standing-policy> (last visited Oct 22, 2020).

⁷ Ian Schwartz, AG BARR: DURHAM CAN ANNOUNCE PROBE OUTCOME DURING ELECTION SEASON, NO CANDIDATE IS A TARGET REAL CLEAR POLITICS (2020), https://www.realclearpolitics.com/video/2020/04/21/ag_barr_durham_can_announce_probe_outcome_during_election_season_no_candidate_is_a_target.html (last visited Oct 22, 2020).

⁸ RICHARD C. PILGER, DIRECTOR, ELECTION CRIMES BRANCH, PUBLIC INTEGRITY SECTION, FEDERAL PROSECUTION OF ELECTION OFFENSES (Eighth ed.), <https://www.justice.gov/criminal/file/1029066/download> (last visited Oct 22, 2020).

(b)(6) per EOUSA (USAOHN)

From: Sarubbi, Vincent (Brown) (b) (6)
Sent: Monday, October 26, 2020 2:35 PM
To: (b)(6) per EOUSA (USAOHN)
Subject: Letter to US Attorney Herdman
Attachments: USAO Political Interference Letter - Northern District - 10.26.20.pdf

Hi (b)(6) per EOUSA

It was a pleasure speaking with you earlier. Please find attached our letter. Thanks!
-Vince

Vincent P. Sarubbi Jr.

Senior Legislative Aide

Phone: 202 224 (b) (6)

Office of U.S. Senator Sherrod Brown (Ohio)

503 Hart Senate Building

Washington, DC 20002



DOJ Correspondence (SMO)

From: DOJ Correspondence (SMO)
Sent: Tuesday, October 27, 2020 12:43 PM
To: Hankey, Mary Blanche (OLA); Antell, Kira M. (OLA); Douglas, Danielle E. (OLA); Stephens, Taylor (OLA)
Subject: FW: Congressional Letter to Attorney General Barr
Attachments: Letter to AG Barr_Signed.pdf
Importance: High

Good afternoon

Pls provide assignment guidance. I have acknowledged receipt. Thanks.

From: Fulfs, Daniel
Sent: Tuesday, October 27, 2020 10:37 AM
To: DOJ Correspondence (SMO) <Ex_DojCorrespondence@jmd.usdoj.gov>
Subject: Congressional Letter to Attorney General Barr

Hello,

Attached please find a letter to Attorney General Barr. Please confirm receipt.

Best,

Danielle Fulfs
Senior Legislative Assistant
Office of Congresswoman Katherine Clark (MA-05)
U.S. House of Representatives
2448 Rayburn House Office Building
Washington, D.C. 20515

202-22 (b) (6)



Congress of the United States
Washington, DC 20515

October 27, 2020

William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Dear Attorney General Barr:

We write to express our deep alarm at your efforts to politicize the United States Department of Justice (DOJ) in an apparent attempt to influence the outcome of the upcoming election. While history will be your ultimate judge, we feel compelled to state for the record that your actions as Attorney General are inconsistent with the values and ideals of American democracy.

There is no more sacred institution in America than free and fair elections, it is the very foundation upon which our government is built. As our founding fathers proclaimed in the Declaration of Independence, governments derive their powers “from the Consent of the Governed,” and the vehicle through which the American people express their consent is our electoral system. While American history is replete with examples of our failure to live up to the promise of our founding ideals, the struggles to destroy slavery and eliminate racial barriers to the ballot, to expand suffrage to all citizens regardless of gender, and to free our elections from the shackles of institutionalized racism is the very story of America.

Yet, despite this, you and President Trump seem determined to undermine this sacred institution and roll back the clock on our hard-won progress towards a more perfect union. In so doing you are intentionally attempting to weaken the foundation of the democratic system of government you are sworn to uphold and protect. The president you so dogmatically serve has repeatedly cast doubt on the integrity of the 2020 election, he has asserted without evidence that mail-in ballots are somehow a “scam” and that voter fraud will run rampant, and he has stoked fears that the election will be stolen from him.

Worse, President Trump has attempted to turn this fearmongering into a rallying cry for his supporters to act in potentially violent ways. He has urged his supporters to “go into the polls and watch very carefully.”¹ His son, Donald Trump, Jr., has called on supporters to enlist and join an “Army for Trump,” which would serve as a poll-watching brigade.² The Trump campaign itself is now training what it is calling “Trump’s Army” a 50,000 strong force the campaign plans to

¹ Hakim, Danny, et al. “Trump Renews Fears of Voter Intimidation as G.O.P. Poll Watchers Mobilize.” The New York Times, The New York Times, 30 Sept. 2020, www.nytimes.com/2020/09/30/us/trump-election-poll-watchers.html.

² Ibid.

deploy to voting locations around the country.³ Recent reports indicate that the signup information for “Trump’s Army” is being widely shared within neo-Nazi, Proud Boys, and other white supremacist groups.⁴ These are the very groups President Trump refused to condemn during the first presidential debate and whom he appeared to tell to prepare for action by telling the Proud Boys to “stand back and stand by.”⁵

While it would be tempting to dismiss these statements as careless rhetoric in the midst of a heated election, we know the danger that white supremacy poses to our elections is real. In September, FBI Director Christopher Wray told the House Committee on Homeland Security that racially motivated violent extremism, primarily coming from white supremacists, accounts for the majority of terrorist threats in the United States.⁶ Moreover, a Department of Homeland Security whistleblower recently disclosed an intelligence assessment that listed “white supremacist extremists” as the biggest physical threat to the 2020 election.⁷

When you combine these militant calls to action with the President’s violent rhetoric is it any wonder that we are already seeing acts of voter intimidation occur around the country? In Fairfax, VA, the second day of early voting was disrupted by Trump supporters who were reportedly intimidating voters and forming blockades, forcing election officials to move voters inside the building, increasing the threat of COVID-19.⁸ In Albuquerque, NM, law enforcement officials were called after a convoy of Trump supporters disrupted an early voting location.⁹ And in Nevada City, CA, Trump supporters formed a blockade around a drive-up ballot drop box that prevented voters from depositing their ballots.¹⁰

While these instances of attempted voter intimidation are disturbing, we are also deeply concerned by instances of more extreme efforts to interfere with the upcoming election. For instance, in Michigan, two men turned themselves in on October 8 after being charged with voter intimidation for coordinating robocalls intended to suppress the vote in Michigan’s November election. The calls, which targeted minority voters, falsely claimed that mail-in voting would, “allow personal

³ Mosk, Matthew, et al. “As Trump Team Rushes to Train ‘Army’ of Poll Watchers, Experts on Watch for Voter Intimidation.” ABC News, ABC News Network, 12 Oct. 2020, abcnews.go.com/US/trump-team-rushes-train-army-poll-watchers-critics/story?id=73542441.

⁴ Margolin, Josh, et al. “Neo-Nazi and Proud Boys Groups Push Trump Campaign Poll Watching Operation Online: Reports.” ABC News, ABC News Network, 16 Oct. 2020, abcnews.go.com/Politics/neo-nazi-proud-boys-groups-push-trump-campaign/story?id=73663331.

⁵ CBS News. “Proud Boys Are ‘Emboldened’ by President Trump’s Language, Former Member Says.” CBS News, CBS, 1 Oct. 2020, www.cbsnews.com/news/proud-boys-trump-stand-back-stand-by-emboldened/.

⁶ Kanno-youngs, Zolan. “F.B.I. Director Warns of Russian Interference and White Supremacist Violence.” The New York Times, The New York Times, 17 Sept. 2020, www.nytimes.com/2020/09/17/us/politics/fbi-russia.html.

⁷ Klippenstein, Ken. “White Supremacists Are a Threat to Elections, Says the DHS.” The Nation, The Nation, 18 Sept. 2020, www.thenation.com/article/politics/white-supremacists-election/.

⁸ Corasaniti, Nick, and Stephanie Saul. “Trump Supporters Disrupt Early Voting in Virginia.” The New York Times, The New York Times, 20 Sept. 2020, www.nytimes.com/2020/09/19/us/politics/trump-supporters-early-voting-virginia.html?smid=tw-nytimes.

⁹ Kent, Jackie. “VIDEO: County Clerk Reports Possible Voter Intimidation at the Polls.” KRQE News 13 Albuquerque - Santa Fe, KRQE News 13, 19 Oct. 2020, www.krqe.com/news/albuquerque-metro/video-county-clerks-reports-possible-voter-intimidation-at-the-polls/.

¹⁰ Makaula, Walter. “Nevada County Officials Address Voter Intimidation Concerns.” KCRA, KCRA, 17 Oct. 2020, www.kcra.com/article/nevada-county-officials-address-voter-intimidation-concerns/34401986.

information to become part of a special database used by police to track down old warrants and by credit card companies to collect outstanding debts.”¹¹

The President has worked tirelessly to undermine faith in our elections, he has refused to condemn white supremacists and urged them to “stand by,” he is recruiting an “army” to intimidate voters at the polls, and his supporters are already acting on his militant calls for action. But worst of all, President Trump has recently called on you to indict his political opponent before the upcoming 2020 election in an obvious effort to influence the outcome.¹² Make no mistake, these are the actions of an authoritarian, and your failure as our nation’s top law enforcement official to condemn them as such undermines our democratic system of government.

But you haven’t just failed to condemn the President’s efforts to weaken our democracy, you have actively sought to aid him. You have claimed without evidence that foreign countries could print counterfeit ballots, you have declined to say that it is illegal to follow President Trump’s suggestion that his supporters vote twice, you have made up fictitious voter fraud cases, and you have falsely claimed that mail-in ballots allow government officials to see who Americans voted for.¹³

In addition to these clear efforts to sow distrust in our elections, you have intentionally caused the Department of Justice to pursue politically motivated investigations and have attempted to use legitimate law enforcement activity for political benefit. It is now increasingly clear that you directed investigations into the origin of the Russian inquiry and the unmasking of former National Security Adviser Michael Flynn in a transparent attempt to aid President Trump’s re-election. That is why President Trump was so angry when U.S. Attorney John Bash found no irregularities in the unmasking of Michael Flynn and U.S. Attorney John Durham’s report was delayed until after the election. In President Trump’s own words: “Personally, I think it’s ridiculous. It’s ridiculous. It’s a disgrace. They actually said no indictments before the election.”¹⁴

The concerns over your loyalty to Trump at the expense of justice recently led former Assistant U.S. Attorney Phillip Halpern to quit DOJ after 36 years, citing your “slavish obedience to Donald Trump’s will,” your “meddling with the criminal justice system,” and your determination to “turn our democracy into an autocracy.”¹⁵ Your attempts to politicize DOJ to benefit Donald Trump have not only pushed career public servants out of your department, they have eroded the public’s trust in the Department’s ability to deliver impartial justice.

¹¹ Roth, Cheyna. “The Two Right-Wing Men Accused of Making Voter Intimidation Calls to Detroit Residents Have Turned Themselves in to Police.” Mlive, Mlive, 8 Oct. 2020, www.mlive.com/public-interest/2020/10/the-two-right-wing-men-accused-of-making-voter-intimidation-calls-to-detroit-residents-have-turned-themselves-into-police.html.

¹² <https://www.nytimes.com/2020/10/20/us/politics/trump-barr-biden.html>

¹³ Levine, Sam. “Trump’s Most Powerful Ally in Undermining the Election: William Barr.” The Guardian, Guardian News and Media, 17 Sept. 2020, www.theguardian.com/us-news/2020/sep/17/trump-william-barr-us-election-2020.

¹⁴ Benner, Katie, and Julian E. Barnes. “Justice Dept. ‘Unmasking’ Review Finds No Irregularities and Is Given to Durham.” The New York Times, The New York Times, 14 Oct. 2020, www.nytimes.com/2020/10/14/us/politics/barr-durham-unmasking-probe.html.

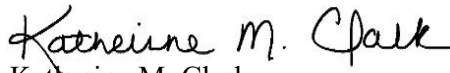
¹⁵ Halpern, Phillip. “Phillip Halpern: I Won’t Work in Attorney General William Barr’s Justice Department Any Longer.” Tribune, San Diego Union-Tribune, 16 Oct. 2020, www.sandiegouniontribune.com/opinion/commentary/story/2020-10-14/william-barr-department-of-justice-doj.

That is why we demand that you honor your oath to protect and defend the constitution of the United States and cease all efforts to interfere with or influence the 2020 election. Specifically, we demand that you:

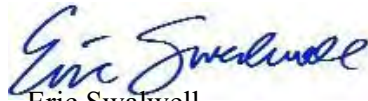
- Do not act on President Trump's demand that you investigate, indict, or arrest his political opponent in the upcoming election.
- Strictly adhere to the DOJ's 60-Day Rule prohibiting the public disclosure of information related to electoral matters within 60 days of a general election (see DOJ OIG report 18-04, page 17).¹⁶ This would apply both to politically motivated investigations as well as rushing the results of legitimate investigations to provide "victories" for President Trump.
- Refrain from using federal law enforcement personnel or resources to intimidate, suppress, or in any other way interfere with the ability of any U.S. citizen to lawfully cast a ballot.
- Provide state and local governments with the resources, intelligence, and support necessary to prevent and respond to acts of white supremacist terrorism or any other acts of electoral interference or intimidation.
- Do not use DOJ resources or personnel to intervene in legal actions stemming from disputed election results in support of President Trump or his campaign.

Free and fair elections are the foundation of our democracy and far too many Americans have fought and struggled and sacrificed for the right to participate in those elections for us to allow you and President Trump to roll back the progress that has been achieved.

Sincerely,


Katherine M. Clark
Member of Congress


Bill Pascrell, Jr.
Member of Congress


Eric Swalwell
Member of Congress

Earl Blumenauer
Member of Congress

Suzanne Bonamici
Member of Congress

André Carson
Member of Congress

Kathy Castor
Member of Congress

Judy Chu
Member of Congress

Steve Cohen
Member of Congress

¹⁶ Office of the Inspector General, U.S. Department of Justice, 2018, p. 17, A Review of Various Actions by the Federal Bureau of Investigation and Department of Justice in Advance of the 2016 Election.

Jim Cooper
Member of Congress

Suzan K. DelBene
Member of Congress

Mark DeSaulnier
Member of Congress

Bill Foster
Member of Congress

Sylvia R. Garcia
Member of Congress

Raúl M. Grijalva
Member of Congress

Deb Haaland
Member of Congress

Henry C. “Hank” Johnson, Jr.
Member of Congress

Marcy Kaptur
Member of Congress

Barbara Lee
Member of Congress

Betty McCollum
Member of Congress

James P. McGovern
Member of Congress

Eleanor Holmes Norton
Member of Congress

Jimmy Panetta
Member of Congress

Dean Phillips
Member of Congress

Chellie Pingree
Member of Congress

Mark Pocan
Member of Congress

Mike Quigley
Member of Congress

Jamie Raskin
Member of Congress

Mary Gay Scanlon
Member of Congress

Janice D. Schakowsky
Member of Congress

Lori Trahan
Member of Congress

Nydia M. Velázquez
Member of Congress

Bonnie Watson Coleman
Member of Congress

Peter Welch
Member of Congress

Derek Kilmer
Member of Congress

Debbie Dingell
Member of Congress

Hankey, Mary Blanche (OLA)

From: Hankey, Mary Blanche (OLA)
Sent: Tuesday, October 27, 2020 3:48 PM
To: Johnson, Joanne E. (OLA)
Subject: RE: NSD election contact

Thank you.

From: Johnson, Joanne E. (OLA (b) (6)) >
Sent: Tuesday, October 27, 2020 3:12 PM
To: Hankey, Mary Blanche (OLA (b) (6))
Cc: Thorley, Charles A. (OLA (b) (6)) >; Wahdan, Rana S. (OLA (b) (6)) >; Gonzalez, Gregory R. (OLA (b) (6)) >
Subject: Re: NSD election contact

Hello. I have been handling election security matters and can advise POCs in NSD are Adam Hickey an (b)(6) per NSD. POCs in FBI ar (b)(6), (b)(7)(C) per FBI an (b)(6), (b)(7)(C) per FBI.

On Oct 27, 2020, at 2:49 PM, Hankey, Mary Blanche (OLA (b) (6)) > wrote:

Hi All we are making preparations for election day and anticipate receiving several inquiries from the Hill regarding election activities in the local areas. We largely expect these to be related t (b) (5)

. Who is the best contact for us to reach out to in NSD on election day if we do receive these types of incomings? I am asking for OLA use only. Thanks!

Mary Blanche Hankey
Deputy Assistant Attorney General and Chief of Staff
Office of Legislative Affairs
Offic (b) (6)
Ce (b) (6)

Collins, Cassandra (CRT)

From: Collins, Cassandra (CRT)
Sent: Wednesday, October 28, 2020 4:47 PM
To: Murray, Claire M. (OASG); Levi, William (OAG); Wilson, Ashley (OASG); Lloyd, Matt (PAO); Plack, Laura (ODAG); Feith, Daniel (ODAG); Hodes, Jarad (ODAG); Bissex, Rachel (OAG); Day, Sean (OASG); Clark, Melissa D. (PAO); Kjergaard, Alison (OPA); Freeman, Lindsey (OASG)
Cc: Dreiband, Eric (CRT); Toomey, Kathleen (CRT); Friel, Gregory B (CRT); Moossy, Robert (CRT); McKnight, Cynthia (CRT); Maugeri, Alexander (CRT); Daukas, John (CRT); Armstrong, Deanna (CRT)
Subject: OASG/CRT Meeting Material 11 2 2020
Attachments: OASG CRT Agenda 11 2 2020.docx; OASG CRT Read Ahead 11 2 2020.docx

Good afternoon,

The OASG/CRT Agenda and Report for November 2, 2020, are attached.

Best,

Cassandra Collins
Special Assistant
Civil Rights Division
U.S. Department of Justice

(b) (6)

(b) (6)

Question#:	1
Topic:	Use of DHS Authorities
Hearing:	Worldwide Threats to the Homeland
Primary:	The Honorable Elissa Slotkin
Committee:	HOMELAND SECURITY (HOUSE)
Date:	SEP 17, 2020

Question: We write with concern about the insertion of federal troops without the request or consent of local officials into Washington, D.C. and other cities around the country, the use of unmarked security forces operating without uniforms or insignia under an unclear chain of command; attempted censorship of intelligence analysis on Russian efforts to undermine US interests; and your refusal to participate in oversight hearings in accordance with your responsibilities. These events, particularly those in the past few months, seem to reinforce the idea that the President sees the Department of Homeland Security (DHS) not as a constitutionally established instrument of government, but as an armed force that exists to serve him personally, and for his own personal and political gains.

This pains us, because we have great respect for DHS officers, intelligence analysts, and other personnel, and we rely on you to protect us from threats to our homeland. Based on our concerns, we feel compelled to ask you several critical questions that call upon you to affirm and uphold your nonpartisan role under our Constitution. Similar questions were provided to the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, the latter of whom responded on August 27.

First, do you agree that DHS authorities, personnel, and resources should only be used to advance the homeland security of the United States, and not for any one President's or political party's political gain? Will you resist, report to Congress, and refuse to carry out any proposal by the President to use the authorities, personnel, and resources of DHS to carry out activities designed to distract or otherwise influence for political gain the American public instead of protecting American security?

Response (b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Question#:	2
Topic:	Election Role
Hearing:	Worldwide Threats to the Homeland
Primary:	The Honorable Elissa Slotkin
Committee:	HOMELAND SECURITY (HOUSE)
Date:	SEP 17, 2020

Question: Second, what do you believe is the role of DHS in relation to the election this fall? Will you pledge to support the Cybersecurity and Infrastructure Security Agency's efforts to provide nonpartisan resources and services to protect America's election from foreign influence and its infrastructure from foreign cyber attacks, including by informing Congress of any attempts to interfere with those efforts? Do you believe that DHS has any role in administering the election or tallying results? Are there any circumstances where you would deem it necessary to send DHS personnel, including law enforcement personnel, to be present at polling places?

Response: (b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Question#:	3
Topic:	Presidential Transition
Hearing:	Worldwide Threats to the Homeland
Primary:	The Honorable Elissa Slotkin
Committee:	HOMELAND SECURITY (HOUSE)
Date:	SEP 17, 2020

Question: Third, looking past the November Presidential election, will you commit to supporting a peaceful process for carrying out the Electoral College, certifying its result in Congress, and carrying out any transfer of power whoever wins in November? Specifically, will you commit to upholding the Constitution's 20th Amendment and the Presidential Succession Act in the event that a winner has not been certified by the Congress by noon on January 20?

Response (b) (5)

Stephens, Taylor (OLA)

From: Stephens, Taylor (OLA)
Sent: Thursday, October 29, 2020 10:16 AM
To: Hankey, Mary Blanche (OLA); Antell, Kira M. (OLA); Douglas, Danielle E. (OLA); Pings, Anne (OLA)
Subject: CRT Triage Document
Attachments: CRT ELECTION DAY TRIAGE.docx

Good Morning:

Attached is the CRT Election Day Triage Document. They graciously included voting information that falls under PIN and NSD. We can build off what they included or just use whatever documents Anne and Joanne may provide.

Let me know if you have any questions!

Thanks,
Taylor

Ms. Taylor Stephens
Office of Legislative Affairs
U.S. Department of Justice
Offic (b) (6) | Cel (b) (6)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

NATIONAL URBAN LEAGUE, et al., *

Plaintiffs, *

V. *

Civil Action No. GLR-20-2391

LOUIS DEJOY, in his official capacity as *
Postmaster General, et al.,

Defendants.

* * * * *

MEMORANDUM OPINION

THIS MATTER is before the Court on a Motion for Preliminary Injunction or, in the Alternative, Partial Summary Judgment filed by Plaintiffs National Urban League, Common Cause, and the League of Women Voters of the United States, on behalf of themselves and their members (collectively, “Plaintiffs”) (ECF No. 49).¹ The Motion is ripe for disposition, and no hearing is necessary. See Local Rule 105.6 (D.Md. 2018). For the reasons set forth below, the Court will deny the Motion.

I. BACKGROUND

A. Factual Background

Plaintiffs advance this lawsuit against Defendants Louis DeJoy, in his capacity as the United States Postmaster General, and the United States Postal Service (“USPS”) (together with DeJoy, “Defendants”), alleging that Defendants have implemented changes

¹ Also pending before the Court is a Motion of Members of Congress for Leave to File an Amici Curiae Brief in Support of Plaintiffs (ECF No. 50). The Court will grant the Motion nunc pro tunc and has taken the enclosed Amici Curiae Brief (ECF No. 50-1), under advisement.

to USPS policies and procedures “with the purpose and intent to sabotage mail-in voting in the upcoming 2020 national elections.” (Compl. ¶ 1, ECF No. 1). As Plaintiffs explain, USPS “plays a critical role in every election,” and the upcoming general election will see an “unprecedented level of voting by mail.” (Id. ¶¶ 35–39). Plaintiffs note that according to some experts, “80 million votes could be submitted by mail this fall, more than twice the number cast by mail in 2016.” (Id. ¶ 42). Polling has indicated that “voters who identify as Democrats and/or who intend to vote for Democratic candidates are far more likely to vote by mail in the November election than those who identify as Republicans and/or who intend to vote for Republican candidates.” (Pls.’ Mem. Supp. Mot. Prelim. Inj. [“Motion”] at 16, ECF No. 49-1).²

DeJoy assumed the position of Postmaster General in June 2020, and shortly thereafter “began to implement major structural and operational changes at the Postal Service.” (Compl. ¶ 45). These changes included: “The No Late or Extra Trips Policy”; “The Restricted Overtime Policy”; the “Removal of Sorting Machines”; the “Elimination of Collection Boxes”; and the “Deprioritization of Election Mail” (collectively, the “DeJoy Policy Changes”). (Motion at 16–19). With respect to the “No Late or Extra Trips Policy,” Plaintiffs allege:

DeJoy directed that “late trips” and “[e]xtra trips” to ensure timely delivery of mail “are no longer authorized or accepted.” Further, the Postal Service directed postal workers to leave mail behind at distribution centers for delivery the following day if collecting it would delay letter carriers from their routes. Historically postal workers have been instructed not to leave

² Citations to page numbers refer to the pagination assigned by the Court’s Case Management/Electronic Case Files (“CM/ECF”) system.

letters behind and to make multiple trips if needed to ensure that mail is delivered on time. The Postal Service itself explained that “[o]ne aspect of these changes that may be difficult for employees is that temporarily we may see mail left behind or mail on the workroom floor or docks . . . which is not typical.”

(Compl. ¶ 49) (footnotes omitted). Plaintiffs describe the “Restricted Overtime Policy” as follows:

Postmaster General DeJoy ordered the elimination of overtime for Postal Service workers. Prior to the policy change, according to data from the American Postal Workers Union, almost 20 percent of all work done by Postal Service mail handlers, delivery drivers, and city carriers was done in overtime. . . . [T]he Postal Service informed employees that “[o]vertime will be eliminated” because the Postal Service is “paying too much in [overtime] and it is not cost effective.” With the elimination of overtime, the Postal Service will have significantly reduced capacity to process surges in mail in the weeks leading up to the November election.

(Compl. ¶ 48) (footnotes omitted). Regarding the “Removal of Sorting Machines,” Plaintiffs allege:

Postmaster General DeJoy moved to decommission one out of every ten Postal Service mail sorting machines in the Postal Service’s inventory, including one out of every seven Delivery Barcode Sorter (DBCS) machines. DBCS machines make up the bulk of the Postal Service’s mail sorting operation and are used to sort envelope mail, such as letters, postcards, and critically ballots. Delivery Barcode Sorting machines are capable of sorting through 35,000 pieces of mail per hour. According to Postal Service planning documents issued under Postmaster General DeJoy’s watch, the Postal Service planned to remove 671 mail sorting machines, including 502 DBCS machines, by September 30. Although White House Chief of Staff Mark Meadows disingenuously said in an interview on August 16 that the Postal Service would not decommission *any* sorting machines before the November election, by the time he made that statement the Postal Service had *already*

decommissioned more than 95 percent of the sorting machines that were scheduled to be removed, according to Postal Service planning documents, including a significant number of sorting machines from processing and distribution centers in Baltimore, Gaithersburg, and Capitol Heights.

(Compl. ¶ 46) (footnotes omitted). Regarding the “Elimination of Collection Boxes,” Plaintiffs specify that “Postmaster General DeJoy ordered the removal of Postal Service collection mailboxes throughout the country. Mailboxes have reportedly been removed in at least four states, including New York, Pennsylvania, Oregon, and Montana.” (Compl. ¶ 47) (footnotes omitted). Finally, Plaintiffs provide the following information regarding the “Deprioritization of Election Mail”:

Postmaster General DeJoy also ended the practice of treating all election mail as priority mail. According to Postal Service delivery standards, First-Class Mail is typically delivered in 2 to 5 days, while Marketing Mail is delivered within 3 to 10 days. Before Postmaster General DeJoy assumed the position of Postmaster General, it had been the practice of the Postal Service to prioritize the delivery of all election mail to meet First-Class delivery times no matter what class of mail was used to send it. According to a 2019 report from the Postal Service Office of Inspector General, 95.6 percent of 2018 election mail was delivered within a 1-to-3-day service standard, which is functionally equivalent to the faster First-Class mail standard. The Postal Service informed congressional leaders on August 11, 2020, that it was ending the practice of prioritizing all election mail and to prepare for “slower delivery times” and an “increase[d] . . . risk that voters will not receive their ballots in time to return them by mail.”

(Compl. ¶ 52) (footnotes omitted). At no point did USPS submit the DeJoy Policy Changes to the Postal Regulatory Commission for review. (Motion at 10).³

³ The statute governing USPS provides that “[w]hen the Postal Service determines that there should be a change in the nature of postal services which will generally affect

The DeJoy Policy Changes “had the cumulative effect of delaying mail delivery in general and specifically impeding access to mail ballots.” (Compl. ¶ 45). Indeed, USPS documentation and witness testimony demonstrate that “[a]lmost immediately after the ‘transformative’ changes were announced, the Postal Service experienced a precipitous, nationwide decline in service. Beginning the week of July 11, the Postal Service’s on-time service scores fell from an average of 87.90% over the prior 6 months to 80.99% (averaging over categories of mail).” (Motion at 19). Plaintiffs explain the potential impact of election mail delays in their Motion:

A delay of even a single day in the delivery of ballots could disenfranchise hundreds of thousands of voters. In 31 States, ballots must be received (not sent) by Election Day. Based on historical data of when mail ballots are cast, between 3.7 and 9.3 percent of all people who vote by mail are expected to cast their ballot on the Saturday before the election between three and eight million individuals. But in the 31 States with Election Day ballot receipt deadlines, a ballot mailed on October 31 that is delivered in four days rather than three will not be counted at all.

(Id. at 21) (citations omitted).

Plaintiffs further allege that Defendants’ actions were motivated by partisan bias. For example, Plaintiffs cite to a tweet by President Trump in which he stated, “Republicans should fight very hard when it comes to statewide voting by mail. Democrats are clamoring for it. Tremendous potential for voter fraud, and for whatever reason, doesn’t work out well for Republicans.” (Compl. ¶ 69). Another tweet by President Trump stated, “MAIL-IN

service on a nationwide or substantially nationwide basis, it shall submit a proposal, within a reasonable time prior to the effective date of such proposal, to the Postal Regulatory Commission requesting an advisory opinion on the change.” 39 U.S.C. § 3661(b).

VOTING WILL LEAD TO MASSIVE FRAUD AND ABUSE. IT WILL ALSO LEAD TO THE END OF OUR GREAT REPUBLICAN PARTY.” (Id. ¶ 71). Plaintiffs note that DeJoy was “handpicked” by President Trump and has “donated hundreds of thousands of dollars to Republican candidates, committees, and PACS in 2020[.]” (Id. ¶ 77).

On August 18, 2020, DeJoy issued a statement purporting to roll back several of the DeJoy Policy Changes. (Id. ¶ 79). Plaintiffs assert that DeJoy’s statement failed to remedy certain critical changes “that have already impacted mail delivery and will likely have a devastating impact on the ability of Americans to vote in the upcoming election[.]” (Id. ¶ 80). Despite this, “the Postal Service’s on-time scores have rebounded somewhat since DeJoy was forced to reverse certain of the transformative changes.” (Motion at 21). Plaintiffs note, however, that “as of early September, the Postal Service’s on-time score remained well below what it was prior to the changes implemented by DeJoy.” (Id.).

B. Procedural Background

Plaintiffs filed the Complaint in this matter on August 18, 2020. (ECF No. 1). The four-count Complaint alleges that: Defendants imposed an undue burden on the fundamental right to vote in violation of the United States Constitution (Count I); Defendants violated the First Amendment of the United States Constitution by engaging in content and viewpoint discrimination (Count II); Defendants implemented the DeJoy Policy Changes not in accordance with procedure required by law (Count III); and that Defendants DeJoy and USPS have acted ultra vires in exceeding their statutory authority (Count IV). (Compl. ¶¶ 82–112). Plaintiffs seek declaratory judgment, injunctive relief, and attorneys’ fees and costs. (Id. at 34–35).

On September 25, 2020, Plaintiffs filed a Motion for Preliminary Injunction or, in the Alternative, Partial Summary Judgment. (ECF No. 49). In the Motion, Plaintiffs seek the following injunctive relief:

[1] Defendants should be enjoined from taking actions that risk delaying the timely delivery of election mail including by changing truck, delivery, or sorting schedules; restricting overtime; removing collection boxes; removing sorting machines; [or] deprioritizing election mail.

[2] Defendants should be ordered to postmark and deliver all election mail mailed in the 21 days preceding the November 3, 2020, election at least as fast or faster than the standards for First-Class Mail delivery set forth in 39 C.F.R. § 121.1.

[3] [T]he Court should order Defendants to provide a copy of the order granting the injunction to all Postal Service employees in paper or electronic format.

[4] [T]he Court should order Defendants to provide Plaintiffs' with updates regarding the status of the Defendants' implementation of the Court's order.

(Motion at 44). Defendants filed a Response to Plaintiffs' Motion on October 16, 2020. (ECF No. 56).⁴ Plaintiffs filed a Reply in support of their Motion on October 21, 2020. (ECF No. 65). On October 22, 2020, the Court directed Defendants to file a surreply. (ECF No. 66). Plaintiffs then filed a Notice of Supplemental Evidence in Support of their Motion on October 25, 2020. (ECF No. 72). Defendants filed their Surreply on October 26, 2020. (ECF No. 73). Defendants then filed a Notice of Supplemental Authority on October 27,

⁴ Defendants' Corrected Response, which they submitted after the Clerk determined that Defendants had improperly attached exhibits to their Response, was filed on October 19, 2020. (ECF No. 59).

2020. (ECF No. 74). Plaintiffs filed a Response to Defendants’ Notice of Supplemental Authority on October 28, 2020. (ECF No. 75).

C. Related Litigation

Before and during the pendency of this action, a host of other plaintiffs across the country have filed and litigated similar actions seeking to enjoin the DeJoy Policy Changes. See Washington v. Trump, No. 20-cv-3127 (E.D.Wash.); Jones v. U.S. Postal Serv., No. 20-cv-6516 (S.D.N.Y.); Richardson v. Trump, No. 20-cv-2262 (D.D.C.); NAACP v. U.S. Postal Serv., No. 20-cv-2295 (D.D.C.); New York v. Trump, No. 20-cv-2340 (D.D.C.); Johnakin v. U.S. Postal Serv., No. 20-cv-4055 (E.D.Pa.); Pennsylvania v. DeJoy, No. 20-cv-4096 (E.D.Pa.); Vote Forward v. DeJoy, No. 20-cv-2405 (D.D.C.) (collectively, the “Related Actions”). Like this action, these eight Related Actions, all of which were filed on or around the same date as Plaintiffs’ lawsuit, seek permanent and injunctive relief relating to the DeJoy Policy Changes, which will purportedly impact USPS’s ability to facilitate mail-in voting during the 2020 election.

Unlike in this action, plaintiffs in several of the Related Actions promptly filed motions for preliminary injunction and requested expedited briefing schedules. As a result, Plaintiffs’ Motion here has become ripe after courts in seven of the Related Actions have granted preliminary injunctions to the plaintiffs in those cases.⁵ In the one outstanding

⁵ See Washington v. Trump, No. 20-cv-3127 (E.D.Wash.) (filed Aug. 18, 2020; mot. prelim. inj. filed Sept. 9, 2020; prelim. inj. entered Sept. 17, 2020); Jones v. U.S. Postal Serv., No. 20-cv-6516 (S.D.N.Y.) (filed Aug. 17, 2020; mot. prelim. inj. filed Sept. 2, 2020; prelim. inj. entered Sept. 25, 2020); Pennsylvania v. DeJoy, No. 20-cv-4096 (E.D.Pa.) (filed Aug. 21, 2020; mot. prelim. inj. filed Sept. 2, 2020; prelim. inj. entered Sept. 28, 2020); New York v. Trump, No. 20-cv-2340 (D.D.C.) (filed Aug. 25, 2020; mot. prelim.

Related Action, the parties stayed the action after they entered into a settlement agreement in which Defendants agreed to comply with the Order issued in Pennsylvania v. DeJoy, No. 20-cv-4096 (E.D.Pa.). See Joint Stip. Stay Case In Light of Sett. Agmt., Johnakin v. U.S. Postal Serv., No. 20-cv-4055 (E.D.Pa. Oct. 8, 2020). None of those decisions are currently being appealed and USPS has “committed in settlement agreements to maintain its policies regarding election mail throughout the election[.]” (Defs.’ Resp. Mot. Prelim. Inj. Alt. Partial Summ. J. [“Response”] at 9, ECF No. 59).

Collectively, the seven preliminary injunctions impose substantial requirements on USPS to ensure it timely delivers election mail. For instance, in Washington v. Trump, the United States District Court for the Eastern District of Washington issued an order enjoining USPS from, inter alia: (1) “continued implementation or enforcement of policy changes announced in July 2020 that have slowed mail delivery”; (2) “deviating from the USPS’s long-standing policy of treating election mail in accordance with First Class Mail delivery standards”; or (3) “taking any actions in violation of the commitments made in the ‘Postmaster General Louis DeJoy Statement,’ dated August 18, 2020, such as removal or decommissioning of any mail sorting machines, reducing hours at post offices, or closing mail processing facilities[.]” See Order, Washington v. Trump, No. 20-cv-3127, slip op. at 12 (E.D.Wash. Sept. 17, 2020) (the “Washington Order”).

inj. filed Sept. 2, 2020; prelim. inj. entered Sept. 27, 2020); Vote Forward v. DeJoy, No. 20-cv-2405 (D.D.C.) (filed Aug. 28, 2020; mot. prelim. inj. filed Sept. 8, 2020; prelim. inj. entered Sept. 28, 2020); Richardson v. Trump, No. 20-cv-2262 (D.D.C.) (filed Aug. 17, 2020; mot. prelim. inj. filed Aug. 20, 2020; prelim. inj. entered Oct. 8, 2020); NAACP v. U.S. Postal Serv., No. 20-cv-2295 (D.D.C.) (filed Aug. 20, 2020; mot. prelim. inj. filed Sept. 1, 2020; prelim. inj. entered Oct. 10, 2020).

In Jones v. United States Postal Service, the United States District Court for the Southern District of New York has required that USPS, inter alia: (1) “to the extent that excess capacity permits, treat all Election Mail as First-Class Mail or Priority Mail Express”; (2) “authorize, and instruct, overtime to be used for the time period beginning October 26, 2020 and continuing through November 6, 2020 to ensure the timely delivery of Election Mail”; (3) “submit . . . a list of steps necessary to restore First-Class Mail and Marketing Mail on-time delivery scores to the highest score each respective class of mail has received in 2020. . . and . . . make a good faith effort to fully implement the listed steps”; (4) “provide . . . a weekly update that includes . . . all data and information collected regarding USPS’s handling of Election Mail and compliance with the USPS policies regarding Election Mail, USPS recommended practices regarding Election Mail, and the terms of this Order specifically pertaining to Election Mail”; and (5) “submit to the Court and Plaintiffs a proposed memorandum to all USPS managerial staff” that, inter alia, identifies and explains all USPS policy requirements and recommended practices concerning the treatment of Election Mail, and further certify that all USPS managerial staff have read and reviewed the memorandum. See Order, Jones v. U.S. Postal Serv., No. 20-cv-6516, slip op. at 83–87 (S.D.N.Y. Sept. 21, 2020) (the “Jones Order”), as amended by Order, Jones v. U.S. Postal Serv., No. 20-cv-6516, slip op. at 23 (S.D.N.Y. Sept. 29, 2020).

In Pennsylvania v. DeJoy, the United States District Court for the Eastern District of Pennsylvania adopted the Order in Jones and imposed additional requirements on USPS. For instance, “unless and until the Postal Service presents [the DeJoy Policy Changes] to

the Postal Regulatory Commission and obtains an advisory opinion after a public hearing is held pursuant to 39 U.S.C. [§] 3661(b) and 39 U.S.C. [§] 3661(c),” the court enjoined USPS from, inter alia: (1) “continued implementation or enforcement of operational changes announced in July 2020 reflected in the July 10, 2020 ‘Mandatory Stand-Up Talk: All Employees’”; (2) “continued implementation or enforcement of the Guidelines regarding transportation sent by Robert Cintron to Area Vice Presidents and other agency representatives on July 11, 2020 and July 14, 2020”; and (3) the continued implementation of new USPS policies concerning overtime, late and extra truck trips, and carrier start and stop times that began during the time period of June 15, 2020 until September 16, 2020. See Order, Pennsylvania v. DeJoy, No. 20-cv-4096, slip op. at 1 2 (E.D.Pa. Sept. 28, 2020) (the “Pennsylvania Order”). The court subsequently clarified its order to state that, inter alia:

Defendants shall be deemed in compliance if they commit to and enforce the following . . . Transportation, in the form of late and extra trips is authorized and shall be used where reasonably necessary to meet service standards and service performance targets. . . . Extra transportation resources are authorized and shall be used to ensure that Election Mail reaches its intended destination in a timely manner. . . . Extra delivery and collection trips are authorized and shall be used to ensure, to the best of the Postal Service’s ability, that completed ballots entered on Election Day reach the appropriate election official by the state’s designated deadline. . . . Overtime, including penalty overtime, is authorized and shall be used to support all additional resources necessary to ensure that Election Mail is prioritized and delivered on time.

Order, Pennsylvania v. DeJoy, No. 20-cv-4096, slip op. at 1 2 (E.D.Pa. Oct. 9, 2020) (the “Pennsylvania Order II”). These are just three of the seven preliminary injunctions in place

precluding USPS from implementing the DeJoy Policy Changes, but they demonstrate the breadth of the restrictions and requirements that have been placed on Defendants through the Related Actions.

D. Plaintiffs' Reply and Subsequent Filings

The Court is compelled to separately discuss Plaintiffs' Reply and the parties' subsequent filings, all of which post-date the injunctive relief ordered in the Related Actions and set forth in part above, and which contain the parties' characterizations of the extent to which those orders adequately and fully address the relief sought by Plaintiffs in this action. Plaintiffs' Reply is particularly worthy of discussion because in it, Plaintiffs appear to shift the scope of the relief they seek through their Motion.

In their Reply, Plaintiffs assert the following regarding the deficiencies in the existing preliminary injunctions as they relate to Plaintiffs' request for relief:

Defendants' unlawful conduct is [not] entirely or sufficiently addressed by the injunctions issued in other cases. None of those injunctions has required Defendants to restore service performance to the status quo ante levels; enjoined Defendants' "Cintron Guidelines," which greatly restrict late and extra trips; or required restoration of sorting capacity. Defendants' operational changes in these critical areas, which no existing injunction addresses, continue to severely and negatively affect mail delivery.

(Pls.' Reply Supp. Mot. Prelim. Inj. Alt. Partial Summ. J. ["Reply"] at 1, ECF No. 65)

(citations omitted).⁶ Later in the Reply, Plaintiffs characterize the specific relief they are seeking slightly differently:

⁶ Plaintiffs reference to the "Cintron Guidelines" appears to refer to written guidelines developed by Robert Cintron, USPS Vice President of Logistics. (Motion at 16 17; Motion Ex. 13 ["Cintron Decl."] ¶ 24, ECF No. 49-15).

The proposed order also directs the USPS to immediately reverse the Transformational changes that remain in place. It specifically requires the USPS to restore on-time performance to the service levels achieved earlier in 2020, before Defendant DeJoy took office. And it requires the USPS to provide daily reporting on its performance, including the specific actions it is taking to restore service.

(Id. at 18). As set forth in more detail below, these requests appear to differ from the relief Plaintiffs seek through their original Motion.

Plaintiffs then filed a Notice of Supplemental Evidence on October 25, 2020. In it, they provide evidence of a “continued deterioration in performance levels on a nationwide basis.” (Pls.’ Notice Suppl. Evid. Supp. Mot. Prelim. Inj. Alt. Partial Summ. J. [“Notice”] at 1, ECF No. 72). Citing evidence from one of the Related Actions, Plaintiffs further allege that “performance levels remain below the levels before Defendant DeJoy took office and Defendants had failed to rescind the Cintron Guidelines.” (Id. at 3). Plaintiffs assert that Defendants’ filings in the Related Actions have made clear “that they have the resources, knowledge, and ability to restore the status quo ante, including restoring on-time performance to the service levels achieved prior to Defendant DeJoy taking office.” (Id. at 3 4). Plaintiffs then cite a list of “[e]xtraordinary [m]easures” that Defendants have authorized but not required their local offices to undertake pursuant to the injunction entered in New York v. Trump, arguing that “[m]andating implementation of these measures . . . likely would result in USPS restoring the status quo ante, such that performance levels (at least for ballot delivery) would approach or exceed the on-time delivery levels prevalent before Defendant DeJoy took office.” (Id. at 4 5) (citing Status Report Ex. E, New York v. Trump, No. 20-cv-2340, ECF No. 64-1 at 22 24 (D.D.C. Oct.

23, 2020)). They therefore urge this Court to require the Defendants to restore on-time performance to status quo ante levels. (Id. at 5).

Because Plaintiffs appeared to seek novel relief in their Reply, the Court ordered Defendants to file a surreply regarding Plaintiffs' Motion to better understand the narrowed set of issues the Court determined were at the core of this dispute. (ECF No. 66). As set forth in more detail below, Defendants' Surreply and Notice of Supplemental Authority (ECF Nos. 73, 74) address the need for the novel relief sought in Plaintiffs' Reply and Notice of Supplemental Evidence.

II. DISCUSSION

A. Standard of Review

To obtain a preliminary injunction, a plaintiff "must establish [1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest." Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 20 (2008). Where the federal government is the opposing party, the balance of equities and public interest factors merge. See Nken v. Holder, 556 U.S. 418, 435 (2009). Plaintiffs in this matter seek an order requiring USPS to take particular actions, rather than seeking merely to preserve the status quo. "Since preliminary injunctions are intended to preserve the status quo during the pendency of litigation, injunctions that 'alter rather than preserve the status quo' are particularly disfavored." Profiles, Inc. v. Bank of Am. Corp., 453 F.Supp.3d 742, 747 (D.Md. 2020) (quoting Mountain Valley Pipeline, LLC v. 6.56 Acres of Land, 915

F.3d 197, 216 n.8 (4th Cir. 2019)). In such cases, courts should grant the requested relief only when the right to such relief is “indisputably clear.” Id.

B. Analysis

Courts evaluating motions for preliminary injunctions in the Related Actions have set forth exhaustive analyses of the merits of the claims advanced by the plaintiffs in those actions, which largely subsume the claims advanced by Plaintiffs here. The Court adopts the analysis set forth by the United States District Court for the District of Columbia in determining that: (a) like the National Association for the Advancement of Colored People (“NAACP”) in the D.C. action, Plaintiffs in this action are likely to be able to establish Article III standing; (b) Plaintiffs will likely succeed in establishing that USPS failed to comply with 39 U.S.C. § 3661(b), which requires USPS to submit changes that “will generally affect service on a nationwide or substantially nationwide basis” to the Postal Regulatory Commission for an advisory opinion before implementing those policies; (c) this Court likely has subject matter jurisdiction over Plaintiffs’ § 3661 claim; (d) Plaintiffs’ § 3661(b) claim is likely reviewable by this Court pursuant to the ultra vires doctrine; and (e) the balance of equities and public interest favor an injunction. See NAACP v. U.S. Postal Serv., No. 20-cv-2295, 2020 WL 5995032, at *4 11, 13 (D.D.C. Oct. 10, 2020).

The Court separately adopts the analysis set forth by the United States District Court for the Southern District of New York in determining that Plaintiffs are likely to establish that the DeJoy Policy Changes violated the First Amendment. See Jones v. U.S. Postal Serv., No. 20-cv-6516, 2020 WL 5627002, at *23 26 (S.D.N.Y. Sept. 21, 2020). To the extent that Plaintiffs’ claim in this matter diverges from the plaintiffs in Jones due to

Plaintiffs’ allegations of viewpoint discrimination, the Court further finds that Plaintiffs here are likely to establish that Defendants have engaged in impermissible viewpoint discrimination in violation of the First Amendment. In particular, the Court views the confluence of (1) DeJoy’s prolific support of the Republican party; (2) President Trump’s tweets concerning the detrimental impact of large quantities of mail-in voting on the Republican party, along with the objective data supporting that conclusion; and (3) the temporal proximity between DeJoy becoming Postmaster General and implementing policies that would tend to interfere with mail-in voting, as compelling circumstantial evidence that the DeJoy Policy Changes were intended to suppress mail-in voting based on hostility toward the Democratic party. See R.A.V. v. City of St. Paul, 505 U.S. 377, 386 (1992) (“The government may not regulate [speech] based on hostility or favoritism towards the underlying message expressed.”).

It is therefore left to the Court to determine whether Plaintiffs in this action have established that they are “likely to suffer irreparable harm in the absence of preliminary relief[.]” Winter, 555 U.S. at 20. At bottom, the Court finds that Plaintiffs have not succeeded in making that showing and for that reason will deny Plaintiffs’ Motion.

“[I]rreparable harm occurs when the threatened injury impairs the court’s ability to grant an effective remedy.” Int’l Refugee Assistance Project v. Trump, 883 F.3d 233, 270 (4th Cir. 2018), vacated on other grounds, 138 S.Ct. 2710 (2018). “The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” Elrod v. Burns, 427 U.S. 347, 373 74 (1976). However, the moving party “must show the present threat of irreparable harm.” Direx Israel, Ltd. v. Breakthrough

Med. Corp., 952 F.2d 802, 816 (4th Cir. 1991) (emphasis added). The harm can be “neither remote nor speculative, but actual and imminent.” Id. at 812 (quoting Tucker Anthony Realty Corp. v. Schlesinger, 888 F.2d 969, 975 (2d Cir. 1989)).

This case presents an unusual set of facts. As set forth above, Defendants are already subject to seven separate preliminary injunctions and one settlement agreement relating to the DeJoy Policy Changes. The combined scope of those injunctions is broad and appears to encompass substantially all of the relief Plaintiffs sought in their original Motion. For example, Plaintiffs seek an order enjoining Defendants “from taking actions that risk delaying the timely delivery of election mail including by changing truck, delivery, or sorting schedules; restricting overtime; removing collection boxes; removing sorting machines; [or] deprioritizing election mail.” (Motion at 44). In the Washington case, the court enjoined Defendants from the “continued implementation or enforcement of policy changes announced in July 2020 that have slowed mail delivery[.]” Washington Order at 12. The order further forbade Defendants from “taking any actions in violation of the commitments made in the ‘Postmaster General Louis DeJoy Statement,’ dated August 18, 2020, such as removal or decommissioning of any mail sorting machines, reducing hours at post offices, or closing mail processing facilities[.]” Id. Likewise, the court in Pennsylvania v. DeJoy enjoined Defendants from the “continued implementation” of a series of operational changes that encompassed substantially all of the changes set forth by Plaintiffs in the language quoted above. See Pennsylvania Order at 1 2.

Plaintiffs also requested that the Court require Defendants to “postmark and deliver all election mail mailed in the 21 days preceding the November 3, 2020, election at least

as fast or faster than the standards for First-Class Mail delivery[.]” (Motion at 44). In the Washington case, the court enjoined Defendants from “deviating from the USPS’s long-standing policy of treating election mail in accordance with First Class Mail delivery standards[.]” Washington Order at 12. Similarly, the order in Jones required that Defendants, “to the extent that excess capacity permits, treat all Election Mail as First-Class Mail or Priority Mail Express.” Jones Order at 83.

Plaintiffs next requested that the Court order Defendants to provide a copy of any preliminary injunction order issued in this case to all USPS employees and provide Plaintiffs with ongoing updates regarding their implementation of the Court’s order. The injunctions entered in all of the Related Actions have contained provisions to this effect, and the regular updates regarding Defendants’ implementation of those injunctions are a matter of public record and therefore available for Plaintiffs to review. See, e.g., Jones Order at 85–87 (requiring Defendants to “provide . . . a weekly update that includes . . . all data and information collected regarding . . . compliance with . . . the terms of this Order specifically pertaining to Election Mail[.]” and further requiring that Defendants submit to the court a proposed memorandum to staff explaining the order and certifying that all managerial staff had reviewed the memorandum). Accordingly, there are no apparent distinctions between the relief sought in Plaintiffs’ Motion and the injunctive relief already granted in the Related Actions.

Through their Reply and Notice of Supplemental Evidence, and without amending their original Motion, Plaintiffs appear to shift the relief they seek to certain items they allege fall outside the scope of the existing injunctions. (Compare Motion at 44, with Reply

at 1, 18).⁷ In their Reply, Plaintiffs specify the following deficiencies in the existing injunctions as they relate to Defendants' ability to timely deliver election mail: "None of those injunctions has required Defendants to restore service performance to the status quo ante levels; enjoined Defendants' 'Cintron Guidelines,' which greatly restrict late and extra trips; or required restoration of sorting capacity." (Reply at 1). The Court considers these items in turn.

First, Plaintiffs seek an order requiring Defendants to restore service performance to the status quo ante levels, by which they mean "the status quo that prevailed before DeJoy took office." (Reply at 3). In the Proposed Order accompanying their Reply, Plaintiffs specify that such an order would require Defendants to "restore on time performance for first class mail to at least 93.88%, the highest on-time delivery score achieved in 2020." (Proposed Order at 3, ECF No. 65-2).

⁷ Parties are generally not permitted to change the relief they seek in a reply brief. See Seneca Ins. Co. v. Shipping Boxes I, LLC, 30 F.Supp.3d 506, 512 (E.D.Va. 2014) (declining consideration of arguments raised for the first time in reply because opposing party did not have a full opportunity to respond); see also United States v. Murillo, No. 94-81261, 2015 WL 1780724, at *3 n.3 (E.D.Mich. Apr. 20, 2015) ("This well-settled rule generally is invoked where a party raises a new argument in support of the party's motion in its reply brief; however, the rule clearly also applies where a party completely changes in its reply brief the relief that it originally sought in its motion. In either context, the opposing party has not had an opportunity to respond to the movant's request." (quoting Harris v. Lenawee Cnty., No. 07-11932, 2007 WL 4247639, at *1 (E.D.Mich. Dec. 4, 2007))). Plaintiffs should instead have amended their Motion, which would have given Defendants the opportunity to respond to the new relief sought by Plaintiffs.

The Court is sympathetic, however, to the fact that Plaintiffs are seeking relief subject to significant time constraints and may have viewed the prospect of "resetting" the briefing as untenable. As a result, the Court granted Defendants the opportunity to file a surreply in order to respond to the novel relief sought by Plaintiffs. Thus, the Court will evaluate the relief sought by Plaintiffs in their Reply on the merits.

As an initial matter, the Court does not view this as a practicable or enforceable request. The Court could no sooner order Defendants to restore on-time performance to 93.88% on a time scale of less than two weeks than it could order a baseball player to achieve a .300 batting average over his next several games. USPS's on-time performance score is an holistic metric that reflects the result of a combination of a host of factors, some internal to and controllable by USPS, and some external and outside of USPS's control. The Court cannot require a party to meet a metric it can only partially control.

To the extent the matter is controllable by Defendants, however, it is already the subject of an order in a Related Action. In response to similar concerns from the plaintiffs in the Jones case, the Court ordered the following:

No later than October 1, 2020, USPS shall submit to the Court a list of steps necessary to restore First-Class Mail and Marketing Mail on-time delivery scores to the highest score each respective class of mail has received in 2020, which are 93.88 percent for First-Class Mail and 93.69 percent for Marketing Mail, and shall thereafter make a good faith effort to fully implement the listed steps.

Order, Jones v. U.S. Postal Serv., No. 20-cv-6516, slip op. at 3 (S.D.N.Y. Sept. 25, 2020) (the "Jones Order II"). This order, which is already in place and which includes ongoing requirements that Defendants regularly and publicly certify and describe their compliance, squarely addresses the first element of relief sought by Plaintiffs in their Reply.

Second, Plaintiffs seek an order "enjoin[ing] Defendants' 'Cintron Guidelines,' which greatly restrict late and extra trips[.]" (Reply at 1). Although Plaintiffs never expressly reference the "Cintron Guidelines" in their Motion or, indeed, the Complaint, the Cintron Guidelines appear to refer to written guidelines developed by Robert Cintron,

USPS Vice President of Logistics. (Motion at 16–17; Cintron Decl. ¶ 24). The guidelines were prepared “to provide guidance to managers or supervisors with questions regarding whether running late or extra trips would improve or hinder service performance.” (Defs.’ Surreply Supp. Defs.’ Resp. Pls.’ Mot. Prelim. Inj. Alt. Partial Summ. J. [“Surreply”] at 9, ECF No. 73).

To the extent the Cintron Guidelines “greatly restrict late and extra trips[,]” as Plaintiffs allege, any such policies have been directly addressed by numerous orders in the Related Actions. See, e.g., Pennsylvania Order at 1–2 (prohibiting the continued implementation of “the Guidelines regarding transportation sent by Robert Cintron to Area Vice Presidents and other agency representatives on July 11, 2020 and July 14, 2020” and of any new USPS policies concerning late and extra trips). In its clarifying order, the Pennsylvania court added that “[t]ransportation, in the form of late and extra trips is authorized and shall be used where reasonably necessary to meet service standards and service performance targets.” Pennsylvania Order II at 1.

Pursuant to the orders in the Pennsylvania case, USPS also gave another “Stand-Up Talk” to all employees in which it clarified that “[l]ate and extra trips . . . should be used when they would facilitate the expeditious delivery of Election Mail” and that “[t]ransportation, in the form of late and extra trips is authorized and shall be used where reasonably necessary to meet service standards and service performance targets. The Postal Service shall use extra trips to meet service commitments when feasible.” (Surreply at 11–12). To ensure there was no confusion following the Stand-Up Talk, Cintron e-mailed Area Vice Presidents and Managers of Operations Support the same individuals who had

received the initial Cintron Guidelines to reiterate that “[a]t all times, including during this election season, delayed trips and extra trips should be used as necessary to meet service performance standards and to ensure the timely delivery of election mail.” (Surreply at 12).

Even more recently, the court in NAACP v. United States Postal Service required that Defendants issue a notice to the same group of individuals who received the initial Cintron Guidelines stating in no uncertain terms that “[t]he guidelines issued on July 14, 2020, by USPS Vice President of Logistics, Robert Cintron, regarding the use of late and extra trips are rescinded[.]” Minute Order, NAACP v. U.S. Postal Serv., No. 20-cv-2295 (D.D.C. Oct. 27, 2020). In light of these orders, the Court agrees with Defendants that it “need not require[] USPS to rescind the Cintron Guidelines to address the gravamen of Plaintiffs’ concern that the guidelines might interfere with the timely delivery of Election Mail.” (Surreply at 10).

Third, Plaintiffs seek an order requiring USPS to restore all “sorting machines that have been disconnected (but not disassembled and removed) since May 1, 2020.” (Proposed Order at 2). Plaintiffs have explained that the loss of sorting machines “risks disenfranchising voters by materially slowing the delivery of unmarked ballots, registration forms, and other election mail.” (Motion at 37). Once again, however, existing court orders meaningfully remedy any harm this relief would tend to address. For example, in the Washington case, the court ordered that “[i]f any . . . postal facility will be unable to process election mail for the November 2020 election in accordance with First Class delivery standards because of the Postal Service’s recent removal and decommissioning of

equipment, such equipment will be replaced, reassembled, or reconnected[.]” Washington Order at 12. That language was echoed by the court in the New York case. See Order, New York v. Trump, No. 20-cv-2340, slip op. at 5 (D.D.C. Oct. 22, 2020).

Defendants represent that in the wake of these orders, “(1) no additional mail processing machines have been removed from service . . . ; (2) . . . 137 mail processing machines have been returned to service; and (3) there are no outstanding requests from facility heads to reconnect mail processing machines, nor have any such requests been denied.” (Surreply at 17). Plaintiffs argue that the existing orders are insufficient because they only require Defendants to restore sorting machines “only to the extent necessary to ensure the Postal Service can comply with its prior policy of delivering election mail in accordance with First Class delivery standards[.]” (Reply at 7 n.1) (internal quotation marks and citation omitted). The timely delivery of election mail, however, is precisely the alleged irreparable harm at issue in this dispute.

Plaintiffs seek an injunction that “alter[s] rather than preserve[s] the status quo.” Profiles, Inc., 453 F.Supp.3d at 747 (quoting Mountain Valley Pipeline, LLC, 915 F.3d at 216 n.8). Such injunctions “are particularly disfavored” and require the right of relief to be “indisputably clear.” Id. In light of the evidence proffered by Defendants, and in the absence of any clear explanation from Plaintiffs regarding why the current injunctions imposed on Defendants are insufficient to address the harm caused by decommissioned sorting machines, the Court cannot conclude that it is “indisputably clear” that the absence of additional sorting machines is likely to cause irreparable harm to Plaintiffs.

Finally, to the extent that Plaintiffs truly view any remaining deficiencies in USPS's ability or intent to timely deliver Election Mail as perils to our democracy, they have litigated this case in a manner inconsistent with that concern. Unlike the plaintiffs in every one of the Related Actions, Plaintiffs here waited over five weeks from the time they filed their Complaint to file their Motion for Preliminary Injunction. Also unlike the plaintiffs in the Related Actions, Plaintiffs in this case made no effort to move this Court for an expedited briefing schedule on their Motion. As a result, Plaintiffs did not file their Reply until less than two weeks before Election Day. In their Reply, Plaintiffs appeared to seek new relief from this Court, requiring the Court to grant Defendants time to file a surreply. Any Order by this Court that created substantive new obligations for USPS – an Order that could realistically have come no earlier than a week prior to Election Day – would have done more to sow confusion than to increase the ability for Plaintiffs to safely participate in the election. Put simply, not only have Plaintiffs failed to demonstrate how the existing injunctions imposed on Defendants do not cover the relief Plaintiffs seek in their Motion or Reply, they have also failed to convince this Court that implementing any substantive change at this late stage of the election would actually decrease the chance that Plaintiffs are disenfranchised in this election. As a result, Plaintiffs have failed to demonstrate that they are likely to suffer irreparable harm in the absence of preliminary relief.

III. CONCLUSION

For the foregoing reasons, the Court will deny Plaintiffs' Motion for Preliminary Injunction (ECF No. 49).⁸ A separate Order follows.

Entered this 29th day of October, 2020.

_____/s/
George L. Russell, III
United States District Judge

⁸ The Court declines at this stage to rule on Plaintiffs' Partial Motion for Summary Judgment. Accordingly, the Court will direct Defendants to respond to Plaintiffs' Complaint within thirty days of the Order accompanying this Opinion.

Antell, Kira M. (OLA)

From: Antell, Kira M. (OLA)
Sent: Thursday, October 29, 2020 1:00 PM
To: Hankey, Mary Blanche (OLA)
Subject: OLA Election Document
Attachments: TRIAGE OF ELECTION RELATED CALLS_10292020.docx

Hi MBH,

Could you please take a quick look at this? It is what I think would be helpful on Election Day but don't want to be overly prescriptive. I would appreciate any initial thoughts before I distribute to the group for their ideas.

Thanks,
Kira

Kira Antell
Office of Legislative Affairs
Department of Justice

(b) (6)

(b) (6)

Clark, Melissa D. (PAO)

From: Clark, Melissa D. (PAO)
Sent: Thursday, October 29, 2020 3:09 PM
To: Hovakimian, Patrick (ODAG); Moran, John (ODAG)
Subject: FW: JUSTICE DEPARTMENT RELEASES INFORMATION ON ELECTION DAY EFFORTS TO PROTECT THE RIGHT TO VOTE AND PROSECUTE BALLOT FRAUD: TEST

Good Afternoon,

Just a heads up that this release will be going out shortly.

-Melissa Clark

From: USDOJ-Office of Public Affairs <USDOJ-OfficeofPublicAffairs@public.govdelivery.com>
Sent: Thursday, October 29, 2020 3:06 PM
To: Clark, Melissa D. (PAO (b) (6))
Subject: JUSTICE DEPARTMENT RELEASES INFORMATION ON ELECTION DAY EFFORTS TO PROTECT THE RIGHT TO VOTE AND PROSECUTE BALLOT FRAUD: TEST

seal - centered header for gov delivery



The United States Department of Justice

FOR IMMEDIATE RELEASE
WWW.JUSTICE.GOV/NEWS

THURSDAY, OCTOBER 29, 2020

JUSTICE DEPARTMENT RELEASES INFORMATION ON ELECTION DAY EFFORTS TO PROTECT THE RIGHT TO VOTE AND PROSECUTE BALLOT FRAUD

WASHINGTON - Continuing a longstanding Justice Department tradition, Attorney General William P. Barr today issued the following statement:
“Americans have the opportunity once again to help shape the future of this nation by exercising their right to vote. It is a right that forms the foundation of

our democratic system of government, and is precious to all Americans. The Department of Justice will work tirelessly alongside other federal, State, and local agencies to protect that right as it is administered by State and local jurisdictions across the nation.”

In anticipation of the upcoming general elections, the Department of Justice today provided information about its particular efforts, through the Criminal Division, Civil Rights Division, and National Security Division, to ensure that all qualified voters have the opportunity to cast their ballots and have their votes counted free of discrimination, intimidation, or fraud in the election process.

Criminal Division and the Department’s 94 U.S. Attorney’s Offices:

The department’s Criminal Division oversees the enforcement of federal laws that criminalize certain forms of election fraud and vindicate the integrity of the federal election process.

The Criminal Division’s Public Integrity Section and the department’s 94 U.S. Attorney’s Offices are responsible for enforcing the federal criminal laws that prohibit various forms of election fraud, such as destruction of ballots, vote-buying, multiple voting, submission of fraudulent ballots or registrations, and alteration of votes, and malfeasance by postal or election officials and employees. The Criminal Division is also responsible for enforcing federal criminal law prohibiting voter intimidation for reasons other than race, color, national origin, or religion (as noted below, voter intimidation that has a basis in race, color, national origin, or religion is addressed by the Civil Rights Division).

The U.S. Attorney’s Offices around the country designate Assistant U.S. Attorneys who serve as District Election Officers (DEOs) in the respective Districts. DEOs are responsible for overseeing potential election-crime matters in their Districts, and for coordinating with the department’s election-crime experts in Washington, D.C.

From now through Nov. 3, 2020, the U.S. Attorney’s Offices will work with specially trained FBI personnel in each district to ensure that complaints from the public involving possible election fraud are handled appropriately. Specifically:

- In consultation with federal prosecutors at the Public Integrity Section in Washington, D.C., the District Election Officers in U.S. Attorney’s Offices, FBI officials at Headquarters in Washington, D.C., and FBI Special Agents serving as Election Crime Coordinators in the FBI’s 56 field offices will be on duty while polls are open to receive complaints from the public.
- Election-crime complaints should be directed to the local U.S. Attorney’s Offices or the local FBI office. A list of U.S. Attorney’s Offices and their telephone numbers can be found at <http://www.justice.gov/usao/districts/>. A list of FBI offices and accompanying telephone numbers can be found at www.fbi.gov/contact-us.
- Public Integrity Section prosecutors are available to consult and coordinate with the U.S. Attorney’s Offices and the FBI regarding the handling of election-crime allegations.

All complaints related to violence, threats of violence, or intimidation at a

polling place should be reported first to local police authorities by calling 911; after alerting local law enforcement to such emergencies by calling 911, the public should contact the department.

Civil Rights Division:

The Civil Rights Division is responsible for ensuring compliance with the civil provisions of federal statutes that protect the right to vote, and with the criminal provisions of federal statutes prohibiting discriminatory interference with that right.

The Civil Rights Division's Voting Section enforces the civil provisions of a wide range of federal statutes that protect the right to vote including: the Voting Rights Act; the Uniformed and Overseas Citizens Absentee Voting Act; the National Voter Registration Act; the Help America Vote Act; and the Civil Rights Acts. Among other things, collectively, these laws:

- prohibit election practices that have either a discriminatory purpose or a discriminatory result on account of race, color, or language minority status;
- prohibit intimidation of voters;
- provide that voters who need assistance in voting because of disability or illiteracy can obtain assistance from a person of their choice (other than agents of their employer or union);
- provide for accessible voting systems for voters with disabilities;
- provide for provisional ballots for voters who assert they are registered and eligible, but whose names do not appear on poll books;
- provide for absentee voting for absent uniformed service members, their family members, and U.S. citizens living abroad; and
- provide for covered States to offer citizens the opportunity to register to vote through offices that provide driver licenses, public assistance, and disability services, as well as through the mail; and to take steps regarding maintaining voter registration lists.

The Civil Rights Division's Disability Rights Section enforces the Americans with Disabilities Act (ADA) that prohibits discrimination in voting based on disability.

The Civil Rights Division's Criminal Section enforces federal criminal statutes that prohibit voter intimidation and vote suppression based on race, color, national origin, or religion.

On Election Day, Nov. 3, 2020, the Civil Rights Division will implement a comprehensive program to help ensure the right to vote that will include the following:

- The Civil Rights Division will conduct monitoring in the field under the federal voting rights statutes.
- Civil Rights Division attorneys in the Voting, Disability Rights, and Criminal Sections in Washington, D.C., will be ready to receive complaints of potential violations relating to any of the statutes the Civil Rights Division enforces. Attorneys in the Division will coordinate within the

Department of Justice and will take appropriate action concerning these complaints before, during, and after Election Day.

- Individuals with complaints related to possible violations of the federal voting rights laws can call the department's toll-free telephone line at 800-253-3931, and also can submit complaints through a link on the department's website, at <https://civilrights.justice.gov/>.
- Individuals with questions or complaints related to the ADA may call the Justice Department's toll-free ADA information line at 800-514-0301 or 800-514-0383 (TDD), or submit a complaint through a link on the department's ADA website, at ada.gov.
- Once again, complaints related to violence, threats of violence, or intimidation at a polling place should always be reported immediately to local authorities by calling 911. They should also be reported to the department after local authorities are contacted.

National Security Division:

The National Security Division supervises the investigation and prosecution of cases affecting or relating to national security, including any cases involving foreign interference in elections or violent extremist threats to elections. In this context:

- The National Security Division's Counterintelligence and Export Control Section oversees matters involving a range of malign influence activities that foreign governments may attempt, including computer hacking of election or campaign infrastructure; covert information operations (e.g., to promulgate disinformation through social media); covert efforts to support or denigrate political candidates or organizations; and other covert influence operations that might violate various criminal statutes.
- The National Security Division's Counterterrorism Section oversees matters involving international and domestic terrorism and supports law enforcement in preventing any acts of terrorism that impact Americans, including any violent extremism that might threaten election security.

As in past elections, on Nov. 3, 2020, the National Security Division will work closely with counterparts at the FBI and our U.S. Attorney's Offices to protect our nation's elections from any national security threats. In particular, attorneys from both sections will be partnered with FBI Headquarters components to provide support to U.S. Attorney's Offices and FBI Field Offices to counter any such threats. Again, complaints related to violence, threats of violence, or intimidation at a polling place should always be reported immediately to local authorities by calling 911 and, after local authorities are contacted, then should also be reported to the department.

Both protecting the right to vote and combating election fraud are essential to maintaining the confidence of all Americans in our democratic system of government. The department encourages anyone with information suggesting voting rights concerns or ballot fraud to contact the appropriate authorities, and notes in particular that the Department of Homeland Security plays its own important role in safeguarding critical election infrastructure from cyber and other threats.

###

The year 2020 marks the 150th anniversary of the Department of Justice. Learn more about the history of our agency at www.Justice.gov/Celebrating150Years.

AG

20-1185

Do not reply to this message. If you have questions, please use the contacts in the message or call the Office of Public Affairs at 202-514-2007.

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Douglas, Danielle E. (OLA)

From: Douglas, Danielle E. (OLA)
Sent: Thursday, October 29, 2020 3:28 PM
To: Antell, Kira M. (OLA); Stephens, Taylor (OLA); Hankey, Mary Blanche (OLA); Pings, Anne (OLA)
Subject: RE: CRT Triage Document
Attachments: ElectionDay QA.docx

Haha! Some hypothetical member calls and potential answers on the CRT-related side.

From: Antell, Kira M. (OLA (b) (6))
Sent: Thursday, October 29, 2020 10:58 AM
To: Stephens, Taylor (OLA (b) (6)); Hankey, Mary Blanche (OLA (b) (6))
Douglas, Danielle E. (OLA (b) (6)); Pings, Anne (OLA (b) (6))
Subject: RE: CRT Triage Document

Guys I omitted a verb in my previous email so choose your own adventure below (thanks Anne!). I suppose I was stymied by the options . . .

From: Antell, Kira M. (OLA)
Sent: Thursday, October 29, 2020 10:22 AM
To: Stephens, Taylor (OLA (b) (6)); Hankey, Mary Blanche (OLA (b) (6))
Douglas, Danielle E. (OLA (b) (6)); Pings, Anne (OLA (b) (6))
Subject: RE: CRT Triage Document

This is great and I will incorporate Anne shared/sent/had/provided some helpful suggestions about issues and language to include in our own triage document. If you have thoughts please send to me today.

From: Stephens, Taylor (OLA (b) (6))
Sent: Thursday, October 29, 2020 10:16 AM
To: Hankey, Mary Blanche (OLA (b) (6)); Antell, Kira M. (OLA (b) (6));
Douglas, Danielle E. (OLA (b) (6)); Pings, Anne (OLA (b) (6))
Subject: CRT Triage Document

Duplicative Material



Stephens, Taylor (OLA)

From: Stephens, Taylor (OLA)
Sent: Thursday, October 29, 2020 3:46 PM
To: Douglas, Danielle E. (OLA); Antell, Kira M. (OLA); Hankey, Mary Blanche (OLA); Pings, Anne (OLA)
Subject: RE: CRT Triage Document
Attachments: Election Day Scenarios.docx

Here's mine that is also CRT-related.

From: Douglas, Danielle E. (OL [REDACTED] (b) (6))
Sent: Thursday, October 29, 2020 3:28 PM
To: Antell, Kira M. (OL [REDACTED] (b) (6)) >; Stephens, Taylor (OLA [REDACTED] (b) (6)) >; Hankey, Mary Blanche (OL [REDACTED] (b) (6)); Pings, Anne (OLA [REDACTED] (b) (6))
Subject: RE: CRT Triage Document

Duplicative Material



Collins, Cassandra (CRT)

From: Collins, Cassandra (CRT)
Sent: Thursday, October 29, 2020 11:26 PM
To: AGWeeklyReport (JMD); Murray, Claire M. (OASG); Levi, William (OAG); Wilson, Ashley (OASG); Lloyd, Matt (PAO); Plack, Laura (ODAG); Feith, Daniel (ODAG); Hodes, Jarad (ODAG); Bissex, Rachel (OAG); Day, Sean (OASG); Clark, Melissa D. (PAO); Kjergaard, Alison (OPA); Freeman, Lindsey (OASG)
Cc: Dreiband, Eric (CRT); Toomey, Kathleen (CRT); Friel, Gregory B (CRT); Moossy, Robert (CRT); McKnight, Cynthia (CRT); Maugeri, Alexander (CRT); Daukas, John (CRT); Armstrong, Deanna (CRT)
Subject: AG/CRT Report 10 30 2020
Attachments: CRT Weekly Report to AG 10 30 2020.docx

Good evening,

The AG/CRT Report for the week ending October 30, 2020, is attached.

Best regards,

Cassandra Collins
Special Assistant
Civil Rights Division
U.S. Department of Justice

(b) (6)

(b) (6)

WEEKLY REPORT

October 30, 2020

MEMORANDUM FOR THE OFFICE OF THE ATTORNEY GENERAL

THE OFFICE OF THE DEPUTY ATTORNEY GENERAL

THE OFFICE OF THE ASSOCIATE ATTORNEY GENERAL

FROM: Eric Dreiband
Assistant Attorney General for the Civil Rights Division

SUBJECT: Civil Rights Division Report for the Week Ending October 30, 2020.

Significant Activities Last Week, This Week, Next Week

LAST WEEK'S EVENTS (October 19 – October 23, 2020)

Speaking Engagements:

- On October 20, 2020, Assistant Attorney General Eric Dreiband and other Civil Rights Division personnel traveled to Minneapolis to announce, with the U.S. Attorney for Minnesota and head of OJP, Katharine Sullivan new National Response Center Initiative and offered the assistance to the Minneapolis Police Department (MPD) to support law enforcement, and review, enhance and reform policies and practices to prevent the use of excessive force. The Bureau of Justice Assistance's (BJA) Law Enforcement Training and Technical Assistance Response Center will be a national resource for all state, local, and tribal law enforcement agencies. <https://www.justice.gov/opa/pr/justice-department-announces-national-response-center-and-offer-bring-assistance-minneapolis>

Appellate

(b)(5) per CRT

[REDACTED]

(b)(5) per CRT
[Redacted]

(b)(5) per CRT
[Redacted]

Employment

(b)(5) per CRT
[Redacted]

(b)(5) per CRT [Redacted]

(b)(5) per CRT
[Redacted]

THIS WEEK'S EVENTS
(October 26 – October 30, 2020)

Speaking Engagements:

- AAG Dreiband does not have any speaking engagements for the week of October 26, 2020.

Housing

(b)(5) per CRT
[Redacted]

Speaking Engagements/Events:

- On October 28, 2020, an attorney in the Division's Housing and Civil Enforcement Section (HCE) participated in a panel to discuss sexual harassment in housing as part of a webinar addressing enforcement of the Fair Housing Act. The webinar is being organized by the Civil Rights Section of the Federal Bar Association.

NEXT WEEK'S EVENTS
(November 2 – November 6, 2020)

Speaking Engagements:

- AAG Dreiband does not have any speaking engagements for the week of November 2, 2020.

Appellate

(b)(5) per CRT
[Redacted]

(b)(5) per CRT
[Redacted]

Criminal

(b)(5) per CRT
[Redacted]

(b)(5) per CRT
[Redacted]

Housing

(b)(5) per CRT
[Redacted]

(b)(5) per CRT
[Redacted]

(b)(5) per CRT
[Redacted text block]

Voting

(b)(5) per CRT
[Redacted text block]

30 DAY LOOK AHEAD

Appellate

(b)(5) per CRT
[Redacted text block]

(b)(5) per CRT
[Redacted text block]

(b)(5) per CRT

(b)(5) per CRT

(b)(5) per CRT

Criminal

(b)(5) per CRT
[Redacted text block]

(b)(5) per CRT
[Redacted text block]

(b)(5) per CRT
[Redacted text block]

(b)(5) per CRT
[Redacted text block]

Education

(b)(5) per CRT
[Redacted]

Employment

(b)(5) per CRT
[Redacted]

Housing

(b)(5) per CRT
[Redacted]

Speaking Engagements/Events:

- On November 18, 2020, an HCE deputy chief will speak by videoconference about the Division's fair lending enforcement at the annual CRA & Fair Lending Colloquium.

Immigrant and Employee Rights

(b)(5) per CRT
[Redacted]

Antell, Kira M. (OLA)

From: Antell, Kira M. (OLA)
Sent: Friday, October 30, 2020 12:51 AM
To: Douglas, Danielle E. (OLA); Stephens, Taylor (OLA); Pings, Anne (OLA)
Cc: Hankey, Mary Blanche (OLA)
Subject: OLA Election Day Triage
Attachments: OLA Triage of Election Calls_10302020.docx

Hello friends,

Attached is a triage document that combines much of the information provided by CRT, CRM, EOUSA, and your helpful suggestions/scenarios. Anne I included one question abo (b) (5)
.

Could everyone please take a look and see what else we should add to this? I'd like to finalize on Monday. Apologies in advance for any typos . . .

Thanks,
Kira

Kira Antell
Office of Legislative Affairs
Department of Justice

(b) (6)

(b) (6)

Question#:	1
Topic:	Use of DHS Authorities
Hearing:	Worldwide Threats to the Homeland
Primary:	The Honorable Elissa Slotkin
Committee:	HOMELAND SECURITY (HOUSE)
Date:	SEP 17, 2020

Question: We write with concern about the insertion of federal troops without the request or consent of local officials into Washington, D.C. and other cities around the country, the use of unmarked security forces operating without uniforms or insignia under an unclear chain of command; attempted censorship of intelligence analysis on Russian efforts to undermine US interests; and your refusal to participate in oversight hearings in accordance with your responsibilities. These events, particularly those in the past few months, seem to reinforce the idea that the President sees the Department of Homeland Security (DHS) not as a constitutionally established instrument of government, but as an armed force that exists to serve him personally, and for his own personal and political gains.

This pains us, because we have great respect for DHS officers, intelligence analysts, and other personnel, and we rely on you to protect us from threats to our homeland. Based on our concerns, we feel compelled to ask you several critical questions that call upon you to affirm and uphold your nonpartisan role under our Constitution. Similar questions were provided to the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, the latter of whom responded on August 27.

First, do you agree that DHS authorities, personnel, and resources should only be used to advance the homeland security of the United States, and not for any one President's or political party's political gain? Will you resist, report to Congress, and refuse to carry out any proposal by the President to use the authorities, personnel, and resources of DHS to carry out activities designed to distract or otherwise influence for political gain the American public instead of protecting American security?

Response (b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Question#:	2
Topic:	Election Role
Hearing:	Worldwide Threats to the Homeland
Primary:	The Honorable Elissa Slotkin
Committee:	HOMELAND SECURITY (HOUSE)
Date:	SEP 17, 2020

Question: Second, what do you believe is the role of DHS in relation to the election this fall? Will you pledge to support the Cybersecurity and Infrastructure Security Agency's efforts to provide nonpartisan resources and services to protect America's election from foreign influence and its infrastructure from foreign cyber attacks, including by informing Congress of any attempts to interfere with those efforts? Do you believe that DHS has any role in administering the election or tallying results? Are there any circumstances where you would deem it necessary to send DHS personnel, including law enforcement personnel, to be present at polling places?

Response (b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b) (5)

[Redacted]

Question#:	3
Topic:	Presidential Transition
Hearing:	Worldwide Threats to the Homeland
Primary:	The Honorable Elissa Slotkin
Committee:	HOMELAND SECURITY (HOUSE)
Date:	SEP 17, 2020

Question: Third, looking past the November Presidential election, will you commit to supporting a peaceful process for carrying out the Electoral College, certifying its result in Congress, and carrying out any transfer of power whoever wins in November? Specifically, will you commit to upholding the Constitution's 20th Amendment and the Presidential Succession Act in the event that a winner has not been certified by the Congress by noon on January 20?

Response (b) (5)

(b) (5)

Pings, Anne (OLA)

From: Pings, Anne (OLA)
Sent: Friday, October 30, 2020 3:40 PM
To: Antell, Kira M. (OLA); Stephens, Taylor (OLA)
Cc: Hankey, Mary Blanche (OLA); Douglas, Danielle E. (OLA)
Subject: RE: Election Day Email String Question

I am not sure I understand how it would work [REDACTED]

(b) (5)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]. But I may not be understanding your vision.

From: Antell, Kira M. (OLA [REDACTED])
Sent: Friday, October 30, 2020 12:50 PM
To: Stephens, Taylor (OLA [REDACTED]); Pings, Anne (OLA [REDACTED])
Cc: Hankey, Mary Blanche (OLA [REDACTED]); Douglas, Danielle E. (OLA [REDACTED])
[REDACTED] >
Subject: Election Day Email String Question

I am thinking through who should be on our Election Day email string. I envision the string as being as opportunity to share intel about inquiries we are receiving and to get that intel from OPA and others. Ideally, it would work like this.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
(b) (5)

Taylor, would you ask CRT if they think it would be helpful to be included? If so, they should let us know the small number of people they would want on this string. Ann [REDACTED]
[REDACTED], let me know!

Thanks,
Kira

Kira Antell
Office of Legislative Affairs
Department of Justice

[REDACTED]
(b) (6)

[REDACTED]
(b) (6)

Stephens, Taylor (OLA)

From: Stephens, Taylor (OLA)
Sent: Friday, October 30, 2020 3:41 PM
To: Antell, Kira M. (OLA); Pings, Anne (OLA)
Cc: Hankey, Mary Blanche (OLA); Douglas, Danielle E. (OLA)
Subject: RE: Election Day Email String Question

Hi, Kira:

CRT is on board. Please include John Daukas and Chris Herren on thread.

Hope everyone has a great Halloween weekend!

Thanks,
Taylor

From: Antell, Kira M. (OLA (b) (6))
Sent: Friday, October 30, 2020 12:50 PM
To: Stephens, Taylor (OLA (b) (6)) >; Pings, Anne (OLA (b) (6)) >
Cc: Hankey, Mary Blanche (OLA (b) (6)) >; Douglas, Danielle E. (OLA (b) (6)) >
Subject: Election Day Email String Question

Duplicative Material



Day, Sean (OASG)

From: Day, Sean (OASG)
Sent: Friday, October 30, 2020 9:27 PM
To: (b) (6); Davis, May M. EOP/WHO; Dickey, Jennifer B. (OASG); Murray, Claire M. (OASG); Pandya, Brian (OASG); Kazam, Alexander (OASG); Freeman, Lindsey (OASG); McCotter, Trent (OASG) (b)(6) - Eric Hamilton Email Address; Beelaert, Jeffrey (OLP)
Subject: Litigation Report 10/30
Attachments: 2020-10-30 Litigation Look Ahead.docx

Please see attached this week's litigation report.

Sean C. Day
Deputy Associate Attorney General
(b) (6) (Cell)

Collins, Cassandra (CRT)

From: Collins, Cassandra (CRT)
Sent: Saturday, October 31, 2020 11:54 AM
To: Murray, Claire M. (OASG); Levi, William (OAG); Wilson, Ashley (OASG); Lloyd, Matt (PAO); Plack, Laura (ODAG); Feith, Daniel (ODAG); Hodes, Jarad (ODAG); Bissex, Rachel (OAG); Day, Sean (OASG); Clark, Melissa D. (PAO); Kjergaard, Alison (OPA); Freeman, Lindsey (OASG)
Cc: Dreiband, Eric (CRT); Toomey, Kathleen (CRT); Friel, Gregory B (CRT); Moossy, Robert (CRT); McKnight, Cynthia (CRT); Maugeri, Alexander (CRT); Daukas, John (CRT); Armstrong, Deanna (CRT)
Subject: RE: OASG/CRT Meeting Material 11 2 2020
Attachments: (Updated) OASG CRT Read Ahead 11 2 2020.docx; (Updated) OASG CRT Agenda 11 2 2020.docx

Afternoon,

Attached is a revised and operative OASG report.

Best,

Cassandra

From: Collins, Cassandra (CRT)
Sent: Wednesday, October 28, 2020 4:47 PM
To: Murray, Claire M. (OASG (b) (6) >; Levi, William (O G (b) (6) >; Wilson, Ashley (OASG (b) (6) >; Lloyd, Matt (P O (b) (6) >; Plack, Laura (ODAG (b) (6) >; Feith, Daniel (OD G (b) (6) >; Hodes, Jarad (ODAG (b) (6) >; Bissex, Rachel (O G (b) (6) >; Day, Sean (OASG (b) (6) >; Clark, Melissa D. (P O (b) (6) >; Kjergaard, Alison (OPA (b) (6) >; Freeman, Lindsey (OASG (b) (6) >
Cc: Dreiband, Eric (CR (b) (6) >; Toomey, Kathleen (CR (b) (6) >; Friel, Gregory B (CR (b) (6) >; Moossy, Robert (CR (b) (6) >; McKnight, Cynthia (CR (b) (6) >; Maugeri, Alexander (CRT (b) (6) >; (b)(6) - John Daukas Email Address >; Armstrong, Deanna (CR (b) (6) >
Subject: OASG/CRT Meeting Material 11 2 2020

Duplicative Material



Stephens, Taylor (OLA)

From: Stephens, Taylor (OLA)
Sent: Monday, November 2, 2020 10:23 AM
To: Hankey, Mary Blanche (OLA); Douglas, Danielle E. (OLA); Pings, Anne (OLA)
Cc: Antell, Kira M. (OLA)
Subject: RE: Election Day Email String Question

Clear.

From: Hankey, Mary Blanche (OLA (b) (6))
Sent: Monday, November 2, 2020 10:20 AM
To: Douglas, Danielle E. (OLA (b) (6)); Pings, Anne (OLA (b) (6))
Cc: Antell, Kira M. (OLA (b) (6)); Stephens, Taylor (OLA (b) (6))
Subject: RE: Election Day Email String Question

Good here. Thanks.

From: Douglas, Danielle E. (OLA (b) (6))
Sent: Monday, November 2, 2020 10:16 AM
To: Pings, Anne (OLA (b) (6))
Cc: Antell, Kira M. (OLA (b) (6)); Stephens, Taylor (OLA (b) (6)); Hankey, Mary Blanche (OLA (b) (6)) >
Subject: Re: Election Day Email String Question

Works for me!

Danielle Douglas
Office of Legislative Affairs
U.S. Department of Justice

On 2 Nov 2020, at 10:14 AM, Pings, Anne (OLA (b) (6)) > wrote:

?

11 works for me.

From: Antell, Kira M. (OLA (b) (6)) >
Sent: Monday, November 02, 2020 10:04 AM
To: Douglas, Danielle E. (OLA (b) (6)) >; Stephens, Taylor (OLA (b) (6))
Cc: Pings, Anne (OLA (b) (6)) >; Hankey, Mary Blanche (OLA (b) (6))
Subject: RE: Election Day Email String Question

(b) (5)
.
.

Regardless- is everyone free at 11 for a quick call? It shows as clear and I'll send an invite and dial in but

LMK if I need to push to later.

From: Douglas, Danielle E. (OLA [REDACTED] (b) (6))
Sent: Monday, November 2, 2020 9:56 AM
To: Stephens, Taylor (OLA [REDACTED] (b) (6))
Cc: Antell, Kira M. (OLA [REDACTED] (b) (6)); Pings, Anne (OL [REDACTED] (b) (6));
Hankey, Mary Blanche (OLA [REDACTED] (b) (6))
Subject: Re: Election Day Email String Question

I thin [REDACTED] (b) (5)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Danielle Douglas
Office of Legislative Affairs
U.S. Department of Justice

On 30 Oct 2020, at 3:41 PM, Stephens, Taylor (OLA [REDACTED] (b) (6)) > wrote:

Duplicative Material



Antell, Kira M. (OLA)

From: Antell, Kira M. (OLA)
Sent: Monday, November 2, 2020 11:06 AM
To: Hankey, Mary Blanche (OLA); Stephens, Taylor (OLA); Pings, Anne (OLA); Douglas, Danielle E. (OLA)
Subject: Election Team Call
Attachments: OLA Triage of Election Calls_11022020.docx

DRAFT

Kira Antell
Office of Legislative Affairs
Department of Justice

(b) (6)

(b) (6)

Mollet, Kristin (Bennet)

From: Mollet, Kristin (Bennet)
Sent: Monday, November 2, 2020 2:20 PM
To: Hankey, Mary Blanche (OLA)
Subject: Re: Contact for Tuesday

Fantastic. Grateful to you. Thank you again!

(b) (6)

(b) (6)

On Nov 2, 2020, at 2:15 PM, Hankey, Mary Blanche (OLA) (b) (6) > wrote:

Good to catch up with you. As discussed, feel free to call me anytime. Some other helpful contacts are below.

For voter fraud/crimes:

- Rebecca Weber is the District Election Office in the US Attorney's Office. She can be reached at 303-454-0332 desk or 720-281-1734 cell.
- The local FBI field office can be reached at 303-629-7171.

For Civil Rights:

- This is the reporting hotline: 800-253-3931

From: Mollet, Kristin (Bennet) (b) (6) >
Sent: Monday, November 2, 2020 1:29 PM
To: Hankey, Mary Blanche (OLA) (b) (6)
Subject: Re: Contact for Tuesday

Ha! That is funny. Absolutely give me a call a (b) (6). This is an easy one cliffs notes: we don't have any current/specific needs but just want to be prepared with contacts in case we learn of trouble. Ideally we could reach these contacts after hours if needed.

(b) (6)

(b) (6)

On Nov 2, 2020, at 1:10 PM, Hankey, Mary Blanche (OLA) (b) (6) > wrote:

Hi Kristin,

I hope you are well. Your Friday email to the US Attorney's Office in the ND Georgia has made its way to my office. It is funny that it took so long for our professional paths to cross again. Do you have some time to touch base this afternoon? We want to make sure

you all have what you need. I'm flexible for the remainder of the afternoon, so let me know when is good for you.

Mary Blanche Hankey
Deputy Assistant Attorney General and Chief of Staff
Office of Legislative Affairs
Offic (b) (6)
Ce (b) (6)

Antell, Kira M. (OLA)

From: Antell, Kira M. (OLA)
Sent: Monday, November 2, 2020 2:47 PM
To: Boyd, Stephen E. (OLA)
Subject: Election Day Materials
Attachments: OLA Triage of Election Calls_11022020.docx; DEO and ECC (OPS AND INTEL).pdf

Hi Stephen,

Attached are the primary election materials for tomorrow. You mentioned you planned to reach out so I wanted to share these with you. If you'd like to catch up, just let me know what is convenient for you. I'm free all afternoon.

Thanks,
Kira

Kira Antell
Office of Legislative Affairs
Department of Justice

(b) (6)

(b) (6)

NOVEMBER 2, 2020 VOTING PRESS RELEASE

FOR IMMEDIATE RELEASE

Monday, November 2, 2020

Justice Department Again to Monitor Compliance with the Federal Voting Rights Laws on Election Day

The Justice Department today announced its plans for voting rights monitoring in jurisdictions around the country for the Nov. 3, 2020 general election. The Justice Department historically has monitored in jurisdictions in the field on election day, and is again doing so this year. The department will also take complaints from the public nationwide regarding possible violations of the federal voting rights laws through its call center.

“Federal law entrusts the Civil Rights Division with protecting the right to vote for all Americans,” said Eric S. Dreiband, Assistant Attorney General for the Civil Rights Division. “Our federal laws protect the right of all American citizens to vote without suffering discrimination, intimidation, and harassment. The work of the Civil Rights Division around each federal general election is a continuation of its historical mission to ensure that all of our citizens can freely exercise this most fundamental American right.”

The Civil Rights Division enforces the federal voting rights laws that protect the rights of all citizens to access the ballot. Since the passage of the Voting Rights Act in 1965, the division has regularly monitored in a variety of elections around the country throughout every year to protect the rights of all voters, and not just in federal general elections.

On Nov. 3, the Civil Rights Division plans to send personnel to 44 jurisdictions in 18 states to monitor for compliance with the federal voting rights laws:

- Coconino County, Arizona;
- Maricopa County, Arizona;
- Navajo County, Arizona;
- Los Angeles County, California;
- Orange County, California;
- Broward County, Florida;
- Duval County, Florida;
- Hillsborough County, Florida;
- Miami-Dade County, Florida;
- Orange County, Florida;
- Palm Beach County, Florida;
- Fulton County, Georgia;
- Gwinnett County, Georgia;
- City of Chicago, Illinois;
- Cook County, Illinois;
- Montgomery County, Maryland;
- City of Boston, Massachusetts;

- City of Lowell, Massachusetts;
- City of Malden, Massachusetts;
- City of Quincy, Massachusetts;
- City of Springfield, Massachusetts;
- City of Detroit, Michigan;
- City of Eastpointe, Michigan;
- City of Flint, Michigan;
- City of Hamtramck, Michigan;
- City of Highland Park, Michigan;
- City of Jackson, Michigan;
- Shelby Township, Michigan;
- City of Minneapolis, Minnesota;
- Bergen County, New Jersey;
- Middlesex County, New Jersey;
- Bernalillo County, New Mexico;
- Mecklenburg County, North Carolina;
- Wake County, North Carolina;
- Cuyahoga County, Ohio;
- Allegheny County, Pennsylvania;
- Lehigh County, Pennsylvania;
- Philadelphia County, Pennsylvania;
- Richland County, South Carolina;
- Harris County, Texas;
- Waller County, Texas;
- Fairfax County, Virginia;
- Prince William County, Virginia; and
- City of Milwaukee, Wisconsin.

As in past years, monitors will focus on compliance with the Voting Rights Act, and the other federal voting rights laws enforced by the division. Monitors will include civil rights personnel from the Civil Rights Division and civil rights and civil personnel from U.S. Attorney's Offices. Civil Rights Division personnel will also maintain contact with state and local election officials.

The Civil Rights Division's Voting Section enforces the civil provisions of federal statutes that protect the right to vote, including the Voting Rights Act, the Uniformed and Overseas Citizens Absentee Voting Act, the National Voter Registration Act, the Help America Vote Act, and the Civil Rights Acts. The division's Disability Rights Section enforces the Americans with Disabilities Act (ADA) to ensure that persons with disabilities have a full and equal opportunity to vote. The division's Criminal Section enforces federal criminal statutes that prohibit voter intimidation and voter suppression based on race, color, national origin or religion.

On Election Day, Civil Rights Division personnel will be available all day to receive complaints from the public related to possible violations of the federal voting rights laws by a complaint form on the department's website <https://civilrights.justice.gov/> or by telephone toll-free at 800-253-3931.

Individuals with questions or complaints related to the ADA may call the department's toll-free ADA information line at 800-514-0301 or 800-514-0383 (TDD), or submit a complaint through a link on the department's ADA website, at <https://www.ada.gov/>.

Complaints related to disruption at a polling place should always be reported immediately to local election officials (including officials in the polling place). Complaints related to violence, threats of violence or intimidation at a polling place should be reported immediately to local police authorities by calling 911. These complaints should also be reported to the department after local authorities have been contacted.

Last week, the Justice Department [announced](#) its overall plans for the general election to protect the right to vote and secure the integrity of the voting process through the work of the Civil Rights Division, Criminal Division, National Security Division, and U.S. Attorney's Offices.

More information about the federal civil rights laws is available on the Civil Rights Division's website at <https://www.justice.gov/crt>.

Online: <https://www.justice.gov/opa/pr/justice-department-again-monitor-compliance-federal-voting-rights-laws-election-day>

OCTOBER 29, 2020 VOTING PRESS RELEASE

FOR IMMEDIATE RELEASE

Thursday, October 29, 2020

Justice Department Releases Information on Election Day Efforts to Protect the Right to Vote and Prosecute Ballot Fraud

Continuing a longstanding Justice Department tradition, Attorney General William P. Barr today issued the following statement: “Americans have the opportunity once again to help shape the future of this nation by exercising their right to vote. It is a right that forms the foundation of our democratic system of government, and is precious to all Americans. The Department of Justice will work tirelessly alongside other federal, state, and local agencies to protect that right as it is administered by state and local jurisdictions across the nation.”

In anticipation of the upcoming general elections, the Department of Justice today provided information about its particular efforts, through the Criminal Division, Civil Rights Division, and National Security Division, to ensure that all qualified voters have the opportunity to cast their ballots and have their votes counted free of discrimination, intimidation, or fraud in the election process.

Criminal Division and the Department’s 94 U.S. Attorney’s Offices:

The department’s Criminal Division oversees the enforcement of federal laws that criminalize certain forms of election fraud and vindicate the integrity of the federal election process.

The Criminal Division’s Public Integrity Section and the department’s 94 U.S. Attorney’s Offices are responsible for enforcing the federal criminal laws that prohibit various forms of election fraud, such as destruction of ballots, vote-buying, multiple voting, submission of fraudulent ballots or registrations, and alteration of votes, and malfeasance by postal or election officials and employees. The Criminal Division is also responsible for enforcing federal criminal law prohibiting voter intimidation for reasons other than race, color, national origin, or religion (as noted below, voter intimidation that has a basis in race, color, national origin, or religion is addressed by the Civil Rights Division).

The U.S. Attorney’s Offices around the country designate Assistant U.S. Attorneys who serve as District Election Officers (DEOs) in the respective Districts. DEOs are responsible for overseeing potential election-crime matters in their Districts, and for coordinating with the department’s election-crime experts in Washington, D.C.

From now through Nov. 3, 2020, the U.S. Attorney’s Offices will work with specially trained FBI personnel in each district to ensure that complaints from the public involving possible election fraud are handled appropriately. Specifically:

- In consultation with federal prosecutors at the Public Integrity Section in Washington, D.C., the District Election Officers in U.S. Attorney's Offices, FBI officials at headquarters in Washington, D.C., and FBI special agents serving as Election Crime Coordinators in the FBI's 56 field offices will be on duty while polls are open to receive complaints from the public.
- Election-crime complaints should be directed to the local U.S. Attorney's Offices or the local FBI office. A list of U.S. Attorney's Offices and their telephone numbers can be found at <http://www.justice.gov/usao/districts/>. A list of FBI offices and accompanying telephone numbers can be found at www.fbi.gov/contact-us.
- Public Integrity Section prosecutors are available to consult and coordinate with the U.S. Attorney's Offices and the FBI regarding the handling of election-crime allegations.

All complaints related to violence, threats of violence, or intimidation at a polling place should be reported first to local police authorities by calling 911; after alerting local law enforcement to such emergencies by calling 911, the public should contact the department.

Civil Rights Division:

The department's Civil Rights Division is responsible for ensuring compliance with the civil provisions of federal statutes that protect the right to vote, and with the criminal provisions of federal statutes prohibiting discriminatory interference with that right.

The Civil Rights Division's Voting Section enforces the civil provisions of a wide range of federal statutes that protect the right to vote including: the Voting Rights Act; the Uniformed and Overseas Citizens Absentee Voting Act; the National Voter Registration Act; the Help America Vote Act; and the Civil Rights Acts. Among other things, collectively, these laws:

- Prohibit election practices that have either a discriminatory purpose or a discriminatory result on account of race, color, or language minority status;
- Prohibit intimidation of voters;
- Provide that voters who need assistance in voting because of disability or illiteracy can obtain assistance from a person of their choice (other than agents of their employer or union);
- Provide for accessible voting systems for voters with disabilities;
- Provide for provisional ballots for voters who assert they are registered and eligible, but whose names do not appear on poll books;
- Provide for absentee voting for absent uniformed service members, their family members, and U.S. citizens living abroad; and
- Provide for covered States to offer citizens the opportunity to register to vote through offices that provide driver licenses, public assistance, and disability services, as well as through the mail; and to take steps regarding maintaining voter registration lists.

The Civil Rights Division's Disability Rights Section enforces the Americans with Disabilities Act (ADA) that prohibits discrimination in voting based on disability.

The Civil Rights Division's Criminal Section enforces federal criminal statutes that prohibit voter intimidation and vote suppression based on race, color, national origin, or religion.

On Election Day, Nov. 3, 2020, the Civil Rights Division will implement a comprehensive program to help ensure the right to vote that will include the following:

- The Civil Rights Division will conduct monitoring in the field under the federal voting rights statutes.
- Civil Rights Division attorneys in the Voting, Disability Rights, and Criminal Sections in Washington, D.C., will be ready to receive complaints of potential violations relating to any of the statutes the Civil Rights Division enforces. Attorneys in the division will coordinate within the Department of Justice and will take appropriate action concerning these complaints before, during, and after Election Day.
- Individuals with complaints related to possible violations of the federal voting rights laws can call the department's toll-free telephone line at 800-253-3931, and also can submit complaints through a link on the department's website, at <https://civilrights.justice.gov/>.
- Individuals with questions or complaints related to the ADA may call the Justice Department's toll-free ADA information line at 800-514-0301 or 800-514-0383 (TDD), or submit a complaint through a link on the department's ADA website, at ada.gov.
- Once again, complaints related to violence, threats of violence, or intimidation at a polling place should always be reported immediately to local authorities by calling 911. They should also be reported to the department after local authorities are contacted.

National Security Division:

The department's National Security Division supervises the investigation and prosecution of cases affecting or relating to national security, including any cases involving foreign interference in elections or violent extremist threats to elections. In this context:

- The National Security Division's Counterintelligence and Export Control Section oversees matters involving a range of malign influence activities that foreign governments may attempt, including computer hacking of election or campaign infrastructure; covert information operations (e.g., to promulgate disinformation through social media); covert efforts to support or denigrate political candidates or organizations; and other covert influence operations that might violate various criminal statutes.
- The National Security Division's Counterterrorism Section oversees matters involving international and domestic terrorism and supports law enforcement in preventing any acts of terrorism that impact Americans, including any violent extremism that might threaten election security.

As in past elections, on Nov. 3, 2020, the National Security Division will work closely with counterparts at the FBI and our U.S. Attorney's Offices to protect our nation's elections from any national security threats. In particular, attorneys from both sections will be partnered with FBI Headquarters components to provide support to U.S. Attorney's Offices and FBI Field Offices to counter any such threats. Again, complaints related to violence, threats of violence, or intimidation at a polling place should always be reported immediately to local authorities by

calling 911 and, after local authorities are contacted, then should also be reported to the department.

Both protecting the right to vote and combating election fraud are essential to maintaining the confidence of all Americans in our democratic system of government. The department encourages anyone with information suggesting voting rights concerns or ballot fraud to contact the appropriate authorities, and notes in particular that the Department of Homeland Security plays its own important role in safeguarding critical election infrastructure from cyber and other threats.

Online at: <https://www.justice.gov/opa/pr/justice-department-releases-information-election-day-efforts-protect-right-vote-and-prosecu-1>

Ellis, Corey (USAEO)

From: Ellis, Corey (USAEO)
Sent: Monday, November 2, 2020 4:01 PM
To: Boyd, Stephen E. (OLA)
Subject: RE: OLA Election Day Prep

Got plenty of corn mash?

From: Boyd, Stephen E. (OLA (b) (6)) >
Sent: Monday, November 2, 2020 10:37 AM
To: Levi, William (OAG (b) (6)) >; Bissex, Rachel (OAG (b) (6)); Newman, Ryan D. (OA (b) (6)) >; Moran, John (ODAG (b) (6)) >; Donoghue, Richard (ODAG (b) (6)) >; Ellis, Corey (USAEO (b)(6) per EOUSA); Murray, Claire M. (OASG) (b) (6)
Cc: Hankey, Mary Blanche (OL (b) (6)) >
Subject: OLA Election Day Prep

FYSA As some of you know, OLA will have a small working group in the office throughout the day and well into the evening tomorrow to handle any time sensitive incoming communications from Congress related to Election Day activities. I suspect this could range from literally nothing at all to a host of serious allegations of fraud or voter intimidation.

We are not soliciting concerns, but we are prepared to be responsive. OLA has the information for the appropriate contacts at the FBI and USAOs compiled to ensure information is routed appropriately.

If you or your colleagues are contacted by Members or staff, please route them directly to Mary Blanche or me. I of course defer to the AG or DAG if they want to take calls personally, but please feel free to send Members requesting calls to me and I'll handle whatever comes up in an appropriate fashion.

Thanks,

SB

Stephen E. Boyd
Assistant Attorney General
U.S. Department of Justice
Washington, D.C.

(b) (6)

Kazam, Alexander (OASG)

From: Kazam, Alexander (OASG)
Sent: Monday, November 2, 2020 5:04 PM
To: (b) (6) (ODAG)
Cc: Murray, Claire M. (OASG); Wilson, Ashley (OASG); Hamilton, Gene (OAG); Pandya, Brian (OASG); Dickey, Jennifer B. (OASG); Freeman, Lindsey (OASG); Day, Sean (OASG); McCotter, Trent (OASG); Grider, Mark (OASG)
Subject: ODAG Weekly Litigation Report 11/3
Attachments: ODAG Report 11.3.2020.docx

H (b) (6)

Please find attached this week's litigation report.

Thanks,
Alex

Johnson, Joanne E. (OLA)

From: Johnson, Joanne E. (OLA)
Sent: Tuesday, November 3, 2020 3:07 PM
To: Hankey, Mary Blanche (OLA); Antell, Kira M. (OLA)
Cc: Pings, Anne (OLA); Stephens, Taylor (OLA)
Subject: RE: Election Day CISA Director Krebs Call with Congressional Staff at 2pm
Attachments: Summary of DHS CISA Director Krebs Election Security Briefing for Congressional Staff.docx

Attached please find a Summary of the Election Security Briefing for Congressional Staff conducted by DHS CISA Director Krebs today from 2:00 to approximately 2:30.

From: Hankey, Mary Blanche (OL [REDACTED] (b) (6))
Sent: Tuesday, November 3, 2020 12:00 PM
To: Johnson, Joanne E. (OL [REDACTED] (b) (6)) >; Antell, Kira M. (OLA [REDACTED] (b) (6))
Cc: Pings, Anne (OLA [REDACTED] (b) (6)) >; Stephens, Taylor (OLA [REDACTED] (b) (6)) >
Subject: RE: Election Day CISA Director Krebs Call with Congressional Staff at 2pm

Agree. Thank you.

From: Johnson, Joanne E. (OLA [REDACTED] (b) (6))
Sent: Tuesday, November 3, 2020 11:55 AM
To: Antell, Kira M. (OLA [REDACTED] (b) (6))
Cc: Hankey, Mary Blanche (OLA [REDACTED] (b) (6)); Pings, Anne (OLA [REDACTED] (b) (6)); Stephens, Taylor (OLA [REDACTED] (b) (6))
Subject: Re: Election Day CISA Director Krebs Call with Congressional Staff at 2pm

Will do. Thank you.

On Nov 3, 2020, at 11:54 AM, Antell, Kira M. (OLA [REDACTED] (b) (6)) > wrote:

Thanks for sharing Joanne. I think it makes sense to proceed as you normally would. I'll be very interested to hear your report afterward - especially what kinds of questions staff had.

Thanks so much for letting us know.

Sent from my iPhone

On Nov 3, 2020, at 11:52 AM, Johnson, Joanne E. (OLA [REDACTED] (b) (6)) > wrote:

See below. DHS has been doing these update calls during the election season. The interagency just learned DHS is doing another one today. Typically, Adam o [REDACTED] (b) (6) are interested in listening in (and have listened in). They do not have a speaking role or are announced. I would typically inform them of this (as they would want to know), and I would listen in, as well. However, I wanted to run this by the Working Group first. I will stand by and wait to hear back from you. The call is at 2 today.

Begin forwarded message:

From: "Faulkner, Charles" (b)(6) per DHS
Date: November 3, 2020 at 11:44:50 AM EST
T (b)(3), (b)(6) per ODNI
(b)(3), (b)(6) per ODNI (b)(6), (b)(7)(C) per FBI (DO) (FB (b)(6), (b)(7)(C), (b)(7)(E) per FBI
(b)(6), (b)(7)(C), (b)(7)(E) per FBI (b)(6), (b)(7)(C) per FBI (DO) (FBI)"
(b)(6), (b)(7)(C), (b)(7)(E) per FBI, "Johnson, Joanne E. (OLA) (JMD)"
(b)(6) (b)(3) per NSA
"Trumbull D. Soule (b)(3) per NSA, (b)(3); (b)(6)
Cc: "Wieczorek, Erin" (b)(6) per DHS >, "GHANI, MUHAMMAD" (b)(6) per DHS (b)(6) per DHS
(b)(6) per DHS (b)(6) per DHS
(b)(6) per DHS (b)(6) per DHS
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(b)(6) per DHS (b)(6) per DHS (b)(6) per DHS
(b)(6) per DHS (b)(6) per DHS
(b)(6) per DHS >
Subject: RE: Election Day CISA Director Krebs Call with Congressional Staff at 2pm

Call information for today's 2pm call should you wish to listen in.

From: Faulkner, Charles
Sent: Monday, November 2, 2020 2:11 PM
Cc: Wieczorek, Erin (b)(6) per DHS >; GHANI, MUHAMMAD
(b)(6) per DHS (b)(6) per DHS
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(b)(6) per DHS (b)(6) per DHS >
Subject: Election Day CISA Director Krebs Call with Congressional Staff at 2pm

INVITATION: Congressional Staff Conference Call on Election Security with CISA Director Krebs

Please join Christopher Krebs, Director of the Cybersecurity and Infrastructure Security Agency (CISA), on **Tuesday, November 3 at 2:00 PM** for an UNCLASSIFIED bipartisan audio teleconference on Election Security.

Director Krebs will provide congressional staff an update on what CISA is observing on election day and take questions.

What: UNCLASSIFIED Briefing and Q&A for staff

Who: CISA Director Krebs and CISA officials.

When: Tuesday, November 3rd at 2:00 PM-2:45 PM

Participant Dial i (b)(6) per DHS

RSVP: Charles Faulkn (b)(6) per DHS) and Muhammad
Gha (b)(6) per DHS

##

Charles Faulkner
Senior Advisor
Cybersecurity and Infrastructure Security Agency (CISA)
(b)(6) per DHS

**Summary of DHS CISA Director Krebs Election Security Briefing
For Congressional Staff
November 3, 2020 (2:00 to 2:30)
[Notes of Joanne Johnson, OLA]**

Briefer:

DHS Cybersecurity and Infrastructure Security Agency (CISA) Director Krebs

Audience:

Congressional Staff

Summary:

The level of cyber activity is what we would expect. Not seeing any directed cyber activity to tie back to any adversary. Since early this morning, we have been up and running. Been in heightened awareness posture for last 45 days. Been sharing with federal and state and local partners; engaging in enhanced coordination. Have virtual situational awareness room. Have 500 state and locals sharing information as they see it in the virtual awareness room. Will keep the virtual room up through the week. From a daily perspective, have had 24-7 staffing overnight. Started out day with a press conference to share with American people what seeing and expect to see over today. Have been coordinating throughout country, including media calls to share what seeing.

Have seen the following three issues:

1. Technical Disruptions/Failures of systems. These are systems not properly updated or not able to keep up because stressed.
 - Some systems of one vendor were not synching up. This was addressed in the early hours this morning.
 - One county reverted to paper/manual ballots to keep vote moving forward.
 - Another vendor in Nevada had an issue but it is back up.
 - (b)(7)(E) per FBI
 - We expect over next several days targeting of election night reporting and denial of service attacks to disrupt flow of information to get Americans to lose faith in process. Iranians are known for this. Also, expect steady diet of misinformation from adversaries to sow doubt with American people. DHS has a "rumor control page" to debunk claims that American people see.
2. Some folks/poll workers did not show up because of the Fall back time change confusion.
3. Broad scanning of networks happening.

Questions:

Q: Sikorsky (HPSCI staff): Regarding cyber intrusions, you said you have not seen anything super significant yet. What about ransomware or potential intrusions? Have you seen that on election infrastructure or voter registration?

A: Have not seen intrusions in election network. Have seen back loaders targeting health care infrastructure but not seeing it on election infrastructure.

(b)(7)(E) per FBI

Q: Soighan (Sen. Wyden's staff): Re Proud Boys, the video included nonpublic information of voters of Alaska. What can you share and has voter information in AK been compromised?

A: Iranian actors were scanning, found state website, and got it to reveal public data. No altering of data. Based on our understanding with state, Alaska has addressed.

Q: Were social security numbers were stolen?

A: Will have to get back to you on that.

(b)(7)(E) per FBI

Q: Aaron Cooper (SSCI): In relation to vulnerabilities re scanning and intrusion of Russian actors, do you have a sense how active states and counties have been in patching that vulnerability?

A: There have been two scanning campaigns: 1) Alaska with Iranians, and 2) Russian actors scanning private, state, local, and federal systems. Have sent out alerts on Iranian and Russian activity. Have shared information in election infrastructure Information Sharing and Analysis Centers (ISAC) and the multistate ISAC. We are still trying to get good metrics on patching/cyber hygiene. In all matters of vulnerability management, particularly at state and local level, it can certainly be better. Look forward to more collaboration with Hill, like administrative subpoena authority, to drive more attention to this.

Q: Matthew Patton (House Oversight): What is CISA expecting to see tonight and in the coming days? You mentioned disinformation attempts. Please explain. Are you primarily concerned about this or intrusion campaigns? What are sources of activity?

A: Yes. The things we would expect would be more on the disinformation front over the next day. We would expect actors, like Iran, Russia or others, to spread misinformation, like say that system that was malfunctioning in Franklin, Ohio was actually hacked by the adversary (i.e., spread of disinformation, as that would not be true). Website defacement/manipulation of election night reporting to change unofficial results could happen. Denial of service to take systems offline to create chaos could happen. Over next week, expect disinformation to say systems have been hacked and votes manipulated and let that spin out. Expect direct approaches to media and Congress to spread disinformation. 2016 was a different time; we didn't have the strategic planning in place like we do now. We have the relationships with our state and locals and social media partners. Spent years on educating on disinformation, too. American public is more desensitized and more inoculated on these effects. People can recognize foreign government trying to interfere (like the Iranian Alaska issue).

Q: Sikorsky (HPSCI): Social media companies have been trying to detect disinformation and shut down accounts. What if anything can you say we have learned from social media in the last 72 hours and how are they plugged in to the collaboration environment?

A: We have been working with major social media platforms now for years to make sure we have a playbook. There was a situation in Ohio in 2018 where a voter posted something on social media about a vote being manipulated. Social media partners connected with us on that. We have good rhythm and ability to coordinate in real time with our social media partners.

Q: Staff (Sen. Carper): Wanted to follow-up on social media platforms being plugged into operational center to see if they will be involved on Election Day re spreading of disinformation. How are they operating today with feds, states, and locals and are they plugged in to key battleground states who might be more subject to a disinformation campaign?

A: Due to improvements after 2016, some of the efforts to disrupt globally have been unsuccessful (like on Facebook and Twitter). Consequently, they use online journals or proxy organizations to engage Americans with disinformation. They are forced to evolve techniques because we have put "sand in their gears." We will continue to knock down their efforts, which result in them evolving their techniques. We are seeing less success in operations because American people are more discerning and have a better idea of what is going on out there. Our campaign at DHS has helped with that. Operationally, the bad guys have had to shift and determine whether to be "big and loud" on disinformation or take a quieter, subtle approach. When the Iranians were big and loud in Alaska, we shut them down.

Q: Soighan (Sen. Wyden): I received an email from T-Mobile re robo calls, where T-Mobile indicates that they have not received actionable intelligence from DHS on this matter. You said you felt like this is an FBI matter. However, carriers are looking for contact from DHS. Can you get in touch with them and connect them with FBI?

A: Will take for action.

Q: Fausett (SJC): You are speaking with the campaigns throughout the day is there a process or protocol in place to ensure that campaigns don't amplify possible vote count misinformation issues?

A: We have contacts with the RNC, DNC, and Congressional committees. We are pushing alerts to them. Plus DHS has a rumor control link on its webpage. We will continue to push out alerts and notifications that way.

Antell, Kira M. (OLA)

From: Antell, Kira M. (OLA)
Sent: Tuesday, November 3, 2020 3:17 PM
To: Boyd, Stephen E. (OLA)
Cc: Hankey, Mary Blanche (OLA)
Subject: FW: Election Day CISA Director Krebs Call with Congressional Staff at 2pm
Attachments: Summary of DHS CISA Director Krebs Election Security Briefing for Congressional Staff.docx

Hi Stephen,

Joanne sat in on a CISA (DHS) call for Congressional staff at 2:00 this afternoon on cyber election security. She shared this very helpful summary. Nothing of particular note but they do expect disinformation to occur in the next several days regarding the election outcome.

Thanks,
Kira

From: Johnson, Joanne E. (OLA (b) (6))
Sent: Tuesday, November 3, 2020 3:07 PM
To: Hankey, Mary Blanche (OLA (b) (6)); Antell, Kira M. (OLA (b) (6))
Cc: Pings, Anne (OLA (b) (6)); Stephens, Taylor (OLA (b) (6))>
Subject: RE: Election Day CISA Director Krebs Call with Congressional Staff at 2pm

Attached please find a Summary of the Election Security Briefing for Congressional Staff conducted by DHS CISA Director Krebs today from 2:00 to approximately 2:30.

From: Faulkner, Charles
Sent: Monday, November 2, 2020 2:11 PM
Cc: Wiczorek, Eri (b)(6) per DHS (b)(6) per DHS
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(b)(6) per DHS (b)(6) per DHS (b)(6) per DHS ;
(b)(6) per DHS (b)(6) per DHS
Subject: Election Day CISA Director Krebs Call with Congressional Staff at 2pm

**INVITATION: Congressional Staff Conference Call on Election Security with
CISA Director Krebs**

Please join Christopher Krebs, Director of the Cybersecurity and Infrastructure Security Agency (CISA), on **Tuesday, November 3 at 2:00 PM** for an UNCLASSIFIED bipartisan audio teleconference on Election Security.

Director Krebs will provide congressional staff an update on what CISA is observing on election day and take questions.

What: UNCLASSIFIED Briefing and Q&A for staff

Who: CISA Director Krebs and CISA officials.

When: Tuesday, November 3rd at 2:00 PM-2:45 PM

Participant Dial i (b)(6) per DHS

RSVP: Charles Faulkn (b)(6) per DHS) and Muhammad
Gha (b)(6) per DHS

##

Charles Faulkner
Senior Advisor
Cybersecurity and Infrastructure Security Agency (CISA)
(b)(6) per DHS

From: DCD_ECFNotice@dcd.uscourts.gov<mailto:DCD_ECFNotice@dcd.uscourts.gov>
<DCD_ECFNotice@dcd.uscourts.gov<mailto:DCD_ECFNotice@dcd.uscourts.gov>>
Sent: Tuesday, November 03, 2020 12:29 PM
To: DCD_ECFNotice@dcd.uscourts.gov<mailto:DCD_ECFNotice@dcd.uscourts.gov>
Subject: Activity in Case 1:20-cv-02295-EGS NATIONAL ASSOCIATION FOR THE ADVANCEMENT
OF COLORED PEOPLE v. UNITED STATES POSTAL SERVICE et al Order on Motion for Order

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT
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attorneys of record and parties in a case (including pro se litigants) to receive one free
electronic copy of all documents filed electronically, if receipt is required by law or directed by
the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of
each document during this first viewing. However, if the referenced document is a transcript,
the free copy and 30 page limit do not apply.

U.S. District Court

District of Columbia
Notice of Electronic Filing

The following transaction was entered on 11/3/2020 at 12:28 PM EDT and filed on 11/3/2020

Case Name:

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE v. UNITED STATES
POSTAL SERVICE et al

Case Number:

1:20-cv-02295-EGS<<https://ecf.dcd.uscourts.gov/cgi-bin/DktRpt.pl?221243>>

Filer:

Document Number:

No document attached

Docket Text:

MINUTE ORDER granting [67] Motion for Further Relief. It is hereby ORDERED that, beginning
no later than 12:30 PM EST today, Defendants shall send Postal Service inspectors or their
designees, to processing facilities in the following Districts and direct them to sweep the
facilities between 12:30 PM EST and 3:00 PM EST to ensure that no ballots have been held up
and that any identified ballots are immediately sent out for delivery: Central Pennsylvania,
Philadelphia, Detroit, Colorado/Wyoming, Atlanta, Houston, Alabama, Northern New England,
Greater South Carolina, South Florida, Lakeland, and Arizona. Alternatively, Defendants may
satisfy this paragraph if inspectors from the USPS Office of Inspector General ("OIG") are
available to oversee the sweep of processing facilities described in the previous sentence. No
later than 4:30 PM EST today, Defendants shall file a status update certifying compliance with
this paragraph upon confirming, in the most efficient manner available, that sweeps were
conducted and that no ballots were left behind. To be clear, the inspectors themselves need not
provide any certifications to the Court. It is FURTHER ORDERED that by no later than 4:30 PM
EST today, Defendants shall identify the 27 processing centers at which the OIG was onsite and
the list of facilities that the Postal Inspectors have observed since October 19, 2020, unless OIG

raises an objection to the identification of these sites. Signed by Judge Emmet G. Sullivan on 11/3/2020. (lcegs3)

1:20-cv-02295-EGS Notice has been electronically mailed to:

Allison Marcy Zieve azieve@citizen.org<<mailto:azieve@citizen.org>>,
LitFileNotify@citizen.org<<mailto:LitFileNotify@citizen.org>>

Samuel Spital sspital@naacpldf.org<<mailto:sspital@naacpldf.org>>

Joseph Evan Borson joseph.borson@usdoj.gov<<mailto:joseph.borson@usdoj.gov>>

John Robinson (b) (6) <[\(b\) \(6\)](mailto:(b) (6))>

Brianne Jenna Gorod brianne@theusconstitution.org<<mailto:brianne@theusconstitution.org>>,
dayna@theusconstitution.org<<mailto:dayna@theusconstitution.org>>

Douglas N. Letter douglas.letter@mail.house.gov<<mailto:douglas.letter@mail.house.gov>>,
ogc.ecf@mail.house.gov<<mailto:ogc.ecf@mail.house.gov>>

Kuntal Virendra Cholera (b) (6) <[\(b\) \(6\)](mailto:(b) (6))>

1:20-cv-02295-EGS Notice will be delivered by other means to::

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

**National Association for the Advancement of
Colored People,**

Plaintiff,

v.

United States Postal Service, *et al.*,

Defendants

Case No. 20-cv-2295

**DEFENDANTS' RESPONSE TO
THIS COURT'S NOVEMBER 3, 2020 ORDER**

Defendants respectfully provide the following response to this Court's November 3, 2020 Order.

Defendants have been working to comply with this Court's Order, which requires a "sweep" of postal facilities within several specified districts, while recognizing the limitations caused by time and the Postal Service's pre-existing Postal Inspection processes. As of the time of this filing, that process remains ongoing.

As an initial note, pursuant to this Court's previous orders, "all clears" and successful certifications were conducted at all processing plants this morning by 10 a.m. local time, indicating that ballots were accounted for properly. Furthermore, as previously reported, U.S. Postal Inspectors have been present and observing operations and the security of election mail at all processing facilities that process ballots (i.e., those with processing operations for flats and letters) on a daily basis since October 29, 2020. The Inspection Service is conducting daily reviews of 220 facilities handling election mail, including discussing conditions with facility managers.

Inspectors are instructed to walk the facility and observe the conditions of mail and consider a specific list of items. These include reviewing Election and Political Mail logs for accuracy and completeness, reviewing staging areas for Election and Political Mail and areas outside the staging area for Election and Political Mail, scanning for delayed mail, ensuring Election Mail is processed expeditiously, and ensuring no ballots can be held for postage due.

Facility sweeps, however, of the type that occurred this morning are not undertaken by Inspectors personally, but are rather operational responsibilities, undertaken by multiple plant support personnel. There are only one or two Inspectors in any one facility, and thus they do not have the ability to personally scour the entire facility. Indeed, doing so would be impractical (given the size of that facility) and would take them away from their other pressing Election Mail-related responsibilities, as detailed above.

This daily review process, however, occurs at different times every day, which Defendants' Counsel did not learn until recently, and after this morning's hearing, when these issues were raised for the first time by Plaintiffs' counsel. Specifically, on Election Night, it is scheduled to occur from 4pm to 8pm, a time period developed by Postal Service Management and the Postal Inspection Service in order to ensure that Inspectors are on site to ensure compliance at the critical period before the polls close. Given the time constraints set by this Court's order, and the fact that Postal Inspectors operate on a nationwide basis, Defendants were unable to accelerate the daily review process to run from 12:30pm to 3:00pm without significantly disrupting preexisting activities on the day of the Election, something which Defendants did not understand the Court to invite or require.

Moreover, Inspectors do not themselves resolve identified deficiencies, but rather discuss those deficiencies they do identify with facility managers for those managers to resolve as

expeditiously as possible. The Inspectors can thus only certify that any deficiencies which could include Election Mail in staging and non-staging areas have been identified and referred.

As mentioned above, that process is now ongoing, and has been since 4pm local time.

Defendants are thus able to certify the following at this time:

The Postal Inspection Service is or shortly will be conducting observations of 220 facilities for potential incidents involving Election Mail, to include reviewing staging and non-staging areas for ballots. These include processing facilities in the Central Pennsylvania, Philadelphia, Detroit, Colorado/Wyoming, Atlanta, Houston, Alabama, Northern New England, Greater South Carolina, South Florida, Lakeland, and Arizona Districts. Any identified deficiencies will be reported to facility management for resolution.

Inspectors will be in the identified Postal facilities throughout the evening. Defendants are working as expeditiously as possible to comply with this Court's orders while recognizing physical and operational limitations and the need to avoid disrupting key activities on Election Day.

Separately, Defendants also identify the 27 facilities at which OIG personnel are on site:

Facility Name	Area	District
PHOENIX AZ P&DC	WESTERN	ARIZONA
JACKSONVILLE FL P&DC	SOUTHERN	GULF ATLANTIC
MIAMI FL P&DC	SOUTHERN	SOUTH FLORIDA
ORLANDO FL P&DC	SOUTHERN	SUNCOAST
TAMPA FL P&DC	SOUTHERN	SUNCOAST
WEST PALM BEACH FL P&DC	SOUTHERN	SOUTH FLORIDA
ATLANTA GA P&DC	CAPITAL METRO	ATLANTA
AUGUSTA GA P&DC	SOUTHERN	GULF ATLANTIC
NORTH METRO GA P&DC	CAPITAL METRO	ATLANTA
DES MOINES IA P&DC	WESTERN	HAWKEYE
DETROIT MI P&DC	GREAT LAKES	DETROIT
GRAND RAPIDS MI P&DC	GREAT LAKES	GREATER MICHIGAN
MICHIGAN METROPLEX MI P&DC	GREAT LAKES	DETROIT
DULUTH MN P&DC	WESTERN	NORTHLAND
MINNEAPOLIS MN P&DC	WESTERN	NORTHLAND
SAINT PAUL MN P&DC	WESTERN	NORTHLAND
CHARLOTTE NC P&DC	CAPITAL METRO	MID-CAROLINAS
GREENSBORO NC P&DC	CAPITAL METRO	GREENSBORO

RALEIGH NC P&DC	CAPITAL METRO	GREENSBORO
CLEVELAND OH P&DC	EASTERN	NORTHERN OHIO
COLUMBUS OH P&DC	EASTERN	OHIO VALLEY
HARRISBURG PA P&DC	EASTERN	CENTRAL PENNSYLVANIA
PHILADELPHIA PA P&DC	EASTERN	PHILADELPHIA METROPOLITAN
PITTSBURGH PA P&DC	EASTERN	WESTERN PENNSYLVANIA
GREEN BAY WI P&DC	GREAT LAKES	LAKELAND
MADISON WI P&DC	GREAT LAKES	LAKELAND
MILWAUKEE WI P&DC	GREAT LAKES	LAKELAND

Dated: November 3, 2020

Respectfully submitted,

JEFFREY BOSSERT CLARK
Acting Assistant Attorney General

ERIC WOMACK
Assistant Branch Director
Federal Programs Branch

/s/ Joseph E. Borson

JOSEPH BORSON
KUNTAL V. CHOLERA
ALEXIS ECHOLS
DENA ROTH
JOHN J. ROBINSON
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, NW
Washington, D.C. 20005
Telephone: (202) 514-1944
E-mail: Joseph.Borson@usdoj.gov

Attorneys for Defendants

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

Vote Forward, *et al*,

Plaintiffs,

v.

Case No. 20-cv-2405

DeJoy, *et al*,

Defendants.

DECLARATION OF DANIEL B. BRUBAKER

I, Daniel B. Brubaker, of the United States Postal Inspection Service ("Postal Inspection Service") hereby make the following declaration in lieu of an affidavit as permitted by 20 U.S.C. § 1746.

1. The Postal Inspection Service is the law enforcement and security arm of the U.S. Postal Service. To carry out its mission, it employs Postal Inspectors, Postal Police Officers, and support staff.
2. I am the Inspector in Charge (INC) of the Security Group which is primarily located at United States Postal Service's National Headquarters in Washington, D.C. and have been in this role since September 28, 2019.
3. Prior to being the INC of the Security Group, I was the INC of the Inspection Service's Philadelphia Division from March 2017 to September 2019. I have been employed by the Inspection Service since September 1999 and have held roles as Assistant Postal Inspector in Charge, Team Leader, and Postal Inspector during that time.

4. As the INC of the Security Group I oversee the Inspection Service's role in the Postal Service's Election Mail efforts.
5. The Inspection Service consists of 17 different divisions covering all 50 states as well as Guam, Puerto Rico, and the Virgin Islands. Each division has domiciles where personnel are physically located. The Inspection Service employs approximately 1,280 Postal Inspectors at approximately 190 work sites.
6. The Inspection Service has conducted daily reviews, called Observation of Mail Conditions ("OMCs"), of 220 mail-processing facilities handling Election Mail for the past several days according to schedules set several days before election day. On November 3, 2020, Inspectors were scheduled to be at their assigned facility from 4 p.m. to 8 p.m. Typically, one (and sometimes two) Inspector was assigned to each facility. The facilities are very large – in many of them, the processing machines are almost as large as a football field. Inspectors are instructed to walk throughout the facility and observe the conditions of Election Mail, chiefly ballots, processed and handled by employees. The Inspectors consider a specific list of items (attached as Exhibit 1). These include reviewing Election and Political Mail logs for accuracy and completeness, reviewing staging areas for Election and Political Mail and areas outside the staging area for Election and Political Mail, scanning for delayed mail, ensuring Election Mail is processed expeditiously, and ensuring no ballots can be held for postage due. The overall purpose of the reviews is to do everything possible make sure ballots are delivered timely. Deficiencies are identified and reported to management for prompt resolution.
7. In consultation with the Postal Service management, it was determined Inspectors were scheduled, in advance, to be at their processing plants from 4 p.m. to 8 p.m. on election day, because the bulk of the mail arrives from

delivery units that carriers collected throughout the day after approximately 4 p.m., and processing begins then. Inspectors had been instructed to pay attention to specific postmarking or ballot-in-hand rules for each state, which impact the processing of Election Mail on November 3, 2020. In addition to this role, the Inspection Service was also an overt security presence at the facilities.

8. When the Court issued its Order at approximately 12:30 p.m., it was not practicable to move OMCs earlier in the day due to logistical considerations. At the time the Order was issued, the Inspectors were not at the facilities. The OMCs are not a normal duty and Inspectors had been assigned to conduct them for a particular period of time. In the time prior to the OMC they were conducting their normal duties related to their assigned team (e.g., mail theft, mail fraud, dangerous mail responses, etc.). When the Court order was issued, there was not enough time to contact them, to have them travel to the processing facilities, and to assign new duties to them at the facilities. Notably, some of these duties they were undertaking elsewhere included election matters unrelated to OMCs.
9. The term “sweep” is used in multiple contexts in the Postal Service. It is used by employees in operations – it means that employees examine every place in a plant to make sure no ballots have not been left behind pursuant to a specific plan. These sweeps involve approximately one to five employees, depending on the size of the facility, and Inspectors did observe these sweeps in addition to their own efforts, and reported any deficiencies to facility management. In addition to this, Inspectors conducted their own “sweeps” of facilities as part of the OMC, where they search equipment, trailers, recyclable dumpsters, staging areas, empty equipment areas, bathrooms, breakrooms, locker rooms,

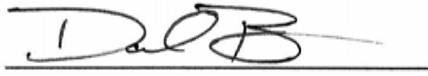
stock rooms, offices, closets, etc. It is not possible for them to conduct the same type of sweep as operations employees in the time allotted.

10. For the locations set forth in the Order (Central Pennsylvania, Philadelphia, Detroit, Colorado/Wyoming, Atlanta, Houston, Alabama, Northern New England, Greater South Carolina, South Florida, Lakeland, and Arizona) the following matters were discovered related to ballots:

a. In Johnstown, PA three delayed ballots were discovered and were being expedited by management for delivery.

b. In Lancaster, PA ten ballots were discovered from collectors and referred to management for delivery.

Executed at Washington, D.C., on this 4th day of November 2020.


Daniel B. Brubaker



Security Group

OMC - Section B. Processing and Distribution (P&DC/NDC/Other Processing Facilities)			
Walk the facility and observe the conditions of mail and consideration items listed below. As appropriate, locate a manager and work with them to identify your answers to the questions below. Include comments for all answers of NO or NA.			
Inspector:		Date:	Division:
ITEM	MAIL CONDITION OBSERVED	Y/N/NA	ITEMS FOR CONSIDERATION
B1	EM/PM "ALL CLEAR" certification done on previous day?	-	Ask to see the previous day's ALL CLEAR; or check for ALL CLEAR in USPS BLUE. https://facilitycerts.usps.gov/ .
Comments:			
B2	EM/PM log is present and properly completed?	-	Ask to see the "Plant Political/Election Mail Log" at the dock. Verify it is current, complete and accurate. All Acceptance Employees are required to record every qualified EM/PM mailing accepted in the log.
Comments:			
B3	EM/PM samples, copies, or descriptions are kept/recorded?	-	The expeditor receives the paperwork from the driver. He validates the count and keeps a copy and gives a copy to the driver.
Comments:			
B4	EM/PM is moved to staging area or positioned for processing?	-	EM/PM can only move from docks to the EM/PM staging area or positioned by machines for processing. Plants should have staging areas clearly marked for EM/PM.
Comments:			
B5	EM/PM is found outside the staging or processing area?	-	Observe: docks, opening unit, 010, manual flat/letter sorting, pouching/sack operations, other staging areas, express, registry, all non-floor areas, storage, offices, break rooms, etc.
Comments:			
B6	EM/PM is found delayed? Verify with "Mail History" app scans	-	Scan a sampling of barcode labels on placards/trays. If DELAYED EM/PM is found, annotate pieces/volumes in the comments section and the narrative.
Comments:			
B7	EM/PM is found unworked in Nixie/Hazmat unit?	-	Verify EM/PM in NIXIE is being worked expeditiously.
Comments:			
B8	EM/PM is being handled expeditiously?	-	Ensure every effort is made to process EM expeditiously. Confirm it is processed in order of arrival. EM staging areas are expected. If First In/First Out is applies, clearance tags should be used.
Comments:			
B9	EM with postage due is handled properly?	-	No Election Mail (ballots) can be held for postage due.
Comments:			
B10	Tag 191 (EM/GREEN) and Tag 57 (PM/RED) are being used?	-	Use of Tags 191 and 57 is OPTIONAL. Tags identify trays and sacks as containing ballots (only), or PM, and increase visibility in the network. Once EM/PM is co-mingled in processing, tags are generally not expected.
Comments:			

ITEM	MAIL CONDITION OBSERVED	Y/N/NA	ITEMS FOR CONSIDERATION
B11	Postal manager was briefed?	-	A manager for the facility should be briefed of the observations and any issues that need addressed.
Comments:			

OMC - Section B. Processing and Distribution (P&DC/NDC/Other Processing Facilities)	
After observing all conditions, completing the questions, and briefing the manager of your findings, write your narrative summary below. Describe any observations of note, approximate volumes of delayed or curtailed EM/PM, or issues needing addressed. This portion and your report narrative is required and included in the OMC Executive Summary Report.	
Facility:	Manager Briefed:
Facility Address:	
Date:	Time:
OMC REPORT NARRATIVE	
(Insert narrative here)	

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.



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](mailto:[REDACTED]@usps.gov), and [REDACTED], [REDACTED] [@usps.gov](mailto:[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.

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

**National Association for the Advancement of
Colored People,**

Plaintiff,

v.

United States Postal Service, *et al.*,

Defendants

Case No. 20-cv-2295

**DEFENDANTS' FURTHER RESPONSE TO
THIS COURT'S NOVEMBER 3, 2020 ORDER**

Defendants respectfully provide the following further response to this Court's November 3, 2020 Order. At the outset, Defendants reiterate that they take their compliance with the orders of this Court extremely seriously. As this Court is aware, throughout this case and the related cases, Defendants have undertaken significant efforts to comply with this Court's orders. As explained below, after this Court issued its November 3, 2020 Order, Defendants undertook further efforts to comply with the Court's Order to the best of their ability.

On November 3, 2020, the Postal Inspection Service conducted inspections in the 220 mail processing facilities across the country that handle Election Mail, including the relevant processing facilities in the specific postal districts identified in this Court's November 3, 2020 order. Among other things, they searched holding and non-holding areas for Election Mail, scanned for delayed mail, and ensured that Election Mail was processed expeditiously. Any deficiencies were identified and reported to management for resolution. Throughout the day and into the evening, processing plants, including those in the postal districts required by this Court's order, were also