U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

March 30, 2018

Re: DOJ-2017-004083 (OLP)
DOJ-2017-004291 (AG)
DOJ-2017-004292 (DAG)
DOJ-2017-004293 (ASG)
DOJ-2017-005582 (AG)
DOJ-2017-005734 (DAG)
DOJ-2017-005735 (ASG)
DOJ-2017-005736 (OLP)
DOJ-2017-005737 (OIP)
17-cv-06335 (S.D.N.Y.)
VRB:CJOK:BPF

Ms. Wendy Weiser
Brennan Center for Justice
120 Broadway, Suite 1750
New York, NY 10271
weiserw@brennan.law.edu

Dear Ms. Weiser:

This is an interim response to your Freedom of Information Act (FOIA) requests dated and received in this Office on May 15, 2017 and July 25, 2017, in which you requested records pertaining to (1) the Presidential Advisory Commission on Election Integrity (the Commission), and (2) communications and documents involving the use of specific databases and activities of the Commission. This response is made on behalf of the Offices of the Attorney General (OAG), Deputy Attorney General (ODAG), Associate Attorney General (OASG), Legal Policy (OLP), and Information Policy (OIP).

On January 31, 2018, we provided you with an interim response to your requests. At this time, I have determined that an additional sixty-four pages containing records responsive to your requests are appropriate for release, and copies are enclosed. The enclosed records consist of Departmental correspondence with Congress, including attachments thereto. Please note that the attachments contain FOIA redactions that were present on the records as located by this Office, and were not made as part of our FOIA review for this response. These redactions were originally made pursuant to FOIA Exemption 6, 5 U.S.C. § 552(b)(6), which pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties. Additionally, please note that the blank boxes (with no FOIA exemption indicated) that appear in attachments consisting of emails from outside organizations are artifacts of their original emails and, again, were not made as part of our FOIA review. Finally, correspondence in this production makes reference to an attached amicus brief filed by the Department in *Ohio A. Philip Randolph Institute v. Husted*. This brief is already publicly available on the Department's website at:

https://www.justice.gov/sites/default/files/briefs/2017/08/07/16-980_husted_v_randolph_institute_ac_merits.pdf.

. We are continuing to process remaining records that are potentially responsive to your requests, and pursuant to our agreement, we will respond to you again by April 27, 2018.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c) (2015) (amended 2016). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you have any questions regarding this response, please contact Casey Kyung-Se Lee, Assistant United States Attorney for the Southern District of New York at 212-637-2714.

Sincerely,

Vanessa R. Brinkmann
Senior Counsel

Enclosures

United States Senate
WASHINGTON, DC 20510

July 11, 2017

The Honorable Jeff Sessions
Attorney General
Department of Justice
950 Pennsylvania Ave, NW
Washington, D.C. 20530

The Honorable Tom Wheeler
Acting Assistant Attorney General
Department of Justice
Civil Rights Division
950 Pennsylvania Ave, NW
Washington, D.C. 20530

Dear Attorney General Sessions and Acting Assistant Attorney General Wheeler:

We write to request more information regarding the Department of Justice's June 28 letter to forty-four states requesting information about state-level procedures for maintaining voter registration lists. The Department's letter was sent on the same day that the Presidential Advisory Commission on Election Integrity ("the Commission") requested sensitive voter roll data from state election officials. We do not believe this is a coincidence.

The Commission's June 28 request for voter data has been met with resistance from state election officials from both parties, and forty-four states have refused to provide the Commission with all of the data it requested.[1] Accordingly, we request more information from the Department about the underlying authority for both June 28 letters. We respectfully ask that the Department provide responses to the following questions by July 24, 2017.

1. What communications has the Department of Justice or any employee of the Department had with any member of or advisor to the Presidential Advisory Commission on Election Integrity? We also ask that you include any relevant documents or records of any such communications in your response.

2. In its June 28 letter to state officials, the Department cites authority provided under the National Voter Registration Act (NVRA). When was the last time that the Department's Civil Rights Division made an affirmative request for information from all states covered by the NVRA? Please describe the circumstances surrounding any such previous request and specific provisions of the NVRA the Department believes give it legal authority to make such a request.

[1] Indeed, even Kansas Secretary of State Kris Kobach, who serves as vice chair of the Commission, has indicated that his state will not fully comply with the Commission's request.

3. In your June 28 letters requesting data from state election officials, you wrote: "Data regarding confirmation notices, removals from the voter registration list, and active and inactive registered voters are of particular relevance and are among the categories of data for which reporting is required by EAC regulations. However, such data for some states were not included in the 2014 [Election Administration and Voting Survey]. Thus, some states are receiving a request for any missing data as part of the information requested below." But our review of that survey suggests that, for each of the categories you deemed to be of "particular relevance," a significant majority of states *did* provide data. For each respective category of data you listed (i.e., data regarding confirmation notices, removals from the voter registration list, and active and inactive registered voters), please identify which states did not provide the required data.

4. The Commission's June 28 letter to state officials cites authority provided under Executive Order 13799 issued on May 11, 2017. The Executive Order does not specifically grant the Commission authority to collect and aggregate voter data. Under what legal authority did the Commission make such a sweeping request for voter data from state officials?

5. Last May, the Department of Justice filed a Statement of Interest of the United States setting forth the Department's position on interpretation of the NVRA and the Help America Vote Act (HAVA) regarding when a state can legally purge voters from registration lists. Following its longstanding interpretation, the Department took the position that a state may not consider a registered voter's failure to vote to be reliable evidence that the voter has become ineligible to vote due to a change of residence, thereby triggering the designated NVRA list maintenance process.[2] "Both statutes," the Department argued, "expressly forbid purging voters merely for not voting." Is this still the position of the Department?

6. Last July, the Department of Justice reaffirmed that position in an amicus brief in a Sixth Circuit case, *Ohio A. Randolph Institute v. Husted*. The Department argued that states may not use a registered voter's failure to vote alone to trigger the NVRA Section 8(d) confirmation process for removing the voter from the registration rolls based on a change of residence.[3] "Declining to vote does not provide . . . evidence" that a voter has moved. "To the contrary," the Department argued, "triggering the confirmation process based solely on voter inactivity, as Ohio does through its Supplemental Process, inevitably results in the removal of voters based on nonvoting, which violates the NVRA and HAVA." Is this still the position of the Department? The Supreme Court recently granted certiorari in this case.

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[2] Statement of Interest of the United States in *Common Cause and the Georgia State Conference of the NAACP v. Kemp* (filed May 4, 2016) (https://www.justice.gov/crt/case-document/file/926371/download) ("This case asks whether, consistent with federal law, a state may consider a registered voter's failure to vote to be reliable evidence that the voter has become ineligible to vote by virtue of a change of residence, thus triggering the designated NVRA purge process. Defendant argues that it can. In fact, it cannot.").

[3] Brief for the United States as Amicus Curiae supporting plaintiffs-appellants in *Ohio A. Randolph Institute v. Husted* (filed July 16, 2016) (https://www.justice.gov/crt/file/881821/download)

Does the Department intend to participate as amicus before the Supreme Court? If so, does the Department intend to change the position it advanced before the Sixth Circuit?

7. The Administration has said its motivation for establishing the Commission is to address extensive voter fraud. Scientific evidence conducted by nonpartisan academic institutions consistently shows that widespread voter fraud does not exist. Does the Department have evidence that contradicts these studies?

In addition to the questions regarding the Department's apparent coordination with the Commission and its position on NVRA enforcement, we are deeply concerned by how the Commission is going to protect the voter data it does receive from states. The Commission has requested personal information of American voters that is generally unavailable to the public, including names, addresses, dates of birth, political parties, voter histories, and the last four digits of Americans' social security numbers.[4] This is highly sensitive data that must be protected in accordance with federal laws that govern the collection of electronic data. Given that the Department is charged with ensuring that federal entities comply with privacy laws, we request the following information about how the Department is working to ensure that the Commission adheres to the law.

8. On July 3, the Electronic Privacy Information Center filed an emergency injunction prohibiting the Commission from collecting data on Americans until it completes a privacy impact assessment (PIA) as required by the E-Government Act of 2002.[5] The Commission responded to the request by arguing that the Commission was exempt from completing a PIA because it is "not an "agency" within the meaning of these statutes because its sole purpose is to provide advice to the President."[6] In 2012, the Department of Justice issued guidance on compliance with the E-Government Act of 2002 and how and when to compile PIAs. The 2012 guidance notes the Department's Office of Privacy and Civil Liberties (OPCL) is charged with assessing whether a PIA is necessary. Has the OPCL conducted an initial privacy assessment regarding the Commission's bulk collection of identifiable data? If not, we ask that such an assessment be conducted and reported to the relevant congressional committees of jurisdiction.

9. The Commission has only recently provided some information about security protocols put in place to protect voter registration information because of the previously mentioned litigation. The Privacy Act imposes both substantive and procedural requirements on federal government entities that collect and store personal records. These requirements ensure that the federal entity has thoroughly considered how it will use the data and has established safeguards that will prevent abuse. We ask that the Department detail what

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[4] Fessler, Pam. "White House Panel Asks States For Their Voter Rolls." *NPR*. NPR, 29 June 2017.
[5] Watkins, Eli. "Group files complaint over Trump's commission." *CNN*. Cable News Network, 06 July 2017.
[6] Defendant's Memorandum in Opposition at 9, *Common Cause and the Georgia State Conference of the NAACP v. Kemp,* (N.D.GA. 2017) (https://epic.org/privacy/litigation/voter/epic-v-commission/EPIC-v-Commission-TRO-opposition.pdf).

steps it has already taken to ensure that the data collected and stored by the Commission will not be in violation of existing state or federal law.

We also ask that you provide information on any communications that Department officials may have had with members or advisors to the Commission regarding the Privacy Act.

Thank you for your prompt attention to this request.

Sincerely,

Amy Klobuchar
United States Senator

Dianne Feinstein
United States Senator

Patrick Leahy
United States Senator

Sheldon Whitehouse
United States Senator

Jack Reed
United States Senator

Richard J. Durbin
United States Senator

Al Franken
United States Senator

Christopher A. Coons
United States Senator

Richard Blumenthal
United States Senator

Mazie K. Hirono
United States Senator

Angus King
United States Senator

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Dianne Feinstein
United States Senate
Washington, DC 20510

DEC 0 1 2017

Dear Senator Feinstein:

This responds to your letter to the Attorney General and the Acting Assistant Attorney General for the Civil Rights Division dated July 11, 2017, and your letter to the Attorney General, Deputy Attorney General, Associate Attorney General, and Acting Assistant Attorney General for the Civil Rights Division dated September 26, 2017, regarding activities of the Department of Justice (Department) and the Presidential Advisory Commission on Election Integrity (the Commission). We are sending similar responses to the other Senators who joined your letter. We apologize for our delay in responding to your letters.

We appreciate your concerns about voting rights issues, and we agree that the right to vote is fundamental to our democracy and that the importance of access to the ballot for all Americans is paramount. Your letters request responses to a list of specific questions, including requests for documents. It is important to note that attorneys from the Department's Civil Division are currently representing the Commission in ongoing civil litigation. Accordingly, they communicate with the Commission's attorneys on a regular basis, and with members of the Commission as necessary to gather information related to the litigation. Pursuant to longstanding policy it is not appropriate for the Department to provide documents or records of communications that may implicate ongoing litigation. While we cannot respond to each of your individual inquiries, we are pleased to provide the following information about the role of the Department as it relates to voting rights and the Commission.

Your letters asked about the role of the Department in the official activities of the Commission. The Commission is a part of the Executive Office of the President, rather than the Department. The Department and the Civil Rights Division (Division) are not affiliated with the Commission's official activities. Indeed, the Division does not have jurisdiction to investigate or prosecute fraudulent voter registration or fraudulent voting. *See* 28 C.F.R. § 0.50(a). Beyond representing the Commission in litigation, we are not aware of Department resources currently being used to support the Commission.

Your July 11th letter also references two letters sent to states on June 28, 2017, requesting additional information about their procedures for maintaining voter registration lists – one from the Department and a separate letter from the Commission. The Department did not coordinate the sending of its June 28th letter with the Commission. To the best of our knowledge, the

sending of the Division's letter and the Commission's letter on the same day was sheer coincidence.

The Division routinely makes requests for data and information from states and localities as part of its enforcement responsibilities under all of the federal voting rights laws, including the National Voter Registration Act (NVRA), the Help America Vote Act (HAVA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), and the Voting Rights Act (VRA). In fact, through the NVRA, Congress specifically authorized the Department to seek election-related information from states and localities. *See* 52 U.S.C. §§ 20703, 20705. The Division seeks to work cooperatively with jurisdictions to obtain the necessary information to conduct its enforcement responsibilities.

Prior to June 2017, the Division's last round of requests to various states for list maintenance information under the NVRA took place several years ago. However, the Division does not maintain a centralized record of all such previous requests for information. Please note that information regarding data that either was or was not provided by the states in response to a 2014 survey administered by the Election Assistance Commission (EAC) survey is publicly available on the EAC's website.

Your July 11th letter also inquired about the Department's position in *Ohio A. Philip Randolph Institute v. Husted*. The Supreme Court recently granted certiorari to consider the issue of when a state can legally remove voters from registration lists under the NVRA and HAVA. Consistent with the Department's usual practice, the Office of the Solicitor General reviewed the case and decided to participate as an amicus. The Office of the Solicitor General has filed its amicus brief, a copy of which is enclosed. Because this litigation is currently pending, the Department is not in a position to comment further.

With respect to your questions about the Commission's compliance with privacy laws, we note that the Department's Office of Privacy and Civil Liberties is responsible only for assessing whether activities conducted by the Department require a privacy impact assessment; it is not responsible for assessing activities outside of those conducted by the Department, such as the Commission. Likewise, the Department is not responsible for ensuring that data collected and stored by the Commission will not be in violation of existing state or federal law, and thus cannot speak to steps the Commission may have taken in this regard. We respectfully refer you to the Commission for that information.

Your September 26th letter also inquired about certain Freedom of Information Act (FOIA) requests that the Department has received. As with all FOIA requests, the Department followed its standard procedures in responding to the FOIA request from the Campaign Legal Center. The Department appropriately used Exemption 6 of the FOIA to protect personal contact information in accordance with statute and the Department's Guide to the Freedom of Information Act Exemption 6, which is available at https://www.justice.gov/sites/default/files/oip/legacy/2014/07/23/exemption6.pdf. In response to your request, we are enclosing a complete set of all the documents furnished to the Campaign

Legal Center in response to that organization's FOIA request received by the Department on February 15, 2017, and a complete set of the documents furnished to the Brennan Center for Justice in response to that organization's FOIA request received by the Department on July 25, 2017.

Additionally, your September 26th letter asked about the use of private email addresses to conduct government business. The Department briefs incoming staff members about the prohibitions on the use of personal accounts and the timing and appropriate capture of business information. DOJ policy 0804.01, which has been in place since May 8, 2015, explicitly prohibits the use of personal accounts for Departmental business except in exigent circumstances. The policy requires that under those circumstances, the employee must assure capture of Departmental information in Departmental recordkeeping systems within 20 days. This policy ensures that all agency records are incorporated within a Department recordkeeping system that would be searched in response to a FOIA request. Please note that in the instance referenced in your letter the email in question was forwarded to the Attorney General's official email account, which captured the record in the Department's recordkeeping systems, consistent with Department policies and Federal Records Act requirements.

Your September 26th letter also raised concerns about responsiveness to Congressional correspondence. Upon my confirmation as Assistant Attorney General in August 2017, the Office of Legislative Affairs began a comprehensive review of all outstanding Congressional correspondence, and, where appropriate, is now working to respond. The Department's backlog of overdue letters was extensive, including several hundred unanswered letters dating back to 2015. In the past 90 days, we have made significant progress, though much work remains. We are working to provide responses to your inquiries, however, in doing so, the Department must continue to prioritize inquiries from the Chairmen of the various Committees that exercise oversight over the Department's programs, policies, and activities. Our goal is to be as responsive as possible without hindering the other important work the Department is doing, consistent with the Department's significant law enforcement, litigation, and national security responsibilities.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

Stephen E. Boyd
Assistant Attorney General

Enclosures

From: electionline [mmoretti@electionline.org]
Sent: 5/11/2017 3:58:15 PM
To: Berman, Robert (CRT) [Robert.Berman@crt.usdoj.gov]
Subject: electionlineWeekly — May 11, 2017

May 11, 2017

President expected to launch commission on 'election integrity'

Commission to be chaired by vice president

In a closed- door meeting with Congressional leaders and subsequently in numerous tweets shortly following his inauguration, President Donald J. Trump alleged that three to five million illegal votes were cast in the 2016 general election.

Although he had no evidence to back up his claims — including a claim that former New Hampshire Senator Kelly Ayotte (R) would have been re-elected had there not been voter fraud — Trump said he would sign an executive order to create a presidential commission to look into the alleged voter fraud.

The president's claims were met with denial from state and local elections officials and great skepticism from others in the elections field. Even Snopes.com weighed in on the claim.

"The process had integrity. It was extremely well administered. And in the end, the people's voice was heard and the process served voters well," U.S. Election Assistance Commission Chair Matthew Masterson (R) told the Center for Public Integrity.

Now, according to multiple media outlets, the president is expected to sign an executive order today (May 11) authorizing the establishment of an "election integrity" commission. **Read More...**

Also in this edition:

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Research and Report Summaries
Legislative Updates
Legal Updates
Tech Thursday
Opinions This Week
Available RFPs/RFIs
Upcoming Events
Job Postings This Week
Marketplace
Electionline Underwriting
All Pages

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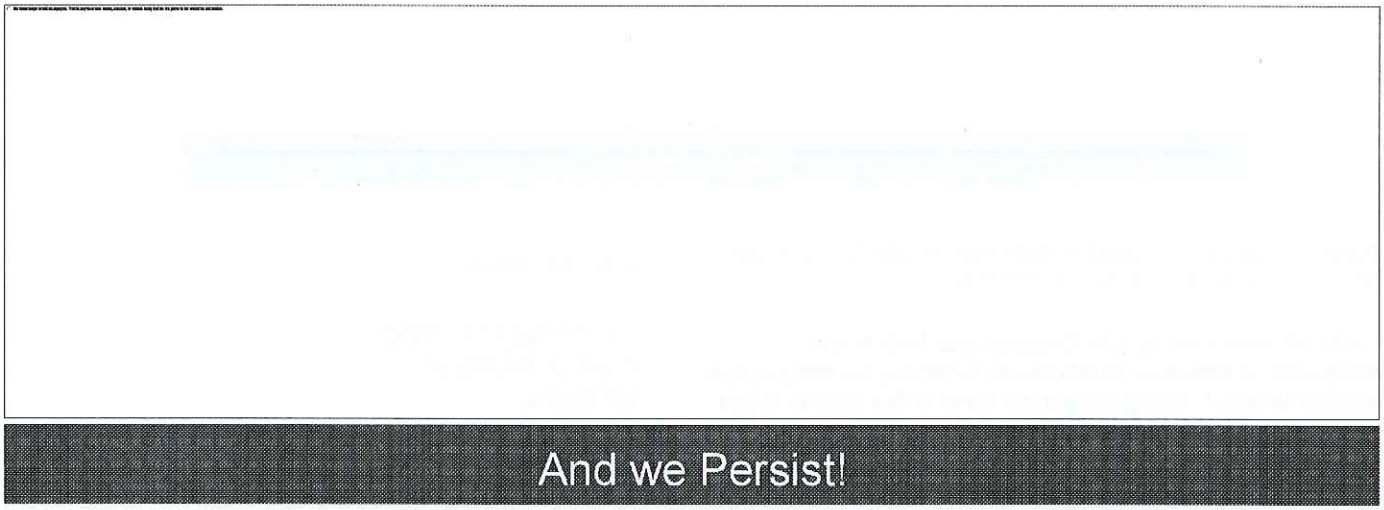
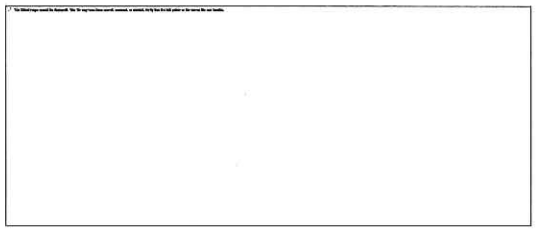
From: Lawyers' Committee for Civil Rights Under Law [info@lawyerscommittee.org]
Sent: 7/19/2017 10:15:35 PM
To: Berman, Robert (CRT) [Robert.Berman@crt.usdoj.gov]
Subject: Mr. Kobach, we, too, can be very persistent



Robert,

Kansas Secretary of State and Vice Chair of the so-called Presidential Commission on Election Integrity Kris Kobach ought to be clear on one thing: the Lawyers' Committee for Civil Rights Under Law is very persistent in its pursuit of justice and equality. We've seen Mr. Kobach in court enough times for him to know this about us. We've already been successful in communicating with every secretary of state in the country about the severity of the Commission's demand for sensitive voter information. In addition, we filed a complaint against Kobach on the grounds that he appeared to be leveraging his leadership of the Commission to further a partisan agenda. We also recently asked the D.C. District Court to force the Commission to immediately open its records for the public in advance of yesterday's meeting. As you might know, the court denied our request, but that has not slowed us down. We will continue to **#fightlikehell** in the courts against this absurd attempt at voter suppression and keep our **866-OUR-VOTE** hotline open to all of you who have experienced vote discrimination or have concerns about the Commission. We need you to spread the word about our voter protection hotline and donate today to help keep our battles in the courts alive.

Regards,



Kristen Clarke
President and Executive Director

1401 New York Ave., NW
Suite 400
Washington, DC 20005-20005
UNITED STATES

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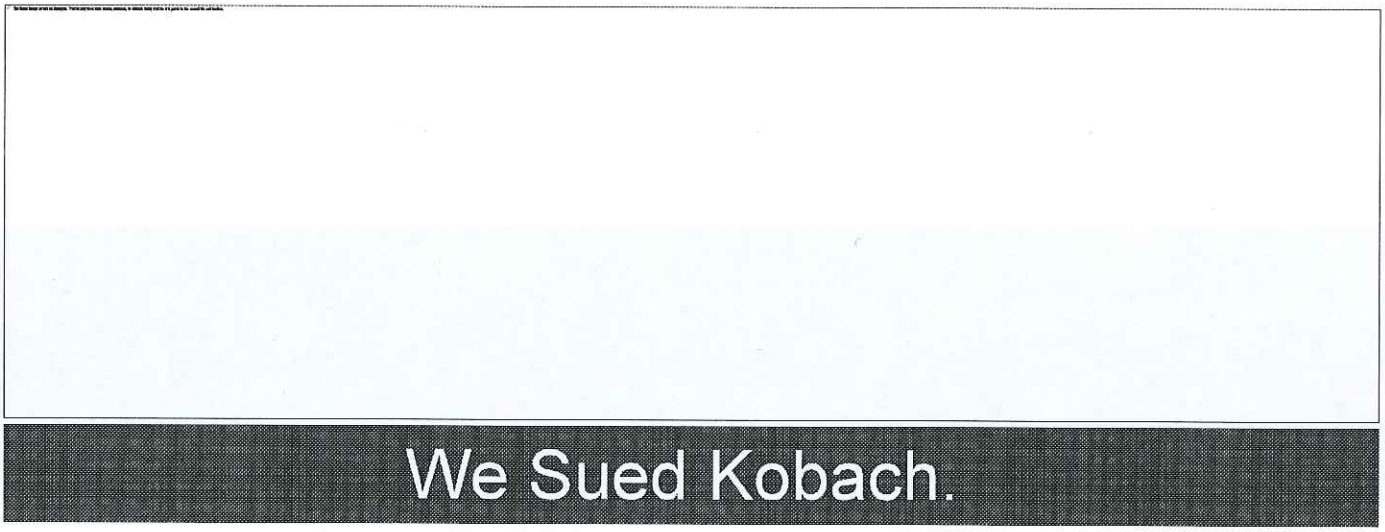
From: Lawyers' Committee for Civil Rights Under Law [info@lawyerscommittee.org]
Sent: 7/10/2017 9:46:27 PM
To: Berman, Robert (CRT) [Robert.Berman@crt.usdoj.gov]
Subject: We Sued Kobach



Dear Robert,

We just filed suit against the sham Presidential Advisory Commission on "Election Integrity" for its shady and illegitimate behavior.

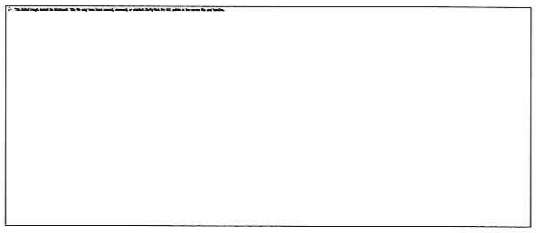
Kobach's Commission has been acting **in violation of the Federal Advisory Committee Act (FACA)** by withholding information about its meetings and operating behind closed doors.

Among the violations is the telephone conference held by the Commission on June 28th— a secret meeting that amounted to Kobach's bizarre request for the personal information of our nation's 200+ million registered voters.

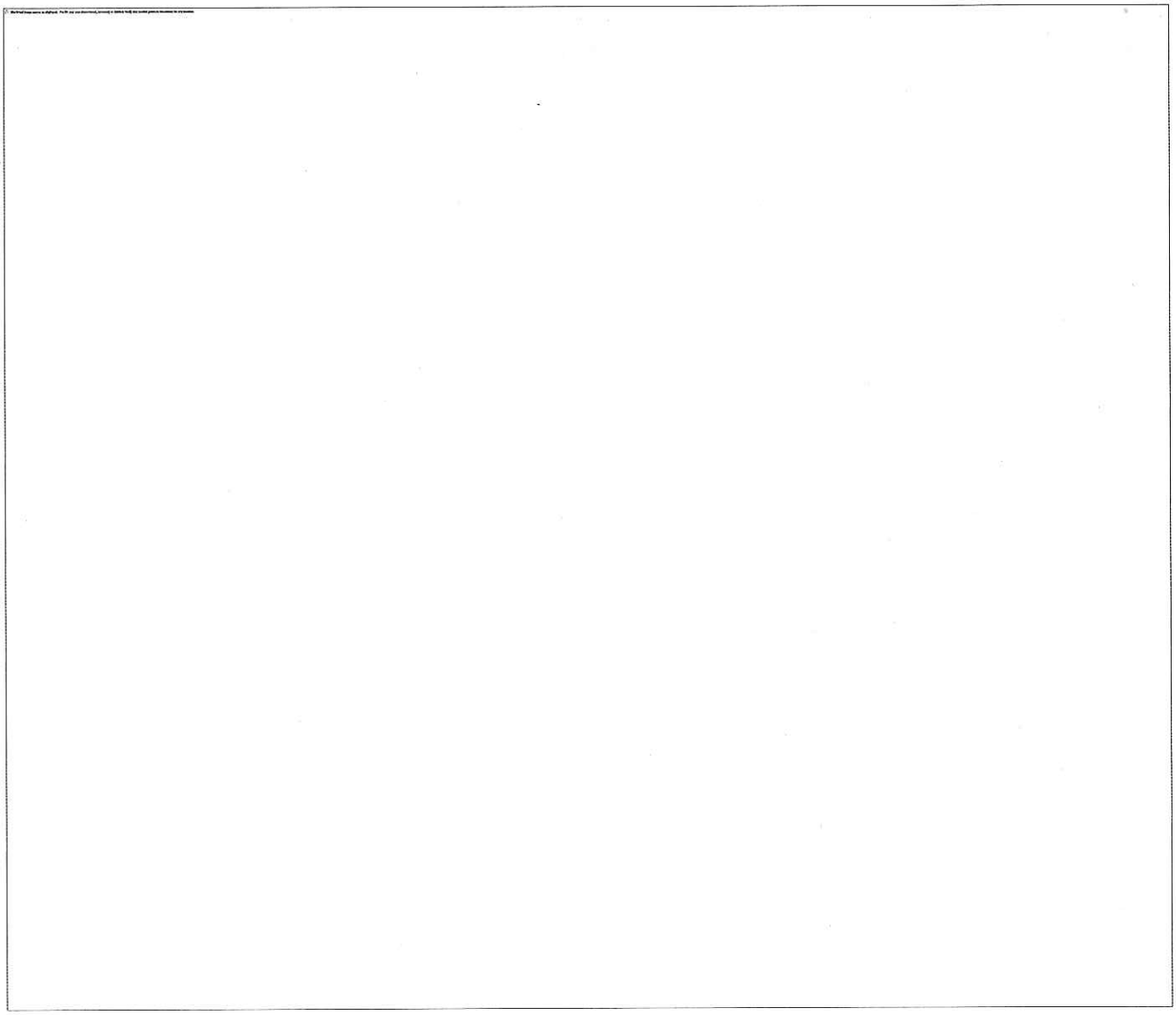
Federal law requires that all President's Commissions operate transparently. With voting rights and voter privacy at risk, it has never been more important to take a bold stance and hold this Commission accountable.

Donate $100 today to support our fight and see Kobach's fraudulent Commission put to rest.

In Struggle,



Kristen Clarke
President and Executive Director



1401 New York Ave., NW
Suite 400
Washington, DC 20005-20005
UNITED STATES

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From: (b)(6) (USANYE) (b)(6) @usdoj.gov]
Sent: 6/29/2017 12:23:57 PM
To: Dellheim, Richard (CRT) [Richard.Dellheim@crt.usdoj.gov]
Subject: Fwd: Heard through grapevine

(b)(6)

United States Attorney' s Office
Eastern District of New York
271-A Cadman Plaza East
Brooklyn, NY 11215
(b)(6)

>
>
> That the Pence Commission has asked NYS and other states for its voter rolls.
>
> Sent from my iPhone

From: Berman, Robert (CRT) [Robert.Berman@crt.usdoj.gov]
Sent: 7/18/2017 1:48:54 PM
To: Bell-Platts, Meredith (CRT) [Meredith.Bell-Platts@crt.usdoj.gov]; Dellheim, Richard (CRT) [Richard.Dellheim@crt.usdoj.gov]; Herren, Chris (CRT) [Chris.Herren@crt.usdoj.gov]; Mellett, Timothy F (CRT) [Timothy.Mellett@crt.usdoj.gov]; Russ, John (CRT) [John.Russ@crt.usdoj.gov]; Wertz, Rebecca J (CRT) [Rebecca.Wertz@crt.usdoj.gov]
Subject: FW: ELB News and Commentary 7/18/17
Attachments: ATT00001.txt

f.y.i.

From: law-election-bounces@department-lists.uci.edu [mailto:law-election-bounces@department-lists.uci.edu] **On Behalf Of** Rick Hasen
Sent: Tuesday, July 18, 2017 1:14 AM
To: Election Law Listserv <law-election@uci.edu>
Subject: [EL] ELB News and Commentary 7/18/17

Texas: District Court Should Give Up Jurisdiction in Voter ID Case, Impose No More Remedies

Posted on July 17, 2017 10:09 pm by **Rick Hasen**

Brief.

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Posted in The Voting Wars, voter id

"We disrupted the U.S. Supreme Court to protest money in politics, and are being sentenced today."

Posted on July 17, 2017 10:03 pm by **Rick Hasen**

Matt Kresling statement.

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Posted in campaign finance, Supreme Court

"Trump's voter commission says it doesn't need to make privacy impact assessment"

Posted on July 17, 2017 9:45 pm by Rick Hasen

Wash Times:

In a court filing on Monday, the commission argued federal law doesn't require it to perform a privacy risk assessment before collecting voter data, which was a key argument in one of the first lawsuits brought by the Electronic Privacy Information Center (EPIC) earlier this month.

After Kris W. Kobach, the panel vice chairman, asked states to turn over names, partial Social Security numbers, birthdays, political party affiliations, military status and other public information last month, EPIC filed suit, hoping to force the commission to complete a Privacy Impact Assessment before gathering the personal data.

EPIC quickly scored a win when the commission suspended its collection of state voter information earlier this month until a judge rules on the matter.

On Monday the commission asked the judge to deny EPIC's request for a restraining order on the gathering of data, arguing that the pro-privacy group doesn't have the legal right, or "standing," to file the lawsuit.

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Posted in fraudulent fraud squad, The Voting Wars

New Details on December Hack of U.S. Election Assistance Comm'n, as House Republicans Try to Shut It Down

Posted on July 17, 2017 9:27 pm by Rick Hasen

WSJ:

The hack appeared to include a breach of the EAC's administrative-access credentials as well as access to nonpublic reports on flaws in voting machines, according to Andrei Barysevich, an analyst with cybersecurity firm Recorded Future.

Access to the reports could have allowed someone to exploit flaws in voting machines, Mr. Barysevich said. The stolen credentials could have been used to install malicious code on the EAC site, thus potentially infecting any user of it. The users could include state election officials, who might then use a thumb memory stick to interact with other machines, such as ballot machines not connected to the internet.

The security firm, which assessed the hack as having likely occurred in November, turned the information over to law enforcement in December, and Mr. Barysevich has been cooperating with the FBI on its probe.

As far as the House Republicans trying to shut the EAC, it is hard to imagine a worse Idea. As I wrote Sunday:

Meanwhile, House Republicans are moving to abolish the United States Election Assistance Commission, a bipartisan federal agency that serves as a clearinghouse for information about best voting practices and certifies the security of voting machines. Does that sound like a good idea right now?

Share / Save

Posted in Election Assistance Commission, The Voting Wars

John Fortier Interviews Michael Chertoff About Voter Registration Data and Election Security

Posted on July 17, 2017 12:51 pm by **Rick Hasen**

Watch.

Share / Save

Posted in election administration

Mississippi Law Journal Symposium on the Voting Rights Act

Posted on July 17, 2017 12:03 pm by **Rick Hasen**

85 MISSISSIPPI LAW JOURNAL, NO. 6, PP. 1039-1478, 2017.

Voting Rights Act Symposium. 85 Miss. L.J. 1039-1393 (2017). [H]|[L]|[W]

George C. Cochran. Foreword. 85 Miss. L.J. 1039-1046 (2017). [H]|[L]|[W]

George C. Cochran. In memoriam: Frank Ruff Parker. 85 Miss. L.J. 1047-1052 (2017). [H]|[L]|[W]

Delbert Hosemann. Not our grandfather's Mississippi anymore: implementing Mississippi's voter identification requirement. 85 Miss. L.J. 1053-1091 (2017). [H]|[L]|[W]

Benjamin E. Griffith, Lauren E. Ward. The forbidden fruit of Alabama Legislative Black Caucus v. State of Alabama: racial

predominance in redistricting. 85 Miss. L.J. 1093-1161 (2017). [H]|[L]|[W]

Joaquin Avila, Barbara Phillips, Molly Matter. How a targeted triggering approach can repair the Voting Rights Act: Congress can eliminate the blight of voting discrimination once and for all! 85 Miss. L.J. 1163-1177 (2017). [H]|[L]|[W]

Armand Derfner. How the courts keep ex-felons disenfranchised. 85 Miss. L.J. 1179-1191 (2017). [H]|[L]|[W]

Tommie Cardin. Mississippi legislative redistricting in the new millennium. 85 Miss. L.J. 1193-1225 (2017). [H]|[L]|[W]

Carroll Rhodes. Federal appellate courts push back against states' voter suppression laws. 85 Miss. L.J. 1227-1269 (2017). [H]|[L]|[W]

Steven J. Mulroy. Coloring outside the lines: erasing "one-person, one-vote" & Voting Rights Act line-drawing dilemmas by erasing district lines. 85 Miss. L.J. 1271-1304 (2017). [H]|[L]|[W]

C. Robert Heath. Applying the Voting Rights Act in an ethnically diverse nation. 85 Miss. L.J. 1305-1331 (2017). [H]|[L]|[W]

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Hans A. von Spakovsky, Roger Clegg. Felon voting and unconstitutional congressional overreach. 85 Miss. L.J. 1373-1393 (2017). [H]|[L]|[W]

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Posted on July 17, 2017 12:00 pm by **Rick Hasen**

Ciara Torres-Spelliscy blogs.

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From: Gyamfi, Stephanie M. (CRT) [/O=USDOJ/OU=CRT/CN=RECIPIENTS/CN=MAILBOXES/CN=SCELANDI]
Sent: 5/11/2017 1:59:17 PM
To: Murray, Joseph E (CRT) [Joseph.Murray@crt.usdoj.gov]

http://abcnews.go.com/Politics/president-trump-expected-launch-commission-election-integrity/story?id=47337222

see list of names under consideration!

Stephanie M. Gyamfi, MPA

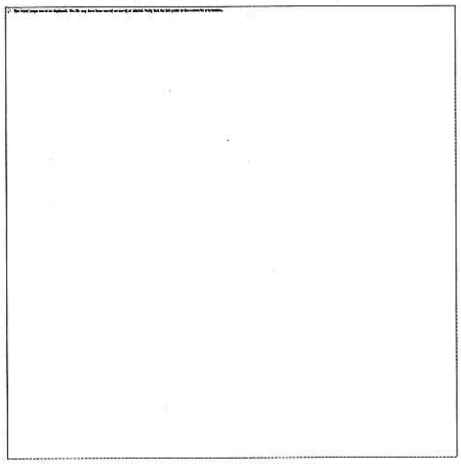
Lead Civil Rights Analyst

Voting Section-Civil Rights Division

U.S. Department of Justice

202.514.6087

From: Southern Poverty Law Center [contactinfo@splcentermail.com]
Sent: 5/18/2017 11:19:35 PM
To: Murray, Joseph E (CRT) [Joseph.Murray@crt.usdoj.gov]
Subject: Trump appoints extremists to voter fraud commission



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SPLC News This Week

Extremist to lead new voter fraud commission — challenging money bail — new SPLC lawsuit in Mississippi

Trump's commission to study mythical voter fraud includes figures tied to hate groups

President Trump has appointed Kris Kobach to help lead a new commission to study the nonexistent threat of voter fraud, which he claims cost him the popular vote. Kobach is a lawyer who champions laws to suppress voting and has long represented the Federation for American Immigration Reform, which has been named a hate group by the SPLC. Also on the commission is Ken Blackwell, a senior fellow at the Family Research Council, an anti-LGBT hate group.

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SPLC challenges wealth-based bail system in Alabama county

We've filed suit today in federal court to challenge a wealth-based bail system that, as in many other jurisdictions across America, discriminates against the poor. People charged with misdemeanors or felonies in Alabama's Randolph County are automatically jailed if they can't afford bail – regardless of whether they're a threat to the community or likely to flee before trial. It's one of the first suits anywhere to

challenge the constitutionality of felony bail practices.

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We went to court this week to restore nearly $20 million in funding for Mississippi's schools after the money was cut by the governor. Our suit says that under the state's constitution, only the legislature can cut the state budget. We're seeking a court order to restore money needed by public schools that are already deeply underfunded.

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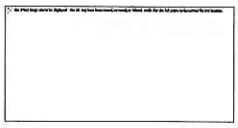
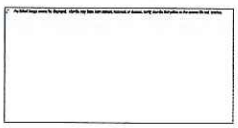
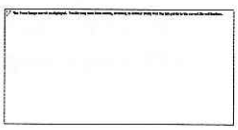
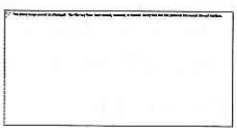

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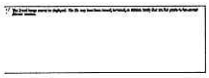

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Sent: 6/30/2017 2:15:17 AM
To: Richardson, Jasmyn (CRT) [Jasmyn.Richardson@crt.usdoj.gov]
Subject: Fwd: {GSBA Google Group} Trump's voter-fraud commission wants to know voting history, party ID and address of every voter in the U.S.

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Date: June 29, 2017 at 9:11:28 PM EDT
To: rjosephesq@rwjosephlaw.com
Subject: {GSBA Google Group} Trump's voter-fraud commission wants to know voting history, party ID and address of every voter in the U.S.
Reply-To: rjosephesq@aol.com
https://www.washingtonpost.com/news/wonk/wp/2017/06/29/trumps-voter-fraud-commission-wants-to-know-the-voting-history-party-id-and-address-of-every-voter-in-america/?utm_term=.cc46572af85c

Wonkblog

Trump's voter-fraud commission wants to know voting history, party ID and address of every voter in the U.S.

By Christopher Ingraham June 29 at 5:19 PM

Play Video 1:24

President Trump is signed an executive order on May 11 initiating an investigation into voter suppression and election fraud. Here's what we know so far. (Patrick Martin/The Washington Post)

The chair of President Trump's Election Integrity Commission has penned a letter to all 50 states requesting their full voter-role data, including the name, address, date of birth,

party affiliation, last four Social Security number digits and voting history back to 2006 of potentially every voter in the state.

In the letter, a copy of which was made public by the Connecticut secretary of state, the commission head Kris Kobach said that "any documents that are submitted to the full Commission will also be made available to the public."

On Wednesday, the office of Vice President Pence released a statement saying "a letter will be sent today to the 50 states and District of Columbia on behalf of the Commission requesting publicly available data from state voter rolls and feedback on how to improve election integrity."

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States began reacting to the letter on Thursday afternoon. "I have no intention of honoring this request," said Governor Terry McAuliffe of Virginia in a statement. "Virginia conducts fair, honest, and democratic elections, and there is no evidence of significant voter fraud in Virginia."

Connecticut's Secretary of State, Denise Merrill, said she would "share publicly-available information with the Kobach Commission while ensuring that the privacy of voters is honored by withholding protected data." She added, however, that Kobach "has a lengthy record of illegally disenfranchising eligible voters in Kansas" and that "given Secretary Kobach's history we find it very difficult to have confidence in the work of this Commission."

Under federal law, each state must maintain a central file of registered voters. States collect different amounts of information on voters. While the files are technically public records, states usually charge fees to individuals or entities who want to access them. Political campaigns and parties typically use these files to compile their massive voter lists.

In May, Trump created a commission to investigate alleged acts of voter fraud after he claimed, without evidence, that 3 million to 5 million undocumented immigrants voted illegally in the 2016 election. The commission is chaired by Kobach, who is the Kansas secretary of state and a voter-fraud hard-liner.

Earlier this month, a federal judge fined Kobach $1,000 for "presenting misleading arguments in a voting-related lawsuit," according to Politico.

Advocates for voting rights and civil liberties are also sounding alarms over the letter. "The concern is that this is going to be used to justify regressive and disenfranchising federal law," Myrna Pérez, deputy director of the democracy program at New York University Law School's Brennan Center for Justice, said in an interview.

Vanita Gupta, chief executive of the Leadership Conference on Civil Rights and former head of the Justice Department's civil rights division, said on Twitterthat the letter is "laying the groundwork for voter suppression, plain & simple."

The White House press office did not return a request for comment on this article. A spokesman for Kobach in the Kansas secretary of state's office referred an inquiry to an email address listed in the commission's letter. The commission did not return a request sent to that email address.

Trump and his allies have said the commission's work is necessary to prevent what they call widespread instances of voter fraud. But evidence for such fraud is exceedingly thin. Kobach has made it a central issue of his tenure in Kansas and has secured nine voter-fraud convictions. Most were older Republican voters, and at least one claims he was targeted for an "honest mistake."

Academics who have studied the issue for decades say that voter fraud — particularly of the type that strict voter-identification laws championed by Kobach and others are intended to combat — is vanishingly rare and that voter-ID requirements are a burdensome solution to a practically nonexistent problem. A federal judge ruled that some of Kobach's proposed ID requirements constituted a "mass denial of a fundamental constitutional right."

While civil-liberties advocates are concerned with what Kobach might do with what would amount to a nationwide voter file, privacy advocates worry about the implications of making such data available to the public, as the commission says it intends to do. It hasn't specified how it would make the data available.

"Why does a random member of the public . . . need to know when you last voted and what your political party is?" asked the Brennan Center's Perez. "I think that access to this data in the wrong hands could always leave the opportunity for mischief. In this particular instance, I'm worried about harassment as well."

States are "stewards of [this] public information," Perez said. "Once it leaves their hands in this way, there's no telling whose going to get it, and how, and what they're using it for."

Comments

Christopher Ingraham writes about politics, drug policy and all things data. He previously worked at the Brookings Institution and the Pew Research Center.

Fo

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From: Dave Cooper [(b)(6) @gmail.com]
Sent: 6/30/2017 3:18:27 AM
To: Cooper, David (CRT) [David.Cooper@crt.usdoj.gov]
Attachments: ProPublica - Presidential Commission 2017-06-29.pdf

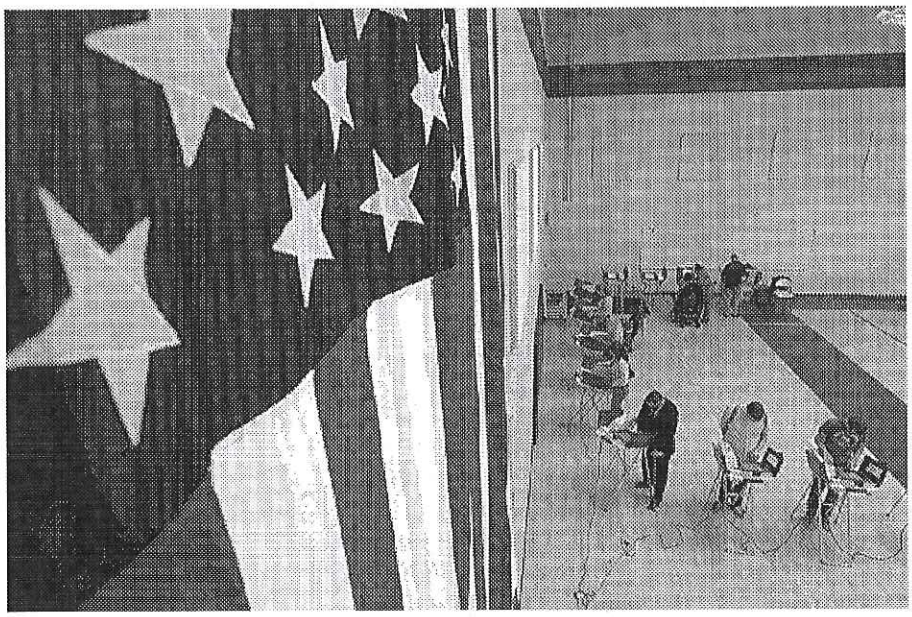
https://electionupdates.caltech.edu/2017/06/29/first-thoughts-about-the-pence-commission-voting-list-request/

PROPUBLICA

Presidential Commission Demands Massive Amounts of State Voter Data

A commission created by President Donald Trump to enhance confidence in America's elections has asked all 50 states for copies of their voter records which often include names, addresses and ages. The commission has said it intends to make the information widely available.

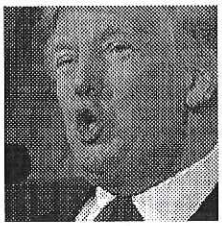
by Jessica Huseman
ProPublica, June 29, 2017, 6 p.m.



People cast their ballots in the 2016 presidential election at Freedom Academy Elementary School on November 8, 2016, in Provo, Utah. (George Frey/Getty Images)

On Wednesday, all 50 states were sent letters from Kris Kobach — vice chair for the Presidential Advisory Commission on Election Integrity — requesting information on voter fraud, election security and copies of every state's voter roll data.

The letter asked state officials to deliver the data within two weeks, and says that all information turned over to the commission will be made public. The letter does not explain what the commission plans to do with voter roll data, which often includes the names, ages and addresses of registered voters. The commission also asked for information beyond what is typically contained in voter registration records, including Social Security numbers and military status, if the state election databases contain it.



The Trump Administration

ProPublica's ongoing coverage of the 45th President.

President Donald Trump established the commission through an executive order on March 11. Its stated goal is to "promote fair and honest Federal elections" and it is chaired by Vice President Mike Pence. The commission plans to present a report to Trump that identifies vulnerabilities in the voting system that could lead to fraud and

makes recommendations for enhancing voters' confidence in election integrity. No deadline has been set for completion of the work.

A number of experts, as well as at least one state official, reacted with a mix of alarm and bafflement. Some saw political motivations behind the requests, while others said making such information public would create a national voter registration list, a move that could create new election problems.

"You'd think there would want to be a lot of thought behind security and access protocols for a national voter file, before you up and created one," said Justin Levitt, a professor at Loyola University School of Law and former Department of Justice civil rights official. "This is asking to create a national voter file in two weeks."

David Becker, the executive director of the Center for Election Innovation & Research, also expressed serious concerns about the request. "It's probably a good idea not to make publicly available the name, address and military status of the people who are serving our armed forces to anyone who requests it," he said.

Kobach, the secretary of state in Kansas, has been concerned about voter fraud for years. His signature piece of legislation was a law requiring Kansans to show proof of citizenship when they register to vote, which is currently ensnarled in a fraught court battle with the American Civil Liberties Union. He has written that he believes people vote twice with "alarming regularity," and also that non-citizens frequently vote. Multiple studies have shown neither happens with any consistency.

Kobach also runs the Interstate Voter Registration Crosscheck Program, a proprietary piece of software started by Kansas Secretary of State Ron Thornburgh in 2005. Under the program, 30 states pool their voter information and attempt to identify people who are registered in more than one state.

Some expect the information Kobach has requested will be used to create a national system that would include data from all 50 states.

It is not uncommon for voters to be registered in more than one state. Many members of Trump's inner circle — including his son-in-law Jared Kushner and daughter Tiffany Trump — were registered to vote in two states. Given the frequency with which voters move across state lines and re-register, the act of holding two registrations is not in itself fraud. There is no evidence to suggest that voting twice is a widespread problem, though experts say removing duplicate registrations are a good practice if done carefully.

"In theory, I don't think we have a problem with that as an idea, but the devil is always in the details," said Dale Ho, the director of the ACLU's Voting Rights Project. While he believes voter registration list maintenance is important, he says Kobach's Crosscheck program has been repeatedly shown to be ineffective and to produce false matches. A study by a group of political scientists at Stanford published earlier this year found that Crosscheck highlighted 200 false matches for every one true double vote.

"I have every reason to think that given the shoddy work that Mr. Kobach has done in this area in the past that this is going to be yet another boondoggle and a propaganda tool that tries to inflate the problem of double registration beyond what it actually is," Ho said.

Some experts already see sloppy work in this request. On at least one occasion, the commission directed the letter to the incorrect entity. In North Carolina, it addressed and sent the letter to Secretary of State Elaine Marshall, who has no authority over elections or the voter rolls. In that state, the North Carolina Board of Elections manages both.

Charles Stewart, a professor at MIT and expert in election administration, said it was proof of "sloppy staff work," and questioned the speed at which the letter was sent. "It seems to me that the data aren't going anywhere. Doing database matching is hard work,

and you need to plan it out carefully," he said. "It's a naïve first undertaking by the commission, and reflects that the commission may be getting ahead of itself."

Connecticut Secretary of State Denise Merrill, who oversees voting in the state, said she was dismayed about the commission's failure to be clearer about what its intentions are. In a statement, Merrill said her office would share publicly available information with the commission. But she said that "in the same spirit of transparency" her office would request the commission "share any memos, meeting minutes or additional information as state officials have not been told precisely what the Commission is looking for."

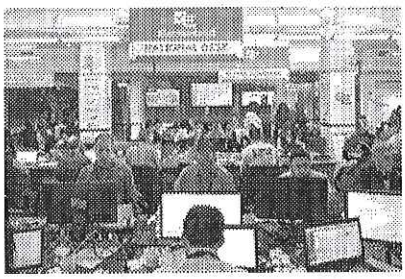
"This lack of openness is all the more concerning, considering that the Vice Chair of the Commission, Kris Kobach, has a lengthy record of illegally disenfranchising eligible voters in Kansas," she wrote.

Alabama's Republican Secretary of State John Merrill (no relation) also indicated he had questions for Kobach regarding how much of the data would be made public and how Alabamans' privacy would be protected, even while he expressed support for the commission. "Kobach is a close friend, and I have full confidence in him and his ability, but before we turn over data of this magnitude to anybody we're going to make sure our questions are answered," he said.

Colorado Secretary of State Republican Wayne Williams, for his part, said he was not concerned with what the commission planned to do with the data. "Just like when we get a [public-records] request, we don't demand to know what they are going to do with the data," he said. "There are important reasons why the voter roll is publicly available information."

The extent to which voter roll data is public varies across the country. While some states, like North Carolina, make their voter rolls available for free download, other states charge high fees. Alabama, for example, charges one cent per voter in the roll for a total cost of more than $30,000. The state law provides a waiver for government entities, so Merrill said the commission would receive the data for free. Other states, like Virginia, do not make this information public beyond sharing it with formal campaigns and political candidates. When ProPublica tried to purchase Illinois' voter roll, our request was denied because they only release it to government entities for privacy reasons. Illinois did not respond to a request regarding whether they would release this information to the PCEI, which — while a government entity — intends to make the information public.

There's No Evidence Our Election Was Rigged



We had more than 1,000 people watching the vote on Election Day. If millions of people voted illegally, we would have seen some sign of it. Read the story.

The letter from the commission also asks quite broad questions of state elections officials.

"What changes, if any, to federal election laws would you recommend to enhance the integrity of federal elections?" asks the first question. The letter also asked for all information and convictions related to any instance of voter fraud or registration fraud, and it solicited recommendations "for preventing voter intimidation or disenfranchisement."

"The equivalent is, 'Hey, doctors, what changes would you suggest regarding healthcare? Let us know in two weeks,'" said Levitt, the Loyola professor. "If I were a state election official, I wouldn't know what to do with this."

While the commission is being chaired by Vice President Mike Pence, Kobach signed the letter alone. Jon Greenbaum, chief counsel for the Lawyers' Committee for Civil Rights Under Law, said this is an indication that Kobach — not Pence — "will be running the show," which he said should be a point of concern.

"As we know with Kobach, he's obsessed with trying to identify voter fraud and finds it in a lot of places where it doesn't exist," he said.

Vanita Gupta, the former acting head of the Department of Justice's civil rights division under President Barack Obama, said the commission's letter was an indication the commission was "laying the groundwork" to carry out changes to the National Voter Registration Act that might seek to restrict access to the polls.

The National Voter Registration Act — sometimes called the Motor Voter Act — was enacted in 1993. It allows the DOJ the authority to ensure states to keep voter registration lists, or voter rolls, accurate and up-to-date. It also requires states to offer opportunities for voter registration at all offices that provide public assistance (like the DMV).

In November, Kobach was photographed holding a paper addressing national security issues and proposing changes to the voter registration law. It is not clear what these changes were. The ACLU is involved in a lawsuit against Kansas' state law requiring people to show proof of citizenship in order to register to vote. As part of the suit, ACLU lawyers requested access to the document reflecting the changes Kobach proposed.

Originally Kobach told the court the document was beyond the scope of the lawsuit, but last week the court found the documents were relevant and that Kobach had intentionally misled the court. He was fined $1,000 for the offense and required him to turn the document over. It has not yet been made public.

Gupta said her concern about the future of the voter registration act was deepened by the fact that, on Thursday, the DOJ sent a letter to the 44 states covered by the act requesting information on the maintenance of their voter rolls. States were given 30 days to answer a set of detailed questions about their policies for list maintenance.

"The timing of the letters being issued on the same day is curious at the very least," she said.

The White House and the DOJ all did not respond to requests for comment about the letters.

The letter did not ask about compliance with the portions of the act that require states to attempt to expand the voter base, such as by offering voter registration forms and information in public offices.

Danielle Lang, deputy director of voting rights for The Campaign Legal Center, said the focus on list maintenance troubled her. While she said this might point to a new direction in enforcement for the DOJ's voting rights section, it was too early to tell how this information might be used.

Levitt said he did not recall a time when the DOJ has previously requested such broad information. While the information is public and not, on its face, troubling, Levitt said the only time he recalled requesting similar information was during targeted investigations when federal officials suspected a state was not complying with the law.

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CC:	Bell-Platts, Meredith (CRT) [Meredith.Bell-Platts@crt.usdoj.gov]; Oliker-Friedland, Samuel (CRT) [Samuel.Oliker-Friedland@crt.usdoj.gov]
Subject:	News Item Re Section 8 Letters

Fyi, the below news report appears to include a very brief allusion to our information requests. See highlighted passage. I have not seen any other news coverage of our requests.

http://www.kansascity.com/news/politics-government/article158871959.html

GOVERNMENT & POLITICS

JUNE 29, 2017 2:25 PM

Kris Kobach wants every U.S. voter's personal information for Trump's commission

BY BRYAN LOWRY
blowry@kcstar.com

Kansas Secretary of State Kris Kobach has asked every state in the nation to provide President Donald Trump's new voter commission with the names, birthdates and Social Security information for registered voters going back to 2006.

Kobach, a former chairman of the Kansas Republican Party and a candidate for Kansas governor in 2018, serves as vice chairman of Trump's Presidential Advisory Commission on Election Integrity.

In a June 28 letter, Kobach asked the Connecticut secretary of state's office to provide it with all publicly available voter roll data, including the full names of all registered voters along with their addresses, dates of birth, the last four digits of their Social Security numbers, voting history and other personal information.

Kobach said in a phone call that he sent similar letters to election officials in every state and that as Kansas' top election official he will be providing the commission with all of the information for Kansas voters.

Kobach clarified that the personal data would be hosted on a secure server run by the federal government and not disclosed to the public. He said that the request for the Social Security digits was meant "to prevent false positives."

He said that his critics have attacked the Interstate Crosscheck System, a data sharing system between states which Kansas oversees, for producing false positives and that this would ensure more accurate data. Kobach has previously promised that the commission would undertake the most comprehensive study of voter fraud to date.

"The idea is to have the best data possible," Kobach said. "The purpose of the commission is to quantify different forms of voter fraud and registration fraud and offer solutions. And so you have to have this data in order to do any meaningful research."

Kobach said the commission would cross-reference the data provided by states against federal databases to determine the number of non-citizens registered in each state, dead people still on the voter rolls and people registered in more than one jurisdiction.

Kobach's request faced backlash from Democratic election officials, including at least one who planned to buck the request.

California Secretary of State Alex Padilla said in a statement that he will "not provide sensitive voter information to a commission that has already inaccurately passed judgment that millions of Californians voted illegally."

"California's participation would only serve to legitimize the false and already debunked claims of massive voter fraud made by the President, the Vice President, and Mr. Kobach. The President's Commission is a waste of taxpayer money and a distraction from the real threats to the integrity of our elections today: aging voting systems and documented Russian interference in our elections," Padilla said.

Missouri Secretary of State Jay Ashcroft, a Republican, called the commission's requests fair and said that his office looks "forward to working with Sec. Kobach and the Commission on its findings and offer our support in the collective effort to enhance the American people's confidence in the integrity of the elections process."

Ashcroft's father, former U.S. Attorney General John Ashcroft, was a mentor for Kobach during his tenure at the U.S. Department of Justice.

Connecticut Secretary of State Denise Merrill, a Democrat, said in a statement that her office plans to share "publicly-available information with the Kobach Commission while ensuring that the privacy of voters is honored by withholding protected data."

"In the same spirit of transparency, we will request that the Commission share any memos, meeting minutes or additional information as state officials have not been told precisely what the Commission is looking for," she said. "This lack of openness is all the more concerning, considering that the Vice Chair of the Commission, Kris Kobach, has a lengthy record of illegally disenfranchising eligible voters in Kansas."

Kobach has championed some of the strictest voting laws in the country during his tenure as secretary of state. Those laws have faced multiple lawsuits.

Last week, a federal judge fined him $1,000 for making "patently misleading representations" about documents he took to a November meeting with Trump that relate to federal voting law as part of an ongoing voting rights case.

"The courts have repudiated his methods on multiple occasions but often after the damage has been done to voters," Merrill said. "Given Secretary Kobach's history we find it very difficult to have confidence in the work of this Commission."

The commission is chaired by Vice President Mike Pence. Pence's spokesman, Marc Lotter, said that in the commission's first phone meeting Wednesday every member on the call supported the request for documents.

Vanita Gupta, the former head of the U.S. Department of Justice's office of Civil Rights, said that the timing of the letter coincides with a Justice Department request to states for information on voter registration processes. Gupta, who now leads the Leadership Conference on Civil and Human Rights, said the letters "seem to confirm that the Trump administration is laying the groundwork to suppress the right to vote."

Kobach said called this criticism "complete nonsense."

"There's no way you can suppress somebody's vote simply by knowing they're registered," he said, noting that states' voter registration files are public records. "How does having the last four Social allow the federal government to suppress your vote?"

Rick Hasen, an election law expert at the University of California, Irvine, said that Kobach's request raises questions about what safeguards will be put in place to protect voters' data. He said the letter does not make that clear.

"If Barack Obama tried to get all of this information from state election officials it would be front page news on Fox News for months and would prompt a congressional investigation of federal takeover of state election processes," Hasen said.

Kobach's letter to Merrill asks her to provide her thoughts on how to enhance election integrity and to submit a response electronically by July 14. It states that documents submitted to the commission will become available to the public. Kobach said only the input from election officials will be made public, not voters' data.

Kobach said that his quest to analyze the national data would not impact his duties in Kansas. "The Voter integrity commission is so squarely aligned with what I'm doing as secretary of state that it enhances it," he said.

From: Dave Cooper [(b)(6) @gmail.com]
Sent: 6/30/2017 4:23:10 AM
To: Cooper, David (CRT) [David.Cooper@crt.usdoj.gov]

http://www.routefifty.com/management/2017/06/trump-election-integrity-commission-state-voter-data/139107/

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

DEC 0 1 2017

The Honorable Amy Klobuchar
United States Senate
Washington, DC 20510

Dear Senator Klobuchar:

This responds to your letter to the Attorney General and the Acting Assistant Attorney General for the Civil Rights Division dated July 11, 2017, regarding activities of the Department of Justice (Department) and the Presidential Advisory Commission on Election Integrity (the Commission). We are sending similar responses to the other Senators who joined your letter. We apologize for our delay in responding to your letter.

We appreciate your concerns about voting rights issues, and we agree that the right to vote is fundamental to our democracy and that the importance of access to the ballot for all Americans is paramount. Your letter requests responses to a list of specific questions, including requests for documents. It is important to note that attorneys from the Department's Civil Division are currently representing the Commission in ongoing civil litigation. Accordingly, they communicate with the Commission's attorneys on a regular basis, and with members of the Commission as necessary to gather information related to the litigation. Pursuant to longstanding policy it is not appropriate for the Department to provide documents or records of communications that may implicate ongoing litigation. While we cannot respond to each of your individual inquiries, we are pleased to provide the following information about the role of the Department as it relates to voting rights and the Commission.

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Prior to June 2017, the Division's last round of requests to various states for list maintenance information under the NVRA took place several years ago. However, the Division does not maintain a centralized record of all such previous requests for information. Please note that information regarding data that either was or was not provided by the states in response to a 2014 survey administered by the Election Assistance Commission (EAC) survey is publicly available on the EAC's website.

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Sincerely,

Stephen E. Boyd
Assistant Attorney General

Enclosure

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

DEC 0 1 2017

The Honorable Christopher A. Coons
United States Senate
Washington, DC 20510

Dear Senator Coons:

This responds to your letter to the Attorney General and the Acting Assistant Attorney General for the Civil Rights Division dated July 11, 2017, regarding activities of the Department of Justice (Department) and the Presidential Advisory Commission on Election Integrity (the Commission). We are sending similar responses to the other Senators who joined your letter. We apologize for our delay in responding to your letter.

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Sincerely,

Stephen E. Boyd
Assistant Attorney General

Enclosure

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Mazie K. Hirono
United States Senate
Washington, DC 20510

DEC 0 1 2017

Dear Senator Hirono:

This responds to your letter to the Attorney General and the Acting Assistant Attorney General for the Civil Rights Division dated July 11, 2017, and your letter to the Attorney General, Deputy Attorney General, Associate Attorney General, and Acting Assistant Attorney General for the Civil Rights Division dated September 26, 2017, regarding activities of the Department of Justice (Department) and the Presidential Advisory Commission on Election Integrity (the Commission). We are sending similar responses to the other Senators who joined your letter. We apologize for our delay in responding to your letters.

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Your July 11th letter also references two letters sent to states on June 28, 2017, requesting additional information about their procedures for maintaining voter registration lists – one from the Department and a separate letter from the Commission. The Department did not coordinate the sending of its June 28th letter with the Commission. To the best of our knowledge, the

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Your September 26th letter also inquired about certain Freedom of Information Act (FOIA) requests that the Department has received. As with all FOIA requests, the Department followed its standard procedures in responding to the FOIA request from the Campaign Legal Center. The Department appropriately used Exemption 6 of the FOIA to protect personal contact information in accordance with statute and the Department's Guide to the Freedom of Information Act Exemption 6, which is available at https://www.justice.gov/sites/default/files/oip/legacy/2014/07/23/exemption6.pdf. In response to your request, we are enclosing a complete set of all the documents furnished to the Campaign

Legal Center in response to that organization's FOIA request received by the Department on February 15, 2017, and a complete set of the documents furnished to the Brennan Center for Justice in response to that organization's FOIA request received by the Department on July 25, 2017.

Additionally, your September 26th letter asked about the use of private email addresses to conduct government business. The Department briefs incoming staff members about the prohibitions on the use of personal accounts and the timing and appropriate capture of business information. DOJ policy 0804.01, which has been in place since May 8, 2015, explicitly prohibits the use of personal accounts for Departmental business except in exigent circumstances. The policy requires that under those circumstances, the employee must assure capture of Departmental information in Departmental recordkeeping systems within 20 days. This policy ensures that all agency records are incorporated within a Department recordkeeping system that would be searched in response to a FOIA request. Please note that in the instance referenced in your letter the email in question was forwarded to the Attorney General's official email account, which captured the record in the Department's recordkeeping systems, consistent with Department policies and Federal Records Act requirements.

Your September 26th letter also raised concerns about responsiveness to Congressional correspondence. Upon my confirmation as Assistant Attorney General in August 2017, the Office of Legislative Affairs began a comprehensive review of all outstanding Congressional correspondence, and, where appropriate, is now working to respond. The Department's backlog of overdue letters was extensive, including several hundred unanswered letters dating back to 2015. In the past 90 days, we have made significant progress, though much work remains. We are working to provide responses to your inquiries, however, in doing so, the Department must continue to prioritize inquiries from the Chairmen of the various Committees that exercise oversight over the Department's programs, policies, and activities. Our goal is to be as responsive as possible without hindering the other important work the Department is doing, consistent with the Department's significant law enforcement, litigation, and national security responsibilities.

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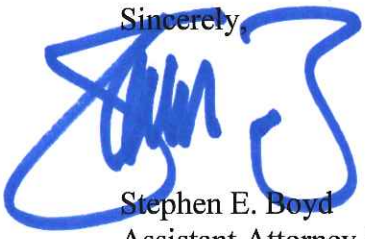

Stephen E. Boyd
Assistant Attorney General

Enclosures

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Al Franken
United States Senate
Washington, DC 20510

DEC 0 1 2017

Dear Senator Franken:

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Sincerely,

Stephen E. Boyd
Assistant Attorney General

Enclosures

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

DEC 0 1 2017

The Honorable Patrick Leahy
United States Senate
Washington, DC 20510

Dear Senator Leahy:

This responds to your letter to the Attorney General and the Acting Assistant Attorney General for the Civil Rights Division dated July 11, 2017, and your letter to the Attorney General, Deputy Attorney General, Associate Attorney General, and Acting Assistant Attorney General for the Civil Rights Division dated September 26, 2017, regarding activities of the Department of Justice (Department) and the Presidential Advisory Commission on Election Integrity (the Commission). We are sending similar responses to the other Senators who joined your letter. We apologize for our delay in responding to your letters.

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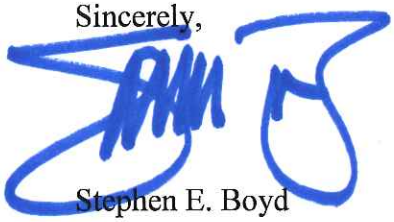

Stephen E. Boyd
Assistant Attorney General

Enclosures

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

DEC 0 1 2017

The Honorable Jack Reed
United States Senate
Washington, DC 20510

Dear Senator Reed:

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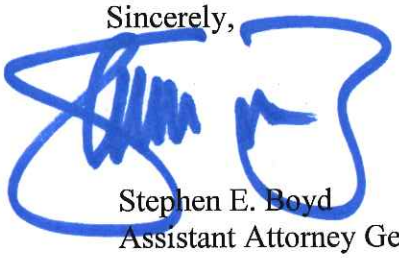

Stephen E. Boyd
Assistant Attorney General

Enclosure

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

DEC 0 1 2017

The Honorable Richard Blumenthal
United States Senate
Washington, DC 20510

Dear Senator Blumenthal:

This responds to your letter to the Attorney General and the Acting Assistant Attorney General for the Civil Rights Division dated July 11, 2017, and your letter to the Attorney General, Deputy Attorney General, Associate Attorney General, and Acting Assistant Attorney General for the Civil Rights Division dated September 26, 2017, regarding activities of the Department of Justice (Department) and the Presidential Advisory Commission on Election Integrity (the Commission). We are sending similar responses to the other Senators who joined your letter. We apologize for our delay in responding to your letters.

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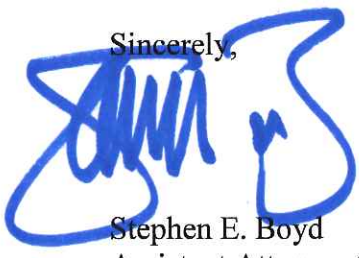

Stephen E. Boyd
Assistant Attorney General

Enclosures

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

DEC 0 1 2017

The Honorable Angus King
United States Senate
Washington, DC 20510

Dear Senator King:

This responds to your letter to the Attorney General and the Acting Assistant Attorney General for the Civil Rights Division dated July 11, 2017, regarding activities of the Department of Justice (Department) and the Presidential Advisory Commission on Election Integrity (the Commission). We are sending similar responses to the other Senators who joined your letter. We apologize for our delay in responding to your letter.

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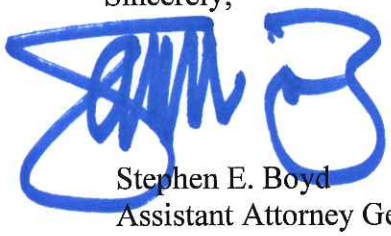

Stephen E. Boyd
Assistant Attorney General

Enclosure

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

DEC 0 1 2017

The Honorable Richard Durbin
United States Senate
Washington, DC 20510

Dear Senator Durbin:

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Assistant Attorney General

Enclosures

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

DEC 0 1 2017

The Honorable Sheldon Whitehouse
United States Senate
Washington, DC 20510

Dear Senator Whitehouse:

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