



Leadership Conference on Civil Rights

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October 25, 2002

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The Honorable John D. Ashcroft
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

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Wade Henderson

On behalf of the Leadership Conference on Civil Rights, the nation's oldest, largest and most diverse civil rights coalition, we write regarding the Department of Justice's recently announced "Voting Access and Integrity Initiative." We can all certainly agree on the need to ensure fair and accurate elections, which are free of discrimination. However, we are deeply concerned, especially in light of recent events, about the manner in which the so-called "integrity" component of the Initiative may be implemented as well as its timing. We are also concerned about the priority and focus which is apparently being given to the investigation of alleged voter fraud, despite the overwhelming evidence that American voters are being systematically denied access to the polls, as demonstrated nationwide before, during and since the 2000 Presidential election.

It has long been the experience of the civil rights community that overly aggressive "voting integrity" efforts, instead of reducing fraud, tend to intimidate lawful voters and ultimately suppress voter turnout. This is especially true when investigations and prosecutions appear to concentrate efforts on or target voters of a particular racial, ethnic, disability or other minority group.

We are already observing alarming, heavy-handed enforcement efforts in the weeks leading up to the November 2002 elections. For example, in South Dakota, the FBI is currently targeting Native American reservations in an investigation of several allegations of voter registration fraud. However, at the same time we have heard concerns from advocates in the Native American community that there will not be sufficient § 203 interpreters at the polls to protect voter rights. While we certainly do not condone fraud in the electoral process, we are deeply concerned about the resources dedicated to this federal-led investigation and the manner in which it has been conducted. While state authorities are normally called upon to investigate most types of election fraud, the involvement of considerable FBI resources and personnel has unnecessarily raised the profile of the investigation and has led to false perceptions among the

(*Deceased)



public that “massive” fraud has been taking place. Even if such investigations were to prove isolated instances of fraud, the excessive and disproportionate scrutiny being placed on historically disenfranchised minority communities as a whole is likely to intimidate voters and discourage them from participating in the political process, out of fear that they will be targeted as well.

Such voting suppression occurred after the 1994 election in Alabama, when the FBI visited majority-black counties to investigate allegations of fraud in the use of absentee ballots. Approaching 1,000 people under the guise of investigating a series of church arsons in the area, the FBI interrogated voters about possible fraud and even asked many of them to submit handwriting samples. The probe and subsequent prosecutions resulted in few convictions, but had a profound impact on voter turnout, which decreased even though the number of registered voters had increased. Many African-American citizens simply said they were too afraid to vote, out of the fear of being investigated and prosecuted. Indeed, earlier similar activities by the U.S. Department of Justice and U.S. Attorneys Offices have been discredited as selective, focusing disproportionately on African-American and minority communities.¹

As the election nears, reports in the news media and from voting rights advocates in many states ring alarm bells that voters have and will face intimidation as they effectuate their precious, fundamental right to vote. Already we are hearing that voters in Arkansas, who are attempting to vote early, are being harassed and photographed at the polling site, which could constitute a violation of the Voting Rights Act (42 U.S.C. § 1973). If the Justice Department is truly concerned with the integrity of the voting process, then these voter intimidation efforts, which operatives are undertaking in the name of prosecuting voter fraud, are where attention needs to be placed so that lawful voters are not discouraged from exercising their franchise. Instead, the recent remarks of your spokesman Mark Corrallo suggest that the Department’s priorities are elsewhere: “The only people intimidated are the people who were going to cast fraudulent ballots, and that’s the point here.”² Such remarks demonstrate a complete lack of sensitivity to the impact of the Department’s actions, and are particularly disturbing given that, in our experience, the electoral process has been far more riddled with evidence of efforts to deny voters access to the polls than by fraud.

Justice Department efforts which have the effect of intimidating voters or which fail to devote sufficient resources towards voter access are particularly disappointing because historically, the Department of Justice was rightfully seen as a protector of minority voting rights against segregationists in the South and state actors who used a wide variety of intimidating tactics – including unwarranted accusations of widespread fraud – to drive African-American voters away from the polls. We would hope that the Department would not now engage in conduct with the same ultimate impact in the weeks leading up to the 2002 elections.

¹ *United States v. Gordon*, 817 F.2d 1538 (11th Cir. 1987), *cert. dismissed*, 487 U.S. 1265 (1988).

² Jim Drinkard, *Dems Blast GOP Efforts on Voter Fraud*, USA Today, October 24, 2002.



Some of the signatories to this letter have already met with you and Assistant Attorney General Ralph Boyd and expressed concerns about your program, particularly the planned use of potentially intimidating signs and publicity about these efforts. As a follow-up to these meetings we would appreciate an opportunity to meet with Assistant Attorney General Michael Chertoff in order to fully discuss how the Criminal Justice Division will proceed in its efforts. If you have any questions, please feel free to contact Rob Randhava (202-466-6058) or Nancy Zirkin (202-263-2880).

Sincerely,

Leadership Conference on Civil Rights

Alliance for Retired Americans
American Association for People with Disabilities
Common Cause
Jewish Council for Public Affairs
Labor Council for Latin American Advancement
Lawyers' Committee for Civil Rights Under Law
League of Women Voters of the United States
Mexican American Legal Defense and Educational Fund
NAACP Legal Defense and Educational Fund, Inc.
National Alliance of Postal and Federal Employees
National Asian Pacific American Legal Consortium
National Association for the Advancement of Colored People
National Association of Latino Elected and Appointed Officials
National Association of Protection and Advocacy Systems
National Coalition for the Homeless
National Congress of American Indians
National Council of La Raza
National Law Center on Homelessness and Poverty
National Mental Health Association
Open Society Policy Center
People For the American Way Foundation
Public Citizen
U.S. Student Association

cc: The Honorable Michael Chertoff
Assistant Attorney General, Criminal Division