

United States Senate

WASHINGTON, DC 20510

October 28, 2016

VIA ELECTRONIC TRANSMISSION

The Honorable Loretta E. Lynch
Attorney General
U.S. Department of Justice

The Honorable Vanita Gupta
Principal Deputy Assistant Attorney General
U.S. Department of Justice

Dear Attorney General Lynch and Principal Deputy Assistant Attorney General Gupta:

The strength of our democracy relies on the rights of citizens to vote in free and fair elections, and the Department of Justice plays a vital role in protecting those rights. The upcoming presidential election will be the first since 1965 in which the American people will be without the full protections of the Voting Rights Act. In this context, we are deeply concerned that the Justice Department will dispatch *fewer* trained election observers than in the past because of the Supreme Court's 2013 decision in *Shelby County v. Holder*, where the Court gutted key protections of the Act.

In light of the current political environment, the Department should be empowered to train and deploy *more* election observers, not fewer. Without factual basis, some individuals have falsely claimed that the upcoming election could be "stolen" through widespread voter fraud.¹ These false claims have led to citizens who lack formal training stating that they intend to gather at polling locations to watch over voters in "other communities". Some have suggested that they will engage in racial profiling and intend to "go right up behind" voters to make them feel "a little bit nervous."

This type of voter intimidation is unacceptable, outrageous, and illegal. Federal laws clearly prohibit conduct that "intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose." See 18 U.S.C. § 594; see also 42 U.S.C. § 1973gg-10(1). While we understand that the Department may feel constrained by the *Shelby County* decision with respect to observers, we urge the Department to send monitors to as many polling places as possible, particularly in those locations where voters have historically experienced discrimination or intimidation.

All Americans – regardless of party affiliation – deserve free and fair elections. No eligible voter should be intimidated, harassed, or otherwise prevented from exercising their right to vote and to participate in the democratic process. We are a better country when more, not fewer, Americans are engaged in our democratic process. We urge the Department of Justice to take every step necessary to ensure that voter intimidation and voter discrimination are not occurring at the polls. And anyone who engages in illegal acts of voter intimidation or discrimination should be prosecuted to the fullest extent of the law.

Thank you for your continued commitment to preserving and protecting the voting rights of our citizens.

Sincerely,



PATRICK LEAHY
United States Senator



CHARLES E. SCHUMER
United States Senator

¹ There is no evidence behind these claims. In fact, studies show just the opposite. A comprehensive study done by Deputy Assistant Attorney General Justin Levitt of your office, when he was a law professor, shows that between 2000 and 2014, there were more than a billion votes cast. Of that billion plus votes cast, there were just 31 instances of voter impersonation. That is far less than 0.01% of votes cast. Moreover, in a report to Congress, the Government Accountability Office concluded that “no apparent cases of in-person voter impersonation [were] charged by DOJ’s Criminal Division or by U.S. Attorney’s offices anywhere in the United States, from 2004 through July 3, 2014.” See GAO Report: Issues Related to State Voter Identification Laws, Sept. 2014, at 70.