

United States Senate

WASHINGTON, DC 20510

October 17, 2017

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

The Honorable Rod Rosenstein
Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington, D.C. 20530

The Honorable Rachel Brand
Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington, D.C. 20530

The Honorable John Gore
Acting Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington, D.C. 20530

Dear Attorney General Sessions, Deputy Attorney General Rosenstein, Associate Attorney General Brand, and Acting Assistant Attorney General Gore:

We write to follow up on our previous inquiries regarding the Department of Justice's ("DOJ") involvement with the Presidential Advisory Commission on Election Integrity ("the Commission").

On July 11, we wrote to request information regarding DOJ's June 28 letter to forty-four states requesting information about state-level procedures for maintaining voter registration lists. We wrote again on September 26, regarding documents that showed DOJ leadership's apparent role in selecting the members of the Commission. We have not yet received responses to these letters.

Since then, additional documents have come to light evidencing the Department's involvement with the Commission's workings. This is concerning, particularly in light of another recent court production showing Commission Vice Chair Kris Kobach's plans to dismantle the National

Voter Registration Act.¹ As we have written before, it would be a low moment for the Department to have been a facilitator of Mr. Kobach's efforts to suppress voter access by perpetuating the myth of widespread voter fraud.

In litigation against the Lawyers' Committee for Civil Rights Under Law, the Commission recently produced a *Vaughn* index to justify withholding from FOIA production hundreds of Commission-related documents.² While we have reasons to question the Commission's bases for those non-disclosures even in the context of private party litigation, FOIA exemptions are not a basis for the executive branch to shield documents from Congressional oversight. From the *Vaughn* index, it is clear that the Department is in possession of, and indeed has already collected, documents responsive to our earlier requests.

These include at least the following entries on the Commission's *Vaughn* index:

- May 15, 2017: "email exchange re: Chicago board of election" (DOJ official to Commissioner Christy McCormick) (#541)
- June 15, 2017: "email about setting up a time to speak" (Andrew Kossack, the Commission's designated federal officer, to DOJ official) (#687)
- July 5-6, 2017: "email exchange discussing voting issue with attachment" (DOJ Official to McCormick) (#544)
- Aug. 1-2, 2017: "email chain and planner setting a time for a call" (Kossack to Department of Homeland Security Official and Staff, DOJ) (#738 & 741)
- Aug. 22, 2017: "email re: collecting data from non-state entities" (Kossack to DOJ) (#748)
- Sept. 5, 2017: "email forwarding link to news article" (DOJ official to McCormick) (#564)
- Sept. 6, 11, 2017: "emails exchange discussing Chicago voting issue" (Third party to McCormick, DOJ official) (#565)
- Sept. 15, 2017: "email exchange re: sending materials for litigation index" (Kossack to DOJ, King) (#343)
- Undated: Litigation documents and emails with DOJ (#778)

¹ Sam Levine, *Kris Kobach Proposed Weakening Key Federal Voting Protections In Trump Meeting*, The Huffington Post, Oct. 5, 2017, at http://m.huffpost.com/us/entry/us_598dcd41e4b08a247273eb29.

² <https://www.scribd.com/document/360511302/Vaughn-Index#>

While some of these entries might be related to the Department's representation of the Commission in litigation, other entries appear to show that the Department was coordinating with the Commission about data collection and other voting issues. If these communications concern ongoing or contemplated cases or investigations in the Civil Rights Division, they could violate the Administration's policy limiting contacts between the White House and the Department.³ Full disclosure of these documents is necessary for Congress to provide appropriate oversight on this issue.

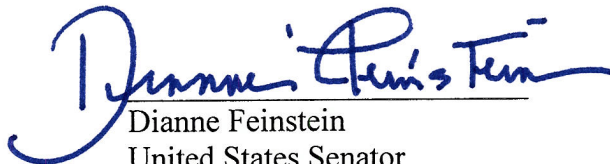
The *Vaughn* index shows the Department has records of these communications in its possession and should be able to produce them to us without further delay. Accordingly, we respectfully ask that the Department immediately produce records of any and all communications between Department of Justice or Civil Rights Division leadership⁴ and the White House, the Office of the Vice President, the White House Counsel's Office, the Commission, or any of the Commission's members or representatives, regarding the Commission or its work, either before or after its formation.

We also repeat our request that the Department respond immediately to the outstanding requests in our above-referenced July 11, 2017 and September 26, 2017 letters.

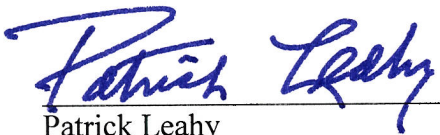
Sincerely,



Sheldon Whitehouse
United States Senator



Dianne Feinstein
United States Senator



Patrick Leahy
United States Senator



Richard J. Durbin
United States Senator

³ Memo from Donald F. McGahn II, Counsel to the President, to All White House Staff, *Communications Restrictions with Personnel at the Department of Justice*, January 27, 2017.

⁴ Including Attorney General Sessions, Deputy Attorney General Rod Rosenstein, Associate Attorney General Rachel Brand, former Acting Associate Attorney General/current Principal Deputy Associate Attorney General Jesse Panuccio, former Acting Assistant Attorney General Tom Wheeler, Acting Assistant Attorney General John Gore, or any other political appointee in the Department.

Amy Klobuchar

Amy Klobuchar
United States Senator

Al Franken

Al Franken
United States Senator

Chris Coons

Christopher A. Coons
United States Senator

Richard Blumenthal

Richard Blumenthal
United States Senator

Mazie Hirono

Mazie K. Hirono
United States Senator