



Office of the Attorney General
Washington, D. C. 20530

November 9, 2020

MEMORANDUM FOR UNITED STATES ATTORNEYS
THE ASSISTANT ATTORNEYS GENERAL FOR THE
CRIMINAL DIVISION
CIVIL RIGHTS DIVISION
NATIONAL SECURITY DIVISION
DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

FROM: THE ATTORNEY GENERAL

SUBJECT: POST-VOTING ELECTION IRREGULARITY INQUIRIES

Last week, our nation once again demonstrated the strength of our democracy as more than 140 million Americans cast ballots to select their leaders. I want to thank each of you and your teams for your extraordinary efforts to ensure that all Americans could exercise this most fundamental of rights with confidence and in safety.

Now that the voting has concluded, it is imperative that the American people can trust that our elections were conducted in such a way that the outcomes accurately reflect the will of the voters. Although the States have the primary responsibility to conduct and supervise elections under our Constitution and the laws enacted by Congress, the United States Department of Justice has an obligation to ensure that federal elections are conducted in such a way that the American people can have full confidence in their electoral process and their government.

The Department's general policies with regard to election fraud investigations are contained in the Justice Manual. Those policies require, among other things, consultation with the Public Integrity Section's Election Crimes Branch ("ECB") in some instances. Those policies already allow preliminary inquiries, including witness interviews, to be conducted without ECB consultation. In instances in which they are consulted, the ECB's general practice has been to counsel that overt investigative steps ordinarily should not be taken until the election in question has been concluded, its results certified, and all recounts and election contests concluded. Such a passive and delayed enforcement approach can result in situations in which election misconduct cannot realistically be rectified. Moreover, this ECB practice has never been a hard and fast rule, and case-specific determinations and judgments must be made. While most allegations of purported election misconduct are of such a scale that they would not impact the outcome of an election and, thus, investigation can appropriately be deferred, that is not always the case. Furthermore, any concerns that overt actions taken by the Department could inadvertently impact an election are greatly minimized, if they exist at all, once voting has concluded, even if election certification has not yet been completed.

Given this, and given that voting in our current elections has now concluded, I authorize you to pursue substantial allegations of voting and vote tabulation irregularities prior to the certification of elections in your jurisdictions in certain cases, as I have already done in specific instances. Such inquiries and reviews may be conducted if there are clear and apparently-credible allegations of

irregularities that, if true, could potentially impact the outcome of a federal election in an individual State. Any investigation of claims of irregularities that, if true, would clearly not impact the outcome of a federal election in an individual State should normally be deferred until after the election certification process is completed. While U.S. Attorneys maintain their inherent authority to conduct inquiries and investigations as they deem appropriate, it will likely be prudent to commence any election-related matters as a preliminary inquiry, so as to assess whether available evidence warrants further investigative steps.

While it is imperative that credible allegations be addressed in a timely and effective manner, it is equally imperative that Department personnel exercise appropriate caution and maintain the Department's absolute commitment to fairness, neutrality and non-partisanship. You are the most senior leaders in the United States Department of Justice and I trust you to exercise great care and judgment in addressing allegations of voting and vote tabulation irregularities. While serious allegations should be handled with great care, specious, speculative, fanciful or far-fetched claims should not be a basis for initiating federal inquiries. Nothing here should be taken as any indication that the Department has concluded that voting irregularities have impacted the outcome of any election. Rather, I provide this authority and guidance to emphasize the need to timely and appropriately address allegations of voting irregularities so that all of the American people, regardless of their preferred candidate or party, can have full confidence in the results of our elections. The American people and the leaders they freely elect deserve nothing less.