



Voter Protection Program

FEDERAL INTERFERENCE IN THE 2020 ELECTION SAMPLE LETTER TO U.S. ATTORNEYS

This template is provided as an illustrative resource for state attorneys general who are considering outreach to local U.S. Attorneys in response to concerns over possible federal interference in the 2020 election. Of course, any letter should be adapted to the specific state context.

October __, 2020

Dear :

My office values deeply our longstanding relationship, which is built on cooperation, mutual respect, and our shared commitment to doing justice. Right now, our cooperation is critical to securing for the people of [State] a free, fair, and safe election. I am proud of [STATE]’s robust election infrastructure. I am confident when I tell [STATE] residents that they should have full faith in the integrity of our election system.

In that spirit, I am reaching out regarding recently reported modifications to the U.S. Department of Justice’s policy of non-interference in elections. I want to ensure that our offices remain properly coordinated and that the interests of [State] and its people remain paramount.¹

¹ On October 7, 2020, Pro Publica reported that “according to an email sent Friday by an official in the Public Integrity Section in Washington, now if a U.S. attorney’s office suspects election fraud that involves postal workers or military employees, federal investigators will be allowed to take public investigative steps before the polls close, even if those actions risk affecting the outcome of the election.” Robert Faturechi and Justin Elliott, “DOJ Frees Federal Prosecutors to Take Steps That Could Interfere With Elections, Weakening Long-standing Policy,” Pro Publica, October 7, 2020, *available at* <https://www.propublica.org/article/doj-frees-federal-prosecutors-to-take-steps-that-could-interfere-with-elections-weakening-long-standing-policy>.

As you know, the administration of elections is a state responsibility. The state also has primary responsibility for securing the vote and for investigating and prosecuting elections crimes. My office takes all allegations of election fraud or abuse very seriously.

I am mindful that overt or overly publicized law enforcement actions around an election can undermine the very faith in our elections we seek to protect, or can inject law enforcement itself into an election. This concern has long been enshrined in the Department of Justice's policies, and has constrained overt federal law enforcement conduct near an election. Accordingly, the recently reported change to Department of Justice policy caused concern that the traditional restraint appropriate around an election may no longer be exercised.

As we approach the November 3 election, I ask for a detailed briefing of your office's plans regarding election integrity efforts and on how the Department of Justice's new policy affects your office's longstanding practices. My goal is to coordinate with your office to protect the integrity of the election and to be of assistance where possible in any necessary investigation of alleged election-related crimes. Accordingly, if you have any task forces or working groups regarding the upcoming election, I would request that you include representatives from my office in any meetings.

I trust your office will continue to abide by the well-founded principles of restraint – including refraining from overt law enforcement actions around the election and refraining from encouraging media coverage of any investigative steps as to alleged election-related crimes. The public should hear a unified message from our offices: The election is safe and secure.

Unilateral Department of Justice law enforcement actions may risk undermining that message and, in turn, the public's confidence.

I look forward to hearing how the recent Department of Justice policy exception will be implemented in a manner consistent with [STATE's] responsibility to administer the election and our interest in prosecuting and deterring wrongdoers and in promoting faith in our elections. I am hopeful of working shoulder-to-shoulder with you in the weeks ahead.

Sincerely,