



November 2, 2020

The Honorable Christopher Wray  
Director  
Federal Bureau of Investigation (FBI)  
935 Pennsylvania Avenue, NW  
Washington, D.C. 20535-0001

Dear Director Wray,

We write as members of the House of Representatives because of our oversight responsibilities to ensure that the enforcement of the laws of this country protect our free and fair elections.

Tens of millions of people have already cast early and mail-in ballots in this election. There is mounting evidence that Postmaster General DeJoy and the Board of Governors have hindered the passage of mail.<sup>1</sup> This included the dismantling of sorting machines, as well as the sweeping organizational and policy changes that have already delayed mail delivery by as much as a week in some places.<sup>2</sup> A federal court, in an effort to ensure the delivery of ballots, has directed the Postal Service to use express mail and same day delivery to ensure ballots arrive in time to be counted.<sup>3</sup> The following Federal laws appear to have been violated:

18 U.S.C. § 1701 states: “Whoever knowingly and willfully obstructs or retards the passage of the mail, or any carrier or conveyance carrying the mail, shall be fined under this title or imprisoned not more than six months, or both.”

18 U.S.C. § 595 states: “Whoever, being a person employed in any administrative position by the United States, or by any department or agency thereof ... in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, uses his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident

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<sup>1</sup> Jacob Bogage, “Postal Service workers quietly resist DeJoy’s changes with eye on election,” Washington Post, September 29, 2020.

<sup>2</sup> Aaron Gordon, “The Post Office is deactivating mail sorting machines ahead of the election,” Vice, August 13, 2020; Aaron Holmes, “The USPS is shutting down mail-sorting machines crucial for processing absentee ballots as the 2020 election looms,” Business Insider, August 13, 2020; Curt Devine, Bob Ortega and Paul P. Murphy, “Postal Service removes some mail-sorting machines, sparking concerns ahead of election,” CNN, August 13, 2020

<sup>3</sup> Paul P. Murphy, “Judge mandates USP take ‘extraordinary measures’ as ballot processing drops in key states, CNN, November 2, 2020.

Commissioner, shall be fined under this title or imprisoned not more than one year, or both.

Recent developments indicate that crimes which could violate the constitutional rights of Americans may still be in process. On September 17, Chief Judge Stanley A. Bastian, of the U.S. District Court for the Eastern District of Washington stated that “at the heart of DeJoy’s and the Postal Service’s actions is voter disenfranchisement.”

Evidence of efforts to impede the election is in President Trump’s highly partisan words and tweets and the actual impact on mailed ballots sent during primary elections held earlier this year, which resulted in uncounted ballots, and recent lawsuits by the Republican National Committee and President Trump’s campaign to stop the States’ efforts to bypass the Postal Service by utilizing ballot drop boxes, as well as the timing of the changes in postal operations. It is easy to conclude that the recent Postal Services’ changes is an intentional effort on the part of the current Administration to disrupt and challenge the legitimacy of upcoming local, state, and federal elections, especially given that 72% of the decommissioned highspeed mail sorting machines were located in counties where Hillary Clinton received the most votes in 2016.<sup>4</sup>

The Judge also issued an injunction to stop the USPS from various actions that would continue to slow the delivery of mail. These included: “(1) eliminating overtime; (2) decommissioning sorting machines; (3) removing mailboxes; (4) reducing operating hours; and (5) changing how election mail is classified.”

Any delay or obstruction of the mail could also create an excuse for the Department of Justice to intervene in the counting of ballots.

Lawsuits filed against the USPS have resulted in several nationwide injunctions to prevent further endangerment to the integrity of mail balloting. However, these injunctions are not sufficient to protect the integrity of the election.

We, therefore, seek to ensure that the efforts begun earlier this year by the Postmaster General and the Board of Governors to delay and obstruct the mail do not continue, and that the recent federal court order to speed delivery of ballots are supported by the FBI by establishing a high priority for criminal investigations into complaints that we forward to you from our constituents or are brought directly to your attention by voters.

We want to emphasize that the FBI should begin criminal investigations against individuals for whom there is evidence that they have violated federal law. For the USPS, these individuals should also include, in addition to Postmaster DeJoy and the Board of Governors of the United States Postal Service, persons within USPS or anywhere else, who participate in activities that slow down the delivery of mail ballots, or otherwise disenfranchise voters, between now and the election of November 3.

Perhaps even more importantly, we want to call your attention to 18 USC§241 which criminalizes any conspiracy to “injure, oppress, threaten, or intimidate any

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<sup>4</sup> Ramsey Touchberry, “Decommissioned Mail-Sorting Machines in Swing States Could Define the Election,” Newsweek, August 22, 2020.

person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States;" and §18 USC 242, which makes it a crime for when any person, "under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States."

There have been numerous violations and potential violations of these laws as we draw closer to the November elections in many states. In Alamance County, North Carolina, individuals partaking in a peaceful march to cast votes during early voting were pepper sprayed by police after stopping for a moment of silence as a nod to the amount of time a Minneapolis police officer knelt on George Floyd's neck. After approximately 8 minutes and 40 seconds, police officers attacked the group of 200 adults and children with pepper spray and arrested 8 marchers.<sup>5</sup> The potential for voter intimidation exists should a decision by a Michigan judge that struck down the Secretary of State's ban of visible weapons in voting locations remains in place on Election Day.<sup>6</sup>

A number of jurisdictions have faced legal challenges for blocking the counting of ballots cast using options intended to protect voters from COVID-19 infections, and efforts to block new mail-in or absentee voting provisions. Texas Governor Greg Abbott issued a proclamation on October 1, limiting ballot drop off locations to one per county; this meant that Harris County, which has 4.7 million residents, had only one such location. A similar October 5 order from Ohio Secretary of State Frank LaRose was blocked by a federal judge, who wrote: "While it may be said that the 7,903 registered voters in Noble County may find a single drop box location sufficient, the record demonstrates that the 858,041 registered voters in Cuyahoga County will likely not."

Iowa made it more difficult to process absentee ballot applications and likely disenfranchised voters by making it more likely that their applications would be rejected. Florida did not extend voter registration adequately after its system crashed, with a judge noting that there was "certainly a substantial burden limiting the right to vote." Other states have instituted, or tried to institute, limitations on ballot drop-off locations.

Republicans, freed by a 2018 court ruling to carry out campaigns against alleged "voter fraud" without court approval, are ramping up for an operation that will reportedly involve up to 50,000 supporters to monitor polling places and challenge ballots. President Trump's repeated false assertions of widespread fraud and that Democrats intend to "steal" this election, combined with his calls on supporters "to go into the polls and watch very carefully," have greatly increased concerns about voter suppression and intimidation. Trump and his associates, including Attorney General William Barr, have asserted their right or desire for law enforcement or vigilante groups to show up to polling places.

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<sup>5</sup> Barry Yeoman, "N.C. police arrest at least 8, spray 'pepper-based vapor' to disperse voter turnout march that included kids," Washington Post, October 31, 2020.

<sup>6</sup> Braktkton Booker, "Michigan Judge Blocks Ban On Open Carry of Guns At Polls On Election Day," NPR, October 28, 2020

It is important to emphasize that voter suppression, which has a 150-year history of targeting African Americans, continues to this day to have a much greater impact on Black and other minority voters. It is therefore necessary to call your attention to §18 USC 245, which prohibits actions that interfere with “voting or qualifying to vote,” including specifically “any person because of his race, color, religion or national origin.” This also provides for criminal penalties, and, therefore, could be the basis for criminal investigation of some acts of voter suppression.

In conclusion, we are asking that the FBI pursue criminal investigations where government officials -- or private individuals -- may have violated federal law in taking actions that make it more difficult for Americans to cast their vote or to have it counted. As can be seen, many of the actions that have been taken have no plausible purpose other than voter suppression. Criminal investigations may therefore find evidence of criminal intent.

We emphasize that this is not about criminalizing bad policy decisions. This is about enforcing federal criminal statutes, including those cited in this letter, whose purpose is to discourage and prevent illegal actions that undermine the integrity of our elections.

Sincerely,

/s/

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Sheila Jackson Lee (TX-18)

/s/

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Adriano Espaillat (NY-13)

/s/

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Ayanna Pressley (MA-7)

/s/

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Alexandria Ocasio-Cortez (NY-14)

/s/

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Nydia M. Velázquez (NY-07)

/s/

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Jerry McNerney (CA-09)

/s/

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Karen Bass (CA-37)

/s/

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Sanford D. Bishop, Jr. (D-GA02)

/s/

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Gerald E. Connolly (VA-11)

/s/

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André Carson (IN-07)

/s/

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Marcy Kaptur (OH-9)

/s/

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Donald M. Payne, Jr. (NJ-10)

/s/

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Debra Haaland (NM-01)

/s/

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Steve Cohen (TN-09)

/s/

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Henry C. "Hank" Johnson, Jr. (GA-04)

/s/

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Brendan F. Boyle (PA-02)

/s/

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Rashida Tlaib (MI-13)

/s/

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Jim Cooper (TN-05)

/s/

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Betty McCollum (MN-04)

/s/

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Mark Pocan (WI-02)

/s/

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Gregory W. Meeks (NY-05)

/s/

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Danny K. Davis (IL-07)

/s/

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Marcia L. Fudge (OH-11)

/s/

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Dwight Evans (PA-03)

/s/

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Kweisi Mfume (MD-07)

/s/

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Wm. Lacy Clay (Mo.-1)

/s/

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Stacey E. Plaskett (VI)

/s/

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Al Green (TX-09)

/s/

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Alma S. Adams, Ph.D. (NC-12)

/s/

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Earl Blumenauer (OR-03)