

November 3, 2008

The Honorable Michael Mukasey
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear General Mukasey,

The Civil Rights Division of the Department of Justice has historically been the defender of the right to vote, a foundational element in our democracy. However, recent policy changes regarding the Department's responsibility toward protecting that right raise concerns regarding the integrity of this critical election cycle. The Division's decision to refrain from utilizing criminal prosecutors as election monitors is a step backward in efforts to protect the integrity of our electoral system. (DOJ Press Release Sept. 23, 2008)

This is a critical time for the Department of Justice to reaffirm its commitment to open, fair and honest elections. Private groups, such as the Association of Community Organizations for Reform Now (ACORN), have engaged in an insidious and pervasive fraudulent voter registration campaign, currently documented in ongoing investigations by over 15 states. State officials sworn to uphold and enforce the law instead have been complicit in vote fraud. The Ohio Secretary of State has refused to fulfill her duties under the Help America Vote Act (HAVA) to protect her constituents' right to vote by conducting proper verification procedures for voter registrations. The Montana Governor confessed to having secured an election through less than legitimate means. When elected leaders fail to lead with integrity, it is essential they be held accountable.

We agree that any form of voter intimidation or suppression is pernicious to a democracy and serious allegations deserve a thorough investigation and prosecution. There is, however, a lack of any legitimate reports of intimidation, as concluded by the monitors from the Organization for Security and Cooperation in Europe in their report on the 2004 elections. They stated, "The EOM [Elections Observation Mission] noted concerns ... regarding the so-called suppression of the vote. ... Other than press reports, the EOM was not aware of such instances and was not able to identify any first-hand evidence for alleged vote suppression." In contrast, the documented cases of fraudulent voter registrations, early and absentee voting, and Election Day voting have increased.

Lastly, we strongly support the First Amendment rights of government attorneys to donate to their candidate of choice and recognize that public service does not silence the right of free speech. However, we are concerned about the appearance of impropriety that inevitably arises when individuals involved with policing elections have indicated a clear preference for the candidate they want to win and those individuals are changing long standing policies, despite overwhelming evidence that the policies are needed now more than ever. Instead these policy changes seem to be based on unsupported allegations by supporters of the candidate to whom they are donating. The Department should, at a minimum, develop a clear policy of recusal and transparency, rather than an ad hoc system.

In closing, we hope that the Department of Justice and, specifically, the Civil Rights Division live up to their historic mandate to protect the right to vote in the 2008 Elections. The

developments over the past two weeks regarding ACORN demonstrate that effective monitoring of polling places will be essential to preserve the legitimacy of the election results. We want to ensure that all eligible votes are counted once and not diluted by fraudulent voting. We want to promote public confidence in their electoral system. We need the Department to fulfill its duty this fall and help promote fair, open and honest elections.

Sincerely,

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