

Congress of the United States
House of Representatives
Washington, DC 20515

February 1, 2019

The Honorable Matthew Whitaker
Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Acting Attorney General Whitaker:

Earlier this week, the House Judiciary Committee held its first hearing of the 116th Congress on H.R. 1, the “For the People Act of 2019.” The bill would make several important changes to federal law relating to voting rights, campaign finance, lobbying regulations, and government transparency measures.

As you know, voting rights and the enforcement of voter protection laws are a high priority issue for this Committee. The Department of Justice never provided a substantive response to any of the letters our members sent the Department in the 115th Congress and we still have many unanswered questions about the Trump Administration’s commitment to enforcing landmark voter protection laws.

The Justice Department’s decision to reverse its litigating position in the Ohio voter purge, Texas gerrymandering, and Texas voter ID cases;¹ its involvement in adding the citizenship question to the 2020 census;² the low number of case filings related to Voting Rights Act enforcement;³ the subpoenaing of minority-majority counties for sensitive election data;⁴ and the legal justifications for these and related actions by the Department must be better understood by this Committee.

¹ See Luke Sharrett, *Justice Department reverses position in Ohio voting rights case*, NBC NEWS, Aug. 8, 2017; Sam Levine, *Texas discriminated against minority voters repeatedly. DOJ doesn’t care if it continues*, HUFF. POST, Jan. 30, 2019; and Pam Fessler, *Justice Department reverses position on Texas voter ID law case*, NPR, Feb. 27, 2017.

² Hansi Lo Wang, *How the 2020 census citizenship question ended up in court*, NPR, Nov. 4, 2018.

³ See U.S. DEPT. OF JUSTICE, VOTING SECTION LITIGATION, <https://www.justice.gov/crt/voting-section-litigation> (last updated Sept. 27, 2018) (listing no new claims under the Voting Rights Act since 2017).

⁴ Travis Fain, *Federal subpoenas demand 'tsunami' of NC voter records*, WRAL, Sept. 5, 2018.

To that end, we respectfully request you provide complete responses and produce the relevant documents and communications listed below by no later than February 15, 2019.⁵

1. Documents and communications dated from January 1, 2017 to August 7, 2017, relating to the decision and filing of the government's amicus brief in *John Husted, Ohio Secretary of State v. A. Philip Randolph Institute, et al.*, No. 16-980 (U.S. August 7, 2017). This should not include copies of pleadings or filings found on a public court docket.
2. Documents and communications dated from January 1, 2017 to February 27, 2017, relating to the decision and filing of the government's motion for voluntary dismissal in *Marc Veasey, et al. v. Greg Abbott, et al.*, Civ. No. 2:13-cv-193 (S.D. Tex. Feb. 27, 2017). This should not include copies of pleadings or filings found on a public court docket.
3. Documents and communications dated from November 8, 2018 to January 29, 2019, relating to the decision and filing of the government's brief in *Shannon Perez & United States v. Texas*, Civ. No. 5:11-cv-360 (W.D. Tex. Jan. 29, 2019). This should not include copies of pleadings or filings found on a public court docket.
4. Documents and communications dated from January 1, 2017 to February 27, 2017 relating to Texas Law S.B. 14 (2011).
5. Documents and communications dated from January 1, 2017 to August 7, 2017 relating to Ohio's "Supplemental Process" to remove voters who have not engaged in any voter activity for two years.
6. List of new actions filed pursuant to the Voting Rights Act and National Voter Registration Act dated from January 1, 2017. Please include a description of each action and the corresponding dates.
7. List of new actions dated from January 1, 2017 relating to enforcement activities—that are short of filing suit—in response to alleged voter suppression, voter fraud, or election fraud. Please include a description of each alleged incident of voter suppression, voter fraud, or election fraud as well as a corresponding dates of each enforcement activity.
8. Documents and communications dated from January 20, 2017 to November 7, 2018, relating to the addition of a citizenship question to the 2020 census; the draft executive order directing the census Bureau to include a citizenship question; consideration of alternatives to adding the citizenship question to the census; the Department's request to the Census Bureau to include the citizenship question; and preparation of Department

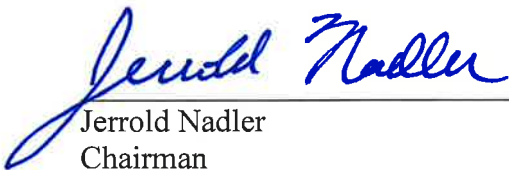
⁵ In keeping with precedent and practice established in the 115th Congress, we assume you will not assert deliberative process privilege for relevant Department documents and communications, and those responsive materials will be provided to the Committee. See Department of Justice's document production in response to the Joint Judiciary Committee – Oversight & Government Reform Committee's Investigation Into the FBI's Actions During the 2016 Election (115th Cong.). See also Reps. Bob Goodlatte – Trey Gowdy, Subpoena, Mar. 22, 2018.

officials for congressional testimony. This should include but is not limited to communications between the Department of Justice and the Department of Commerce, the Census Bureau, White House officials, and former Kansas State Secretary Kris Kobach. This should not include copies of pleadings or filings found on the public court docket.

9. Documents and communications dated from January 20, 2017 to September 6, 2018, relating to the decision by the U.S. Attorney's Office for the Eastern District of North Carolina to subpoena the North Carolina State Board of Election and 44 North Carolina county election boards. This should include but is not limited to documents and communications shared with U.S. Immigration and Customs Enforcement. Please include an update on the current status of the response by North Carolina officials.
10. Documents and communications dated from January 1, 2018, relating to alleged election fraud in North Carolina's 9th Congressional District and the Department's meeting with North Carolina State Board of Elections on January 31, 2018 relating to irregularities in the 2016 election. Please include a list and description of any steps taken by federal prosecutors as follow-up to the January 31st meeting as well an update on the current status of the investigation into the alleged voter fraud in the 9th District during the 2018 election.
11. Documents and communications dated from January 20, 2017 to November 6, 2018, relating to determinations of whether and where federal election were needed for the 2018 elections.

Thank you for your prompt attention on this matter. We look forward to working closely with your office in the 116th Congress.

Sincerely,



Jerrold Nadler
Chairman
House Committee on the Judiciary



Steve Cohen
Chairman
Subcommittee on the Constitution on the
Constitution, Civil Rights, & Civil Liberties
House Committee on the Judiciary

cc: Honorable Doug Collins, Ranking Member, House Committee on the Judiciary
Honorable Mike Johnson, Subcommittee Ranking Member, House Committee on the
Judiciary