

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

October 22, 2008

The Honorable Lindsey Graham
United States Senate
Washington, D.C. 20510

Dear Senator Graham:

This responds to your letter dated September 25, 2008, in which you expressed concern about a posting in an anonymous internet weblog (blog) alleging that attorneys in the Department's Civil Rights Division, motivated by partisan politics, would seek to prosecute individuals for legal political activities. Your letter also raises the concern about protecting poll monitors. An identical response is being sent to all signatories to the letter. We can assure you that the Department does not prosecute individuals for legal political activities and that we are committed to enforcing federal laws whenever appropriate to address allegations involving poll workers.

The Department takes very seriously its obligation to maintain a high standard of integrity among its attorneys. The Division is committed to take any necessary and appropriate management action to ensure that its attorneys follow well established procedures to determine when recusal is warranted while respecting the rights of career attorneys to make political campaign contributions or engage in other political activity protected by the Hatch Act.

In preparation for the pending general election, attorneys in the Criminal Section and Voting Section attended briefings by the Division's career ethics attorney in the last month on permissible and impermissible activities by career attorneys prior to an election. In addition to these two briefings, last week the Civil Rights Division hosted a day of professionalism training, as mandated by the Attorney General. During the professionalism training, the Division's ethics attorney instructed its employees on permissible activities by career attorneys prior to an election as well as conflicts of interest. Division attorneys who handle professional responsibility matters provided additional training on conflicts of interest. Moreover, the Division recently distributed the attached guidance memorandum from the Department's Ethics Office regarding election-related activities to all of the Division's component Sections and posted it on the Division's intranet website.

The anonymous blog inaccurately describes the content of the presentations and comments at the Ballot Access and Voting Integrity Symposium (BAVI), which took place in early July this year. Moreover, the BAVI conference agenda included a session for prosecutors

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entitled "Legal Ethics for DOJ Attorneys." We assure you that the Department is committed to reviewing complaints and investigating credible allegations of potential election crimes regardless of the nature or subject of a complaint or who is the complainant.

In addition, your letter encouraged the Department to protect poll watchers and election monitors from intimidation and abuse as they serve their function inside the polls of deterring and detecting voter discrimination and fraud. The Department agrees that intimidation of poll watchers is a serious matter because it interferes with legitimate monitoring efforts by candidates and political parties to ensure that illegal activities do not take place at the polls. Although the question of whether poll watchers have a right to be in a polling place is a matter of state law, the Department is committed to reviewing any complaints concerning intimidation of poll watchers and will take any appropriate action when the federal statutes we enforce are implicated.

As in past Presidential elections, Department monitors will play an important role across the country in safeguarding the election process. We will, of course, do what is necessary to ensure that our monitors gain the access to which they are legally entitled and that once inside the polls they will be free of intimidation and abuse.

Thank you for bringing this matter to our attention.

Sincerely,

A handwritten signature in black ink, appearing to read "PPK Nelson", written over a horizontal line.

Keith B. Nelson
Principal Deputy Assistant Attorney General

Enclosure