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November 13, 2020

Via E-mail and U.S. Mail

The Honorable William Barr
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001
attorney.general@usdoj.gov
Stephen.e.boyd@usdoj.gov

Dear Attorney General Barr:

The 2020 election is over, and the people of the United States have decisively chosen a new President. It is in this context that we express our deep concerns about your November 9 memorandum entitled “Post-Voting Election Irregularity Inquiry.”

As the chief legal and law enforcement officers of our respective states, we recognize and appreciate the U.S. Department of Justice’s (DOJ) important role in some instances in prosecuting criminal election fraud. Yet we are alarmed by your reversal of long-standing DOJ policy that has served to facilitate that function without allowing it to interfere with election results or create the appearance of political involvement in elections. Your directive to U.S. Attorneys this week threatens to upset that critical balance, with potentially corrosive effects on the electoral processes at the heart of our democracy.

State and local officials conduct our elections. Enforcement of the election laws falls primarily to the states and their subdivisions. If there has been fraud in the electoral process, the perpetrators should be brought to justice. We are committed to helping to do so. But, so far, no plausible allegations of widespread misconduct have arisen that would either impact the outcome in any state or warrant a change in DOJ policy.

For 40 years, the Department of Justice has followed a policy that recognizes the states’ principal responsibility for overseeing the election process. It has taken care to avoid affecting the outcome of elections or even the perception of political intrusion in the electoral process. This policy has directed that DOJ’s investigations must minimize “the likelihood that the investigation itself may become a factor in the election. The mere fact that a criminal investigation is being conducted may impact upon the adjudication of election litigation and contests in state courts.”¹

We write, therefore, to express our strong objection to your directive that U.S. Attorneys may now pursue allegations of voter fraud without adhering to these long-established and important

¹ See, Department of Justice, Public Integrity Section’s Federal Prosecution of Election Offenses, 8th ed., December 2017, at 8.

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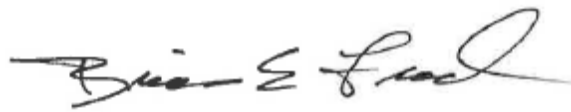
guardrails. This reversal of departmental policy will erode the public's confidence in the election. While we are confident any such investigations will not succeed in overturning the election's outcome, we believe that using the Department of Justice to stoke these efforts will come at the terrible cost of undermining trust in the democratic institutions on which this country depends.

The people of the United States have spoken. The U.S. Department of Justice should not interfere with their choice, nor should it undermine confidence in the electoral process. We ask that you respect the will of the people and reverse your decision promptly.

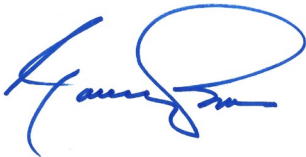
Respectfully,



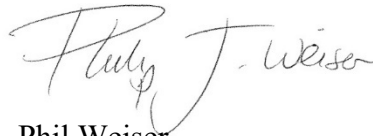
Keith Ellison
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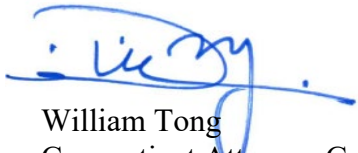
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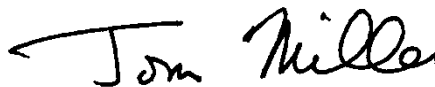
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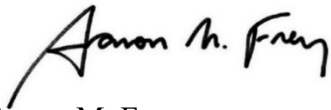


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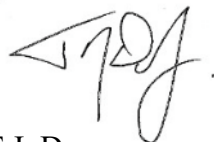
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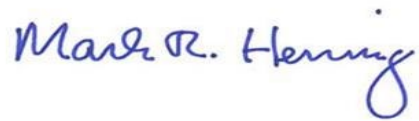


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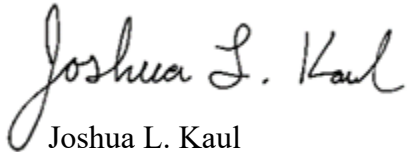
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