

Congress of the United States
Washington, DC 20515

October 18, 2022

Attorney General Merrick Garland
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland:

We write to request the United States Department of Justice (“DOJ”) immediately publish in full the final version of its strategic plan to carry out President Biden’s Executive Order (“EO”) 14019.

Signed by President Biden on March 7, 2021, EO 14019, titled “Promoting Access to Voting,” commanded the head of every federal agency, including DOJ, to submit to the Domestic Policy Advisor, Susan Rice, a plan outlining the steps their agency will take to “promote voter registration and voter participation.”ⁱ

First and foremost, the President has no legal basis to order *all* federal agencies to engage in voter registration, nor does he have the authority to order *any* federal agency to engage in efforts to promote voter participation. Yet, that is precisely what he is seeking to do through this EO.

The Elections Clause of the U.S. Constitution places primary responsibility for deciding the “Times, Places and Manner of holding Elections,” squarely upon the shoulders of the state legislatures with limited oversight from Congress.ⁱⁱ The U.S. Constitution does not authorize the President to transform all federal executive agencies led by his political appointees, including DOJ, into get-out-the-vote machines for the left, paid for by federal taxpayers.

Federal executive agencies, which have no business engaging in voter registration or mobilization efforts, as the EO directs, will surely exceed the scope of their authority under federal law. Moreover, in carrying out this EO, employees of these agencies will likely violate other laws such as the Hatch Act, designed to keep federal agencies led by political appointees from engaging in political activities to benefit one political party over another.ⁱⁱⁱ In addition, any expenditure of funds by DOJ to carry out this EO could violate the Antideficiency Act which prohibits executive agencies from spending funds Congress has not authorized or accepting volunteer services from “approved” third-party organizations as EO 14019 directs.^{iv}

Last year, a non-partisan organization, the Foundation for Government Accountability (FGA) requested a copy of DOJ’s plan and other documents related to EO 14019 in an effort to help promote transparency on behalf of the American people. After DOJ stonewalled FGA’s request for more than 200 days, FGA filed a lawsuit against the DOJ in April 2022, and in July, a federal judge ordered DOJ to disclose all of the documents required under the Freedom of Information

Act (FOIA).^v However, on September 8, DOJ refused to hand over a copy of the 15-page plan it created to carry out EO 14019, citing the deliberative process privilege and the presidential communications privilege, neither of which apply to this finished, post-decisional document.^{vi}

Why is DOJ attempting to hide from the public its plan to promote voter registration and voter participation? What possible reason could there be to keep this plan a secret? If the plan is fair and non-partisan, why would you not share it with the American people?

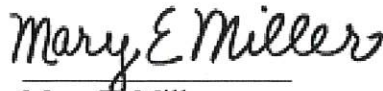
American voters have a right to see this plan. Attempting to conceal this plan from the public is not only contrary to federal law, but is deeply concerning and damaging to the public's already dwindling confidence in your department.

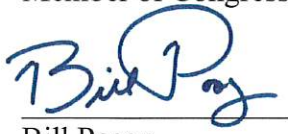
Because the DOJ's plan is already complete, there should be no further hesitation to disclose all documents by October, 30. It is time for DOJ to work to regain the trust of the American people, and sharing this plan with the American people would be a solid first step.

Thank you for your prompt attention to this matter.

Sincerely,

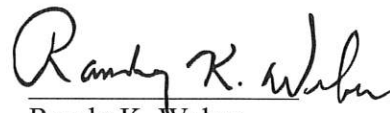

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¹ Executive Order 14019, "Promoting Access to Voting," (March 2021), Federal Register, <https://www.federalregister.gov/documents/2021/03/10/2021-05087/promoting-access-to-voting>.

² U.S. Const. Art. I, §4, cl.1.

³ 5 U.S.C. § 7323.

⁴ 31 U.S.C. §§ 1341-42.

⁵ Tarren Bragdon and Stewart Whitson, "Voter Registration Drive: What's Biden Hiding?," Wall Street Journal (April 2022), <https://www.wsj.com/articles/voter-drive-whats-biden-hiding-justice-department-freedom-of-information-foia-transparency-corruption-lawsuit-foundation-for-government-accountability-11650403740>.

⁶ "DOJ Continues to Redact, Suppress Crucial Documents Involving Voter Registration Projects," FGA (September 2022), <https://thefga.org/press/doj-continues-to-suppress-documents-involving-voter-registration-projects/>.