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SENT BY EMAIL AND CERTIFIED MAIL

The Honorable
Attorney General Merrick Garland
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Subject: Election Integrity

Dear Attorney General Garland:

I am writing to respectfully request that the Department of Justice (DOJ) initiate an investigation into the 2024 presidential election in light of reports of bomb threats, voter intimidation, voting system theft, documented "back doors" in that equipment that can be used to maliciously alter the results, and related concerns. It is vital to ensure that all election-related records are preserved and made transparently available for independent verification by the public, campaigns, news organizations, and other interested parties.

Experts across the political spectrum agree on the importance of validating election results through accessible evidence such as paper ballots, ballot images, cast-vote records, and voter rolls. Transparent access to these materials fosters public confidence in electoral outcomes while reducing reliance on allegations of criminal hacking or election fraud—claims that are exceedingly difficult to substantiate in advance.

This request is rooted in recent developments that have raised significant concerns about the integrity of the election process, particularly in critical swing states. These

concerns are not sufficient to prompt court cases or claims of fraud. Nevertheless, the DOJ has a long-standing role in safeguarding public trust in elections, and your leadership in addressing these concerns is essential.

While no governmental body or internal commission can provide truly independent oversight—being subject to influence by those in power—the DOJ plays a critical role in addressing potential crimes such as voter intimidation and bomb threats. These threats undermine the democratic process and require immediate investigation.

At the same time, the DOJ must ensure that election data is preserved and disclosed transparently, enabling the public and independent entities to verify the results with confidence. The DOJ should also routinely review elections, but it is also undergoing upheaval in this election cycle. We hope actions can be put in motion that will be acceptable for all participants, including new DOJ staff from the incoming administration.

Looking forward, we urge the DOJ to review and propose laws and procedures to enable greater transparency in future elections. By ensuring key election data—such as ballot images, cast-vote records, and voter rolls—is securely stored and readily accessible, the DOJ can empower stakeholders to verify results without relying on litigation or proving allegations of fraud. Transparency is essential to restoring and maintaining public confidence in our electoral system.

Background of Concerns

1. Election Infrastructure Theft Describes a "Back Door" in Election Software

Over several years prior to the 2024 General Election, proprietary software was stolen and passed on to partisan players, potentially enabling them to devise methods for manipulating future election results affecting at least 70 million voters in 1,600 jurisdictions. Documented cases of stolen election machines and software breaches, allegedly involving operatives with partisan ties, highlight significant vulnerabilities. These actions could have easily compromised the security and integrity of the recent election results.

A notable case involved Tina Peters in Mesa County, Colorado, who was sentenced to nine years of incarceration for her role in compromising the election office and allowing a security vulnerabilities team to review the Election Management System (EMS), also known as the "central tabulator." While the review was improperly initiated, it yielded significant findings.

The most critical discovery pertained to a "back door"¹ in the Dominion EMS package: the inclusion of the Microsoft SQL Server Management Suite (SSMS). This software allows unrestricted access² to central tabulator data and permits modifications of that data without being tracked or logged by the EMS. The vulnerabilities team concluded that including this software posed a significant security risk. We agree with their assessment.

They noted that ensuring EMS computers cannot connect to the Internet is actually quite difficult. Proving that the EMS has disabled or non-functional wireless modems is nearly impossible, as modern devices often have embedded Wi-Fi or cellular modems that cannot be removed, and disabling them can be easily undone. Preventing wireless communication would require isolating the EMS computer in a Faraday Cage—infrastructure nearly all election offices lack. Additionally, most election officials, being elected rather than technically trained, cannot reliably certify the absence of wireless communication.

In the ongoing case of Stefanie Lambert in Michigan, with hearings slated for December 2, 2024, it has been demonstrated *how* the SSMS software can be used to modify election outcomes.³ The video on the DePerno Law website demonstrates use of the backdoor to modify the voting machine configuration so all votes for Biden were transferred to Trump, and vice versa. This one example is not the only hack possible using this very powerful back-door software package. All vote counts are vulnerable to change and detection would require careful comparison with the ballot images or paper ballots.

These actors were affiliated with the Trump campaign and demonstrated the knowledge of this method to modify outcomes, that only could be understood by penetrating the veil of secrecy regarding this back door.

Election experts agree that such manipulation is possible and stress the need for paper records to verify machine counts. However, these records are effective only if thoroughly reviewed. Often, results are finalized before any review, and when conducted, audits are cursory and prone to insider manipulation. Pre-certification checks are typically insufficient to detect fraud, and internal audits can be designed to appear rigorous while uncovering nothing. Paper ballots are frequently "sealed" and cannot be opened except

¹ <https://useip.org/wp-content/uploads/2022/03/mesa-county-forensic-report-no.-2.pdf>

² The SSMS may be password protected using the same passwords as the EMS, but internal staff would have unrestricted access.

³ <https://www.depernelaw.com/dominion.html>

by court order, which is only possible if solid evidence of fraud exists. Instead, we now have ballot images that, if reviewed, can detect such a central tabulator hack.

These developments underscore the need for a comprehensive investigation to ensure the integrity of the election.

2. Serious Election Security Breaches:

On November 13, 2024, a letter from renowned election security experts⁴ urged Vice President Kamala Harris to demand recounts in "at least the states of Michigan, Nevada, Wisconsin, and Pennsylvania" due to "serious election security breaches" in voting systems, as described above.

The letter highlighted critical vulnerabilities:

"Possessing copies of the voting system software enables bad actors to install it on electronic devices and to create their own working replicas of the voting systems, probe them, and develop exploits. Skilled adversaries can decompile the software to get a version of the source code, study it for vulnerabilities, and could even develop malware designed to be installed with minimal physical access to the voting equipment by unskilled accomplices to manipulate the vote counts. Attacks could also be launched by compromising the vendors responsible for programming systems before elections, enabling large scale distribution of malware."

As it turns out, the back door was provided in the Dominion voting system package as a standard component.

These concerns underscore the risks posed by security breaches and should not be dismissed simply because solid claims of election fraud cannot be provided. Conducting recounts in critical states is both prudent and appropriate, aligning closely with the list of requests outlined here.

It must be emphasized that the combination of the "back door," difficult to disable wireless communication, and sophisticated actors is a mix that can yield difficult to spot election tampering. Therefore, no stone should remain unturned.

3. Drop-off Analysis Shows Shift

In electoral studies, "drop-off" refers to the difference in voter participation between the presidential race and subsequent down-ballot contests. This

⁴ <https://freespeechforpeople.org/wp-content/uploads/2024/11/letter-to-vp-harris-111324.pdf>

metric is crucial for understanding voter engagement and the relative appeal of candidates across different levels of government.

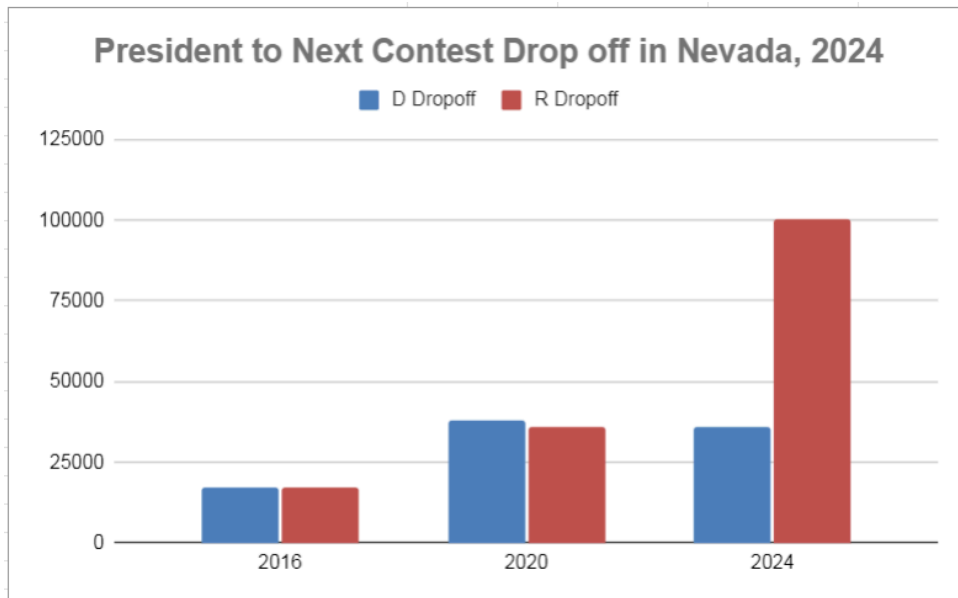
In 2016 and 2020, Nevada favored Democratic presidential candidates over Donald Trump. However, in 2024, a Trump win has been declared, marking a significant shift in voter behavior.

In Nevada, the drop-off between presidential and down-ballot races has varied over recent election cycles. In the past the drop off was small and consistent between the parties. In this election, it was large and inconsistent.

We point this out, not as proof that the election was stolen, but as a change from prior elections that warrants examination. The drop-off seen here could indicate either an excessive number of votes for Trump, or votes that were deleted for the Republican Senate candidate.

To analyze drop-off, we compare the total votes cast in the presidential race to those in the first down-ballot contest, typically the U.S. Senate race. If a Senate race isn't on the ballot, we aggregate votes from all U.S. House races for comparison.

For Nevada the following chart summarizes the dropoff.



In 2016 and 2020, the Democratic candidate for President won the state over Trump and both parties shared the total drop-off equally between the presidential and first down-ballot contests. (Since there was no Senate contest

on the ballot in 2020, we used the total vote count in the combined U.S. House seats.)

In those years, Republicans demonstrated slightly higher engagement with down-ballot contests, with slightly lower drop-off. However, in 2024, Republicans accounted for 73.5% of the total drop-off, with 100,216 votes, 9.3% of the total presidential vote. (See spreadsheet⁵ for details)

The Harvard Dataverse website provides a dataset of cast vote records from the 2020 general election covering 42.7 million voters in 20 states⁶. Their website states that

"Using this data, we show that in battleground states, 1.9 percent of solid Republicans (as defined by their congressional and state legislative voting) in our database split their ticket for Joseph Biden, while 1.2 percent of solid Democrats split their ticket for Donald Trump."

That is in stark contrast to the 9.3% dropoff in the Nevada data. (Their study looked at "split ticket voting" which is a slightly more rigorous test than drop off, but is very similar, and we will soon be able to fully check the results in Nevada as the cast vote records become available and are similarly analyzed.)

The drop-off can be viewed two ways, either as an indicator of disinterest in down-ballot contests or possibly great interest in the leading contest. It serves as a measure of the presidential candidate's popularity or the Senate candidate's unpopularity.

This disparity could indicate several phenomena:

⁵ 2024 numbers are preliminary as of November 21, 2024. Historical numbers from Ballotpedia.org and Wikipedia (many different pages, while current year is from <https://silverstateelection.nv.gov/> . In 2016 and 2024, there was a senate seat on the ballot, whereas for 2020, the dropoff was based on the sum of the four U.S. House contests. See full spreadsheet for this analysis here: <https://docs.google.com/spreadsheets/d/1vqYiPEL9itMSRiFQfrK3NH7vtzdBXfu1jXczdVaCJf8/edit?usp=sharing>

The preliminary county-by-county analysis of county-level drop-off rates is accessible via the provided link. This study offers initial insights into the variations in drop-off rates across different counties. Please note that the analysis is still in progress, and further refinements are expected as additional data becomes available. Ideally, the drop off is studied using individual cast vote records, not aggregated data. https://docs.google.com/spreadsheets/d/1-y6D_cro1fnhdh8d52NhXu3M1ZS_WdK0/edit?usp=sharing&oui=100850937464157370236&rtpof=true&sd=true

⁶ <https://dataverse.harvard.edu/dataset.xhtml?persistentId=doi:10.7910/DVN/PQQ3KV> -- "Cast Vote Records: A Database of Ballots from the 2020 U.S. Election"

1. Many newly registered voters may have voted for Trump but were unfamiliar with or disliked the Republican Senate candidate.
2. It could suggest a ballot-stuffing operation where fraudulent ballots were marked only for Trump to avoid detection, bypassing down-ballot contests, or removing ballots for the Republican senate candidate, to force a win by the Democratic Senate candidate.
3. It could be the mark of some other manipulation including the use of the "back door" and enabled wireless modems, possibly only enabled for a short time either before or during the election.

Bullet Ballots?

In our initial studies on this phenomena, we do not see evidence of a vast number of single-vote ballots only for Trump, contrary to some claims that have circulated. Nevertheless, the total drop off we see here is startling.

4. Lack of Candidate Challenges of Election Results:

Democratic candidate Vice President Kamala Harris has refrained from challenging the election results, citing a desire to avoid undermining public trust in the democratic process. However, the absence of official challenges should not deter a thorough review. Public confidence in elections is paramount, and transparency in addressing potential vulnerabilities is essential to preserving this trust.

A proactive review of the results provides a credible foundation for confidence. This is in contrast with relying solely on initial outcomes under the assumption they are accurate, and court cases only when there is sufficient a priori evidence to get past initial motions for dismissal, and that rarely occurs.

Our voting system today is designed to ensure integrity through thorough examinations of cast vote records (CVRs), ballot images, and other electronic records, which serve as a safeguard against machine errors and manipulation. If this critical step is omitted, it is inappropriate to place unquestioned trust in those results.

5. Wide mistrust

For decades both Democratic and Republican rank and file have mistrusted election results.⁷ This research states that only 20% to 40% of voters are confident in the results. It is therefore appropriate to take these prudent steps to reduce this corrosive mistrust.

⁷ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4814666

Historical Precedents Supporting DOJ Oversight

The DOJ has previously played a critical role in safeguarding elections and addressing concerns, even without prior identification of specific harm. Examples include:

1. **Under the Voting Rights Act of 1965:** the DOJ required jurisdictions with histories of discrimination to seek federal approval before implementing any changes to their election laws or practices. This proactive measure was designed to prevent discriminatory policies from taking effect.
2. **Foreign Election Interference (2016):** The DOJ's investigation into Russian interference in the 2016 election demonstrated its capacity to address broad concerns about the integrity of the electoral process.
3. **2020 Election Investigations:** During the 2020 presidential election, the DOJ investigated numerous allegations of fraud. These investigations were not enough to ensure public confidence, even when claims were found to lack merit, but were important to establish facts to be relied upon.
4. **Federal Monitors in Polling Places:** The DOJ has frequently deployed federal monitors to polling places in elections to ensure compliance with federal voting laws, especially in jurisdictions with histories of voter intimidation or systemic discrimination.
5. **Election Cybersecurity Collaboration:** In 2018, the DOJ worked with the Cybersecurity and Infrastructure Security Agency (CISA) to monitor election infrastructure proactively, ensuring vulnerabilities were addressed before harm could occur.
6. **Election Threats Task Force:** Established in 2021, this task force demonstrated the DOJ's commitment to addressing systemic threats to election integrity and ensuring public trust.

These precedents underscore the DOJ's ability to act decisively in preserving the integrity of the electoral process and ensuring public confidence in democracy.

HAVA underscores the role of the DOJ

The Help America Vote Act (HAVA)⁸ grants the Department of Justice (DOJ) significant enforcement authority. Specifically, under **52 USC 21143**, the Attorney

⁸ As enacted, HAVA is P.L. 107-252. Currently, the law is codified at 52 U.S.C. §§20901-21145.

General is tasked with reviewing and reporting on the adequacy of existing electoral fraud statutes and penalties. This responsibility highlights the DOJ's pivotal role in ensuring the integrity of the electoral process.

The DOJ website⁹ further emphasizes its commitment to election security, stating:

Consistent with longstanding Justice Department practices and procedures, the department today is providing information about its efforts, through the Civil Rights Division, Criminal Division, National Security Division (NSD), and U.S. Attorneys' Offices throughout the country, to ensure that all qualified voters have the opportunity to cast their ballots and have their votes counted free of discrimination, intimidation, or criminal activity in the election process, and to ensure that our elections are secure and free from foreign malign influence and interference.

This dual focus—protecting voters' rights and ensuring the security of elections—positions the DOJ as a key player in maintaining public trust in the democratic process. HAVA's mandate and the DOJ's own stated priorities underscore the necessity of a comprehensive review of any concerns raised about the 2024 election.

The DOJ's Approach to Avoiding Election Interference

While avoiding election interference is a longstanding principle of DOJ policy, there is also recognition that timely action is sometimes necessary, even if it carries the risk of influencing an election.

According to *ProPublica*¹⁰:

Avoiding election interference is the overarching principle of DOJ policy on voting-related crimes. In place since at least 1980, the policy generally bars prosecutors not only from making any announcement about ongoing investigations close to an election but also from taking public steps — such as an arrest or a raid — before a vote is finalized because the publicity could tip the balance of a race.

However, the article also notes a recent shift:

⁹

<https://www.justice.gov/opa/pr/justice-department-releases-information-efforts-protect-right-vote-prosecute-election-0>

¹⁰

<https://www.propublica.org/article/doj-frees-federal-prosecutors-to-take-steps-that-could-interfere-with-elections-weakening-long-standing-policy>

But according to an email sent Friday [Oct 2, 2020] by an official in the Public Integrity Section in Washington, now if a U.S. attorney's office suspects election fraud that involves postal workers or military employees, federal investigators will be allowed to take public investigative steps before the polls close, even if those actions risk affecting the outcome of the election.

This exception underscores the DOJ's responsibility for real-time adjudication of election-related issues, recognizing that some circumstances demand immediate intervention.

Timeliness is critical in addressing election concerns. Unlike standard courtroom proceedings, the fast-paced nature of elections requires prompt action to ensure fairness and accuracy. Once the window for action closes, any subsequent measures lose their ability to impact the outcome, leaving the public without the necessary assurance that their concerns were addressed. In elections, justice delayed truly is justice denied.

By balancing its commitment to avoid interference with the need for timely responses, the DOJ plays a critical role in maintaining public confidence in the electoral process.

The DOJ Is Responsible for Addressing Election Offenses

The volume *Federal Prosecution of Election Offenses*¹¹ states:

"The effective prosecution of corruption of the election process is a significant federal law enforcement priority."

To fulfill this mandate, the DOJ's Election Crimes Branch oversees election-related investigations and prosecutions, particularly under HAVA, which tasks it with evaluating and preventing election fraud. Given this critical role, the DOJ must act decisively to safeguard democratic processes and public trust.

Challenges in DOJ Oversight

Effective oversight is complicated by inherent conflicts of interest: those in power may hesitate to scrutinize their own elections. The DOJ's independence can also be influenced by the administration that appoints its leadership.

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<https://www.documentcloud.org/documents/7222838-fedprosecutionofelectionoffenses2017.html#document/p96>

Additionally, the slow pace of legal proceedings often outlasts election cycles, leaving cases moot. High-stakes issues, such as stolen election equipment or voter intimidation, fall squarely within the DOJ's jurisdiction but demand expedited action to remain effective.

Confirming Election Accuracy

Audits and recounts, typically conducted by the same offices responsible for the election, may fail to satisfy public concerns, especially given the knowledge that election offices can be staffed by partisan actors. While the public has a strong interest in confirming results, current legal paradigms focus on investigating fraud or law violations, leaving little room for error detection unrelated to crimes.

Independent review mechanisms are needed, as existing processes are vulnerable to manipulation or oversight failure. Transparency and public access to election data—paper ballots, images, cast vote records, voter registration data, and audit records—are crucial for enabling external scrutiny.

Transparent Data and Law Review

The DOJ should prioritize public access to election records, ensuring independent oversight without requiring allegations of criminal conduct. Additionally, HAVA obligates the DOJ to review election laws and recommend reforms. Embracing public review as a legitimate objective beyond courtroom procedures, can enhance election integrity and trust.

Requested Actions

We respectfully urge the Department of Justice to take the following steps to ensure the integrity of the 2024 presidential election and future elections:

1. Investigate and Prosecute Intimidation Crimes, Including Bomb Threats

The 2024 election cycle had many bomb threats, particularly in Pennsylvania¹² and other "swing" states. Initial coverage of these threats stated that they were conducted from or through international servers.

¹²

<https://www.nbcnews.com/tech/security/election-day-bomb-threats-overwhelmingly-targeted-democrat-leaning-rcna179006> -- "Election Day bomb threats overwhelmingly targeted Democrat-leaning counties" -- Bomb threats sent to polling places and ballot-counting locations in at least five battleground states across the U.S. Tuesday targeted mostly Democratic counties, an NBC News analysis has found.

Voter intimidation was rampant in other areas, such as in Texas, where claims were made that the votes of individuals would be exposed¹³, possibly resulting in persecution or embarrassment.

These and any other obvious violations should be investigated and justice served as a matter of routine procedure.

2. Investigate Election Infrastructure Breaches

The DOJ should open an investigation into reports of stolen election machines and software breaches, and assess the potential for tampering or unauthorized influence in the 2024 election, including verifying the chain of custody for paper ballots to ensure no additional ballots were introduced fraudulently.

3. Statistical and Forensic Review

The DOJ should conduct a statistical and forensic review of voting patterns in swing states to identify and address any anomalies, and put to rest any notion that these may be part of a scheme to steal the election. This review should include review of paper and electronic records, including paper ballots, ballot images, cast vote records, voter registration data, and other audit records.

4. Recounts in Critical Swing States

Due to the recent capture of election equipment and the revelation of "back doors" provided in election management system software, we request that the DOJ:

Conduct recounts, ballot image audits, or hand-counts in critical swing states, such as Arizona, Georgia, Michigan, Nevada, North Carolina, Pennsylvania, and Wisconsin. Ballot image audits have a relatively low cost, can be done in a fraction of the time it takes to conduct a hand count, and are far more powerful in finding most issues.

An image of a ballot showing voter selections when compared to the cast vote record for that ballot -- the machine interpretation -- can detect many sources of errors, including EMS tabulation hacking using back doors, and does not involve the overhead of handling paper, particularly since accessing the paper ballots is generally infeasible by outside groups. Inspecting a sample of paper ballots to validate the images is recommended if they are available.

¹³

https://thetexan.news/elections/2024/lawsuit-alleges-flaw-in-texas-election-process-exposure-of-voters-ballots/article_d8958096-187b-11ef-8ce3-bf962abd2e7d.html -- "...these ballot codes can be obtained by a public records request under the Texas Public Information Act, and can then be used to decode a voter's ballot"

5. Voter Reconciliation

It is also important to compare the number of paper ballots cast with the number of voters who voted, and review their eligibility.

6. Analysis of Unusual Drop-off Rates

The DOJ should investigate cases of significant drop-offs between presidential and down-ballot contests to determine if counterfeit ballots were introduced, or other modifications of the election occurred, as this is an unusual feature in this election. There have also been claims of single-vote ("bullet ballots") that are as-yet unsubstantiated. This should be put to rest.

7. Public Findings and Transparency

Ideally, the DOJ should Issue a detailed public report of the findings to restore and maintain confidence in the electoral process. Transparency and accountability are critical to ensuring that the American people trust the integrity of their elections.

8. Review compliance with retention of Election Data

On Sept 5, 2024, we sent the Department of Justice and President Biden a letter¹⁴ requesting, among other things, that the DOJ further clarify that "election records" which are required by law to be retained for at least 22 months after the election, also includes digital records and therefore ballot images. We know that many jurisdictions are routinely deleting these records.

The DOJ should therefore review the actions of jurisdictions and sanction those who continue to delete the original ballot images and any other election data, or perhaps better incentivize compliance with acknowledgement and rewards.

9. Request to the DOJ: Enhance Election Data Transparency

We urge the DOJ to address the critical need for election data transparency, enabling the public to fulfill its oversight responsibilities. Effective election oversight requires access to transparent, reliable data to independently confirm election accuracy and ensure public trust.

¹⁴ JOINT LETTER TO PRESIDENT BIDEN AND ATTORNEY GENERAL GARLAND; Subject: Ensuring Election Transparency and Compliance with Federal Law
<https://copswiki.org/w/pub/Common/M2023>

Recognizing the limitations of self-monitoring within government—due to conflicts of interest, pace mismatches, and expertise gaps—we ask the DOJ to recommend legislative reforms to the U.S. Congress. These reforms should:

- **Ensure Accessibility:** Provide the public with straightforward access to election data, including ballot images, cast-vote records, voter rolls and poll books.
- **Secure Integrity:** Protect election data against tampering while maintaining authenticity and non-repudiation. This must include cryptographic security of ballot image data, securing it to the original scanning operation.
- **Facilitate Auditable Oversight:** Enable automated and independent audits, such as ballot image audits, to support public review.

The DOJ, in collaboration with agencies like the Cybersecurity and Infrastructure Security Agency (CISA) and the Election Assistance Commission, can play a pivotal role in shaping laws that balance transparency with data security, and voter privacy. By issuing detailed reports and recommendations to Congress, the DOJ can advocate for a legal framework that empowers the public to perform meaningful oversight of elections, ensuring both integrity and trust in our democratic processes.

The American people deserve assurance that their votes were counted accurately and that no external or internal interference undermined the accurate tabulation of choice for the presidency. Your leadership in ensuring transparency and accountability in this matter would provide the nation with much-needed reassurance in the strength and fairness of our democratic institutions.

Thank you for your attention to this urgent matter. Please feel free to contact me at the address or phone number listed above if further information is required.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ray Lutz', with a stylized flourish at the end.

Ray Lutz, Executive Director, CitizensOversight
Creator of "AuditEngine", a ballot image auditing solution



Primary Author: Raymond Lutz

Raymond Lutz is the founder and executive director of Citizens' Oversight Projects, a 501(c)(3) nonpartisan nonprofit organization that has been involved in providing oversight to elections for over 18 years. Lutz has a Masters degree in electronics and software engineering, with experience in the document management and printer/scanner/fax/copier industry, and medical device industry. He is the lead developer of AuditEngine, and was a congressional candidate in 2010 for the CA-52 Congressional District.

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And many others...

Sign the petition on Change.org: <https://chnq.it/rdckjkhv>

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