

United States Senate

WASHINGTON, DC 20510

October 15, 2026

The Honorable Todd Blanche
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Blanche:

As Election Day draws nearer, we urge the Department of Justice (DOJ or Department) to reaffirm its longstanding election non-interference policy and rule out any attempt to seize ballots or any other election materials or equipment before voting, counting, and/or certification are complete. This confirmation is necessary because Department leaders have been sending conflicting public signals.

Make no doubt, the 2026 midterm elections are well underway. Mail and absentee ballots have already been sent out to millions of voters, and early voting has begun in several states. However, the Department has failed to affirm its election non-interference policy against a backdrop of the recent weakening of DOJ policies. A clear and immediate response from the Department is necessary.

Recent Statements Regarding the Department's Election Non-Interference Policy

In response to a question during a September 15 public hearing before the Senate Judiciary Committee, Federal Bureau of Investigation (FBI) Director Kash Patel did confirm under oath that the FBI would comply with the Department's *Justice Manual* and not seize ballots, voting machines, or other election-related material prior to certification of an election, matching the commitment by General Dan Caine, Chairman of the Joint Chiefs of Staff that the U.S. Armed Forces would not interfere with the upcoming election.¹ However, the FBI Director reports to the Attorney General, so his commitment is contingent on your own.

On September 1, Senator Slotkin wrote to you and Director Patel seeking answers to a number of questions, including whether DOJ or the FBI would send armed federal agents to the polls or unlawfully seize election materials of any kind during an active election.² To date, neither you nor Director Patel have responded to those letters. Meanwhile, General Caine did respond to a similar letter and reaffirmed the "non-partisan" U.S. Armed Forces' "steadfast commitment to

¹ Oversight of the Federal Bureau of Investigation: Hearing with FBI Director Kash Patel Before the S. Committee on the Judiciary, 119th Cong. 03:46:44-03:48:37 (Sept. 15, 2026), *available at* <https://www.judiciary.senate.gov/committee-activity/hearings/oversight-of-the-federal-bureau-of-investigation-09-15-2026>

² Letter from Sen. Elissa Slotkin to Attorney General Blanche (Sept. 1, 2026), *available at* https://www.slotkin.senate.gov/wp-content/uploads/2026/09/Letter-to-AG-Blanche-on-Armed-Men-at-Polls_Slotkin.pdf; Letter from Sen. Slotkin to FBI Director Kash Patel (Sept. 1, 2026), *available at* https://www.slotkin.senate.gov/wp-content/uploads/2026/09/Letter-to-FBI-Director-Patel-on-Armed-Men-at-Polls_Slotkin.pdf

constitutional principles” and confirmed that the military had “no plans to send Federal military personnel or Federalized members of the National Guard to polling places during the 2026 elections” and “[n]o plans to use such personnel to seize ballots, voting machines, or other election-related material.”³

On June 8, 2026, Senators Padilla, Durbin, Whitehouse, and 21 Senators wrote to you regarding the Department’s unexplained removal from its website of the most recent version of the *Federal Prosecution of Election Offenses* manual (*Election Crimes Manual*) that has been in place for decades to prevent the Department from interfering or appearing to interfere in elections.⁴ The Department’s August 13 response states that the manual “needs revising and updating” but provided no further explanation, and an updated version has yet to be made available to the public.

DOJ Election Interference is Illegal

The law is clear: neither the Department nor any other federal agency has the authority to disrupt the administration of an election, including by seizing ballots or other election materials in a manner that prevents state and local officials from carrying out their lawful duties.

The U.S. Constitution gives primary authority over elections to the states and Congress, not the Executive Branch, and federal law reinforces these constitutional provisions.⁵ The *Civil Rights Act of 1960* requires election officers to “retain and preserve” covered election records for 22 months following a federal election.⁶ If a federal agency seeks access to election materials, the law requires an appropriate written demand, after which covered records are to be made available for federal “inspection, reproduction, and copying” at the principal office of their custodian.⁷ Even this authority is limited, as shown by DOJ’s failure to compel Republican and Democratic-led states alike to hand over unredacted voter data for the Trump Administration to create a national voter file and pressure states to purge voters under the guise of list maintenance.⁸

Federal law enforcement must also respect detailed state laws governing custody of ballots and voting equipment. Maintaining an unbroken chain of custody ensures that the ballots ultimately counted are the ballots American voters actually cast. Removing ballots from the officials legally charged with maintaining their custody could prevent election officials from satisfying statutory

³ Letter from U.S. Air Force General J. Daniel Caine to Sen. Elissa Slotkin (Aug. 31, 2026), available at https://www.slotkin.senate.gov/wp-content/uploads/2026/08/Caine_Response_8_28.pdf

⁴ Letter to Acting Attorney General Blanche from Senate Committee on Rules and Administration Ranking Member Alex Padilla, Senate Judiciary Committee Ranking Member Dick Durbin, Senate Judiciary Subcommittee on Federal Courts, Oversight, Agency Action and Federal Rights Ranking Member Sheldon Whitehouse, and 21 Senate Colleagues (June 8, 2026), available at <https://www.padilla.senate.gov/newsroom/press-releases/padilla-durbin-whitehouse-colleagues-sound-alarm-on-trump-administration-use-of-election-crimes-prosecutions-to-interfere-in-midterm-elections/>

⁵ U.S. CONST., Art. I § 4

⁶ See 52 U.S.C. § 20701

⁷ 52 U.S.C. §§ 20703-20704

⁸ See National Conference of State Legislatures, Brief: Federal Requests for Statewide Voter Lists, (Sept. 15, 2026), <https://www.ncsl.org/elections-and-campaigns/federal-requests-for-statewide-voter-lists>

deadlines, interfere with recount or contest procedures, and even prevent lawful votes from being counted or an election from being certified. Any DOJ action that could spoil an election would be one of the most serious constitutional violations imaginable.

The Justice Manual and the Election Crimes Manual

The same commitment made by General Caine and Director Patel should represent the position of the Trump Administration. The Department’s *Justice Manual* unequivocally recognizes the constitutional requirement that “the States—not the federal government—are responsible for administering elections.”⁹ While DOJ’s “non-interference policy” was incorporated into the *Justice Manual* in 2022, it has been in effect through the DOJ Election Crimes Branch for decades.¹⁰ This enduring bipartisan policy reflects the fundamental principle that DOJ and other law enforcement personnel should not interfere with the will of the American people. The *Justice Manual*’s “non-interference policy” states that DOJ “should generally avoid interfering **or appearing to interfere** with election administration, tabulation, validation, or certification.”¹¹ It further provides that DOJ “should not engage in **overt criminal investigative measures** in matters involving alleged ballot fraud until the election in question has been concluded, its results certified, and all recounts and election contests concluded.”¹² However, the removal of the *Election Crimes Manual* from the DOJ website remains of special concern because it contains even more explicit instructions against actions that “may deprive state election and judicial authorities of critical materials needed to resolve election disputes, conduct recounts, and certify ultimate winners.” In addition to avoiding seizures, the *Election Crimes Manual* further confirms the DOJ policy not to conduct overt investigations until after the outcome of the election has been certified.¹³

Adding to the concern, pending revisions to the *Justice Manual* are creating new uncertainty. The requirement that prosecutors and agents consult with the Public Integrity Section before opening an election-crime matter or undertaking any potentially overt investigative steps—including issuing grand jury subpoenas and executing search warrants—has been “suspended while revisions are ongoing.”¹⁴ Given that it is too late for revisions ahead of the 2026 midterm elections, DOJ should restore this part of its election policy immediately. Failure to maintain a strong, explicit election non-interference policy exposes DOJ prosecutors to political pressure to interfere in elections at the request of the President or other Administration leaders, political parties, candidates, and other influences.

⁹ U.S. Department of Justice, *Justice Manual*, § 9-85.300, available at <https://www.justice.gov/jm/jm-9-85000-protection-government-integrity#9-85.300>

¹⁰ See U.S. Department of Justice Office of Inspector General, *A Report of Investigation into the Department’s Release of Public Statements Concerning a Luzerne County, Pennsylvania, Election Fraud Investigation in September 2020*, Oversight and Review Division 24-082, p. 16 fn. 43 (July 2024), available at <https://oig.justice.gov/sites/default/files/reports/24-082.pdf>

¹¹ *Justice Manual* at § 9-85.300 (emphasis added)

¹² *Id.* (emphasis added)

¹³ Richard C. Pilger, *Federal Prosecution of Election Offenses* (8th ed. 2017) at p. 9

¹⁴ *Justice Manual* at § 9-85.210, available at <https://www.justice.gov/jm/jm-9-85000-protection-government-integrity#9-85.210>

The Department Must Reaffirm Its Election Non-Interference Policy

The 2026 midterm elections have begun. We urge you to immediately reaffirm that the Department will forgo any actions that would interfere with the lawful administration of the 2026 elections, including the seizure of ballots, election materials, or election equipment prior to the certification of the 2026 midterm elections.

In addition to this immediate public commitment, we request that you provide written responses to the following questions by October 29, 2026:

- 1) Will you commit that DOJ, the FBI, the U.S. Marshals Service, and other Department components will not attempt to seize or otherwise remove ballots, voting equipment, or other election materials from the lawful custody of state or local election officials while those materials are necessary for voting, counting, canvassing, recounting, auditing, election contests, or certification?
 - a) Will you commit not to approve or otherwise facilitate any attempts by any other federal law enforcement agency, including components of the Department of Homeland Security, to take similar actions?
- 2) Does DOJ continue to adhere to the guidance contained in the eighth edition of the *Election Crimes Manual* that election-related documents generally should not be removed from local election administrators before certification and expiration of the applicable election-contest period, and that election officials should not be deprived of documents necessary to tally or recount ballots or certify election results?
 - a) What provisions of the *Election Crimes Manual* require “revising and updating” as stated in the Department’s previous response letter? Does the *Election Crimes Manual* remain the policy of the Department, and, if not, has the Department rescinded, superseded, amended, or otherwise withdrawn the eighth edition?
 - b) If revisions are underway, provide the current draft, identify the officials responsible for those revisions, and state when the revised guidance will be made public.
- 3) Does DOJ continue to adhere fully to *Justice Manual* §§ 9-85.300 and 9-85.500, including the prohibition that “[f]ederal prosecutors and agents may never select the timing of any action, including investigative steps, criminal charges, or statements, for the purpose of affecting any election, or for the purpose of giving an advantage or disadvantage to any candidate or political party”?
- 4) Given that the *Justice Manual* currently states that the election-crimes consultation requirement in § 9-85.210 is suspended while revisions are underway, what review and approval procedures currently govern applications for search warrants, subpoenas, or other overt investigative measures involving ballots, voting equipment, election officials, or other election materials during an active election?
 - a) When will the revisions of the manual be complete and available to the public?

- 5) Has the Department, the FBI, any United States Attorney's Office, or any other Department component developed, discussed, requested, sought judicial authorization for, or approved any plan to seize ballots, voting machines, tabulation equipment, or other election materials relating to the 2026 federal elections before completion of the applicable counting, recounting, canvassing, contest, and certification processes?
- a) If so, provide all applicable policies, legal analyses, directives, memoranda, and approval procedures concerning such actions.

Thank you for your prompt response.

Sincerely,



Alex Padilla
United States Senator
Ranking Member, Committee
on Rules and Administration



Richard J. Durbin
United States Senator
Ranking Member, Senate
Committee on the Judiciary



Sheldon Whitehouse
United States Senator

cc: The Honorable Kash Patel, Director, Federal Bureau of Investigation