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June 14, 2013

Chief, Voting Section
Civil Rights Division – Voting Rights
Room 7254 – NWB
United States Department of Justice
950 Pennsylvania Ave., N.W.
Washington, DC 20530

RE: COMPLAINT AND REQUEST FOR INVESTIGATION INTO ILLEGAL EFFORTS
TO SUPPRESS OR INTIMIDATE LATINO VOTERS IN THE STATE OF ARIZONA.

Dear Sir or Madam:

I am a former state prosecutor. I also have election, political and Constitutional law experience.

I write to submit this Complaint and attached evidence for investigation by the U.S. Department of Justice concerning apparent efforts made during the 2012 election to suppress and intimidate Latino voters, and suppress Latino voter turnout in Arizona, including documented incidents occurring in Tucson, Pima County, and in Maricopa County, and Yuma County.

The right to vote is fundamental to our Democracy. The right to be free from discrimination in exercising the right to vote is protected by our Constitution and the Bill of Rights, as well as the Voting Rights Act. Efforts to suppress voting by Latinos – or to suppress anyone’s right to vote for that matter—are illegal, unconstitutional, and nothing short of outrageous and un-American.

First, enclosed are two affidavits signed under penalty of perjury about misleading automated pre-recorded telephone calls (“Robo Calls”) received in Tucson, in Pima County, Arizona, which included statements designed to mislead Spanish speaking voters as to what was needed in order to exercise their right to vote on Election Day.

One declaration is from a former elected official, former state representative Dr. Ted Downing, who previously specialized in election law legislation, and the other declaration is from Mr. Bill Risner, an attorney with substantial election and political law experience and 50 years of involvement in local politics. Both men – who speak fluent Spanish -- received these deceptive and misleading “robo calls” designed to suppress Latino voter turnout in Pima County, Arizona. (Attachments A and B.) The phone calls passed through a switchboard in Pennsylvania. (Attachment C.)

The automated phone calls, which were in Spanish, indicated that voters needed to bring their identification documents “in Spanish” in order to vote. That is false and misleading, since government and most ID documents are not printed in Spanish. (Attachments A and B.) The calls also deceptively indicated they were from the Federal Election Commission or a national group protecting Hispanic voters’ rights. The only reasonable conclusion is that these calls were designed to suppress Latino voter turnout, during an election where a prominent Latino, former U.S. Surgeon General Richard Carmona, was competing for a U.S. Senate seat. He lost the race.

Second, I am attaching three affidavits signed under penalty of perjury from Latinos in Yuma County, including an affidavit from the only Latino Democratic candidate for Yuma County Sheriff, Mr. Ricardo Sandoval, from his wife Beatriz Sandoval, and from an aunt, Aide Sandoval. Mr. Sandoval is a retired federal law enforcement officer who ran for Sheriff in Yuma County. (Attachments D, E and F.)

These individuals experienced and were subjected to what appears to be improper election practices that had the effect, and practical impact, of suppressing or disenfranchising Latino voters in Yuma County, and also specifically negatively impacted Mr. Sandoval’s ability to fairly run for office as a Democratic Latino candidate against the non-Latino Republican candidate for County Sheriff. (Attachments D and E.) Indeed, there were reports of armed, uniformed Yuma County Sheriff law enforcement officers asking Latino voters to sign petitions for the Republican non-Latino candidate, who was employed then as an Under Sheriff for Yuma County. (Attachment D.) That was also ostensibly a Hatch Act violation.

Meanwhile, Beatriz Sandoval and Aide Sandoval, and others were improperly mailed Republican Party Primary Ballots, even though they are Democrats. (Attachments D, E and F.) Such a practice would undeniably suppress Democratic Latino voter turnout. It would also particularly affect Spanish speaking Democratic voters who might not have understood that other candidates were running for office, including a Democratic Latino candidate. (Attachments D and E.) Such Latino voters would likely not vote at all due to the confusion and circumstances, or might likely vote during the general election for a Republican name that they had already seen before and even possibly voted for during the Primary election, instead of the Latino Democratic candidate. Either way, this practice created a hardship for such Latino voters who received the wrong Party ballot. (See Attachment F.)

In addition, there were reports of numerous problems and failures at five voting sites predominantly serving Latino/minority voters, in terms of running out of ballots, and other issues, leaving voters to wait for up to 8 hours in line, up to midnight. Hundreds and hundreds of voters at these sites eventually left and did not vote. (See Attachment D.)

Moreover, Mr. Sandoval’s opponent, a non-Latino candidate, did not properly obtain the number of signatures to be on the Republican Primary ballot in the legally

required manner, according to Mr. Sandoval. When he reported this legal violation and complained to Yuma County Election officials, the officials did not take action but instead indicated that the non-Latino Republican opponent had simply made a mistake. (Attachment D.)

Mr. Sandoval reported these and various other election related complaints and problems to local Election officials and the County Attorney, and also reported Hatch Act violations and similar state law violations to local law enforcement and the Office of Special Counsel. Local County officials, instead of investigating and pursuing potential election law or civil rights violations, merely invited him to join a committee to examine and improve future election practices. (Attachment E.)

Third, I am enclosing copies of news reports detailing events elsewhere in Arizona during the election, described by many Latino groups as efforts to suppress and disenfranchise Latino voters in Maricopa County. (Attachment H, news articles.) Maricopa County, the largest county in Arizona, is home to controversial Sheriff Joe Arpaio, who himself was facing a battle for re-election last year. The reports include coverage of the fact that certain official County government documents provided to the public from Maricopa County stated an incorrect Election Day date in Spanish, but stated the correct election date in English. This was found on more than one type of government document; the elected Republican official in charge claimed that it was merely an innocent error with only a small reach of affected voters. (Attachment H.)

However, in Maricopa County, there had been an unprecedented effort by Latino groups to increase voter participation and legally collect and turn in mail-in ballots of Latino voters (collection and handing over is legal in Arizona with voter consent), but misleading news reports were allowed to circulate that it was a crime to for ballots to be turned over to third parties, and Latino groups raised objections. (Attachment I, article.)

As a result, Republican lawmakers, who hold the majority in the Arizona Legislature, are now pursuing the enactment of controversial laws which on their face appear to be designed to counter and suppress such Latino voting and organized Get-Out-The Vote efforts by criminalizing conduct such as a volunteer taking in another person's ballot into a polling place. (Exhibit J, news article.) The Arizona Legislature just passed a bill and sent it to the Governor for signature (HB 2305), which is in reality appears to be a voter suppression bill that will restrict the constitutional rights of Arizona citizens by making it more difficult for some people to vote by virtue of criminalizing the involvement of political groups by statutorily restricting them from assisting people by delivering their ballots to County officials to be counted, among other things.

All of this information provides the unfortunate backdrop of some of the incidents that occurred in Arizona during the 2012 election, including what many believe

were concerted efforts to disenfranchise Latino voters in a historic election year, as well as the current hostile atmosphere that Latino voters still face in Arizona.

As you know, Arizona is one of the states subject to federal preclearance of voting procedures. This is because there is a long and documented history of efforts to suppress voting by, or to harass, Latino voters and other minority voters in Arizona.

This history includes such notable but generally unknown examples as former Chief Justice William Rehnquist's involvement and leadership with Republican "ballot security" and voter challenge programs as a Republican activist in his days as a lawyer in Phoenix (Attachment G, Excerpt of Sen. Kennedy's and Sen. Metzenbaum's remarks in the U.S. Senate on 9/1/1986 opposing Mr. Rehnquist's nomination as Chief Justice, detailing minority voter harassment efforts in the early 1960s). Court cases also reflect judicial findings of discrimination. *Gonzalez v. Arizona*, 624 F. 3d 1162, 1194 (2010) (citing to record of "evidence of Arizona's general history of discrimination against Latinos and the existence of racially polarized voting.").

"Because Arizona has a history of discrimination, it is required to submit redistricting plans for preclearance to the DOJ or the District Court ... under § 5 of the Voting Rights Act. *See Arizona v. Reno*, 887 F.Supp. 318, 319-20 (D.D.C.1995); 42 U.S.C. § 1973c; see also 28 C.F.R. § 51.10." *Arizona Minority Coalition v. Ariz. Redistricting Commission*, 366 F. Supp. 2D 887, fn. 3 (D. Ariz. 2005).

As noted, discriminatory efforts to suppress Latino voters from voting – or any voters for that matter – are illegal, despicable and outrageous. It is un-American.

Accordingly, it is my hope that you dedicate the proper resources to investigate these documented incidents which occurred in Arizona, as well as any ongoing efforts, Legislative or otherwise, to disenfranchise Latino or other voters in the State of Arizona.

Thank you for your consideration of this Complaint and request for investigation.

Sincerely,



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