

United States Senate

WASHINGTON, DC 20510

July 1, 2020

The Honorable William P. Barr
Attorney General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Barr:

We write to express serious concern regarding the mass closures of polling locations in Tribal communities due to the COVID-19 pandemic. We request a commitment from the Department of Justice (DOJ) to work with Tribal governments to find solutions that do not disenfranchise voters in Indian Country.

Native Americans already face significant obstacles to voting and, as we approach the November election, many Tribal leaders have expressed concerns that their communities are being left behind in efforts to expand vote-by-mail.¹ Specifically, vote-by-mail obstacles that can affect Native American voters include not having mail delivered directly to their homes, distant rural post offices, too few P.O. boxes, homelessness, and language and technological barriers.² The Native American Rights Fund has warned that “any move to a vote-by-mail system because of COVID-19 must provide accommodations for tribal communities to protect their ability to vote.”³

The absence or closure of polling locations on Tribal lands disenfranchises Native American voters;⁴ polling location closures recently forced Native American voters in Arizona to travel up to 280 miles one way to exercise their constitutional right to vote.⁵ Now, with the 2020 general election fast approaching, there is concern that measures intended to ensure safe voting during the pandemic may make these challenges worse. Across the country, states are closing polling locations in response to the COVID-19 pandemic. These wide-spread closures will further jeopardize Native American voter access issues in Indian Country. Additionally, experts warn that the current digital divide in Indian Country will only exacerbate the impact closing polling places will have on many Tribal communities’ constitutional right to have their voices heard this election cycle.⁶ We are deeply concerned that the disproportionate impact of the COVID-19

¹ Alisa Wiersema, *Experts worry push for 2020 mail voting could leave Native American voters behind*, ABC News (May 7, 2020), <https://abcnews.go.com/Politics/experts-worry-push-2020-mail-voting-leave-native/story?id=70411683>.

² NARF Field Hearing Report, *VOTE BY MAIL IN NATIVE AMERICAN COMMUNITIES*, https://vote.narf.org/wp-content/uploads/2020/06/obstacles_votebymail_summary.pdf.

³ *Id.*

⁴ NARF Field Hearing Report, *BARRIERS TO CASTING A BALLOT*, https://vote.narf.org/wp-content/uploads/2020/06/obstacles_ballot_summary.pdf.

⁵ Patty Ferguson-Bohnee, *How the Native American Vote Continues to be Suppressed*, (Feb. 9, 2020), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/voting-rights/how-the-native-american-vote-continues-to-be-suppressed/.

⁶ Alisa Wiersema, *Experts worry push for 2020 mail voting could leave Native American voters behind*, ABC News (May 7, 2020), <https://abcnews.go.com/Politics/experts-worry-push-2020-mail-voting-leave-native/story?id=70411683>.

pandemic on Tribal communities will spread to the ballot box via changes in voting procedures that may disenfranchise Native American voters.⁷

Requests from Native American voters for more accessible polling locations have been ignored for far too long.⁸ The Department must take action to uphold the constitutional rights of Native Americans. The Department of Justice Civil Rights Division's Indian Working Group exists to protect the rights of Native Americans, and we strongly urge you to engage this group – along with election officials across the country – to ensure that Tribal communities have access to the ballot box.

We respectfully ask the Department to answer the following questions:

1. Will the Department commit to working with Tribal leaders and Native American communities to find solutions to problems associated with voting during a pandemic that will not disenfranchise voters?
2. Has the Department received complaints regarding a lack of polling locations for Native American voters during this year's primary elections? Please provide reports detailing those complaints and any documents citing complaints that voters were unable to cast a vote due to the lack of accessible poll locations.
3. Has the Department of Justice Civil Rights Division's Indian Working Group engaged with election officials to ensure that Native American voting rights are protected during the upcoming elections? If so, what actions have been taken?

We need to do more to restore Americans' confidence in our political system. We need to listen to communities who have struggled to have their voices heard and act on their recommendations. Voting is one of the most important ways that the American people can ensure their elected leaders are held accountable for their actions and decisions, and we should be doing everything we can to strengthen this right.

Thank you for your prompt attention to this serious matter.

Sincerely,

/s/ Amy Klobuchar
Amy Klobuchar
United States Senator

/s/ Tom Udall
Tom Udall
United States Senator

⁷ Pedro Nicolaci da Costa, *Native Americans are being hit hard by coronavirus, an echo of colonial pandemics that nearly wiped them out*, MarketWatch (May 13, 2020), <https://www.marketwatch.com/story/native-americans-are-being-hit-hard-by-coronavirus-an-echo-of-the-colonial-pandemics-that-nearly-wiped-them-out-2020-05-13>.

⁸ Native American Voting Rights Act, <https://www.tomudall.senate.gov/imo/media/doc/NAVRA%20Bill%20Text.pdf>.

/s/ Tammy Baldwin
Tammy Baldwin
United States Senator

/s/ Richard Blumenthal
Richard Blumenthal
United States Senator

/s/ Dianne Feinstein
Dianne Feinstein
United States Senator

/s/ Kamala D. Harris
Kamala D. Harris
United States Senator

/s/ Martin Heinrich
Martin Heinrich
United States Senator

/s/ Mazie K. Hirono
Mazie K. Hirono
United States Senator

/s/ Jeffrey A. Merkley
Jeffrey A. Merkley
United States Senator

/s/ Jacky Rosen
Jacky Rosen
United States Senator

/s/ Tina Smith
Tina Smith
United States Senator

/s/ Elizabeth Warren
Elizabeth Warren
United States Senator

/s/ Jon Tester
Jon Tester
United States Senator

/s/ Ron Wyden
Ron Wyden
United States Senator