

August 14, 2020

The Honorable William Pelham Barr
Attorney General of the United States
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
askdoj@usdoj.gov

cc. W. Stephen Muldrow
U.S. Attorney
District of Puerto Rico
w.stephen.muldrow@usdoj.gov

**RE: POSSIBLE VIOLATIONS TO
AMMENDMENTS 14 AND 15 OF THE
CONSTITUTION OF THE UNITED
STATES OF AMERICA AND TO US
CODE 10101, 10302, 10305, 10307 AND
10310 BY JUAN ERNESTO DÁVILA,
PRESIDENT OF THE PUERTO RICO
STATE COMMISSION ON ELECTIONS**

Dear Attorney General Barr:

This letter is to refer to you a matter that we believe is of great importance and, therefore, your office should urgently investigate. It concerns the violation of electoral rights of thousands of American citizens in Puerto Rico that took place on August 9, 2020, when as a result of the negligence and lack of competency of the President of the State Commission on Elections, these voters were denied the right to vote. Moreover, the failed electoral process was funded with \$800,000 of federal funds granted to guarantee the safety of the voters in these atypical circumstances with the coronavirus crisis. It resulted in a waste of federal resources.

This past August 9th, primary elections were supposed to be held in Puerto Rico to elect the official candidates of the Popular Democratic Party (PPD) and the New Progressive Party (NPP) for the November general elections. The undersigned are all members of the PPD. This electoral process is governed by a new local Act 58-2020, known as the “2020 Electoral Code of Puerto Rico”. This new Act concentrates in the President of the State Commission on Elections the majority of the functions that in the prior legislation were shared with the electoral commissioners of the different political parties, specifically the printing of the ballots, and distribution of the voting material to the various electoral colleges, among other things. It is precisely for this event that the Coronavirus Aid, Relief, and Economic Security Act (CARES) provided the \$800,000 grant mentioned above.

Mr. Juan Ernesto Dávila, President of the State Commission on Elections, had the direct responsibility to organize and guarantee that this electoral event would take place on August 9, 2020. He had to formulate and execute a plan that would make certain that the millions of ballots required for the success of the event were printed on time. Additionally, he had to organize the logistics for the distribution of the material prior to the event. These were, to mention a few, the principal responsibilities of Mr. Dávila as provided in Act 58-2020.

However, to the surprise of the people of Puerto Rico, in the morning of August 9, a great majority of the electoral colleges could not carry out their mandates because the electoral ballots had not been received. Such was the uproar that the candidates appealed to the State Supreme Court with different claims. The Court consolidated all claims and established August 16, 2020 to resume and conclude the event in those colleges where voters could not exercise their constitutional right to vote.

This unprecedented situation in our democracy must be investigated and those responsible held accountable. The undersigned believe that the negligent actions of Mr. Davila, President of the State Commission on Elections, could result in the following violations:

US Constitution Amendment 14:

“Section. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

US Constitution Amendment 15:

“Section. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.”

52 US Code 10101(a)(2)(B):

*“No person acting under color of law shall:
(B) deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or...”*

52 US Code 10101(c):

“Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person

of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order ...”

52 US Code 10302(a):

“Whenever the Attorney General or an aggrieved person institutes a proceeding under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court shall authorize the appointment of Federal observers by the Director of the Office of Personnel Management in accordance with section 1973d [1] of title 42 to serve for such period of time and for such political subdivisions as the court shall determine is appropriate to enforce the voting guarantees of the fourteenth or fifteenth amendment...”

52 US Code 10305(a)(2):

“Whenever-
(2) the Attorney General certifies with respect to any political subdivision named in, or included within the scope... the Director of the Office of Personnel Management shall assign as many observers for such subdivision as the Director may deem appropriate.”

52 US Code 10307(a):

“No person acting under color of law shall fail or refuse to permit any person to vote who is entitled to vote under any provision of chapters 103 to 107 of this title or is otherwise qualified to vote, or willfully fail or refuse to tabulate, count, and report such person’s vote.”

52 US Code 10307(d):

“Whoever, in any matter within the jurisdiction of an examiner or hearing officer knowingly and willfully falsifies or conceals a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.”

52 US Code 10310(c)(1):

“(1) The terms “vote” or “voting” shall include all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to, registration, listing pursuant to this chapter, or other action required by law prerequisite to voting, casting a ballot, and having such ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and propositions for which votes are received in an election.”

52 US Code 30101(12):


“(12) The term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.”

Mr. Dávila, as President of the State Commission on Elections, failed recklessly in his principal duties to guarantee the timeliness of the printing of the ballots and the distribution of the electoral material for these primaries, as provided in local law. Furthermore, Mr. Dávila stated to the press, days before the event, that *“the State Commission on Elections will be ready to carry out the primaries of the political parties on Sunday, August 9, 2020 with all the guarantees that the electoral process should provide to the voters.”*¹ *“We are ready for between 200,000 and 300,000 voters...We are responsible for this process. We organize so that the ballots reach their destinations so that everything runs well.”*² *“...and “the Commission will fulfill its responsibility. There will not be any delays in opening the electoral colleges.”*³ Evidently, this did not happen. The irresponsible and negligent actions by Mr. Dávila deprived thousands of Puerto Ricans from exercising their rights to vote as protected in the Constitution of the United States and the Voting Rights Act of 1965.

As such, these violations fall within the federal jurisdiction and we respectfully request two things: firstly, **that you investigate Mr. Juan Ernesto Davila and hold him accountable**; secondly, **protect the rights of thousands of American citizens so that we can all exercise our constitutional right to vote on that date.**

We are writing to you solely as individual voters that feel greatly affected by what has happened in Puerto Rico in recent days.

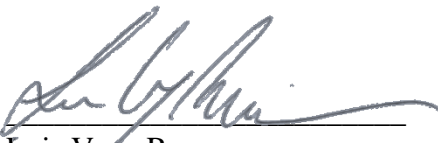
Cordially,



Rafael Hernández Montañez



Enid Monge de Pastrana



Luis Vega Ramos

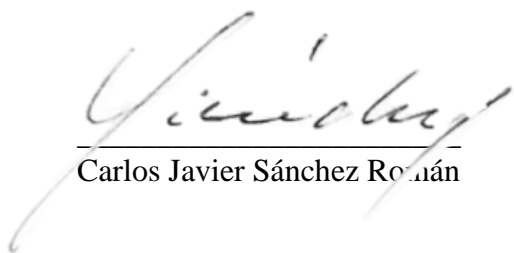


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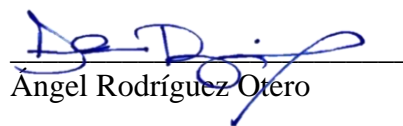
¹ https://www.elvocero.com/gobierno/cee-recibir-hoy-papeletas-para-las-primarias-2020/article_0676ee88-cd16-11ea-bac7-d3b65e7671fc.html

² <https://www.elnuevodia.com/noticias/politica/notas/la-cee-espera-atender-entre-200000-y-300000-electores-durante-las-primarias/#>

³ <https://www.telemundopr.com/noticias/puerto-rico-voto/presidente-de-cee-asegura-que-no-habra-caos-en-primarias/2113608/>



Carlos Javier Sánchez Román



Angel Rodríguez Otero