Fairfax County Electoral Board
12000 Government Center Parkway, Suite 223
Fairfax, VA 22035

May 14, 2026

The Honorable Harmeet K. Dhillon
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Re: Investigation of the Fairfax County Commonwealth's Attorney's Office; Preferential Treatment in Regard to Noncitizen Voter Registration and Voting

Dear Assistant Attorney General Dhillon:

The Fairfax County Electoral Board respectfully submits this letter as supplemental information in connection with the Department's ongoing investigation into the Office of the Fairfax Commonwealth's Attorney ("OFCA"), initiated on May 6, 2026. That investigation examines whether OFCA has engaged in unlawful discrimination against United States citizens by offering preferential treatment to illegal alien defendants in plea bargaining, charging decisions, and sentencing, in potential violation of Title VI of the Civil Rights Act of 1964, the Safe Streets Act, and 34 U.S.C. § 12601.

The Electoral Board, acting in its official capacity under Va. Code § 24.2-108 et seq., has a statutory duty to maintain the integrity of elections in Fairfax County. We believe the information below may reflect a similar preferential pattern of decision-making by OFCA in the critical area of election law enforcement, particularly as it affects federal elections. We respectfully request that the Civil Rights Division consider this information and expand the scope of its investigation accordingly.

Background on Non-Citizen Voter Registrations

Pursuant to Virginia law and directives from the Virginia Department of Elections (ELECT), the Fairfax County Office of Elections removes noncitizens from the voter rolls after self-identification of non-U.S. citizenship status or verification of such status through sources such as DMV records and the Systematic Alien Verification for Entitlements (SAVE) program. Between January 2022 and the end of 2025, the Fairfax County Office of Elections canceled approximately **1,912** such voter registrations.[1] Cancellation occurs only after a potential noncitizen is identified, is invited to

[1] "Thousands Of Noncitizens On Voter Rolls In One County Underscore Need For SAVE Act" by Jeffrey Shapiro, former Fairfax County Electoral Board member. The Federalist. March 19, 2026.

substantiate citizenship status, and fails to affirm their citizenship consistent with statutory requirements.

On September 16, 2024, the Fairfax County Electoral Board directed the General Registrar to refer all noncitizen registrants removed from the voter rolls to the Commonwealth's Attorney and the Virginia Attorney General for review of possible violations of Virginia election law (Va. Code § 24.2-1019 and related provisions). This policy remained in effect until February 2026.

General Registrar Eric Spicer subsequently made 1,511 referrals to the OFCA.[2]

OFCA's Response to and Handling of Referrals

As a law enforcement agency, the OFCA is permitted access to the full legal names, addresses, registration dates, original registration applications, and voting histories of individuals identified as non-citizens in the records maintained by the Virginia Department of Elections ("ELECT").

After receiving the regular submissions from the Fairfax County General Registrar, the OFCA not once indicated that it even had reviewed the information in the submissions and corresponding information from ELECT. We are aware of no effort whatsoever by OFCA to look into *prima facie* evidence of unlawful noncitizen voter registration and voting.

We are concerned that this OFCA conduct may indicate an OFCA pattern or practice of preferential non-enforcement of law with respect to noncitizen registrations and voting. This conduct parallels the OFCA preferential treatment of noncitizens under review in the existing investigation of the OFCA.

Noncitizen voting in federal elections is a federal offense under 18 U.S.C. § 611.

We are advised by sources permitted access to ELECT's voter history files that 225 self-declared noncitizens have cast ballots in one or more Federal elections since 2020. We are further advised that this information is maintained by ELECT in the Registered Voter List, Voter History List, and Monthly Update Subscription List. Some voters voted in both primaries and general elections, and some voters voted in multiple elections. We are specifically advised that, based on the ELECT data:

- In 2020, 176 noncitizen voters cast 219 votes
- In 2022, 55 noncitizen voters cast 57 votes

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https://thefederalist.com/2026/03/19/thousands-of-noncitizens-on-voter-rolls-in-one-county-underscore-need-for-save-act/

[2] Individual General Registrar Reports listing the referrals starting in September 2024 are posted at the Fairfax County Electoral Board website https://www.fairfaxcounty.gov/elections/electoral-board-meetings-0 . The calculation of total noncitizen referrals to the OFCA is from correspondence by Jeffrey Shapiro, former Fairfax County Electoral Board member, to the Department of Justice Civil Rights Division.

- In 2024, 102 noncitizen voters cast 105 votes.

As an Electoral Board, we have a statutory obligation to safeguard the integrity of elections. But we must rely on the Commonwealth Attorney to pursue those who violate the criminal laws designed to preclude voting by noncitizens. To date, as best we are aware, the OFCA neither has investigated nor prosecuted any of these noncitizens for voting in federal elections.

In view of the foregoing, it is apparent that the scope of the preferential policies which the Department of Justice is investigating has extended to noncitizen registrants and voters who have violated both Virginia and federal election laws. A policy of preferential treatment for noncitizen voters would effectively nullify Federal and state laws criminalizing noncitizen voting. Any such policy would directly harm citizen voters – and be deeply corrosive to fundamental democratic principles.

Conclusion

For the foregoing reasons, the Fairfax County Electoral Board respectfully requests that the Civil Rights Division incorporate this information into its ongoing investigation and consider whether OFCA's handling of noncitizen voter registration and voting cases reflects the same alleged discriminatory pattern against U.S. citizen voters. We stand ready to provide additional documentation, data, or testimony as needed, consistent with applicable law.

Thank you for your attention to this important matter of election integrity and equal protection under the law. Please direct any questions or requests for further information to the undersigned.

Sincerely,

[Name of Board Chair or Authorized Member]
Chair (or Member), Fairfax County Electoral Board
[Contact Information]
[Email and Phone]

cc:

- United States Attorney, Eastern District of Virginia
- Virginia Attorney General

Exhibits:

1. Fairfax County Electoral Board Noncitizen Referral Policy (September 16, 2024)
2. Noncitizen registration cancellation data (2022–2025).

County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods, and diverse communities of Fairfax County

Electoral Board

Hon. Katherine K. Hanley
Chairman

Jeffrey K. Shapiro
Vice Chairman

Amb. (ret.) Christopher P. Henzel
Secretary

Eric L. Spicer
General Registrar/
Director of Elections

September 16, 2024

Mr. Steve T. Descano
Fairfax County Commonwealth's Attorney
4110 Chain Bridge Road
Suite 114
Fairfax, VA 22030

Mr. Jason Miyares
Attorney General, Commonwealth of Virginia
202 North Ninth Street
Richmond, VA 23219

Dear Messrs. Descano and Miyares,

I am writing to refer the attached list of individuals to you for possible unlawful elections conduct in accordance with Va. Code § 24.2-1019. These individuals were removed from the voter rolls after being identified by the Virginia Department of Elections (ELECT) as non-citizens, in accordance with the procedures of Va. Code § 24.2-427. It appears that the individuals on this list may have violated Virginia elections law.

Please let me know if you have any questions or if you need any additional information concerning this referral.

Sincerely,

Eric Spicer
General Registrar/Director of Elections

Voter Services
Phone: 703-222-0776
Fax: 703-324-2205
TTY: 711 (Virginia Relay)
Email: voting@fairfaxcounty.gov

Election Administration
Phone: 703-324-4735
Fax: 703-324-4706
TTY: 711 (Virginia Relay)
Email: elect@fairfaxcounty.gov

Fairfax County Office of Elections
12000 Government Center Parkway
Suite 323
Fairfax, Virginia 22035
www.fairfaxcounty.gov/elections

Fairfax County Office of Elections – September 16, 2024

Policy for Referring Individuals who were Removed from the Voter Rolls

Background:

As required by Va. Code § 24.2-410.1, the DMV regularly provides the Virginia Department of Elections (ELECT) with lists of individuals who indicated a non-citizen status while completing transactions at the DMV. ELECT uses this information in addition to other sources including the Systematic Alien Verification for Entitlements Program (SAVE) to identify possible non-citizens who may have purposefully or accidentally registered to vote. Voters are given the opportunity to confirm their citizenship in case a mistake was made. According to data from ELECT, between January 2022 and July 2024, 6,303 individuals in Virginia had their voter registrations cancelled based on this information. This includes 985 individuals who were removed in Fairfax County.

ELECT regularly provides the names of individuals that they have identified as non-citizens to General Registrars through the non-citizen hopper in VERIS. General Registrars are responsible for printing and mailing Affirmation of Citizenship notices to these individuals. Voters whose citizenship has been challenged have 14 days from the date the notice is generated to sign and return the notice to the General Registrars. This includes the time that it takes to mail the notice to the voter, for the voter to complete the notice, then for it to transit the USPS system back to the General Registrar. As required by Va. Code § 24.2-427, any voter who fails to return the signed notice within 14 days is automatically removed from the voter rolls.

Under Va. Code § 24.2-1019, General Registrars have the authority to report unlawful elections conduct to the Commonwealth's Attorney. Making this referral does not require "evidence," but rather a good faith conclusion that unlawful conduct may have occurred. It is not unusual for individuals whose voter registration in Fairfax County was cancelled to later re-register and through the application affirm their citizenship.

It is possible that some voters who do not respond or re-register were not citizens when they were on the voter rolls and that they voted unlawfully. However, the General Registrar does not have the discretion to share voting history information with outside parties including the Commonwealth's Attorney and the Attorney General. Per ELECT guidance, only ELECT has the authority to share voting history information with outside parties. GREB Handbook, § 9.1.2.

Policy:

The General Registrar shall refer all individuals who were removed from the voter rolls pursuant to Va. Code § 24.2-427(C), after being identified by ELECT as non-citizens, to the Commonwealth's Attorney and the Attorney General to determine if they have violated Virginia elections law.

Adopted by Electoral Board - 091624

Referrals of noncitizens with cancelled voter registrations and no reinstatements, provided by the Fairfax County General Registrar to the Office of the Fairfax Commonwealth Attorney

(Data compiled by former Fairfax County Electoral Board member Jeffrey Shapiro)

THE NUMBERS

The table below, based on publicly available information, summarizes the substantial number of non-citizen registrants referred to the Commonwealth's Attorney since September 2024.

Non-Citizens Illegally Registered and Referred to Fairfax Commonwealth's Attorney

Time Period of Cancellations Included in Each Referral	Number of Non-Citizen Registrants Referred to Commonwealth's Attorney	Notes
Jan 2022 – Aug 2024	789	Initial "look-back" referral of cancellations covering 2022, 2023, and the first eight months of 2024.
Sept 2024	238	Monthly referral immediately following the look-back.
Oct – Dec 2024	87	Quarterly referral.
Jan – Jun 2025	258	Six discrete monthly referrals (18 + 25 + 60 + 57 + 78 + 20).
July – September 2025	139	Two discrete referrals, one for July (68) and one for August and September combined (71)
Total Referrals 9/24 to 10/25	**1,511**	