

PUBLIC INTEREST

— LEGAL FOUNDATION —

VIA EMAIL AND FACSIMILE

August 17, 2021

The Hon. Sheldon Whitehouse
170 Westminister Street
Suite 200
Providence, Rhode Island 02903

RE: Your August 13 Letter to Select Committee to Investigate the January 6th Attack on the U.S. Capitol

Dear Senator Whitehouse:

You have made a serious mistake. In your letter of August 13, 2021, to Rep. Bennie Thompson, you make multiple factual misstatements, confuse who the Public Interest Legal Foundation is, and improperly ascribe involvement in the events of January 6, 2021.

In short, your letter smears people and our organization falsely. Please correct and retract it.

Let's catalog your mistakes.

First, you state that “[a] well-organized network of conservative dark money groups—whose covert operations” you have tracked “lent financial and strategic support” to efforts to reverse the outcome of the 2020 election. In that same paragraph, you mention the Public Interest Legal Foundation as one of the groups that promulgates the “falsehood that election fraud is widespread.”

Your assertion that somehow the Public Interest Legal Foundation had any connection to the events of January 6 or the effort, as you put it, to “reverse the outcome” of the 2020 election is a brazen defamatory falsehood. In fact, I was personally unaware that the event was even occurring. It was not until violence and mayhem occurred that I was made aware of the event, and our public reaction was swift and unambiguous. The Public Interest Legal Foundation issued a statement on January 6, 2021, which can be found on Twitter, for example, that “The lawless engage in tactics we witnessed today. What separates chaos from domestic tranquility is adherence to the rule of law.”¹

It is beneath a United States Senator to make your allegations given these circumstances.

¹ <https://twitter.com/PILFoundation/status/1346931486734376976/photo/1>.

Second, your letter then wrongly states “[m]any of these same groups were involved in planning and organizing President Trump’s ‘Save America Rally.’” The same paragraph creates the false inference that somehow the Public Interest Legal Foundation was one of those groups because one member of our board—a member who is an accomplished law professor, affiliated with multiple other organizations, and was affiliated with the President of the United States — appeared at the rally on the Ellipse. Your letter leaves out whether or not he was appearing at the rally as a representative of the Public Interest Legal Foundation. You chose not to mention that distinction because your objective was to smear our organization, not to convey facts.

Contrary to your letter, the Public Interest Legal Foundation had nothing whatsoever to do with the “planning and organizing” of the Save America Rally.

Considering the Public Interest Legal Foundation had no role in either the events of January 6, some plot to “subvert the election” or the deployment of nefarious “covert support,” perhaps you are interested in what we actually do.

The Public Interest Legal Foundation is dedicated to election integrity and also promotes common-sense reforms supported by the overwhelming majority of Americans, including your constituents, that preserve the Constitutional framework of American elections.

You inform the Select Committee that you have been on to the Public Interest Legal Foundation and others for some time. In May 2020, you claimed credit for writing² that the Public Interest Legal Foundation has adopted a particularly sinister tactic of undermining the rule of law by filing *amicus curiae* briefs in federal courts.

We plead guilty. These briefs are on issues core to our mission, including redistricting,³ proper Voting Rights Act enforcement,⁴ and donor privacy.⁵ The fact that our interpretations of law consistently find favor with appellate courts and the Supreme Court perhaps may explain the zeal in which you seek to silence our voice.

As I noted earlier, your letter calls into question the private actions of two Public Interest Legal Foundation board members. One spoke of the value of state legislatures exercising investigative powers into their respective election administration procedures in 2020. A second board member advocated for the President regarding post-election procedures. In other words, this board member acted as an election attorney.

² Democratic Policy and Communications Committee Report, *Captured Courts: The GOP’s Big-Money Assault on the Constitution, Our Independent Judiciary, and the Rule of Law* (May 2020), <https://www.democrats.senate.gov/imo/media/doc/Courts%20Report%20-%20FINAL.pdf>.

³ Brief of the Public Interest Legal Foundation as *Amicus Curiae* in Support of Appellants, *Rucho v. Common Cause*, No. 18-422, available at <https://publicinterestlegal.org/cases/rucho-v-common-cause/>.

⁴ Brief of the Public Interest Legal Foundation and Former Justice Officials as *Amici Curiae* in Support of Petitioners, *Brnovich v. Democratic National Committee*, No. 19-1257, available at <https://publicinterestlegal.org/cases/mark-brnovich-attorney-general-of-arizona-et-al-v-democratic-national-committee-et-al/>.

⁵ Brief of the Public Interest Legal Foundation, *et al.* as *Amici Curiae* in Support of Petitioners, *Americans for Prosperity Foundation v. Becerra*, No. 19-251, available at <https://publicinterestlegal.org/cases/americans-for-prosperity-foundation-and-thomas-more-law-center-v-becerra/>.

Your position is unfortunate. In America, we have a long tradition of, firstly, encouraging free speech as well as the power of legislative bodies to engage in fact finding. We also have a long tradition of permitting Americans, even the President of the United States, to obtain and enjoy counsel from an attorney. Your own personal animus toward that particular President does not justify an attack on these treasured American values and institutions.

Your attacks also overlook the well-established body of helpful jurisprudence that resulted from investigations and litigation that the Public Interest Legal Foundation has commenced.

We developed organizational standing arguments under the National Voter Registration Act that benefit private parties of all ideological stripes – including privately funded organizations that you support.⁶ We took the first ever private NVRA Section 8 claim to trial.⁷ From there, we invested in a one-of-a-kind database platform capable of detecting deceased, duplicate, outdated, and otherwise defective voter registration records. We assume you are not in favor of the dead and ineligible populating voter rolls. If I am correct, you should applaud our success in fostering cleaner elections over the last six years.

With those findings—findings about which you exhibit no curiosity at all—we are now able to alert courts to which election officials are not conducting adequate list maintenance. This stewardship of what you falsely term “dark money” has led to favorable case conclusions in Detroit,⁸ Allegheny County, Pennsylvania,⁹ and the Commonwealth of Pennsylvania¹⁰ in the first year of its deployment.

Our efforts have led to better-run elections.

Outside of litigation, the Public Interest Legal Foundation’s Voter Integrity Database is capable of briefing the general public on the state of their voter rolls. In Fall of 2020, we released a national report¹¹ called “Critical Condition” detailing hundreds of thousands of problems detected, to include deceased, duplicated and apparently voting twice at same addresses, ineligible addresses, and even those registered in multiple states casting simultaneous votes.

Too bad you appear to have no interest in using these findings to improve American elections. If I am mistaken, I am happy to brief you on what can be done. Just call.

Beyond faulty voter rolls, the Public Interest Legal Foundation fights to ensure that citizens maintain their rights to inspect officials’ work in maintaining voter rolls. Since 2018, we have

⁶ See *Pub. Interest Legal Found. v. Boockvar*, 370 F. Supp. 3d 449 (M.D. Pa. 2019).

⁷ *Bellitto v. Snipes*, Case No. 16-cv-61474 (S.D. Fla.)

⁸ *Public Interest Legal Foundation v. Winfrey*, Case No. 2:19-cv-013638 (E.D. Mich.), available at <https://publicinterestlegal.org/cases/pilf-v-detroit/>.

⁹ *Public Interest Legal Foundation v. Allegheny County Board of Elections*, Case No. 2:20-cv-00279 (W.D. Pa.), available at <https://publicinterestlegal.org/cases/pilf-v-allegheny-county-board-of-elections/>.

¹⁰ *Public Interest Legal Foundation v. Boockvar*, Case No. 1:20-cv-01905 (M.D. Pa.), available at <https://publicinterestlegal.org/cases/pilf-v-boockvar/>.

¹¹ PILF; *Critical Condition* (September 2020), <https://publicinterestlegal.org/reports/critical-condition-american-voter-rolls-filled-with-errors-dead-voters-and-duplicate-registrations/>.

litigated to see foreign national voting records or voter rolls more broadly in Illinois,¹² Maine,¹³ Maryland,¹⁴ Michigan,¹⁵ North Carolina (Fourth Circuit Court of Appeals),¹⁶ Pennsylvania,¹⁷ Texas,¹⁸ and Virginia.¹⁹ Any case not ending in a victory is pending.

You exhibit no interest in hearing about those findings to help ensure no foreigners are voting in American elections. Yet foreigners demonstrably are voting in them.

In the lead-up to the 2020 primary and general elections, the Public Interest Legal Foundation's litigation arm was "prolific" according to the *New Yorker*.²⁰ Perhaps you are a subscriber and read the piece containing this description. It was an accurate description, though the remainder of the article was wanting as far as accuracy goes. We participated as *amicus* in eleven lawsuits²¹ to support mail voter protections designed to curb ballot harvesting, theft, and impersonation. The organization also detailed to courts the dangers of mass-mailing ballots based on voter rolls with deceased and duplicate entries.²²

The Public Interest Legal Foundation brought the only case that was successful in blocking an effort to abandon state laws that require that mail ballots arrive on time and with postmarks.²³ The Virginia State Board of Elections instructed the acceptance of mail ballots after Election Day and without any postmark contrary to law. Per Virginia's Constitution, a Commonwealth judge ruled in our plaintiff's favor to prohibit the practice. In other words, we won in court again.

Any lawmaker committed to fair and proper election funding would have been appalled by the 2020 Election. When corporate interests opted to dedicate at least \$400 million²⁴ to select jurisdictions for cash injections in return for funder-approved election administration practices, you said nothing.

¹² *Public Interest Legal Foundation v. Illinois State Board of Elections*, Case No. 3:20-cv-03190 (C.D. Ill.), available at <https://publicinterestlegal.org/cases/pilf-v-illinois-sbe/>.

¹³ *Public Interest Legal Foundation v. Dunlap*, Case No. 1:20-cv-00061 (D. Me.), available at <https://publicinterestlegal.org/cases/pilf-v-matthew-dunlap/>.

¹⁴ *Public Interest Legal Foundation v. Lamone*, Case No. 1:19-cv-03564 (D. Md.), available at <https://publicinterestlegal.org/cases/pilf-v-linda-lamone/>.

¹⁵ *Public Interest Legal Foundation v. Benson*, Case No. 1:20-cv-00818 (W.D. Mich.), available at <https://publicinterestlegal.org/cases/pilf-v-benson/>.

¹⁶ PILF Secures Win for Transparency about Aliens Registering and Voting in North Carolina (May 10, 2021), available at <https://publicinterestlegal.org/press/pilf-secures-win-for-transparency-about-aliens-registering-and-voting-in-north-carolina/>.

¹⁷ *Public Interest Legal Foundation v. Pennsylvania*, Case Nos. 1:18-cv-00463 and 1:19-cv-00622, available at <https://publicinterestlegal.org/cases/pilf-v-torres-et-al/>.

¹⁸ *Public Interest Legal Foundation v. Bennett*, Case No 4:18-cv-00981 (S.D. Tex.), available at <https://publicinterestlegal.org/cases/pilf-v-harris-bennett/>.

¹⁹ *Public Interest Legal Foundation v. Reed*, Case No. 1:16-cv-01375 (E.D. Va.), available at <https://publicinterestlegal.org/cases/pilf-v-susan-reed-city-manassas-va/>.

²⁰ *The New Yorker*; The Big Money Behind the Big Lie (August 9, 2021),

<https://www.newyorker.com/magazine/2021/08/09/the-big-money-behind-the-big-lie>.

²¹ PILF Leads in Defending Mail Voting Protections amid Pandemic (July 20, 2020),

<https://publicinterestlegal.org/press/pilf-leads-in-defending-mail-voting-protections-amid-pandemic/>.

²² <https://publicinterestlegal.org/press/video-visiting-nevada-voters-registered-at-commercial-addresses/>

²³ *Thomas Reed v. Virginia Department of Elections, et al.*, Case No. 20-622, available at

<https://publicinterestlegal.org/cases/reed-v-virginia-dept-of-elections/>.

²⁴ *TIME*; The Secret History of the Shadow Campaign That Saved the 2020 Election (February 4, 2021),

<https://time.com/5936036/secret-2020-election-campaign/>. See also: AP; Mark Zuckerberg donates \$100M more to help election offices (October 13, 2020), <https://apnews.com/article/virus-outbreak-election-2020-technology-local-elections-elections-c2dcfde7fc750b7dd64243b0cf7fbb69>

Just imagine, Senator, if all the groups you smeared in your letter produced \$300,000,000 to give election officials in exchange for adopting practices they preferred. What would you have said? We both know the answer. Nor can I find any statement from you of condemnation, or letters to Rep. Thompson about reports that if President Trump had been reelected that “dark money” funded groups were prepared to launch campaigns of violent unrest as published in *Time* magazine.²⁵

Your outrage is selective.

We might suggest reconsidering your selective outrage about “dark money.” Your selective outrage seems only to concern those with whom you disagree. You routinely seek to regulate away, through government power, opposing ideas and the means by which free citizens support them. Excluding unwanted participants may have worked at Bailey’s Beach Club, but it is un-American. Americans believe in a robust discourse where both the left and the right are free to act, speak and engage. More problematic for you is that the overwhelming majority of your own constituents agree with our position on basic election procedures to make it easy to vote and hard to corrupt the system, not yours. They want voter ID laws to expand. They do not want to see private cash flooding election offices. Please retract and correct your false statements about the Public Interest Legal Foundation.

Respectfully,

A handwritten signature in black ink, appearing to read "J. Christian Adams", written in a cursive style.

J. Christian Adams, President and General Counsel
Public Interest Legal Foundation

²⁵ *Ibid.*