MICHELE REAGAN
Secretary of State
State of Arizona

July 3, 2017

Dear Vice Chair Kobach,

I received your letter today on behalf of the Presidential Advisory Commission on Election Integrity. Obviously, I share the Commission's desire to enhance citizens' confidence in the electoral process and therefore welcome the opportunity to provide input into the Commission's efforts—especially how the federal government can play a more constructive role in cybersecurity.

However, while I appreciate the opportunity to shape the Commission's forthcoming recommendations, providing our state's entire voter roll does not appear reasonably related to that mission. Arizona diligently follows the voter registration list maintenance requirements under the National Voter Registration Act (NVRA) and, through the Interstate Voter Registration Crosscheck program (IVRC), thoroughly investigates instances of double registrations or double voting across state lines. Thus I remain skeptical that Arizona's voter roll would shed light on any "vulnerabilities and issues related to voter registration and voting" you appear to be investigating in other states.

More importantly, I share the concerns of many Arizona citizens that the Commission's request implicates serious privacy concerns. Not only has the Commission requested information that is confidential under Arizona law, but it intends to make Arizona voters' information publicly available without any explanation how this dissemination would serve the Commission's efforts. Since there is nothing in Executive Order 13799 (nor federal law) that gives the Commission authority to unilaterally acquire and disseminate such sensitive information, the Arizona Secretary of State's Office is not in position to fulfill your request.[1]

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[1] The Commission has acknowledged that information may be provided only "if publicly available under the laws of your state." *See* A.R.S. § 16-168(F) ("Any person in possession of a precinct register or list . . . shall not permit the register or list to be used, bought, sold or otherwise transferred for any purpose[.]"). Voter information is likewise protected from disclosure under the federal Privacy Act of 1974. *See* 5 U.S.C. § 552a(b) ("No agency shall disclose any [personal] record . . . by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains[.]"). Since voter information has no bearing on understanding the Commission's activities, the Commission would have no obligation to fulfill a FOIA request for such information and therefore the Privacy Act would continue to shield these records from production. *See e.g. Fort Hall Landowners Alliance, Inc. v. BIA*, No. CV-99-00052-E-BLW, slip op. at 7-14 (D. Idaho Mar. 17, 2000) (finding that document that contains "names and addresses . . . does not

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Under normal circumstances, limited voter registration records could be provided to a member of the public upon payment of the requisite fee under Arizona law along with a statement of non-commercial use. But this appears to be no normal request. Centralizing sensitive voter registration information from every U.S. state is a potential target for nefarious actors who may be intent on further undermining our electoral process. As a recent Politico article cautioned, for example, "cybersecurity specialists are warning that President Donald Trump's voter-fraud commission may unintentionally expose voter data to even more hacking and digital manipulation." TRUMP VOTER-FRAUD PANEL'S DATA REQUEST A GOLD MINE FOR HACKERS, EXPERTS WARN, E. Geller and C. Bennett, Politico (July 1, 2017).

Without any explanation how Arizona's voter information would be safeguarded or what security protocols the Commission has put in place, I cannot in good conscience release Arizonans' sensitive voter data for this hastily organized experiment.

For reasons outlined in this letter, therefore, I have directed my staff to withhold any provision of voter registration records based on the best interests of the State of Arizona. *Arizona Bd. of Regents v. Phoenix Newspapers, Inc.*, 167 Ariz. 254, 258 (1991) ("Withholding based on best interests of the state" protects communications when "release of the information would have an important and harmful effect on the duties of the . . . agency in question."); *see also Scottsdale Unified Sch. Dist. No. 48 of Maricopa Cty. v. KPNX Broad. Co.*, 191 Ariz. 297, 300 (1998) (production of public records may "be curtailed in the interest of 'confidentiality, privacy, or the best interests of the state'").

While I do not intend to provide the voter roll as requested in your letter, I do stand willing to be a resource to assist the Commission in its efforts to enhance the integrity of elections nationwide.

Sincerely,

Michele Reagan
Arizona Secretary of State

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determined that disclosure of the information is not required by FOIA . . . the Privacy Act prohibits disclosure of the information").