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# MEMORANDUM

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Date: April 10, 2017

To: The Honorable Chair and Members  
Pima County Board of Supervisors

From: C.H. Huckelberry  
County Administrator 

Re: **Voter Registration System Dispute**

A dispute has arisen regarding the voter registration system in Arizona. The dispute is primarily between the Recorders in each county in Arizona and the Secretary of State.

The Secretary of State has asked the Arizona Legislature to require that a new voter registration system be imposed on all counties in Arizona. Because of the number of voters in both Maricopa and Pima Counties, Maricopa and Pima have developed their own voter registration systems and databases. Pima County's system has been in existence for almost 20 years. A significant upgrade was implemented in 2014 to modernize the system. Over the past decade, approximately \$4 million has been spent on designing, developing and implementing our voter registration system; and it has served Pima County, the voters and taxpayers well over the years.

Attached is an April 6, 2017 letter from the Pima County Recorder to the Secretary of State and a March 20, 2017 letter from Secretary of State requesting an Attorney General opinion. In reviewing the questions asked in the March 20, 2017 letter, it is clear the request is directed to the Attorney General regarding the voter registration systems, databases and operation of same in Maricopa and Pima Counties.

I have asked our Elections Attorney, Daniel Jurkowitz, as well as Chief Civil Deputy County Attorney Thomas Weaver, to review this request and provide appropriate input to the Attorney General, if so requested, regarding the answers that may be provided to the opinion request.

The County will oppose any unilateral imposition of new voter registration database systems and/or standards that impose an undue burden on the Recorder, as well as additional costs to Pima County taxpayers for replacing systems that are adequate and secure today.

CHH/anc  
Attachments

c: The Honorable F. Ann Rodriguez, Pima County Recorder  
Thomas Weaver, Chief Civil Deputy County Attorney  
Daniel Jurkowitz, Deputy County Attorney  
John Voorhees, Assistant County Administrator  
Michael Racy, Racy Associates, Inc.



Mailing Address  
P. O. Box 3145  
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**F. Ann Rodriguez**  
**Pima County Recorder**

County Public Service Center  
240 North Stone Avenue, 1<sup>st</sup> Floor  
Tucson, AZ

*Recording history one document at a time.*

**Christopher J. Roads**  
**Chief Deputy Recorder**  
**Registrar of Voters**

Document Recording: (520) 724-4350

Voter Registration: (520) 724-4330

Fax: (520) 623-1785

[www.recorder.pima.gov](http://www.recorder.pima.gov)

April 6, 2017

Michele Reagan  
Arizona Secretary of State  
1700 W. Washington St. 7<sup>th</sup> floor  
Phoenix, AZ 85007

RE: request for Attorney General's opinion

Dear Secretary Reagan,

I am extremely dismayed by your email dated April 4, 2017 to all of the Recorders in Arizona including your attachment of the communication you sent to the Attorney General's Office.

Your email states it was sent as part of your "ongoing commitment to improve communications" between your office and ours. However, your email in reality provided us with notice that you have made a formal request to the Arizona Attorney General's office questioning the legality of the Pima County and Maricopa County voter registration systems, which have been in operation for many years under several former Secretaries of State. Your written request to the Attorney General Office was dated on March 20, 2017, more than two weeks before you decided to exercise your "ongoing commitment" to improve communications between our offices. The excessive delay in this notice clearly establishes that you have no intention to improve communication with our offices.

Neither you nor your staff has made any realistic efforts to improve communications. Instead you have continued the course of simply ignoring real concerns from many Recorders and my office. I must express personal and professional dismay when, in fact you had only one recent exchange with me. That exchange occurred during the afternoon of January 18, 2017, in your 7<sup>th</sup> floor conference room during the second day of meetings for the Access Voter Information Database (AVID) Use Cases review. You entered the room, approached me from behind, poked me in my back with your finger, and called me "troublemaker". You also stated that you have been getting reports of the meeting progress every half hour. I had expressed my concerns with your staff and your hired consultants as to a number of the cases presented, and their failure to follow Arizona Law and procedures. I requested a number of changes and asked a number of questions. I guess not agreeing with your agenda makes me a "troublemaker". After 24 years/6 terms as the Pima County Recorder, I find being an active participant in election related matters is an important part of conducting my duties as an elected official for the voters of Pima County. That 3 minute appearance was your only participation in this 3 day workshop

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and you obviously deferred all actions, opinions and decisions to someone on your staff and the consultant you have retained.

Equally disturbing are the decisions and actions of your office in the Access Voter Information Database (AVID) project. Your staff and consultant have basically ignored our concerns and requests for modifications to the Use Cases and Statement of Work. This continues the theme that your office plans to proceed with its process without serious consideration of any of the impact on the Recorder's Offices in this state.

Quite frankly, I am concerned and shocked that you question the longstanding legality of the Pima County Voter Registration system without first extending the professional courtesy of even having any discussion with me of your concerns or remotely understanding the history of why Pima County had its own voter registration system. Prior to the enactment of the Help America Vote Act (HAVA), Pima County already had a voter registration system. We greatly enhanced that system with the approval, support and cooperation of Secretaries of State Jan Brewer and Ken Bennett. In fact, at the time the VRAZ system was put in place, one of the key considerations from the Brewer administration was the impact on the system if Pima County chose to adopt the Power Profile voter registration system since that would greatly change the design and operation of the system requiring significantly more funds to be expended. The same concern was expressed to Maricopa County and the previous Recorder, Helen Purcell. Bill Maaske, who is still on your staff, required Pima County and Maricopa County to decide early on whether we would join the system or have our own separate voter registration system. Since the product that became VRAZ was completely unknown at the time of the decision, and Pima County's system was operating correctly, I evaluated all factors including cost and reliability. I made the decision to keep our separate voter registration system. Maricopa made the same decision to keep their own in house voter system. The taxpayers of Pima County, with no funding from the state, paid a significant amount of money to improve Pima County's voter system after that decision. It should also be reiterated that the state spent significantly less money on the state voter system as a result of the decision made by both Pima as well as Maricopa County.

Your actions of trying to now determine the legality of Pima and Maricopa Counties separate voter registration system as an effort to eliminate Pima County's system is incredible and must be viewed as a blindside move, made without any communication, specific details of taxpayers cost, or any regard for the impact of your idea. Your choice to delay the communication while playing political games at the Legislature clearly shows that you provide only lip service to your claimed "communication." Even the consultants you hired to put together the AVID proposal have recognized that several states use the "hybrid" voter system of having some counties operating separate voter registration systems and uploading their data into the statewide system. Arizona is not unique in that area and therefore prompts me to inquire your intent and motive for pursuing further disruption and confusion in this area.

Your request to the Attorney General's Office paints the picture that Pima County's voter registration system is completely separate from the state system. To the contrary, Pima County's system transmits all new voter registrations, cancellations, and modifications of voter records to the statewide database within seconds of being entered in Pima County's voter registration

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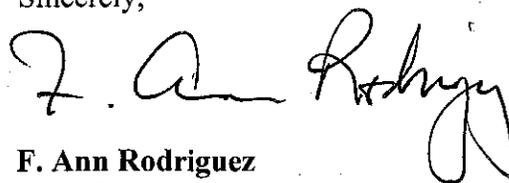
system. If there are communication issues between the state system and Pima County's system, those problems were caused by the unilateral decision of you and your staff to cancel the contract with IBM without input from Pima County and without determining how the system works first. Again, choices made by your office that impact my office but without extending even the courtesy of my input.

In order for elections to work in Arizona, all parties must work together. My staff and I have more than 100 years combined election experience. We have conducted dozens of successful elections. We have issued and verified hundreds of thousands of vote-by-mail ballots without complaint or significant issues. We are able to gather household data files without difficulty from our voter registration system that we fully understand. We have revised our voter systems and our websites over the years without any significant issues in implementations. Despite that experience, you and your staff continue to treat the Recorders as a subsidiary of the Secretary of State and as though we are incompetent and should have no real input in election matters. Your own state election director made the comment that he considers all Recorders and Elections Directors in Arizona to be "incompetent." The Recorders of the State of Arizona have been duly elected in each county. Some of us for several terms. The combined election experience of your management staff is less than 8 years, since so many of the previous staff with significant experience in election matters have either retired or have left for other job opportunities.

If you wish to improve communications with me, you need to start by recognizing that we have a voter registration system that works, a system that protects the integrity of the voter data and the privacy of the voters. You need to recognize and respect that the experience in election matters is and always has been at the county level and not in your office. This was clearly understood by previous Secretaries of States. Very few citizens call the Secretary of State's office to mail them a ballot, return their voted ballot, question if their signature on the ballot is acceptable or not, mail in their voter registration form or receive a voter notification card. All of this is done at the county level and we directly communicate with thousands of voters in every election.

The bottom line is that the County Recorders are responsible and held accountable for the voter data we generate, not the Secretary of State. There are solid reasons the laws of the State of Arizona reflect this separation of power and I am obligated as an elected official to uphold the sanctity of those laws.

Sincerely,



**F. Ann Rodriguez**  
Pima County Recorder



**MICHELE REAGAN**  
*Secretary of State*  
*State of Arizona*

March 20, 2017

The Honorable Mark Brnovich  
Arizona Attorney General  
1275 West Washington  
Phoenix, Arizona 85007

Re: Request for Attorney General Opinion Pursuant to A.R.S. § 41-193(A)(7)

Dear General Brnovich:

The Secretary of State's office, in collaboration with our county partners, is undergoing a procurement process to explore the possibility of replacing the statewide voter registration database with a modern platform for the 21<sup>st</sup> century. As you may know, the statewide voter registration database must contain the name and registration information for every registered voter in the State of Arizona. Maricopa and Pima Counties operate their own voter registration databases, but feed varying degrees of voter registration information into the statewide voter registration database.

In the course of planning for future technological capabilities to better receive, review and produce voter registration information, it has become clear that a wide divergence of opinion exists about the extent of the Secretary of State's role in administering the statewide voter registration database and responding to third-party requests for voter registration information (whether through public records requests or through litigation).

There are a number of laws at issue. For example, federal and state law require the Secretary of State to maintain a centralized database with all voter registration information, while federal law requires states to produce information related to "maintaining the accuracy and currency of voter rolls" upon request. In light of federal and state law, I request your formal opinion on the following questions:

1. Does federal and state law allow Arizona counties to maintain a separate, county-based voter registration database?
2. Assuming it is lawful for counties to maintain separate voter registration databases, how much "registration information" must be transmitted to the statewide voter registration database?
  - a. If partial transmission is lawful, what is the minimum amount of information that must be transmitted to the statewide voter registration database in order to comply with federal and state law?

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**MICHELE REAGAN**  
*Secretary of State*  
*State of Arizona*

- b. For example, 13 Arizona counties keep electronic records in the statewide voter registration database of voter registrations that have been held in suspense or have been rejected, whereas Maricopa County does not transmit information about rejected registrations and Pima County does not transmit information about rejected registrations or registrations held in suspense. Are Maricopa and Pima Counties required to transmit this information to the statewide voter registration database?
  - c. As another example, 13 Arizona counties keep electronic records in the statewide voter registration database of registrants who voted a provisional or early ballot and specify whether that ballot was counted or rejected, whereas Maricopa and Pima Counties only transmit provisional and early ballot information in cases where the ballot was counted. Are Maricopa and Pima Counties required to transmit all provisional and early ballot information, regardless of whether the ballot was counted or rejected?
3. Under federal and state law governing public records and voter registration information, is the Secretary of State permitted to decline to fulfill a proper request for voter registration information and instead direct the requester to seek that information from each individual county?
- a. Does the answer to Question 3 depend upon whether the public records request specifically cites the federal National Voter Registration Act versus Arizona's public records laws?
4. Under federal and state law (including court rules), is the Secretary of State permitted to decline to respond to a subpoena or request for production in litigation for voter registration information and instead direct the requester to seek the voter registration information from each individual county?

Thank you for your prompt attention to this matter. If you have any questions, please contact Eric Spencer, State Election Director, at (602) 542-8683.

Sincerely,

A handwritten signature in blue ink that reads "Michele Reagan".

Michele Reagan  
Secretary of State