



STATE OF MICHIGAN  
RUTH JOHNSON, SECRETARY OF STATE  
DEPARTMENT OF STATE  
LANSING

September 22, 2017

Kris W. Kobach, Vice Chair  
Presidential Advisory Commission on Election Integrity

Via email: [ElectionIntegrityStaff@ovp.eop.gov](mailto:ElectionIntegrityStaff@ovp.eop.gov)

Dear Secretary Kobach:

I write in response to your correspondence dated June 28 and July 26, 2017, soliciting views and recommendations for improving election administration and requesting access to Michigan's publicly available voter registration data. On behalf of my office and the Bureau of Elections, I extend my thanks for the opportunity to provide relevant information and commentary to the Presidential Advisory Commission on Election Integrity (Commission).

Michigan has a highly decentralized election system in which county, city and township clerks bear primary responsibility for performing many election-related tasks, including voter registration and list maintenance activities. Of the eight states that utilize a decentralized system for administering elections at the local government level, Michigan is the largest state both in terms of its population and geography to do so: There are 83 counties and 1,520 cities and townships – in addition to the Secretary of State and Bureau of Elections – that have a role in election administration.

Michigan is one of only two states in the country where the Secretary of State serves as both the chief election official and the driver/motor vehicle (DMV) administrator. Both of the primary databases used for these purposes, the Qualified Voter File (QVF), Michigan's statewide voter registration file, and Driver File, are maintained by the Secretary of State and are designed to electronically update a voter's registration status, residence address, or both. It is worth noting that Michigan is consistently recognized as one of the most effective states in the country for registering citizens to vote through its DMV branch office network.

Although driver transactions that originate with the Secretary of State constitute approximately 85% of all voter registration transactions in Michigan, primary responsibility for maintaining accurate voter rolls rests with the state's 1,520 city and township clerks.<sup>1</sup> Data from Michigan's QVF and Driver File are synchronized on a daily basis via a complex, secure and automated system of server processes. Michigan has also implemented the "one address rule," which requires individuals to use a single residence address for driver licensing and voter registration purposes.

With this context, Michigan offers the following responses to your request.

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<sup>1</sup> Generally, clerks are required to perform routine list maintenance activities including processing voter registration applications, sending voter identification cards, issuing notices to voters whose applications are deficient or who may have moved, and canceling the registration of deceased voters.

**1. What changes, if any, to federal election laws would you recommend to enhance the integrity of federal elections?**

**Response:** I have worked with members of Michigan's Congressional delegation on legislation that would improve the accuracy of voter rolls nationwide. The National Voter Registration Act (NVRA) currently requires state motor vehicle administrators to offer driver license applicants the opportunity to register to vote. The proposed legislation would require state motor vehicle administrators to ask individuals, at the time they apply for a driver license in the new state of residence, if they desire to register to vote in the new state. If the applicant answers yes, then the state motor vehicle administrator would notify their former state of residence and allow prompt removal of that voter from the former state's voter roll.

This common sense reform would provide for the efficient removal of non-residents from state voter rolls, while minimizing the opportunity for individuals to vote in multiple states at the same election. Once fully implemented, the legislation will enhance state efforts to ensure that votes are cast only by eligible voters and will result in cost savings for state and local election administrators. I urge the Commission to lend its support for this important legislation.

**2. How can the Commission support state and local election administrators with regard to information technology security and vulnerabilities?**

**Response:** I firmly believe that the federal government must not play a dominant role in election administration as state and local officials are best positioned to carry the primary responsibility for conducting free and fair elections. There are, however, areas in which the federal government can complement state efforts to improve the efficiency and integrity of our election system.

States need clarity regarding the functional effect of the Department of Homeland Security's (DHS) designation of election systems as critical infrastructure. As DHS moves forward with the critical infrastructure designation, the agency must appreciate the indispensable role of state and local officials in election administration. One way in which DHS can partner with states is to facilitate communications among state election administrators and technology experts regarding information security, risk assessments and counter-measures that can address known vulnerabilities.<sup>2</sup>

**3. What laws, policies, or other issues hinder your ability to ensure the integrity of elections you administer?**

**Response:** Ensuring accuracy in state voter files is the most important step in securing our elections against fraud; obtaining prompt access to the most complete, current and accurate information regarding a voter's eligibility status is of paramount importance. Information sharing presents another opportunity for the federal government to collaborate with and support state efforts to maintain accurate voter rolls, particularly in relation to data collected by the Social Security Administration (SSA).

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<sup>2</sup> Voting machines that are connected to the internet have come under increasing public scrutiny as potentially vulnerable to hacking. As I explained in my letter to Vice President Mike Pence dated February 7, 2017 (enclosed), voting machines should have a verifiable paper trail to preserve the integrity of election results and ensure that voting machines are accurately tabulating ballots. Moreover, I believe that no voting machine should ever be connected to the internet.

For example, data from the SSA's Death Master File (DMF) is used to verify whether a person is recently deceased, enhancing the accuracy of Michigan's QVF. It is worth noting that during my tenure as Secretary of State, Michigan has removed close to 1.2 million QVF records (roughly 1/6 of the statewide file) for routine list maintenance purposes, including 3,470 non-citizens, 125,000 voters who have moved, and almost 540,000 deceased individuals identified by the DMF. For driver licensing, the state subscribes to SSA's Systematic Alien Verification for Entitlements (SAVE) database to verify whether non-citizen applicants are legally present in the United States. I believe that a data exchange system similar to the DMF and SAVE that would enable states to verify the citizenship status of voter registration applicants will improve the accuracy of voter rolls nationwide. While Michigan already acquires data from the DMF to identify and cancel the registration of any voter who is listed as deceased and SAVE to verify the legal presence of driver license applicants, both are done at substantial cost. I recommend that the Commission call on the federal government to eliminate barriers to accessing citizenship and decedent databases, including lowering - - or even eliminating - - the cost to the states of accessing this information.

**4. What evidence or information do you have regarding instances of voter fraud or registration fraud in your state?**

**Response:** During every election cycle, Michigan receives numerous complaints concerning alleged voter fraud or registration fraud, and works with our partners in state and local law enforcement to investigate and, in appropriate cases, prosecute violations. By way of example, following the 2016 general election, Michigan conducted a statewide analysis regarding the incidence of "double-voting," where a single voter cast two ballots at the same election. Based on this review, we identified 31 voters who voted both an absentee ballot and a ballot issued in person on Election Day.<sup>3</sup> I have asked the Attorney General to investigate and, in appropriate cases, prosecute individuals who are found to have intentionally violated the law.

Michigan has also identified a number of voters who appear to have voted in two different states at the same federal election through its participation in the Interstate Crosscheck program. Individuals whom investigators determine acted intentionally should be prosecuted to the fullest extent allowed by law.

To date, none of the instances described above have resulted in criminal convictions; other Michigan cases involving criminal charges, guilty pleas or verdicts are addressed in response to Item 5, below.

**5. What convictions for election-related crimes have occurred in your state since the November 2000 federal election?**

**Response:** Under Michigan's decentralized election administration system, agencies other than the Secretary of State are responsible for the investigation and prosecution of election-related crimes. Depending on the facts of a particular case, a criminal investigation could involve the Michigan State Police, County Sheriff or local law enforcement agency and responsibility for the prosecution of these crimes rests with the state Attorney General or County Prosecuting Attorney. Pending and resolved criminal cases involving violations of Michigan election law are not required by law to be reported to my office. Thus, the information I am able to provide to the Commission might not reflect every single election law crime that has occurred (or is alleged to have occurred) in Michigan since 2000. Known cases of state election crimes may generally be categorized as follows:

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<sup>3</sup> See [http://www.michigan.gov/documents/sos/Statewide\\_Audit\\_Report\\_Feb\\_9\\_2017\\_551187\\_7.pdf](http://www.michigan.gov/documents/sos/Statewide_Audit_Report_Feb_9_2017_551187_7.pdf).

*Absent voter ballot-related offenses.* State and local prosecutors have won convictions in cases involving illegal possession and delivery of absent voter ballots in the communities of Hamtramck<sup>4</sup> and Benton Harbor<sup>5</sup> during my term as Secretary of State. Under my predecessor, similar absentee ballot fraud charges were filed in Ecorse and River Rouge.

*Illegal registration and voting.* Convictions were obtained in Berrien County<sup>6</sup> and Ypsilanti<sup>7</sup> involving non-citizens who illegally registered and voted. Charges were brought against a Macomb County man in a separate case of alleged illegal voting by a non-citizen.<sup>8</sup>

*Petition fraud.* Prosecutors have also secured multiple convictions against individuals who falsified petition signatures, including personnel employed by a former Congressman<sup>9, 10</sup> and two candidates for Judge.<sup>11, 12</sup> Another individual was convicted of multiple counts of forging entries on a recall petition.<sup>13</sup>

## **6. What recommendations do you have for preventing voter intimidation or disenfranchisement?**

**Response:** State and local election officials must strive to prevent voter intimidation and disenfranchisement, as voter perceptions of these problems can depress voter turnout. I want every eligible voter to vote, free from harassment at the polls and without fear that his or her vote may be diluted by an ineligible voter casting a ballot. Having served as Michigan's Chief Election Officer and the elected County Clerk of the state's second-largest county, I know firsthand that every vote matters. Twice during my term as Oakland County Clerk, candidates had to draw lots to resolve a tie vote. Of course in 2000, former President George W. Bush's margin of victory was only 537 votes out of 6 million cast in the State of Florida.

I believe that election integrity starts with an accurate voter roll, which reduces the potential that voters will endure intimidating conduct in the polling place (i.e., through indiscriminate voter challenges based on incomplete or inaccurate registration files) and minimizes the possibility that an eligible voter casting a valid vote will be disenfranchised by an ineligible voter casting an invalid vote. For these reasons I urge the Commission to consider methods of fostering data sharing between states and the federal government, and among state election administrators, using the methods I outline elsewhere in this letter.

Another potential cause of voter intimidation is unfettered photography in polling places, due to the risk of unlawful ballot exposure. Michigan law prohibits voters from deliberately exposing their voted ballot in the polling place on Election Day, yet a growing number of voters desire to record the voting experience using their cell phone's camera or video recording feature. Michigan's partial ban<sup>14</sup> on the use of these devices ensures that images of voters' ballots are not recorded without their consent and

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<sup>4</sup> See <http://www.michigan.gov/sos/0,4670,7-127-1666-339147--,00.html>.

<sup>5</sup> See [http://publicdocs.courts.mi.gov/opinions/final/coa/20090714\\_c282144\\_68\\_282144.opn.pdf](http://publicdocs.courts.mi.gov/opinions/final/coa/20090714_c282144_68_282144.opn.pdf).

<sup>6</sup> See <http://www.michigan.gov/sos/0,4670,7-127--314174--rss,00.html>.

<sup>7</sup> See [http://www.michigan.gov/sos/0,4670,7-127-1640\\_9150-360957--rss,00.html](http://www.michigan.gov/sos/0,4670,7-127-1640_9150-360957--rss,00.html).

<sup>8</sup> See <http://www.michigan.gov/ag/0,4534,7-164-46849-301722--,00.html>.

<sup>9</sup> See <http://www.michigan.gov/som/0,4669,7-192--286418--RSS,00.html>.

<sup>10</sup> See [http://www.mlive.com/news/index.ssf/2016/04/conspiracy\\_charge\\_stands\\_again.html](http://www.mlive.com/news/index.ssf/2016/04/conspiracy_charge_stands_again.html).

<sup>11</sup> See <http://www.detroitnews.com/story/news/politics/2016/12/27/gop-blogger-gets-days-jail-election-fraud/95887872/>.

<sup>12</sup> See <http://www.freep.com/story/news/local/michigan/detroit/2016/12/22/damella-williams-judge-campaign/95468822/>.

<sup>13</sup> See [http://publicdocs.courts.mi.gov/opinions/final/coa/20160726\\_c325856\(136\)\\_rptr\\_114o-325856-final.pdf](http://publicdocs.courts.mi.gov/opinions/final/coa/20160726_c325856(136)_rptr_114o-325856-final.pdf).

<sup>14</sup> Michigan recognizes a limited exception for news media filming or photographing voters from a distance, which is designed to preserve ballot secrecy.

minimizes the likelihood of confrontations in the polling place, enabling voters to cast ballots free from intimidation or harassment. I am particularly concerned that allowing photography in the polling place would be viewed by some voters as intimidating or coercive, as it compromises ballot secrecy: A voter or an image of his or her ballot may be surreptitiously recorded and posted on social media without the voter's knowledge or consent. Michigan is vigorously defending its position in a pending case challenging its ban against photography in the polling place and unlawful ballot exposure.<sup>15</sup>

## 7. What other issues do you believe the Commission should consider?

**Response:** For years, before Michigan required proof of citizenship or legal presence for driver licensing purposes and therefore could not readily ascertain a person's citizenship status, non-citizens were offered the opportunity to register to vote at Secretary of State branch offices when applying for a license. This prior practice was implemented to comply with the NVRA's mandate to offer voter registration at state motor vehicle offices. Now that Michigan requires all driver license applicants to provide documentation demonstrating their citizenship status, only U.S. citizens are offered the option to register to vote. Nonetheless, state voter rolls may include non-citizens who, perhaps inadvertently or due to limited English language proficiency, registered to vote. Without access to citizenship data from the federal government, states will struggle to identify non-citizens and remove them from the voter rolls.

Regrettably, the consequences for the difficulties states encounter with respect to identifying ineligible non-citizen voters fall squarely on immigrants. A non-citizen's illegal voter registration may impede his or her ability to become a legal U.S. citizen, even if the person unintentionally registered to vote while completing a driver license application. This is why representatives of my office regularly attend citizenship ceremonies to welcome our newest citizens and help them register to vote. I believe that the federal government has an obligation to help states rectify this situation by providing access to reliable citizenship data.

I also urge the Commission to consider the work of the Presidential Commission on Election Administration (PCEA), which included among its members Michigan's former Director of Elections. In particular, I call on this Commission to reiterate the PCEA's recommendation on formalizing the exchange of voter registration data between states. As the PCEA aptly noted,

The extraordinary mobility of the American population has combined with decentralized election authority to produce bloated and inaccurate lists. Problems with these lists, as described earlier, make every aspect of election administration more difficult, and are also seen by some as rendering the system vulnerable to fraud. Every effort needs to be made to facilitate coordination among the states in the development of accurate and up-to-date registration lists...

*The Commission endorses state programs to share data and to collaborate in the synchronization of voter lists so that the states, on their own initiative, come as close as possible to creating an accurate database of the eligible electorate. The Commission recommends that these programs be structured to consolidate and integrate all compatible functions. Such projects should strive to improve the accuracy of voter registration records, enhance the ability to detect ineligible voting and prosecute voter fraud, reduce administrative costs, and increase registration rates.*

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<sup>15</sup> See <http://www.opn.ca6.uscourts.gov/opinions.pdf/16a0266p-06.pdf>.

See *Report and Recommendations of the Presidential Commission on Election Administration* (2014), pp. 28-29 (emphasis in original).

8. [P]rovide to the Commission the publicly-available voter roll data for Michigan, including, if publicly available under the laws of your state, the full first and last names of all registrants, middle names or initials if available, addresses, dates of birth, political party (if recorded in your state), last four digits of social security number if available, voter history (elections voted in) from 2006 onward, active / inactive status, cancelled, status, information regarding any felony convictions, information regarding voter registration in another state, information regarding military status, and overseas citizen information.

**Response:** The QVF contains the following data for Michigan voters: first/middle/last name, address, year of birth, voter history, active/inactive/cancelled status, and military or overseas citizen status. The remaining data elements requested by the Commission are not collected or recorded in Michigan (i.e., political party registration, felony convictions, or registration in another state), or by law<sup>16</sup> are exempt from disclosure (i.e., full dates of birth, last four digits of the Social Security Number). Also note that Michigan's publicly available QVF Voter History data is only available from 2009 to the present.

Michigan routinely discloses publicly available QVF data upon submission of a written request and payment of the customary \$23.00 processing fee; these preconditions will apply to the Commission's request. Please note that a copy of the Qualified Voter File Data Request Form was sent via email to the Commission's Policy Advisor, Ron Williams, last week. This form is also available on our website at this [link](#). Kindly mail the completed form and check or money order in the amount of \$23.00 (payable to the State of Michigan), to the attention of Melissa Malerman, Bureau of Elections FOIA Coordinator, Michigan Department of State, 430 West Allegan Street – 1<sup>st</sup> Floor, Lansing, Michigan 48933.

Michigan is pleased to provide the foregoing information in response to your request. If you have questions regarding this response, please contact Sally Williams, Director of Elections, via email at [WilliamsS1@Michigan.gov](mailto:WilliamsS1@Michigan.gov), or by phone at (517) 373-2540.

Sincerely,



Ruth A. Johnson  
Michigan Secretary of State

c: Sally Williams, Director of Elections

Enclosure

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<sup>16</sup> MCL 168.509gg.