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July 5, 2017

Robert Giles, Director
Division of Elections
NJ Department of State
PO Box 304
Trenton, NJ 08625

Dear Mr. Giles:

We write regarding the [request](#) from Kris Kobach on behalf of the Presidential Advisory Commission on Election Integrity (“the Commission”) for expansive voter information, which was sent to all fifty states. We write directly to you because we understand that Lieutenant Governor Guadagno has [recused](#) herself from all matters dealing with the Division of Elections.

We understand that, to date, New Jersey has not responded to that request. New Jersey should join the [44 other states that at last count](#) have rejected the invitation to participate in what amounts to a sham exercise designed to spread misinformation about election security at the expense of New Jersey voters’ right to privacy.

To be clear, like the Division of Elections, we agree that American elections need to be safe, fair, and transparent. We all agree that voter rolls should be accurate and up-to-date. However, voter fraud is not the problem, and turning over sensitive voter information to Kris Kobach, a known proponent of voter suppression, is not the solution. Indeed, the actions of the Commission thus far, and the long track record of the official tasked with leading it, inspire zero confidence that ensuring safe and fair elections is the actual goal of the Commission or the request for voters’ data.

Mr. Kobach

We are extremely concerned that the Commission is led by Kris Kobach, who has a well-earned reputation as a leading proponent of voter suppression. Mr. Kobach has endorsed the lie that President Trump won the popular vote, [telling reporters](#), “I think the president-elect is absolutely correct.”

Mr. Kobach was recently [fined](#) \$1,000 by a federal magistrate judge for “deceptive conduct and lack of candor,” and for making “patently misleading representations to the court.” The United States Court of Appeals for the Tenth Circuit recently [found](#) that Mr. Kobach’s assertions about widespread non-citizen voting were “pure speculation.”

Mr. Kobach’s leadership of the Commission raises several red flags about the Commission’s true motivations. We are concerned that Mr. Kobach will use the Commission to continue to make wildly exaggerated claims about voter fraud. Specifically, it is likely that he will compare states’

voter rolls using a faulty matching procedure that has generated [200 false positives](#) for every instance of double-voting it has identified. Put simply, Mr. Kobach lacks credibility as an advocate for fair voting. Instead, he is a partisan intent on suppressing the votes of millions of eligible voters.

The Data Requests

In advance of the Commission's first meeting on July 19, 2017, Mr. Kobach has now requested from all 50 states the personal data of every voter in the country, including: full names of all registrants; addresses and dates of birth; last four digits of Social Security numbers; and political party and voter history. The Commission has asked New Jersey to submit this information via email, and has promised that "any documents that are submitted to the full Commission will also be made available to the public."

This raises substantial privacy concerns. The Commission has requested the electronic submission of this information and promised to make these documents available to the public without any guarantee that individuals' information will be kept anonymous or secure.

Included among the information requested by the Commission are portions of voters' Social Security numbers. New Jersey courts have held that New Jerseyans have a reasonable expectation of privacy in their Social Security numbers.¹ Additionally, the New Jersey Supreme Court has held that the disclosure of home addresses, when provided in combination with other personal information, implicates privacy interests.² Such information should not be turned over to the Commission.

As other groups have already pointed out – in a [lawsuit](#) and in a [letter](#) to secretaries of state – the Commission's request also presents serious security concerns. The Commission has directed state election officials to send voter records to an unsecure website and proposes publishing partial Social Security numbers, which would enable identity theft and financial fraud.

To be clear, there is certain voter information – not including Social Security numbers – that is routinely *sold* to political parties and candidates, or provided in response to Open Public Records Act requests. Nothing precludes the Commission from seeking to obtain this information on the same terms that it is made available to others; but the Division of Elections should not make any special efforts to provide information to the Commission.

¹ *Burnett v. County of Bergen*, 198 N.J. 408, 414 (2008).

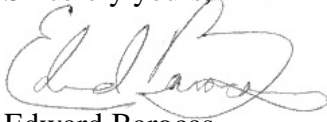
² *Doe v. Poritz*, 142 N.J. 1, 83 (1995).

Conclusion

The New Jersey Division of Elections has prided itself on protecting the integrity of our elections without taking actions that jeopardize the right to vote or voters' privacy. New Jersey should not participate in a sham process that will be used to falsely justify attacks on voting rights. We should be doing everything we can to encourage, rather than hinder, participation in our democracy.

We all want our elections to be safe, fair, and transparent. We urge you to deny the Commission's request for data.

Sincerely yours,



Edward Barocas
Legal Director



Alexander Shalom
Senior Staff Attorney