

STATE OF COLORADO

Department of State

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March 8, 2012

Secretary Janet Napolitano
Department of Homeland Security
U.S. Department of Homeland Security
Washington, D.C. 20528

RE: Colorado statewide voter registration system integrity

Dear Secretary Napolitano:

As the state's Chief Election Officer, the Colorado Secretary of State is responsible for ensuring the integrity of Colorado elections. One important aspect of this duty is to maintain the statewide voter registration database and ensure clean voting rolls.

Last year, my office compared the list of registered Colorado electors to those who provided a non-citizen document to the Colorado Department of Motor Vehicles during a driver's license transaction. This comparison yielded 1,427 registered voters who provided an I-551, EADS, or I-94 card. We cannot verify the citizenship status of these registrants because this office does not have access to citizenship records. Since we ran the initial analysis, the number has grown to over 2,000 registered voters who have presented non-citizen documents during a driver's license transaction.

Our office lacks the tools to determine whether the individuals who presented non-citizen documents in the recent past became U.S. citizens either before they registered to vote or are current U.S. citizens. It is imperative to the integrity of Colorado elections that we ensure only U.S. citizens are registered to vote and voting in our elections.

Therefore, I respectfully submit this request under 8 U.S.C. § 1373(c), which states that your office:

“...shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.”

For a request to fall under § 1373 the requestor must 1) be a Federal, State or local government agency, and 2) be authorized to request the information. The Colorado Department of State meets both requirements. Under 42 U.S.C. § 15483, and Colo. Rev. Stat. §§ 1-2-301 and 302, the Department is required to maintain the statewide voter registration database. This obligation includes removing anyone ineligible to vote in federal or state elections. Further, Colo. Rev. Stat.

§ 1-1-107(b) authorizes the Secretary of State to “enforce the provisions of [the election] code.” One aspect of this code is that Colo. Rev. Stat. § 1-2-101(1)(a) only allows United States citizens to register to vote. Therefore, to enforce federal and state statutes, the Colorado Department of State needs to know the citizenship status of the registrants in question.

This letter is our third written attempt to obtain assistance from the Department of Homeland Security to verify the citizenship status of certain registrants currently listed on Colorado’s voter rolls. My office first requested this information from U.S. Immigration and Customs Enforcement in July, 2011. We were told ICE was not the custodian of the records in question and we were referred to U.S. Citizenship and Immigration Services. Discussions with USCIS broke down in November, 2011. At that time, we were told that USCIS could not provide the information we had requested because “it is against long standing policy to conduct verifications when only name and birthdate are available.”

As we indicated at the time, our records include minimum matching criteria to determine the citizenship status of the individuals in question. For each of the records, we have name, date of birth, and a nine digit number we understand to be an alien registration number.

I am writing to you now as our previous attempts to gain assistance from various offices within the Department of Homeland Security have not been successful. Much of the feedback we have received to date, when we have been able to get feedback, has revolved around database capabilities and possible technological constraints. My office stands ready and willing to overcome any technology or database obstacles to fulfilling this request.

As noted, the integrity of our elections is the foundation of our system of government. We seek the assistance of the Department of Homeland Security in taking this most basic step to ensure only eligible individuals are registered and voting in our elections. Thank you for your consideration and attention to this request. Please feel free to contact my office if you have any questions or need any additional information in order to respond to our request.

Sincerely,



Scott Gessler
Secretary of State