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EXECUTIVE DIRECTOR

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November 9, 2012

Honorable Ken Bennett
Arizona Secretary of State's Office
Capitol Executive Tower, 7th Floor
1700 W. Washington St.
Phoenix, AZ 85007

Honorable Helen Purcell
Maricopa County Recorder's Office
111 S. Third Ave., #103
Phoenix, AZ 85003

Honorable F. Ann Rodriguez
Pima County Recorder's Office
P.O. Box 3145
Tucson, AZ 85702

Karen Osborne
Director
Maricopa County Elections Department
111 S. Third Ave., #102
Phoenix, AZ 85003

Brad R. Nelson
Director
Pima County Elections Department
6550 S. Country Club
Tucson, AZ 85756

Re: Uncounted ballots in Arizona

Dear Officials:

The American Civil Liberties Union (ACLU) of Arizona wishes to express its grave concerns about remaining uncounted ballots in Arizona and the process by which many voters were required to use provisional ballots. The ACLU of Arizona is deeply concerned by continuing reports of hundreds of thousands of uncounted ballots, expressed concerns about lack of transparency and clarity in the process, and disproportionately high numbers of provisional ballots issued to minority voters. Voters' ability to trust that their votes will be counted efficiently and fairly is paramount. We urge your office to act quickly, efficiently and responsively to restore public confidence in the voting process.

Uncounted Ballots

The news of an excessive number of early and provisional ballots that remain uncounted is alarming. According to the Arizona Secretary of State's Office, more than 630,000 ballots were still not counted as of the morning of November 8th. More than 160,000 of these ballots were provisional ballots. Public confidence is eroding as the days continue to

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pass while all these ballots remain uncounted. We call upon your office to explain to the public why these ballots remain uncounted and how your office is attempting to remedy the situation. Transparency and clarity will help calm frustration and confusion about continuing problems with these ballots.

Provisional Ballots

As noted, there are now multiple reports of unusually high numbers of provisional ballots being issued to minority voters. Arizona, like many other states, saw increased turnout among minority voters this year, especially Latino voters. Any disproportionate burden upon minority voters to vote by provisional ballot is unacceptable and may violate the Voting Rights Act. We call upon your office to examine the process by which higher numbers of provisional ballots were issued this year and determine whether any particular community was disproportionately impacted.

Conditional Provisional Ballots and Lack of Public Awareness

Many of the provisional ballots issued in this year's election were conditional provisional ballots. As you know, voters who voted by conditional provisional ballot must return to their county clerk's office by November 14th and display proper identification for their ballot to be counted. We are concerned that these individuals are not sufficiently aware that they must complete these last steps in order to have their votes counted. Public awareness of this requirement is critical. And because counties have only 10 calendar days to verify and process all early and provisional ballots, time is of the absolute essence. We call upon your office to alert the public that anyone who voted by conditional provisional ballot must return to the county clerk's office with proper identification by November 14th. Given the very high number of provisional ballots that remain uncounted, this increase in public awareness is especially critical.

We recognize that Election Day represents a significant and complex undertaking. But the precious constitutional right to vote is in many ways the foundation of our civil liberties. The public must have confidence in our election process and the process by which votes are collected and counted. Moreover, thousands of new voters registered and cast ballots this year. We should all welcome and encourage this trend. However, continuing problems with Arizona ballots threatens to deter new voters in the future. We believe that the requests we make now will help restore public confidence—both for current and future voters—in Arizona's election system.

If we can assist you in your efforts to deal with these issues, please do not hesitate to contact us. Thank you for your time and attention.

Sincerely,



Alessandra Soler
Executive Director
ACLU of Arizona