

Exhibit A

Exhibit A



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
APPEALS & CONSTITUTIONAL LITIGATION DIVISION

MICHAEL S. CATLETT
DEPUTY SOLICITOR GENERAL
DIRECT PHONE NO.: (602) 542-
MICHAEL.CATLETT@AZAG.GOV

November 4, 2020

Via Email and Certified Mail

Mr. Scott Jarrett
Director of Elections Day and Emergency Voting
Maricopa County Elections Department
510 S. 3rd Avenue
Phoenix, Arizona 85003
SJarrett@risc.maricopa.gov

Re: Use of Sharpie Brand Markers at Maricopa County Voting Centers

Dear Mr. Jarrett:

The Attorney General's Office ("the Office") is responsible for enforcing provisions of Title 16 of the Arizona Revised Statutes and the 2019 Elections Procedures Manual ("Manual"). *See* A.R.S. §§ 16-452(C); 16-1021. In connection with that statutory authority, the Office accepts electronic election-related complaints from voters, as well as complaints mailed to the Office. We have received hundreds of voter complaints regarding the use of Sharpie brand markers ("Sharpies") to fill out ballots on Election Day at voting centers in Maricopa County. Voters are concerned that the use of Sharpies may have caused ballots to be rejected, spoiled, or cancelled. To investigate these complaints, the Office requests the following information **in writing by noon on November 5, 2020. If you are unable to provide specific answers to the below questions by that deadline, we request a narrative explanation of what steps you are taking to obtain answers:**

- In which voting centers were Sharpies provided or made available to voters and where were those voting centers located?
- In each voting center where Sharpies were provided or made available to voters, to what extent were Sharpies used? Were other types of markers or pens provided or used and to what extent?
- How many ballots cast at each voting center were rejected? Of those ballots, how many were rejected because of over-votes? Of those ballots rejected because of over-votes, how many were rejected because ink from a marker bled through to the reverse side of the ballot?
- Were the ballot tabulation machines utilized at voting centers on Election Day programmed to reject over-voted ballots?

Mr. Scott Jarrett

Re: Use of Sharpie Brand Markers at Maricopa County Voting Centers

November 4, 2020

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- Of the ballots rejected at voting centers, how many of those ballots were spoiled on site such that the voter could choose to vote a new ballot? In the instances where ballots were spoiled on site, how many voters chose not to cast a ballot rather than voting a new ballot?
- What is the process for cancelling a voter's ballot? If a ballot is reflected as "cancelled" on the Secretary of State's website, what does that mean for the voter?

Thank you for your prompt attention to this matter.

Sincerely,



Michael S. Catlett
Deputy Solicitor General

cc: Hon. Clint Hickman, Chairman, Maricopa County Board of Supervisors
Bo Dul, Elections Services Director, Arizona Secretary of State

Exhibit B

Exhibit B



Maricopa County

Board of Supervisors

301 West Jefferson Street • 10th Floor • Phoenix, AZ 85003 • www.maricopa.gov

November 4, 2020

Dear Maricopa County voters,

As members of the Maricopa County Board of Supervisors, we are concerned about the misinformation spreading about the integrity of our elections.

First, vote counting is not a Republican or Democrat issue; everyone should want all the votes to be counted, whether they were mailed or cast in person. An accurate vote takes time. It's possible the results you see now may change after all the votes are counted. This is evidence of democracy, not fraud.

Second, sharpies do not invalidate ballots. We did extensive testing on multiple different types of ink with our new vote tabulation equipment. Sharpies are recommended by the manufacturer because they provide the fastest-drying ink. The offset columns on ballots ensure that any bleed-through will not impact your vote. For this reason, sharpies were provided to in-person voters on Election Day. People who voted by mail could use sharpies, or blue or black pens. Our Elections Department has been communicating this publicly for weeks.

Maricopa County has bipartisan oversight of elections in 2020 with the Board of Supervisors and the Recorder's Office each playing an important role. We would like to thank the hundreds of volunteers, poll workers and staff for being a part of an incredible Elections team. All of us are committed to a fair and efficient count of all votes.

Thank you,

A handwritten signature in black ink, appearing to read "Clint Hickman", with a long horizontal line extending to the right.

Clint Hickman

Chairman, Maricopa County Board of Supervisors

A handwritten signature in blue ink, appearing to read "Steve Gallardo", with a long horizontal line extending to the right.

Steve Gallardo

Supervisor, District 5, Maricopa County Board of Supervisors

Exhibit C

Exhibit C



KATIE HOBBS
SECRETARY OF STATE

November 5, 2020

Via Email

Michael S. Catlett
Deputy Solicitor General
Office of the Arizona Attorney General
michael.catlett@azag.gov

Re: AGO Investigation of Use of Sharpie Brand Markers at Maricopa County Voting Centers

Dear Mr. Catlett,

Thank you for copying me on your November 4, 2020 letter to the Maricopa County Elections Department about your inquiry into the use of “Sharpie brand markers” to complete ballots.

As a preliminary matter, it is unclear what provision of Title 16 of the Arizona Revised Statutes and the 2019 Elections Procedures Manual (“Manual”) you are seeking to “enforce.” Nevertheless, on behalf of the Secretary of State, I am responding to your letter in an effort to help quickly put an end to these unfounded claims so that election officials can focus on completing the count and certifying results for the November 3, 2020 election. As Arizona’s Chief Election Officer, the Secretary has a keen interest in ensuring that the public and your office have accurate and complete information. Moreover, the Secretary is committed to stopping the spread of false and unfounded claims about the election and is hopeful that, with the information below, the Attorney General’s Office will cease perpetuating a conspiracy theory that undermines the hard work of Arizona’s election administrators, poll workers, and voters. As you know, combating election disinformation has been a priority for the Secretary.¹

First, inherent in your questions is the false assumption that using Sharpies on a ballot causes ballots to be rejected, spoiled, or canceled. That is simply not true, as the Maricopa County Elections Department and the Maricopa County Board of Supervisors has publicly explained.² Further, even if a ballot cannot be read by a tabulation machine—whether due to the type of pen

¹ See, e.g., Shumway, J. (2020, June 29). GOP lawmakers bypass Democrat Hobbs to disburse elections money . Retrieved November 05, 2020, from <https://azcapitoltimes.com/news/2020/06/25/gop-lawmakers-bypass-democrat-hobbs-to-disburse-elections-money/> (“Hobbs planned to spend \$500,000 her office received through the Help America Vote Act on digital and radio advertising to combat disinformation about the 2020 election... Attorney General Mark Brnovich, a Republican, had lobbied GOP lawmakers to remove the spending request from the day’s agenda.”)

² Maricopa County Elections Department, <https://twitter.com/MaricopaVote/status/1323728961231233025?s=20>; Hickman, C. & Gallardo, S. “A Message to Maricopa County Voters,” available at <https://twitter.com/maricopacounty/status/1324131969475637248>.

used, a tear, or other damage to the ballot—counties have established procedures for ensuring the voter can cast a replacement ballot at the polling place, or, if tabulated at a central counting facility, for the ballot to be adjudicated or duplicated by a bipartisan board of election workers and then counted. The type of pen a voter uses would not cancel or invalidate a voter’s vote.

Second, and more importantly, this imagined controversy regarding the use of Sharpies has absolutely nothing to do with the cancellation of early ballots. As the Secretary explained yesterday,³ voters who received an early ballot but chose to vote in-person will see their early ballot status show as “Canceled” if they look up their early ballot status on my.arizona.vote. This occurs because the early ballot is in fact canceled so that only the ballot that was cast in-person will be counted. A “Canceled” early ballot status does not mean the other ballot that was cast in-person is canceled. The Secretary’s my.arizona.vote website does not provide a status look-up tool for regular in-person ballots cast on Election Day because they are all counted and voting credit for the election is subsequently attributed to the voter’s record.

The Secretary is committed to overseeing a fair election and dispelling misinformation that would make that job more difficult for state and county election officials. She sincerely hopes that the Attorney General shares that same goal, and will join an ever-growing chorus of public officials and media sources that have correctly labeled what is now being referred to as “SharpieGate” as the unfounded conspiracy theory that it is.⁴

To the extent you may be confronted with other political issues like this one in the future, the Secretary encourages you to take steps to maintain, rather than undermine, public confidence in Arizona’s election processes.

Sincerely,



Sambo (Bo) Dul
State Elections Director
Arizona Secretary of State Katie Hobbs
bdul@azsos.gov
602.542.8683

cc: Hon. Clint Hickman, Chairman, Maricopa County Board of Supervisors
Scott Jarett, Director of Election Day and Emergency Voting,
Maricopa County Elections Department

³ Secretary of State Katie Hobbs, <https://twitter.com/SecretaryHobbs/status/1324074443740647425?s=20>, and <https://twitter.com/SecretaryHobbs/status/1324158248996405249?s=20>.

⁴ For example, the Cybersecurity and Infrastructure Security Agency, under the U.S. Department of Homeland Security, published a resource to dispel the false rumors that “poll workers gave specific writing instruments, such as Sharpies, only to specific voters to cause their ballots to be rejected.” Cybersecurity and Infrastructure Security Agency, “#Protect2020 Rumor vs. Reality,” <https://www.cisa.gov/rumorcontrol#rumor18>.

Exhibit D

Exhibit D



Maricopa County Attorney

ALLISTER ADEL

November 5, 2020

Michael S. Catlett
Deputy Solicitor General
Office of the Attorney General
2005 North Central Avenue
Phoenix, Arizona 85004

RE: Your letter of November 4, 2020, concerning Sharpie brand markers at Maricopa County Voting Centers

Dear Mr. Catlett:

County Attorney Adel represents the Maricopa County Elections Department. We are in receipt of your letter, sent to the Director of Elections Day and Emergency Voting, Scott Jarrett, which requested information concerning the use and effect of Sharpie brand markers at Maricopa County Voting Centers. We write to answer your letter. We also write to extend an invitation to General Brnovich, on behalf of our client, to observe a demonstration of the process for casting and tabulating ballots. Because General Brnovich is the chief legal officer of the state and is counsel for the secretary of state, A.R.S. § 41-192(A), who is the state's chief election officer, A.R.S. § 16-142(A), this might be of value to him. Our client would welcome the opportunity to meet with General Brnovich and any of his staff to demonstrate Maricopa County's voting tabulation technology, so he can better understand the process in Maricopa County.

Regarding the questions presented in your letter, it is important to recognize at the outset that Sharpie markers are recommended by the manufacturer of Maricopa County's vote tabulation machines as the preferred way to mark ballots for use in those machines. Ink from ballpoint pens can cause smudges in the machines and foul them, while Sharpie markers do not. Furthermore, Maricopa County's ballots are designed in such a way that any "bleed through" caused by the ink cannot create false votes or cause a voter's intended vote to be miscounted. Specifically, the ovals in the front of the ballot are staggered from those on the back of the ballot so that even if bleed through should occur, there is no impact on any race.

In response to the particular questions raised in your letter, our client answers as follows:

1. In which voting centers were Sharpies provided or made available to voters and where were those voting centers located?

Sharpie markers were made available at all 175 voting locations, and the poll workers in all those locations were instructed to provide voters with Sharpie markers to mark their ballots in accordance with the recommendation of the manufacturer.

2. In each voting center where Sharpies were provided or made available to voters, to what extent were Sharpies used? Were other types of markers or pens provided or used and to what extent?

Sharpie markers should have been used in all voting centers by all voters. Whether the voter opted to use one cannot be determined without examining each individual ballot—something our client cannot possibly do at present. Ballpoint pens were available in every voting center for signing and completing provisional ballot affidavit envelopes or for poll workers to complete other forms. It is possible that some voters used those ballpoint pens to mark their ballots, or used ballpoint pens that they brought with them to the voting centers. Importantly, the use of a ballpoint pen would not cause a ballot to be misread or not counted. As stated earlier, wet ink from a ballpoint pen can cause the precinct-based tabulator scanning surface to become smudged.

3. How many ballots cast at each voting center were rejected? Of those ballots, how many were rejected because of over-votes? Of those ballots rejected because of over-votes, how many were rejected because ink from a marker bled through to the reverse side of the ballot?

No ballots were rejected at voting centers, for overvotes or any other reason. Voters who marked more votes than allowed (an “overvote”), made stray marks on their ballots, or otherwise damaged their ballots so that they could not be read by the vote tabulation machines were given the opportunity to “spoil” their ballots and cast new ones. A “spoiled” ballot is one that the voter chooses not to have counted. Typically, a voter will spoil a ballot when she makes unintentional marks or she realizes that she has mistakenly voted for a candidate for whom she did not intend to vote. Voters who want to spoil their ballots may ask for a new ballot from the poll workers. Spoiled ballots are retained by the Elections Department pursuant to Arizona law, but the votes on those ballots are not counted.

The vote tabulation machines are programmed to alert voters when their ballots contain overvotes or stray marks that might lead to their votes for certain contests not being tabulated. Those voters are then provided the opportunity to spoil their ballot and vote a new one. For various reasons, some voters choose not to spoil their ballots, which is their right.

4. Were the ballot tabulation machines utilized at voting centers on Election Day programmed to reject over-voted ballots?

No. As explained in the previous question, no ballots were “rejected” at voting centers on Election Day. The tabulation machines in the voting centers are programmed to identify ballots containing overvotes, stray marks, or other types of damage that would prevent the ballot from being fully tabulated. Those voters are then given the opportunity to spoil their ballots and cast new ones in accordance with Arizona law.

5. Of the ballots rejected at voting centers, how many of those ballots were spoiled on site such that the voter could choose to vote a new ballot? In the instances where ballots were spoiled on site, how many voters chose not to cast a ballot rather than voting a new ballot?

As described in the answers above, our client does not reject a voter’s ballot that contains overvotes, stray marks, or other damage that would prevent the ballot from being tabulated. In these instances, a voter is provided the opportunity to spoil his damaged ballot and cast a new one. Whether voters do so or not is entirely up to them. For every election, the Maricopa County Elections Department performs a post-election analysis that includes the amount of spoiled ballots for each voting location. This analysis is currently in-progress and will be completed prior to the Canvass for the General Election.

6. What is the process for cancelling a voter’s ballot? If a ballot is reflected as “cancelled” on the Secretary of State’s website, what does that mean for the voter?

The Maricopa County Elections Department is not involved in nor in a position to provide information on the creation of the secretary of state’s website.

Sincerely,

ALLISTER ADEL
MARICOPA COUNTY ATTORNEY



Tom Liddy
Civil Services Division Chief

Exhibit E

Exhibit E



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
APPEALS & CONSTITUTIONAL LITIGATION DIVISION

MICHAEL S. CATLETT
DEPUTY SOLICITOR GENERAL
DIRECT PHONE No.: (602) 542-7751
MICHAEL.CATLETT@AZAG.GOV

November 5, 2020

Via Email

Mr. Tom Liddy
Civil Services Division Chief
Maricopa County Attorney
225 West Madison
Phoenix, Arizona 85003
liddyt@mcao.maricopa.gov

Re: Use of Sharpie Brand Markers at Maricopa County Voting Centers

Dear Mr. Liddy:

The Attorney General's Office ("AGO") is in receipt of your correspondence on behalf of the Maricopa County Election Department ("MCED") dated November 5, 2020. In that correspondence, you respond to the AGO's November 4, 2020 inquiries regarding the use of Sharpie brand markers at Maricopa County Voting Centers. AGO sincerely appreciates MCED's prompt and professional response during what is undoubtedly a very busy time for MCED and its dedicated employees.

Given its central role in the collection and tabulation of votes, AGO knows that MCED recognizes that our election laws play a preeminent role in ensuring the integrity of our elections. AGO is tasked with the enforcement of those laws, so it steadfastly seeks to preserve and protect them. As explained in my correspondence, AGO received a significant number of complaints relating to the use of Sharpie brand markers at voting centers across Maricopa County. By noon yesterday, AGO had received hundreds of complaints from concerned voters, and received hundreds more thereafter. While some have attempted to characterize those complaints as the product of a "conspiracy theory," it was necessary and appropriate for AGO to conduct some investigation, rather than simply brushing hundreds of Arizona voters off, and to obtain information from the elected officials actually tasked with tabulating votes.

Having received and reviewed your correspondence, AGO is satisfied that the mere use of Sharpie brand markers at voting centers in Maricopa County did not result in disenfranchisement. While AGO will continue to follow up on complaints or concerns about Election Day received from individual voters, AGO considers the broader issues it raised in my correspondence yesterday to be concluded at this time.

Thank you again for you and your client's quick response and professionalism.

Mr. Tom Liddy

Re: Use of Sharpie Brand Markers at Maricopa County Voting Centers

November 5, 2020

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Sincerely,



Michael S. Catlett
Deputy Solicitor General

cc: Joseph La Rue, Emily Craiger, Maricopa County Attorney

Exhibit F

Exhibit F

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EXCERPT OF TWEET FROM JOE DANA @JoeDanaReports

November 5, 2020

1 ATTORNEY GENERAL BRNOVICH: Do I think, based on
2 what I've heard now and what we've seen, um, that
3 maybe this was a little overblown? I think that -- I
4 will at this point say that I will believe what the
5 election officials have said verbally and, you know,
6 take them at their word. I don't think anyone in
7 Arizona would have -- was consciously trying to create
8 a controversy or conspiracy, because at the end of the
9 day -- you know, think about this: If indeed there
10 was an issue with Sharpies -- I mean, I'm not a math
11 whiz, but that would have affected both parties
12 equally.

13 (End of recording)

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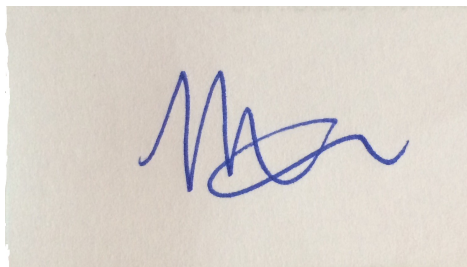
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C E R T I F I C A T E

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I, Meridith Consor, Transcriptionist, do hereby certify that I was authorized to and did transcribe the provided recording and that the foregoing transcript is a true and accurate transcription to the best of my ability.

Dated this 5th day of November, 2020.



MERIDITH CONSOR, TRANSCRIPTIONIST