

Thanks to Deanna and Maricopa Community Colleges for having me. I really appreciate it.

So, Happy Constitution Day! Which is of course, today, September 17, and it commemorates the signing of the Constitution in Philadelphia in 1787.

I think it should be a federal holiday both because I am unapologetically pro-holiday and because it would be cool to have a nerdy holiday where we all took the day off and talked Constitutional Law.

As Deanna mentioned, my name is Stephen Richer, I'm the Maricopa County Recorder. My Office oversees the recording of public documents, the voter registration database, and the administration of elections for Maricopa County, which includes the elections of the Maricopa Community College District Governing Board.

Maricopa County is the fourth largest county in the United States, with about 4.5 million people, and we're the second largest voting jurisdiction in the United States with about 2.6 million registered voters.

I was elected to the office this past November and took office in January of this year.

I entered this office seeking to competently, fairly, humbly, and quietly administer the office.

I entered with the idea that no news is good news.

I ran on the cheesy slogan to Make the Recorder's Office Boring Again.

I have so far failed pretty miserably in that respect.

We can get into that failure in the Q&A, but I first want to talk a bit about the Constitution and my office, specifically voting rights. And

even though it's the Constitution's birthday, I want to rain on its parade a little bit by talking about what I see as the present tension between elections and an element of the Constitution.

I should preface this with three remarks:

First, I'm going to simply refer to it as the Constitution, rather than the federal constitution. We of course also have an Arizona state constitution. But it's not the birthday of the state constitution, so we'll celebrate that another day.

Second, despite what I'm going to later say, I'm a huge fan of the Constitution. Huge.

I spent years of my life working for organizations that litigate Constitutional claims to protect civil and economic liberties.

My wife and I took our wedding vows on the Constitution.

I have a framed copy of the Constitution in my office.

And in the musical Hamilton, I am decidedly on team Jefferson/Madison in their battle versus Hamilton, in large part because of Madison's drafting of the Constitution.

The third and final of my prefatory remarks is that voting rights owe much to the Constitution.

Although voting rights were not initially established in the Constitution, later case law established an affirmative right to vote, and various Constitutional Amendments—the 15<sup>th</sup>, 19<sup>th</sup>, 24<sup>th</sup>, and 26<sup>th</sup>—have either expanded the vote or protected against targeted abridgements of the vote.

Additionally, the Constitution and the United States Supreme Court played a humongous role throughout the 1950s, 1960s, 1970s, 1980s, 1990s, and 2000s in combatting the de facto and de jure disenfranchisement of U.S. Citizens based on race most significantly, but also due to national origin, gender, ethnicity, disability, literacy, and a whole host of other characteristics. It's an ugly part of our history, but it's a part in which the Constitution shines.

But now I want to get into the main point I hope to make today.

I posit that the gravest threat to voting rights and our elected form of government is no longer the systematic disenfranchisement of a particular class of people, but instead the undermining of the entire election system through lies and disinformation.

And it is in this respect, that the Constitution today is in some ways a thorn in the side of my office. Specifically the First Amendment.

As you all undoubtedly know, the First Amendment does a lot of work. It protects against state establishment of a religion and state infringement upon religious practices. It protects the right to assembly and association.

And, of course, it protects the right to speak and publish.

The First Amendment and First Amendment jurisprudence have made the United States one of the most, if not the most, speech-friendly country in the world. Our laws are way more speech friendly than Europe's for instance.

I'd always seen this as a good thing, and it probably is.

But it also means I can tell stand in front of you today and say without any fear of legal ramifications the following:

“I know Joe Biden personally stolen the election. I know this because a secret agent gave me data from a secret Italian satellite. I then interpreted this data using a special technology I created. When I invented this technology I won three Nobel Prizes—the Peace Prize, the Physics Prize, and one more for simply being a badass. Using this technology, I then found that Joe Biden personally entered 2 million illegal voters into the Arizona database, all of whom voted for Joe Biden. Oh, and by the way, this technology also proves beyond a shadow of a doubt that I’m not balding.”

I could say all of this, and way more, without fear of legal recourse. And if I have enough Twitter or YouTube followers, and enough gullible listeners—and there are seemingly plenty of gullible people—then my set of “facts” starts to spread.

The Constitution is especially protective of political speech. Restrictions on political speech are subject to what is called “strict scrutiny” review which basically means the government better have a damn good reason for any limitations it puts on your speech.

And that brings me to the situation we have in 2020, which can perhaps best be summarized by the title of the book written by the former comedian and U.S. Senator Al Franken: “Lies: and the Lying Liars Who Tell Them.”

The Arizona 2020 election was not stolen. There is zero evidence of this. Multiple tabulation audits have been performed, 8 court cases have explored different theories, and oodles of hearings have been held.

But people continue to lie about this. Some knowingly. Some unwittingly. Some of these people are the local crazies. Some of these people are elected Arizonans at both the state and federal level. Some of these people—including VERY PROMINENT politicians—have had the audacity to tell me privately that they know it’s all bullshit, but in public, they lie anyway.

The lies I've personally dealt with run the gamut from simply wrong to comically fantastical.

Some people, including the former President of the United States, have said that my team and I unlawfully deleted database files. Some people have said George Soros was willing to overlook the fact that I'm a Republican and pays me millions of dollars to cover up evidence of voter fraud. Some people have said 74,000 ballots were fraudulently injected into the system. Some people have said that I took ballots from the 2020 election, fed them to chickens, and then incinerated those chickens to cover the evidence. Seriously. There's an article on GatewayPundit.com about this. And some people actually believe it. I've had people yell at me accusingly for this alleged action.

The First Amendment ensures that we basically can't touch these idiots. This is especially true for me because I'm a public official and therefore even more in play. You could probably say that I drink the blood of babies and if I sued you for defamation, you'd almost certainly win—and not because that's the truth.

I used to think that this didn't matter because eventually, in the court of public opinion, the truth would always win. I believed in the competitive marketplace of facts, garbage would eventually get filtered out, and facts would come to the fore.

But in today's world of social media, bogus news sites, and the increasing segmentation of society, I'm not so sure. By most reports, approximately 30% of Arizonans believe the 2020 election was stolen. They seem unshakeable. And they can live in a bubble of One America News Network and Telegram where those beliefs are simply affirmed.

This, in my mind, is the biggest threat to elections and democracy. If 30% of the population thinks the process is fundamentally unjust, they will simply drop out, or they will seek to disrupt the system. The most

extreme of these people rioted on January 6 causing bloodshed in the transition of power for the first time in our country's history.

These people are spurred on by the lies that are protected by the First Amendment.

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The plague of lies and disinformation isn't specific to elections. For example, it is firmly scientifically established that the vaccine against COVID-19 is safe and effective. And yet, many people believe the lies and disinformation they see on the internet and therefore avoid getting vaccinated—at great cost to them individually, but also to our hospitals and society.

I don't have a solution to this problem. I'm merely presenting it. Yes, I think it's possible that our First Amendment jurisprudence needs to change. But I'm hesitant to disrupt something that has served this country so well for so long.

But the solution to lies and disinformation is more than just a legal problem. It's an educational problem. It's a technology problem. It's a religious problem. It's a journalism problem. It's a business problem.

You all are the next generation of professionals. You will go and work in a variety of fields and do great, productive things. But if you have some time to spare to think about the problem of disinformation, I'd greatly appreciate it, and so too would all elections workers in the country.

Thank you.