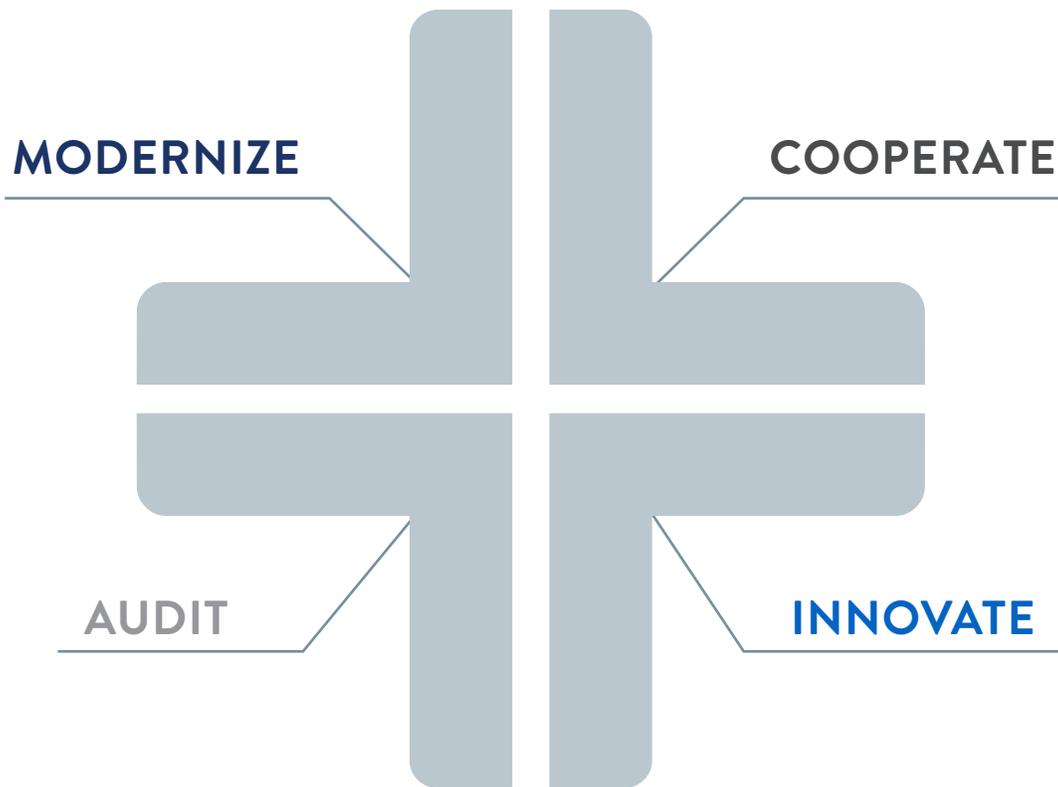


# BEST PRACTICES

*for*

## ACHIEVING INTEGRITY *in* VOTER REGISTRATION



*A Report Prepared by the*

**PUBLIC INTEREST**  
— LEGAL FOUNDATION —

# PUBLIC INTEREST

LEGAL FOUNDATION

We are pleased to provide to you *Best Practices for Achieving Integrity in Voter Registration*. Over the years, we have had the opportunity to examine closely voter list maintenance practices in jurisdictions with serious problems with the accuracy of their voter lists. Trends have emerged. Solutions are available to address every shortcoming we have encountered.

This document is our attempt to disseminate lessons learned in those matters and hopefully encourage election officials to re-examine list maintenance procedures. Many election officials are doing fantastic work in this area, and this report also synthesizes these nationwide best practices. Improvement is always possible, and we hope our close examination of list maintenance practices will encourage improvement nationwide.

For example, we found that both large and small jurisdictions often do not have written list maintenance schedules and guidelines. As such, institutional knowledge is lost when personnel changes. One best practice we recommend is to institutionalize written procedures.

Policy makers interested in election administration should also find this report useful. Some states have statutory barriers to some of the best practices described in our report. That should change. Other states have no barriers, but just have not contemplated the legislation to help keep voter rolls clean. We believe policy makers interested in election integrity will find useful ideas in this report.

This report is the result of long, careful study by those most familiar with the shortcomings of existing election administration and those with real-world experience in improving election systems. I would like to thank Donald Palmer, a former state election director in multiple states, who was the primary architect of these recommendations, as well as Hans von Spakovsky, a former member of the Federal Election Commission, for his essential work on this report.

The Public Interest Legal Foundation exists to promote election integrity. We are happy to forward copies of this report to anyone who you believe might be interested.

Sincerely,



J. Christian Adams, President

# FIXING THE VOTER LISTS

## BEST PRACTICES IN VOTER LIST MAINTENANCE

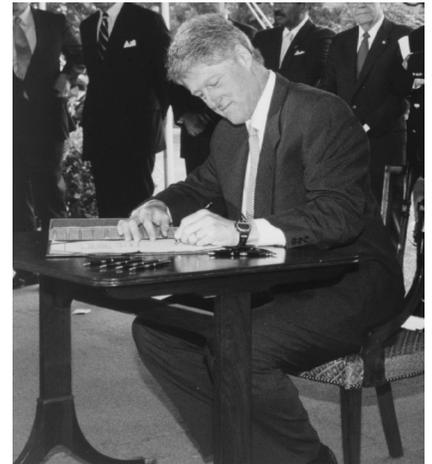
The most significant problem facing America's electoral process is the chronic inaccuracy and lack of integrity in the voter rolls that list the individuals registered to vote in local, state, and federal elections. Almost 25 years after the enactment of the National Voter Registration Act (NVRA),<sup>1</sup>



**one of the major purposes of the law—to protect the integrity of the electoral process and ensure accurate and current voter registration rolls—has still not been realized, and, in many ways, the situation has gotten worse.**

While the mobility of the nation's population and the influx of non-citizens (both legal and illegal) has made the job of maintaining voter lists more difficult, the NVRA's focus on *written mail* communications with voters fails to take into account the rapid technological changes that have occurred in our society.

With our decentralized electoral system, many states and counties simply do not maintain voter lists in a consistent or uniform manner. Rather, their procedures are sporadic, unreliable and often not conducted in the most effective manner. Despite great advances in technology, most jurisdictions fail to use the latest database tools at their disposal and ignore best practices in their list maintenance activities. Innovation within the confines of existing statutes is also a rarity.



Library of Congress, 1993



In fact, most jurisdictions direct only the minimal amount of money and personnel to maintain what many would consider the foundation of the voting process in the United States— the official registered voter list.

# IMPACT OF INACCURATE ROLLS ON VOTER CONFIDENCE IN ELECTIONS

What is being ignored is clear evidence of inaccurate voter rolls witnessed by the American people, including news reports of deceased citizens, ineligible felons, and non-citizens voting as well as individuals illegally voting in more than one state.

The risk of actual or perceived registration and voter fraud is perpetuated by highly-inflated rolls and registration irregularities that provide an opportunity for ineligible voters to vote in an election either intentionally or by mistake and for bad actors to commit voter fraud.

It is the responsibility of election administrators to use the list maintenance tools reasonably available to mitigate the potential for any registration or voting fraud. Irregularities and inflated rolls may lower voter confidence in the fairness and accuracy of elections. The end goal should be for all political parties and candidates to be confident that the winners and losers were correctly determined and the contest was conducted fairly. That requires an accurate voter registration list before anything else.



Enhancing voter list maintenance with new available technologies and increasing the cooperation between states, the federal government, and their various agencies would address an increasing range of problems the nation is facing with inaccurate voter lists.

The lack of information sharing to identify duplicate registrations, for example, negatively impacts voters and delays investigations of those registering or voting in more than one location.

Accurate voter rolls are important to the political process as errors in voter information data provided to candidates and political parties negatively impacts political campaigns that rely heavily on voter data to efficiently target their messaging and get-out-the-vote efforts. This report proposes a number of best practices to state legislatures and chief election officials to remedy the current problems.

## PUBLIC INTEREST

LEGAL FOUNDATION

## THE PROBLEM: THE NATION'S VOTER ROLLS ARE INACCURATE

A number of different organizations and national commissions, including the U.S. Election Assistance Commission (EAC), have identified the national crisis the nation faces with the lack of integrity of voter registration records. While the problem has been acknowledged on a bipartisan basis, the debates over the extent and impact of the problem continue to fuel partisan disputes. Where there are significant errors, there is a detrimental cost to society in undermining voter confidence in the electoral process.



A 2010 report by the Pew Charitable Trusts estimated that “2.2 million eligible Americans were unable to cast ballots due to problems with their voter registrations.”<sup>2</sup> In 2012, Pew Charitable Trusts issued another report finding that one of every eight voter registrations is no longer valid or is significantly inaccurate.<sup>3</sup> The same report also found that “[m]ore than 1.8 million deceased individuals are listed as voters” and “[a]pproximately 2.75 million people have registrations in more than one state.”<sup>4</sup> Experts found a hefty financial cost to taxpayers as inaccurate voter rolls result in millions of taxpayer dollars spent on undeliverable and wasteful mailings of election materials, and they encouraged the states to work together to update inaccurate and out-of-date registrations and to identify duplicate registrations.<sup>5</sup>



**2.2 MILLION**  
eligible Americans were unable to cast ballots due to problems with their voter registration.



More than  
**1.8 MILLION**  
deceased individuals were listed as voters.



Approximately  
**2.75 MILLION**  
people have registrations in more than one state.

The 2013 Presidential Commission on Election Administration (PCEA) found that accurate voter lists were essential to the proper management of elections and the goal of improving the voting experience.<sup>6</sup> Based on the testimony of election administrators and other experts, the PCEA found that the lack of quality voter lists directly impacted the ability of people to vote and even reduced the ability of political parties to monitor elections to detect election fraud and other irregularities.<sup>7</sup>

From an election administration perspective, error-ridden voter rolls require additional time and attention of poll workers in serving voters, thus delaying the overall efficient movement of voters through the polling place.<sup>8</sup> The PCEA found recurring registration inaccuracies cause a whole series of administrative challenges for poll workers in the efficient management of the voting process,<sup>9</sup> resulting in longer lines and wait times for voters.<sup>10</sup>



Dec. 3, 2013 Presidential Commission on Election Administration's Final Public Meeting

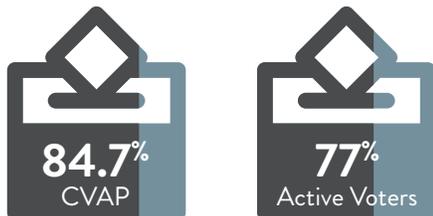
Similarly, the 2014 EAC Report to Congress also identified that inaccurate voter registration lists inevitably result in voters showing up at the wrong polling place and being redirected to another polling place.<sup>11</sup> Thus, there was a corresponding increase in the number of provisional ballots voted and the average vote time.<sup>12</sup>

For election administrators, outdated voter registration rolls will often result in the inaccurate allocation of voting equipment throughout the jurisdiction. Not surprisingly, the top reasons for the rejection of provisional ballots included the voter not being registered in the state (31%); being registered in the wrong jurisdiction (10%); and, having voted in the wrong precinct (9 %).<sup>13</sup>

## WHERE THERE IS SMOKE, THERE IS FIRE

The failure of election officials to take reasonable list maintenance steps will inevitably result in highly inflated voter rolls and in registration rates chronically surpassing 100% of the eligible voting age population (or citizen voting age population) in the jurisdiction.

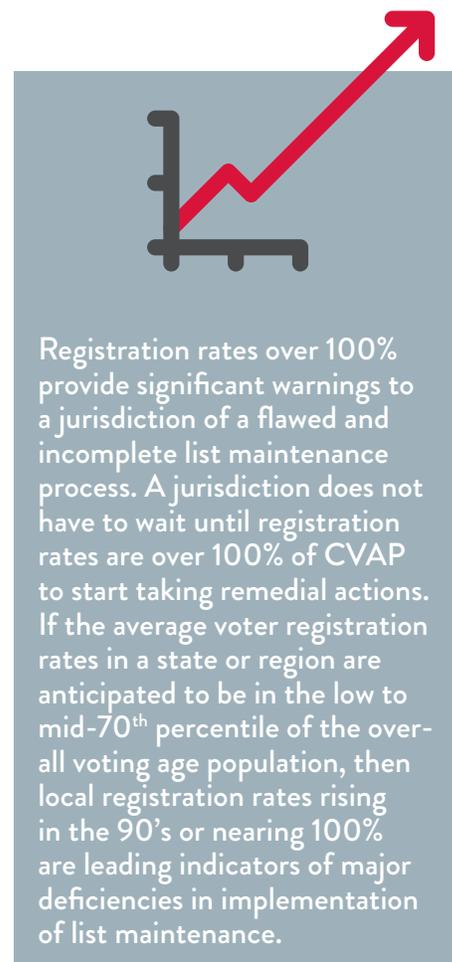
According to the 2014 EAC Report, the registration rate of the citizen voting age population (CVAP) was 84.7%.<sup>14</sup> As expected, the CVAP registration rate for active voters was significantly lower at 77%.<sup>15</sup> More revealing, the EAC Report exposed 148 counties across 24 states that had voter registration rates exceeding 100% of their Census population.<sup>16</sup> Such inflated rates are symptomatic of chronic neglect of a jurisdiction's voter rolls.



### VOTER REGISTRATION RATE



While just one cycle of neglect may result in highly inflated rolls, recurring impossibly high voter registration rates are the result of a decade or more of negligible list maintenance activities with little to no oversight by state or federal authorities. Investigations in these places will usually find a situation where there has been no list maintenance or even an adequate plan to detect the warning signs of inaccurate voter lists. In too many cases, jurisdictions eschew best practices because of limited resources and effort needed to comply with state or federal law.



Some local jurisdictions will incorrectly point the finger at state election officials as responsible for the local voter registration rolls. While the Help America Vote Act (HAVA) increased the oversight role of the state in the list maintenance partnership between states and localities, local jurisdictions remain responsible for basic voter list maintenance and registration activity. Many local jurisdictions ignore the new technology available to help address the problem of inflated rolls because of a reluctance to expend the necessary resources on personnel or vendors to assist in maintaining the rolls. In the case of many of these jurisdictions with highly inflated rolls, the raging fire of neglect is often identified only after years of everyone ignoring the smoke.

The U.S. Department of Justice (during the George W. Bush administration) and other voter integrity organizations have used registration rates above 100% as the basis to initiate investigations and file lawsuits to remedy long term, systemic voter list maintenance deficiencies.



In *U.S. v. Indiana* (2006), the parties entered into a consent decree to remedy highly inflated voter rolls and systemic problems with ineligible voters remaining on the official voter list.<sup>17</sup> The decree required that Indiana identify and remove deceased and duplicate registrations and conduct a state-wide mailing to bring the state into compliance with the NVRA.<sup>18</sup>

# RECOMMENDATIONS TO STATE LEGISLATURES & ELECTION OFFICIALS



## IMPROVE AND ENHANCE AGING AND OBSOLETE STATE VOTER REGISTRATION SYSTEMS

The enactment of HAVA in 2002 required the implementation of computerized, state-wide voter registration systems in each state. Since then, some states have upgraded with the latest technology and capabilities; however, the majority of states have not made any significant changes or upgrades since that time. With recent revelations over the attempted hacking of online registration databases, improved cyber security must also be a priority.



These registration systems should maximize the use of interstate voter registration data and implement more frequent maintenance procedures into their voter registration system.



State legislatures, in conjunction with chief election officials, should require new and modern voter registration systems with features that enhance the ability to improve identity-matching in the comparison of voter registration lists with available government and public commercial data sources. The new voter upgraded registration system should have the capability to fully consume data from a multitude of sources, including data from interstate voter registration data sharing groups such as the Electronic Voter Registration Center (ERIC) and the Interstate Voter Registration Crosscheck (IVRC), and fully interact with databases maintained by state departments of motor vehicle (driver's licenses), departments of corrections, state and county tax departments, vital records departments, and federal databases such as the Social Security Administration master death index and alien databases at the U.S. Department of Homeland Security.

The new voter registration system should be designed to process the multiplicity of registration data inputs from other states and other reliable third party data sources involved in the ongoing maintenance of voter registration rolls. As the Carter-Baker Commission on Federal Election Reform recommended over a decade ago, the states should improve communication between the states by improving system operability with other state registration databases.<sup>19</sup>



## AUDIT THE OFFICIAL STATE-WIDE VOTER REGISTRATION LIST EVERY FOUR YEARS

It is a recommended best practice to conduct an audit of the official voter list at least every four years, particularly in the year preceding the general presidential election. After the initial audit, the state election official may receive subsequent notification of address changes of voters throughout the cycle. In addition to very accurate voter rolls, studies have shown that these audit services have resulted in reduced mailing costs to localities due to more current, accurate addresses.

The audit should be conducted with a reliable third party address data provider such as Experian or other National Change of Address (NCOA) vendor who utilizes a combination of government postal service data and other public commercial data from vendors that identify the current address of registered voters.<sup>20</sup>

Immediate access to new address notification from these sources is key to accurate voter rolls and meeting the goals of the NVRA. A reasonable list maintenance mailing program must be continuous and ongoing as updated addresses are regularly provided by voters through the NCOA database. But local election officials must also be active in using other sources to update addresses and mail confirmation notices to voters who have moved inside or outside the jurisdiction. Timely and accurately addressed confirmation notices to voters living outside the jurisdiction allow voters to be informed of the need to register in their new locality and allow counties to cancel the registration rather than making them inactive or suspense voters, taking years to remove them from the voter rolls.



Such audits are necessary because only about half of voters affirmatively notify postal officials of their move and new address through the NCOA database. The remaining voters would not be otherwise identified as having moved unless there was additional commercial public data added to the NCOA comparison of the voter rolls.



## PARTICIPATION IN INTERSTATE VOTER REGISTRATION DATA-SHARING

Interstate voter registration data exchange is an important step towards improving the accuracy of voter registration rolls. Unfortunately, some states do not participate and many state laws unnecessarily restrict the sharing of voter registration data with other state election officials.

Privacy concerns should not stop election officials from sharing interstate registration data. The sharing of voter registration data should include HAVA-required registration data such as the last four digits of the social security number. The sharing of first and last name, date of birth, address, and last four digits of the social security number dramatically improves the quality and quantity of positive matches and decreases the number of errors and false positives.



There is bipartisan support for the sharing of voter registration data for the maintenance of the voter rolls. One of the key recommendations of PCEA was that states should regularly update and compare voter registration lists and histories against each other to ensure that voters are correctly registered at one location.<sup>21</sup> States should share registration data and synchronize voter lists to come as close as possible to creating an accurate list of all eligible voters.<sup>22</sup> That process starts with joining and fully participating in interstate groups like IVRC and ERIC.

IVRC is a program that annually exchanges and compares voter registration lists and voting history to ascertain whether voters have multiple registrations. The Crosscheck process started in 2005 in a bipartisan effort by a number of Secretaries of State, including then Kansas Secretary of State Ron Thornburg (R) and Missouri Secretary of State Robin Carnahan (D). By 2016, 30 states were members of IVRC, comparing over 110 million registrations and voting records.



**BY 2016**



**30 STATES**

were members of IVRC  
comparing over



**110 MILLION**

registrations and voting records



In this comparison process, each state submits its entire list of registered voters, including the voter's date of birth, last four digits of their social security number (as allowed by law), current voter registration address, and voter history of the November general election. In previous cycles, IVRC had identified over 5 million duplicate registrations within the participating states with potential double voting matches being provided to local or state law enforcement agencies for further investigation and prosecution.<sup>23</sup>

ERIC was formed in 2012 with assistance from the Pew Charitable Trust, and is managed by the states that join. States upload voter registration and driver's license data every sixty days and the program provides individual reports of address or registration changes. ERIC provides data on in-state movers, out-of-state movers, duplicate registrations, and likely deceased voters.



By 2016, ERIC had 21 member states and over 14 million total records available for comparison every 60 days. ERIC has identified 1,000,969 cross-state or interstate movers, 3,829,631 in-state movers, 92,665 in-state duplicates not identified by normal HAVA checks, and 166,146 deceased voters not identified by traditional HAVA checks with the vital statistic agencies.<sup>24</sup>

Both of these interstate voter registration data-sharing programs assist in the identification of duplicate registrations in multiple states. However, a key difference is that the IVRC program is free to the participating states. The ERIC program has an initial \$30,000 membership fee for each participating state, an annual fee based on the number of registered voters in the state, and fees for mailings that are required under the program. That includes a requirement that every participating state send a notice to all driver's license holders who are not registered to vote soliciting their registration. Safeguards should be instituted to verify the citizenship and eligibility of the recipients of this mailing.<sup>25</sup>

## INCREASE PROCEDURES IDENTIFYING DECEASED VOTERS

Despite recent efforts by states and localities, a large number of deceased registrants remain on the rolls for years or even decades after death. HAVA tried to correct this problem by requiring intrastate communication between election officials and other agencies such as state vital statistics departments and the federal Social Security Administration. Depending on the state system, the state election agency will either remove the deceased individuals at the state level or provide the potential matches to local election officials to complete the removal process.

While HAVA requires the state to get deceased information from other state and federal agencies, these processes and databases are not adequate to identify all deceased voters. Federal databases, such as the Social Security Death Index or the Social Security Master Death File, provide valuable information but they also have omissions or other errors in the matching process because the data provided at the time of death is different than the registration data. In many cases, states have successfully reached out to commercial vendors who specialize in death information to overcome these identification errors in federal databases.

Reviewing local and online newspaper obituaries, which can be a very effective way to identify deceased voters, should be part of any list maintenance program. Local election officials should



While the state has responsibility under HAVA to assist in the identification of deceased voters, local election officials have the ultimate responsibility under the NVRA and state law for their removal. **The failure to remove deceased voters is often caused by local election officials failing to routinely review their own voter registration list to identify centenarians with no voting activity for years** and other obvious irregularities and failing to conduct an inquiry to confirm the registration remains valid. As a result, local jurisdictions should have a robust system independent of the state, of receiving notification from local sources of deceased voters, and act in a timely manner.

establish relationships with local funeral homes to receive monthly lists of decedents or copies of death certificates. They should also receive a regular transfer of data directly from the local coroner or other local government agency that provides notification of deceased individuals. This direct notification is highly reliable proof that warrants the removal of deceased voters from the voter rolls.



Families of deceased voters are justifiably unhappy with receiving repeated election mailings to their deceased relatives. Election officials should accept written declarations from family members to promptly remove a deceased individual. Election officials should also accept sworn affidavits from non-relatives. In some jurisdictions, a written statement from the election official based on his or her belief or knowledge of the death of the voter will allow the deceased registrant to be removed. One additional recommendation is to allow these declarations to be provided as a scanned document by email to the local election official and not necessarily in person.

## INCREASE FREQUENCY OF USE OF NATIONAL CHANGE OF ADDRESS (NCOA) DATABASE

The United States Postal Service (USPS) provides national change of address (NCOA) information to allow automated verification of addresses for registered voters. The NCOA database consists of change-of-address requests submitted by individuals to USPS when moving.<sup>26</sup> The NCOA database identifies the address change of voters and the election jurisdiction sends a forwardable confirmation notice.<sup>27</sup>



Regular use of NCOA database throughout the year is arguably the best way to maintain rolls.

With a large percentage of citizens informing the postal service of their residency moves, the use of NCOA database for address confirmation multiple times a year is essential to reasonable list maintenance.

However, election officials should not be tied solely to the NCOA database. Election officials should send out confirmation mailings if the officials have “reason to believe” or received information “from any source” that indicates a voter has moved, such as statements on a jury declination form, or other returned mail. If the voter fails to return the confirmation notice, the voter’s name will be placed on the inactive or suspense list. The confirmation mailing is important as federal law permits the voter to be removed from the voter registration list immediately if the voter confirms in writing a change of address outside the county.

## REQUIRE ANNUAL STATE-WIDE MAILINGS BY STATE ELECTION OFFICIALS

State-wide mailings are important to the accuracy of the voter registration rolls. Many states are already responsible, in part, for the process of sending mailings or confirmation notices to voters after receipt of information that a voter has moved outside the county or state.

**However, many states leave all mailings to local election officials. This is inadequate.**



To supplement inadequate list maintenance activity at the local level, state legislatures should require a separate annual state-wide mailing to all registered voters to help identify voters who have moved to another state or jurisdiction and are no longer eligible to vote. Mail that is undeliverable or a new address identified by the NCOA database should be followed by a confirmation mailing to place the voters who have moved from the state into an inactive status. To increase efficiencies, the state-wide mailing should be conducted in conjunction with an audit using NOCA information and other reliable address data to identify voters that have moved or otherwise become ineligible.



One recent example of the benefits of state-wide mailings is the situation in Indiana. In that case, 481,235 registered voters, or about 10% of the state's total, were properly removed from Indiana's list of registered voters after the November 2016 election. This process started in 2014 after Secretary of State Lawson mailed a post-card to every registered voter to confirm their address after years of neglect in list maintenance activities.<sup>28</sup>



## REQUIRE MORE FREQUENT MAILINGS BY LOCAL ELECTION OFFICIALS

While many localities will only send targeted mailings, notices to all voters in the jurisdiction are recommended because such a mailing reaches all voters regardless of voting history or other activity. The frequency of NCOA comparison and confirmation mailings to voters should be increased to quarterly reviews during the year, or, at a minimum, twice a year. The confirmation mailings should be forwardable or sent to both the old and new address to request the voter confirm the move and their new residence address.

Many jurisdictions will only send forwardable confirmation mailings to all voters who have identified an address change pursuant to the NCOA process. To supplement regular and consistent NCOA confirmation mailings, many jurisdictions send targeted mailings to voters who have not voted in the past election, not interacted with the election office, or failed to respond to some other type of mailing sent to the voter.



While this is important, for more accuracy and cost-savings, jurisdictions should consider the use of reliable commercial data to supplement NCOA data for their confirmation mailings in order to be more precise in identifying only those voters that have moved with the most accurate address on file.

The mobility of voters today requires that these mailings take place more frequently because the voter's move information becomes stale and outdated after a few months. Many election administrators are finding that a significant number of voters make multiple moves, which makes the original NCOA information inaccurate. If NCOA comparisons are completed only once a year or every two years, much of the address change data loses its accuracy and reliability.

A failure to conduct more substantial and regular NCOA mailings is a disservice to voters as it reduces the overall effectiveness of list maintenance. With only sporadic use of NCOA data, the mailing becomes less certain of actually reaching the voter and makes it less likely that the voter responds with helpful information.



## USE OF OTHER RELIABLE DATA AND CANVASSING FOR LIST MAINTENANCE

Many jurisdictions use "other sources of address data" and "any information" to provide the state or local election office notification of a potential move by a voter.<sup>29</sup> These sources of data may include both government and public commercial data.<sup>30</sup> Local election officials can often find the most current address for voters who have moved away online for free. It is important that local election officials have the ability and flexibility to utilize such information when it appears the address has changed.<sup>31</sup>

Examples of other information election officials should obtain include undeliverable mail or address change notifications from jury questionnaires filled out by citizens. The local court system has direct interaction with citizens regarding potential jury service, and reliable and current address or residence change information is often directly obtained from the citizen. Upon receipt of this data, an election office will be able to investigate and promptly send a confirmation mailing to the registered voter.



Individuals may move out of a county or state and mail continues to arrive at their old address without any notification of change of address to the USPS. Those jurisdictions with recurring problems with the integrity of their voter rolls will often follow up with local investigation and a door-to-door canvass or census of neighborhoods to confirm the occupancy and status of voters, including whether registrants may be deceased or no longer live at the residence. With the introduction of new online voter registration or address update systems, the voters may be able to update or confirm their registration to a correct address during the canvass. Many local election officials, particularly in smaller jurisdictions, have found a level of success in updating or confirming voter records in the jurisdiction using this simple, but effective, list maintenance tool.



### **EDUCATIONAL CAMPAIGN ENCOURAGING CITIZENS TO INFORM ELECTION OFFICIALS OF ADDRESS CHANGE**

As part of their state-wide mailing, legislatures should require state or local election officials to conduct an educational campaign in the year preceding the general presidential election. The campaign should inform voters of the importance of informing election officials of a change to their address to improve the integrity of the voter rolls and allow a seamless transition to their new jurisdiction.

Each election cycle, there are numerous outreach campaigns to encourage citizens to register to vote. However, little is done to educate voters on the importance of updating their existing voter registration or re-registering to vote when they move to another jurisdiction or within a jurisdiction.



**Many citizens fail to understand that they may be required to re-register or update their registration when they move.**

Few citizens currently inform election officials that they are moving and only slightly more respond to mailings requesting updates; therefore, any education efforts designed to increase the awareness of voters of the importance of updating their registration to a new address would help election officials maintain more accurate voter rolls in the most efficient manner possible—by the voter informing election officials of the change.



## PROVIDE ONLINE TOOL FOR SELF-REMOVAL OF REGISTRATION FOR VOTERS WHO MOVED OUT OF STATE

One new best practice using the latest technology to increase the accuracy of voter rolls is providing voters a way to quickly and efficiently remove themselves from the voter rolls when they have moved to another state. Each state should provide departing voters the opportunity to go to a secure online portal at the Secretary of State's website and cancel their voter registration after providing certain identifying information to prevent unlawful access. This online request for cancellation of registration can be sent directly to voters by election officials who are mailing a confirmation notice asking the voter for more information on their status with a link to the online tool.



Many citizens will move to another state and go online to the elections office website looking for a way to transfer their registration information or inform election officials that their residence has changed. In many cases, there is no modern and effective way for the voter to complete this cross-state action. Implementing an online tool for self-removal of registration increases the efficiency of the removal process and reduces the overall cost of list maintenance mailings by not requiring postage costs.



## ENHANCE ELECTION OFFICIAL'S NOTIFICATION PROCESS OF "NEW REGISTRATION" TO PREVIOUS JURISDICTION OF REGISTRATION

The written or electronic notification to a voter's old jurisdiction is actually one of the most effective means of maintaining the accuracy of voter rolls. When a voter arrives in a new jurisdiction, the voter should be required to provide their previous state, locality, and address of registration (if applicable) when they register to vote. This information should be provided on the voter registration application or during the online voter registration process.

**Once a voter has registered to vote, and provided the previous registration information, the new jurisdiction should promptly send this new registration and affirmation information to the old jurisdiction by mail, facsimile, or email.**

The notification of registration and written affirmation by the voter allows the voter to be removed from rolls by the previous state of registration because it is a signed form executed under oath.

In the last two decades, participation in this practice has become haphazard. As a result, its effectiveness has been reduced nationwide. As technology options have increased, many states have modernized the paper process of notification by mail to now provide electronic notification of new registration to the states of previous voter registration.

Many localities complain of receiving delayed notification of new voter registrations from other states, sometimes months or years after the registration in the new jurisdiction. The most common reason for the delay is the lack of personnel or resources in an office to handle the notification of registration to other states.

Legislatures should require the transition from paper to electronic collection and notification of this "previous registration" data as it reduces the cost of notification by mail. If the use of technology increases the ease of notification, there will be more participation in the program. However, the key is to require all the necessary information and confirmation of voter affirmation in the registration notification. In most

cases, state election officials need to encourage their local election officials to fully participate in this list maintenance notification process and provide necessary resources to ensure prompt notification between states.



## ESTABLISH REGULAR TRANSFER OF JURY DATA FROM LOCAL COURT SYSTEMS

The state legislature and chief election official should establish a regular transfer of jury questionnaire data between the county and/or municipal court system and local election officials. It is recommended that localities establish a documented memorandum of agreement to establish a monthly transfer of address, felony conviction, and citizenship information from the clerk of the local court to the local election office.

A number of states have required or authorized the transfer of this data to assist local election officials in list maintenance. For example, Texas and Kansas have laws requiring that the information be transferred regularly to state election officials, who then provide the information to local election officials.<sup>32</sup>



In Virginia, a number of local election officials had established a relationship with local court clerks to provide certain questionnaire data, but it was not uniformly required. In 2015, House Bill 1315 was filed to formalize this relationship.<sup>33</sup> The bill required the local sheriff, clerk, or other official responsible for juries to make information on citizenship, residency, felony status, or adjudicated incapacity available to the general registrar of the locality. The bill required the registrar to use the information to identify voters who were no longer qualified to vote and initiate list maintenance procedures pursuant to current law. The bill passed the General Assembly, but was vetoed by Governor Terry McAuliffe (D).<sup>34</sup>

In every state, local court systems identify potential citizens to serve as jurors throughout the year, often from the voter registration list. They send notification of potential service and jury questionnaires by mail to the last known address of the citizen. Some notices will come back undeliverable or with notification of new address. The voters will respond to confirm the residence and other qualification or non-qualification of the individual to serve on the jury. Returned mail information and questionnaire data from jury summons sent by the local court system is a valuable reservoir of information for state and local voter list maintenance.



Best practices should require that the data provided to election officials include any information on address or residency change, and other qualification data, including citizenship or felony conviction. This information is gleaned directly from jury questionnaires that are completed by potential jurors who sign and affirm the information as true and correct under oath. The transfer of address and qualification data gleaned from the questionnaire should be transmitted on a monthly basis in an electronic format compatible for use by local election officials, or, in some cases, state election officials.

The information received will usually trigger address confirmation mailings under the NVRA or a request for more information from the local election official. Upon receipt, the local election official should promptly research the information and conduct a search or query to determine whether the individual matches the individual on the voter registration list. Many counties have informal relationships for such data transfer. However, with some localities, the relationship has become dormant with little to no information being provided to local election officials on a regular basis.

State election officials should conduct periodic oversight of existing state laws in this area of list maintenance and ensure that all localities are interacting on a regular basis with their local court system to acquire and utilize jury questionnaire data for list maintenance purposes. In some cases, the information of undeliverable addresses, new address of residents, and qualification information may be transmitted to the state election official and then disseminated to local election administrators. State election officials should also establish similar relationships with federal courts in their state to obtain federal jury information.



### USE OF SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS (SAVE) DATABASE

A nationwide program designed to confirm the citizenship or non-citizenship of a person is the Systematic Alien Verification for Entitlements (SAVE) database. The SAVE database is managed by the U.S. Citizenship and Immigration Service (USCIS), a component within the Department of Homeland Security (DHS). With a signed agreement, SAVE provides a web verification service to help identify non-citizens that do not have the right to vote.



Federal law requires DHS-USCIS to respond to inquiries from federal, state, and local agencies seeking to verify the citizenship status of any individual within the jurisdiction of the agency for any purposes authorized by law. Under the REAL ID Act and final DHS-issued rules, states must use the SAVE program to verify the immigration status of applicants for driver's licenses and identification cards. Approximately 10 states have entered into agreements and training with the DHS for some level of participation and verification with the SAVE database. The chief election official in each state should contact the DHS and request a memorandum of agreement and training to join the SAVE program for voter registration list maintenance purposes.



### ESTABLISH THE MONTHLY TRANSFER OF ADDRESS DATA BETWEEN THE DEPARTMENT OF MOTOR VEHICLES (DMV) AND STATE AND LOCAL ELECTION OFFICIALS

To increase the accuracy and integrity of the voter rolls, each state should establish a monthly transfer of data between the Department of Motor Vehicles (DMV) and local election officials to receive address updates and citizen/non-citizen information. Local election officials often complain that there is no formal way to receive information from the DMV when someone changes his or her address. This data can identify people who may have moved from their jurisdiction and are no longer eligible to vote.



Many people who move within a state must update their address with the DMV within a short amount of time in order to maintain vehicle registration and their driver's license. The transmission of updated addresses allows election officials to notify voters by mail who might have forgotten to update their voter registration.

The DMV also maintains data on the legal status of non-citizen residents and citizens who hold a driver's license or state ID and this information should be transferred monthly to election officials in an electronic format compatible for use by local election officials. Many local election officials never receive voter citizenship information from the DMV and therefore are not able to remove non-citizens from the voter registration list.



**This DMV information can be used to verify the citizenship of voter registration applicants and to provide information on non-citizen residents who have become naturalized citizens eligible for voter registration.**

The lack of transfer of citizenship data from DMV agencies might result in the initial erroneous denial of a registration and subsequent request for proof of documentation when that would not have been necessary if the proper and timely transfer of data had been established between the DMV and the locality. The use of citizenship information from the DMV would also avoid the erroneous or mistaken registration of non-citizens.



### **REQUIRE LOCAL ELECTION OFFICIALS TO PRODUCE QUARTERLY REPORTS OF VOTER REGISTRATION LIST MAINTENANCE ACTIVITIES**

State legislatures or chief election officials should require local election officials to produce a public quarterly report that summarizes the status of the voter registration list and all maintenance activities that have taken place in the quarter.

**One of the reasons voter registration rates have dramatically increased to over 100% in some jurisdictions is the overall lack of awareness by local election officials of systemic problems with their own voter registration list.**



For example, basic research of the voter rolls can identify registered voters who may be over 100 years old in order to identify those who may have passed away yet remain on the rolls. The lengthy delay in removing deceased voters negatively impacts voter confidence.

Election officials should seek out different ways to monitor the warning signs of problems with the voter rolls, including using emerging technologies. The legislature and chief election official should ensure that local election officials have the tools and ability to determine whether or not there are more registered voters than the citizen voting age population in their locality, and whether existing list maintenance procedures are working or not.



The lack of awareness of some local election officials can be mitigated by training and education on the best ways to comply with state and federal laws. The self-identification of these errors and investigation by election officials often provide advance notice of negative trends and problems with the voter registration rolls that need to be addressed. An efficient, well-functioning list maintenance program will consistently monitor the voter registration roll and investigate issues that arise rather than waiting for problems to occur. It is a best practice to investigate and take action to remove obsolete registrations.

Local election officials need to be responsive to citizens and organizations that identify problems with voter registration rolls. Local election officials will often hear the complaints of citizens or citizen groups who are aware of deceased voters and otherwise ineligible individuals on the voter rolls. Election officials have a duty and responsibility to investigate all such complaints.



### **ENSURE LOCAL ELECTION OFFICIALS HAVE ADEQUATE RESOURCES, TRAINING, AND WRITTEN PROCEDURES TO CONDUCT LIST MAINTENANCE**

To establish an effective program of list maintenance, there must be written procedures and established processes within the election office and with local agencies to ensure the continued flow of list maintenance activities when employees inevitably leave with institutional knowledge of these procedures and activities.

Another reason for inadequate list maintenance is the lack of necessary resources and personnel and poor training. Unfortunately, many local election officials never receive any formal training on the requirements of the law or how to ensure ineligible people do not remain indefinitely on the voter registration rolls. Election workers assigned to list maintenance need to be full time, not part time or seasonal employees, and must have sufficient knowledge and technical training to conduct list maintenance using modern technology. Further, all election office employees must be aware of available technology, tools, and training to assist with the required list maintenance activities.

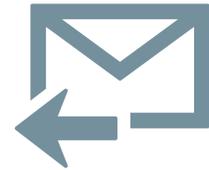


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## SUMMARY

An effective list maintenance program requires a continuous mailing program throughout an election cycle, so that election officials receive a constant stream of information on address changes from a variety of sources. This is part of a regular mailing and confirmation mailing list maintenance program. When there is a failure to consistently and uniformly maintain voter rolls, their accuracy will deteriorate and they will become corrupted with ineligible voters and out-of-date registrations.



The failure to maintain a continuous program of reasonable list maintenance causes a number of problems, including inflated registration rates significantly above the norm or average registration rates, inaccurate voter rolls, misallocation of election resources, and erroneous polling place lists.



The identification of ineligible voters on the rolls years or decades later is a clear indicator of a lack of general list maintenance over a number of cycles. It is evidence that there is no effective system of identifying and removing these voters.

Election officials need to utilize the NCOA database and other reliable data sources for address confirmation mailings more frequently. They should institute an ongoing confirmation notice mailing program to the new addresses of relocated voters, information that can be obtained through the NCOA database and other reliable sources. Minimal voter card mailing activity every two years is simply not sufficient or adequate to reasonably maintain the voter rolls and the unsurprising result is inflated and inaccurate rolls.



State legislatures should authorize the sharing of voter registration data with other states and the federal government for the purpose of voter list maintenance and to prevent duplicate registrations in more than one state or jurisdiction. State legislatures and chief election officials should also join one or both of the two consortiums designed to share voter registration data to improve the accuracy and integrity of the voter registration list— the Election Registration Information Center (ERIC) and the Interstate Voter Registration Crosscheck (IVRC).



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## Footnotes

1. Section 8 of the NVRA requires states to (1) conduct a general voter registration list maintenance program that includes a reasonable effort to remove the names of ineligible registrants from the official voter registration list, (2) to conduct any systematic removal of ineligible registrants not later than 90 days prior to the date of the primary or general election for a Federal office, and (3) to have list maintenance programs or activities that are uniform, non-discriminatory, and in compliance with the Voting Rights Act of 1965. The NVRA mandates certain requirements for notice mailings for registrants. Specifically, the NVRA requires that the notice be a postage prepaid and pre-addressed return card, sent by forwardable mail, on which the registrant may state his or her current address. The notice must advise the registrant (1) if he or she did not change residence or remained in the registrar's jurisdiction, that the card must be returned by the deadline for mail registration; (2) if the card is not returned, the registrant may have to affirm or confirm his or her address before being allowed to vote in any Federal election during the time between the date of the notice and day after the date of the second general election for Federal office occurring after the date of the notice; (3) if the registrant does not vote in an election during that period, the registrant's name will be removed from the list of eligible voters. The registrant may be removed from the official voter rolls if the registrant confirms in writing that he or she has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered.
2. [http://www.pewtrusts.org/~media/legacy/uploadedfiles/pes\\_assets/2010/upgradingdemocracyreportpdf.pdf](http://www.pewtrusts.org/~media/legacy/uploadedfiles/pes_assets/2010/upgradingdemocracyreportpdf.pdf).
3. <http://www.pewtrusts.org/en/research-and-analysis/reports/2012/02/14/inaccurate-costly-and-inefficient-evidence-that-americas-voter-registration-system-needs-an-upgrade>.
4. *Id.*
5. *Id.*
6. The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration, Jan. 2014, [http://www.nased.org/PCEA\\_FINAL\\_REPORT\\_JAN\\_2014.pdf](http://www.nased.org/PCEA_FINAL_REPORT_JAN_2014.pdf).
7. *Id.*
8. *Id.*
9. *Id.*
10. *Id.*
11. 2014 EAC Election Administration & Voting Survey Comprehensive Report submitted to the Congress, June 30, 2015 found at <https://www.eac.gov/research-and-data/2014-election-administration-voting-survey/>.
12. *Id.*
13. *Id.*
14. [https://www.eac.gov/assets/1/1/2014\\_EAC\\_EAVS\\_Comprehensive\\_Report\\_508\\_Compliant.pdf](https://www.eac.gov/assets/1/1/2014_EAC_EAVS_Comprehensive_Report_508_Compliant.pdf).
15. *Id.*
16. See, e.g., ALABAMA: Lowndes County – 127%, Perry County – 113%; ARIZONA: Apache County – 101%; COLORADO: Mineral County – 133%, Hinsdale County – 116%; GEORGIA: McIntosh County – 142%, Marion County – 129%; ILLINOIS: Franklin County – 190%, Pulaski County – 176%; INDIANA: Crawford County – 112%, Scott County – 107%; IOWA: Fremont County – 104%; KANSAS: Gove County – 116%, Cherokee County – 105% KENTUCKY: Breathitt County – 110%, Fulton County – 106%; LOUISIANA: Tensas County – 109%; MAINE: Sagadahoc County – 102%; MASSACHUSETTS: Dukes County – 101%; MICHIGAN: Leelanau County – 109%; Roscommon County – 107%; MISSISSIPPI: Noxubee County – 111%, Walthall County – 109%, MISSOURI: Ray County – 101%; MONTANA: Petroleum County – 108%, Carter County – 103%; NEBRASKA: Loup County – 110%, Wheeler County – 107%; NEW MEXICO: Harding County – 133%, Mora County – 110%; NEW YORK: Hamilton County – 122%; NORTH CAROLINA: Clay County – 103%, Yancey County – 101%; SOUTH DAKOTA: Hanson County – 163%, Campbell County – 105%; TEXAS: Brooks County – 123%, Kenedy County – 116%; VERMONT: Bennington County – 106%; Franklin County – 102%, WEST VIRGINIA: Mingo County – 108%, Lincoln County – 107%.
17. <https://www.justice.gov/crt/consent-decree-and-order>.
18. *Id.*
19. Building Confidence in U.S. Elections, Report of the Commission on Federal Election Reform, September 2005 found at <https://www.eac.gov/assets/1/AssetManager/Exhibit%20M.PDF>.
20. See, e.g., Orange County Registrar of Voters report on Voter Registration Accuracy and Voter List Maintenance; 2012, available at: <http://www.oc-vote.com/election-library/docs/2012%20Voter%20List%20Maintenance.pdf> and <http://www.naco.org/articles/solutions-spotlight-cleaning-voter-lists-reduces-election-costs>.
21. The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration, Jan. 2014, [http://www.nased.org/PCEA\\_FINAL\\_REPORT\\_JAN\\_2014.pdf](http://www.nased.org/PCEA_FINAL_REPORT_JAN_2014.pdf).
22. *Id.*
23. <http://www.ncsl.org/research/elections-and-campaigns/voter-list-accuracy.aspx>.
24. <https://www.nased.org/national-association-of-state-election-directors/winter-conference/2017/ERIC-Electronic-Registration-Information-Center-NASED-Winter-Conference-February-2017.pdf>
25. There were confirmed reports to the Pennsylvania Secretary of State that several non-U.S. citizen residents received solicitations shortly before the 2016 Election during the required bulk mailing. See Lifezette: Potentially Thousands of Illegal Voters in Pennsylvania (10/11/2016), <http://www.lifezette.com/polizette/potentially-thousands-illegal-voters-pennsylvania/>.
26. USPS records the change of address requests and shares that information with vendors for a variety of purposes. A large majority of states and counties in the nation consistently utilize the government database for change of address because it is the most utilized government database by voters and election officials for obtaining new addresses.
27. NCOA allows for updated addresses to be provided whenever there is a match between addresses submitted and addresses maintained on the NCOA files. Any county or jurisdiction may procure a USPS licensed vendor and send them a file containing their active voters. The selected vendor then compares the local voter list data to the NCOA database. After the comparison and identification of registrants who have moved, the vendor or the jurisdiction sends the pre-addressed prepaid postage mailings to anyone who appears to have notified the post office of a recent residential address change.
28. See [http://www.nwitimes.com/news/local/govt-and-politics/elections/indiana-cancels-nearly-half-a-million-voter-registrations/article\\_d19554ff-61bd-5e9d-8324-db8f337f12e4.html](http://www.nwitimes.com/news/local/govt-and-politics/elections/indiana-cancels-nearly-half-a-million-voter-registrations/article_d19554ff-61bd-5e9d-8324-db8f337f12e4.html).
29. NASS Report: Maintenance of State Voter Registration Lists, A Review of Relevant Policies and Procedures.
30. *Id.*
31. *Id.*
32. <http://www.ncsl.org/research/elections-and-campaigns/voter-list-accuracy.aspx>
33. <http://lis.virginia.gov/cgi-bin/legp604.exe?151+sum+HB1315>
34. <http://lis.virginia.gov/cgi-bin/legp604.exe?151+amd+HB1315AG>