

# PUBLIC INTEREST

—LEGAL FOUNDATION—

September 15, 2017

VIA FIRST CLASS MAIL

CLARK COUNTY

Mr. Greg Kimsey

Auditor

PO Box 5000

Vancouver, WA 98666-5000

Dear Mr. Kimsey:

I am writing on behalf of the Public Interest Legal Foundation to (1) notify you that based on our research your jurisdiction is in apparent violation of Section 8 of the National Voter Registration Act (NVRA), 52 U.S.C. § 20501 *et seq.*, and, (2) request disclosure and inspection of voter list maintenance records pursuant to the public inspection provision of the NVRA (the requested records are detailed below).

The Public Interest Legal Foundation is a nonpartisan, nonprofit, public-interest law firm that specializes in legal and public policy matters affecting elections, voting, and other political processes of the nation and providing the public with information regarding efforts to damage the integrity of American elections.

Voter rolls across America contain substantial numbers of ineligible or inaccurate registrations, resulting in the possible disenfranchisement of legally eligible voters through ballot dilution that threatens to taint the integrity of the electoral process.

Federal law requires election officials to conduct a reasonable effort to maintain voter registration lists free of dead voters, ineligible voters, and voters who have moved away. 52 U.S.C. §§ 20503 and 20507. Based on our comparison of publicly available information published by the U.S. Census Bureau and the federal Election Assistance Commission, it appears that your jurisdiction is failing to comply with these federal law requirements.

In short, your county has significantly more voters on the registration rolls than it has eligible, living, citizen voters.

This letter serves as the statutory notice to your jurisdiction, required by 52 U.S.C. § 20510(b) prior to the commencement of any lawsuit in order to enforce provisions of Section 8 of the NVRA, 52 U.S.C. § 20507 for failure to conduct adequate list maintenance. We would welcome a discussion that could result in concrete remedial measures to address this circumstance.

Section 8 of the NVRA requires your office to also make available for public inspection “all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.” 52 U.S.C. § 20507(i); *See also, Project Vote v. Long*, 682 F.3d 331, 334-335 (4th Cir. Va. 2012).

Pursuant to this section of the law, we request the opportunity to inspect all records concerning your county's list maintenance practices. However, if your county satisfactorily provides the information requested below we might be able to dispense with the need to visit your office in person to inspect these records. In particular, we request that your office provide the following information and records:

- ✓✓ (a) registration totals (whether active or inactive) since June 29, 2017;
- ✓ (b) records your office obtained or received from state or local court clerks, United States District Court clerks or other sources regarding individuals who were ineligible to serve on juries because of a lack of American citizenship, death or relocation out of the jurisdiction, including but not limited to records concerning juror qualification questionnaires—whether completed via the Internet or returned through the mail—on which the individual that completed the questionnaire indicated that he or she is not a United States citizen. Please include subsequent list maintenance records generated or produced pursuant to inquiries based on this information;
- ✓✓ (c) the number of ineligible registrants removed from the voter rolls by category (e.g., dead, duplicate, ineligible) and by date since December 1, 2011, and any records reflecting these removals;
- ✓✓ (d) the number of notices sent to inactive registrants since December 1, 2011, including the date, scope and contents of any countywide mailing to all registrants;
- ✓ (e) the names of the staff in your office responsible for conducting list maintenance obligations who may appear on list maintenance records or who alter list maintenance records in furtherance of the duties of the office;
- ✓ (f) the number of ineligible registrants removed for criminal conviction, if applicable, since December 1, 2011 and the date of the most recent dataset containing criminal convictions against which you compared registrant lists, including communications with other agencies regarding criminal convictions;
- ✓ (g) any records indicating the use of citizenship or immigration status for list maintenance activities, including but not limited to the Systematic Alien Verification for Entitlements (SAVE) Program database. Any other records produced in reliance on other sources of citizenship verification data and all records related to the review or cancellation of potential noncitizens;
- ✓ (h) all list maintenance records including federal voter registration forms containing citizenship eligibility questionnaires including the names and reasons for removal for particular registrants, records of National Change of Address (NCOA) data reviews, NCOA related mailings, and NCOA related actions;
- ✓ (i) all list maintenance records indicating the number of records re-classified as INACTIVE and/or cancelled due to NCOA database comparisons derived from private data sources including the names of those registrants;
- (j) all list maintenance records indicating removals or potential removals of registrants for the reason of death, including use of the Social Security death index or derivative data, and the date of the same, and whether you rely on the cumulative social security death index for this purpose;

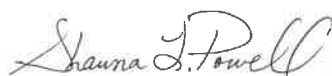
- (k) all documents and records of communication received by your office from registrants, legal counsel, claimed relatives, or other agents since January 2011 requesting a removal or cancellation from the rolls for any reason related to non-U.S. citizenship/ineligibility;
- (l) all records received from third parties concerning complaints regarding list maintenance or offering voter roll maintenance leads and any records reflecting maintenance actions taken as a result; and,
- ✓ (m) records indicating processes, policies, or procedures governing the detection and handling of registration records that appear to be duplicated.

Federal law does not permit election officials to charge requesting parties for anything other than the "reasonable cost" of "photocopying" the requested records. Federal law also permits us to physically inspect these records. If you believe compliance with our request will require photocopying of records, we prefer to inspect the potentially compliant documents in person to assess whether they are responsive to our request before any photocopying takes place.

It is our hope that your county will work quickly to provide for inspection of all records related to your list maintenance practices, by the date requested, including provision of the requested information and records. If not, according to federal law, a lawsuit under the NVRA may be filed within 90 days after the failure to permit inspection or failure to provide the documents. If you are within 120 days of a federal election, that time period shrinks to only 20 days. 52 U.S.C. § 20510(b). For any lawsuits initiated by a private party, an award of attorney's fees, expenses and costs incurred are available under 52 U.S.C. §20510(c).

Thank you for your time and attention to this matter. Please feel free to call to arrange a convenient time to discuss and arrange an inspection by contacting me at the below phone number, address or email.

Sincerely,



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CC:

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