

Keeping Voters off the Rolls

Impact of Documentary Proof of Citizenship
and Illegal Voter Purges

By Liz Kennedy and Danielle Root

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Center for American Progress



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Contents

1 Introduction and summary

4 States are prohibited from adopting overly burdensome voter registration requirements

- 5 Documentary proof of citizenship requirements disproportionately affect people of color and the elderly
- 6 Documentary proof of citizenship requirements are bad for low-income, rural Americans
- 7 Documentary proof of citizenship requirements prevent young people from voting

9 States are prohibited from improperly removing registered Americans from voter rolls

- 10 Bad data-matching techniques
- 11 Improper use of databases
- 12 Inactive voters
- 12 Interstate Crosscheck System
- 13 Voter caging

15 Recommendations

- 15 Adopt automatic voter registration (AVR)
- 16 Participate in the Election Registration Information Center (ERIC)
- 16 Secure America's election infrastructure
- 17 Fully comply with the National Voter Registration Act

18 Conclusion

19 About the authors

20 Endnotes

Introduction and summary

The ability to cast a ballot freely is key to having our voices heard and exercising control over our government. Without the right to vote, people do not have a say in the laws they must follow, and if the basic precept of a liberal democracy—the consent of the governed—is broken, the descent into authoritarianism begins. But to cast a ballot, every state except North Dakota requires people to register to vote.¹

Many states have made great advances in lowering barriers to voter registration, providing a gateway to voter participation through tools such as automatic voter registration, same-day registration, and online voter registration.² Unfortunately, many states are using voter registration tricks that manipulate the voter rolls and keep eligible Americans from having their voices heard. This report looks at two of the worst practices used to block eligible voters from participation: documentary proof of citizenship requirements, where people must show evidence of citizenship in order to become registered to vote, and illegal voter purges. Like other forms of voter suppression, both of these practices close off the democratic process to wide swaths of eligible Americans.

These tricks to prevent Americans from voting have arrived on the national stage in President Donald Trump’s Presidential Advisory Commission on Election Integrity, which is set to meet for the first time on July 19.³ This so-called Election Integrity Commission threatens to reverse the protections of the National Voter Registration Act (NVRA), a transformative law that prevents states from enacting overly burdensome voter registration requirements and engaging in illegal voter purges.⁴ The NVRA was passed to increase voter participation by making it more convenient for Americans to register to vote and to maintain their registration. Since its enactment in 1993, the law has been responsible for the successful registration and participation of tens of millions of eligible Americans.⁵

Leading the Trump administration's assault on American voters is Kansas Secretary of State Kris Kobach (R)—dubbed the “king of voter suppression” for his crusading efforts to dismantle the NVRA—who has been tapped to serve as vice chair of the commission.⁶ Americans are already required to affirm their citizenship under penalty of perjury in order to be registered to vote. Yet Kobach, as secretary of state, is the architect of Kansas' draconian documentary proof of citizenship law that requires voter registrants to provide documentation proving citizenship—such as a passport, a birth certificate, or naturalization papers—before being added to the state voter rolls.⁷ In 2016, as a result of this program, Kobach tried to prevent thousands of Kansas citizens from registering to vote.⁸ Kobach also designed the Interstate Voter Registration Crosscheck Program, which, according to Peggy Lowe of Kansas City, Missouri, public radio station KCUR, “has evolved into a tool for shoring up claims of voter fraud instead of its original intention of keeping voter rolls accurate.”⁹

Kobach, who was recently fined \$1,000 by a federal magistrate for his “deceptive conduct and lack of candor” in an ongoing case over his documentary proof of citizenship requirement, will likely use the commission to recommend weakening key provisions of the NVRA and implementing nationwide documentary proof of citizenship requirements and greater reliance on voter purges that kick eligible Americans off state voter rolls.¹⁰ In a November email on draft legislation for the incoming administration, Kobach wrote, “I have some already started regarding amendments to the NVRA to make clear that proof of citizenship requirements are permitted.”¹¹ In his role as vice chair, Kobach already has requested voter registration lists and other sensitive personal information—including partial Social Security numbers—from all 50 states; on the same day Kobach made this request, the U.S. Department of Justice asked states to provide information on their voter list maintenance procedures.¹² So far, 44 states and the District of Columbia have refused to comply—at least in part—with Kobach's request, while the Electronic Privacy Information Center (EPIC) and Common Cause filed separate lawsuits against the commission on the basis that its request for sensitive voter information violates privacy laws, among other things.¹³ Kobach has also been sued by the Lawyers' Committee for Civil Rights Under Law for violating the Hatch Act by exploiting his position on the commission to solicit campaign contributions as part of his bid for the 2018 Kansas gubernatorial election.¹⁴ Moreover, the addition to the commission of Hans von Spakovsky, a notorious anti-voter proponent of the voter fraud lie, should remove any doubt that this commission is a serious threat to American voters and the integrity of our democracy.¹⁵

As this report shows, improper changes to voter rolls and barriers to voting registration such as those favored by Kobach would be enormously detrimental to American voters, particularly people of color and other historically underrepresented communities. Those such as Kobach who support documentary proof of citizenship requirements and conduct voter purges claim that these sort of measures are necessary to prevent supposed illegal voting, despite overwhelming evidence that shows illegal voting is extremely rare.¹⁶ Even President Trump's own lawyers have stated, "All available evidence suggests that the 2016 general election was not tainted by fraud or mistake."¹⁷ Instead, the true purpose of this commission is to constrain voter participation by making the process of registering to vote and casting ballots more difficult, particularly for certain groups. This is a cowardly, illegitimate power grab, no more than a scheme to maintain power for a select few. We must keep up the fight for the right to vote for all eligible Americans if we want a thriving, robust democracy that works for all.

States are prohibited from adopting overly burdensome voter registration requirements

Under the National Voter Registration Act, states may not require voter registrants to produce any information or documentation beyond that which is necessary to assess a registrant's eligibility and prevent duplicate voter registrations.¹⁸ As described by U.S. District Judge for the District of Kansas Julie A. Robinson, states may require "only the least possible amount of information necessary to enable State election officials to assess whether the applicant is a United States Citizen."¹⁹ In addition, the NVRA's "motor-voter" provision requires every application for a driver's license to serve as a simultaneous application to register to vote in federal elections.²⁰ According to the NVRA, states may not require registrants to provide information that is duplicative of information already required in the motor-voter application.²¹

Documentary proof of citizenship laws are illegal because they require more than the minimum amount of information necessary to allow election officials to assess an applicant's citizenship status. Indeed, federal voter registration forms already require applicants to swear, under penalty of perjury, that they are U.S. citizens and eligible to vote. This attestation clause has been found sufficient by federal courts for the purposes of assessing eligibility.²² Documentary proof of citizenship requirements also are illegal because they require registrants to produce information already satisfied by the attestation clause, in violation of the NVRA's prohibition against duplicative information.²³ Moreover, removing someone from the voter rolls for failing to produce documentary proof of citizenship is not included on the NVRA's exclusive list of reasons for removal.²⁴

Overly burdensome voter registration laws disenfranchise voters. For example, Kansas Secretary of State Kobach's documentary proof of citizenship requirement threatened the voter registrations of more than 30,000 people, which was 14 percent of all voter registrations from 2013 to 2016.²⁵ These individuals were placed on a "suspense list" and slated for removal from the state's voter rolls unless they could present documentation proving citizenship within 90 days of submitting their voter registration form.²⁶ Of those, more than 12,000 registrants were purged from the voter lists.²⁷ As noted by Doug Bonney with the American Civil Liberties Union,

“It is as if 1 out of 7 people who have tried to register to vote have had their applications thrown in the trash.”²⁸ The U.S. Court of Appeals for the 10th Circuit ruled against the law last year, but had the court system not intervened, up to 50,000 people could have been prevented from voting in the 2016 general election.²⁹

Documentary proof of citizenship laws force eligible Americans to overcome unnecessary barriers by requiring them to produce expensive and difficult to obtain documentation—such as a birth certificate, a passport, or naturalization papers—before registering to vote. One survey found that as many as 7 percent of American citizens, 13 million in all, do not have easy access to these kinds of documents.³⁰ Documentary proof of citizenship requirements are particularly damaging for people of color, low-income Americans, and young and elderly people, who are less likely to own or obtain these documents. These laws threaten the right and ability of eligible Americans to participate in our elections and offend basic democratic principles of fairness and equality.

“It is as if 1 out of 7 people who have tried to register to vote have had their applications thrown in the trash.”

— Doug Bonney, American Civil Liberties Union

Documentary proof of citizenship requirements disproportionately affect people of color and the elderly

Due to the high frequency of home births taking place during the early 20th century, large numbers of older African Americans and low-income Americans lack birth certificates.³¹ In all, nearly 9 percent of voting age African Americans—around 2 million people—lack access to birth certificates and passports, compared with 5.5 percent of whites.³² Many elderly people—more than 7 percent, or 2.3 million people—also lack this kind of documentation and are blocked from registering and voting by documentary proof of citizenship requirements.³³

After spending the better part of their lives voting without having to prove citizenship status, documentary proof of citizenship requirements can leave older Americans feeling disenchanting with the political process. For example, a 90-year-old woman and lifelong voter who was never issued a birth certificate gave up on voting after Kobach’s documentary proof of citizenship requirement made Kansas’ voter registration process too difficult. “I don’t have energy for all that. I guess I voted most of my lifetime. I’m done,” said the woman.³⁴

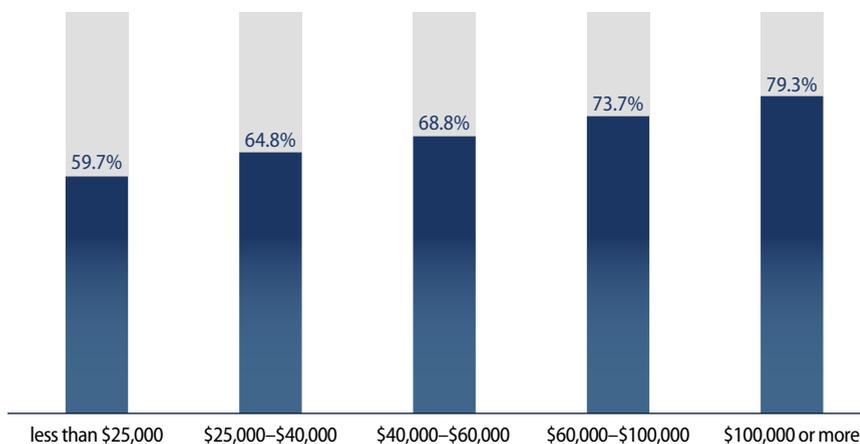
Documentary proof of citizenship laws threaten to roll back a century’s worth of progress in removing barriers so that eligible people of color can exercise their right to vote and make their voices heard.

Documentary proof of citizenship requirements are bad for low-income, rural Americans

Acquiring birth certificates or naturalization papers can be expensive. A copy of one's birth certificate can cost from \$15 to \$30, while acquiring or renewing a passport can cost \$135 and \$110, respectively.³⁵ An individual can spend upward of \$345 acquiring his or her naturalization papers.³⁶ These costs are particularly burdensome for low-income Americans, for whom every day is a struggle to make ends meet. One registrant who had difficulty affording a birth certificate described the problem this way: "You're going to put the money where you feel the need is most urgent. ... We couldn't eat the birth certificate, and we couldn't pay rent with the birth certificate."³⁷

The Center on Budget and Policy Priorities found that Americans who earn less than \$25,000 per year are nearly twice as likely to lack citizenship documentation such as passports and birth certificates, compared with those who earn more than \$25,000.³⁸ Almost 3 million low-income Americans do not have easy access to this kind of documentation. At the same time, more than 9 percent of rural Americans, or 4.5 million individuals, lack access to birth certificates and passports, compared with 4.5 percent of those living in nonrural areas.³⁹ In the case of Kansas' documentary proof of citizenship requirement, Michael Smith, professor of political science at Emporia State University, found a "relationship between high levels of voters below the poverty line and more suspense voters"—those whose voter registrations were scheduled for removal unless they could show proof of citizenship—suggesting a disproportionate impact on low-income registrants.⁴⁰

FIGURE 1
Registration rates of eligible voters by income, 2016



Source: Center for American Progress calculations are based on data from the November supplement of Bureau of the Census, *Current Population Survey* (U.S. Department of Commerce, 2016), available at <http://www.nber.org/data/current-population-survey-data.html>.

Americans should not have to pay to exercise their right to vote, which harkens back to the dark days of imposing poll taxes on voting.⁴¹ According to 2016 census data, there is a 20-point gap between the voter registration rates of low-income and high-income Americans.⁴²

Documentary proof of citizenship requirements strike at our country's foundation of political equality by penalizing people for being poor—taking away their right to vote by forcing them to choose between paying for expensive citizenship documentation and supporting their families.

Documentary proof of citizenship requirements prevent young people from voting

Documentary proof of citizenship requirements pose unique challenges for young people, particularly students, who are highly transient. In Kansas during the lead-up to the 2016 presidential election, people under age 30 made up 44 percent of those whose voter registrations were slated for removal from the state voter rolls for failing to provide documentary proof of citizenship.⁴³ This is striking, considering people in this age group make up only 15 percent of all registered voters in Kansas.⁴⁴ For example, Smith found that “[t]he University of Kansas had the highest percentage of suspense voters of any census tract in the state.”⁴⁵

Another way documentary proof of citizenship requirements make it harder for young people to register to vote is by effectively eliminating community-based voter registration drives, whereby ordinary citizens help register their friends and neighbors to vote. Voter registration drives conducted at high schools and on college campuses have proven successful in increasing youth voter registration. For example, a 2012 voter registration drive conducted at Illinois' Northwestern University resulted in the successful registration of almost 95 percent of the university's eligible freshmen, while a similar effort at Stanford University in California netted more than 700 new voter registrants in only two weeks' time.⁴⁶

Voter registration drives are not limited to college and high school campuses. Similar efforts at venues such as hospitals and community events have helped millions of eligible Americans—spanning age, demographic, and political affiliations—register to vote.⁴⁷ Nearly 9 million Americans reported registering through a voter registration drive in 2008, while an additional 9.4 million

reported registering in public venues where voter registration drives are often carried out.⁴⁸ By requiring eligible people to present birth certificates, passports, or naturalization documents prior to registering to vote, documentary proof of citizenship laws close off an important tool for increasing voter participation and civic engagement in our elections.⁴⁹ The Kansas League of Women Voters suspended voter registration drives for eight of nine state chapters after the documentary proof of citizenship requirement was adopted.⁵⁰

States are prohibited from improperly removing registered Americans from voter rolls

According to the provisions of the National Voter Registration Act, it is illegal for a state to remove a person from its voter rolls for any of the following reasons:⁵¹

- On the sole basis that a mass mailing was returned undeliverable⁵²
- Simply because he or she fails to vote⁵³
- On a systematic basis, fewer than 90 days before an election⁵⁴
- On a discriminatory basis or under any circumstances that violate the Voting Rights Act⁵⁵

To be clear, it is not illegal to be registered in more than one state or for dead people to appear on voter rolls.

Unfortunately, not all states abide by these rules. Instead, some states engage in highly questionable and even illegal voter purges that target the removal of certain groups of voters. A recent report by the bipartisan U.S. Election Assistance Commission found a 12.8 percent increase in the number of voters purged from state voter rolls between 2014 and 2016, compared with between 2012 and 2014.⁵⁶ In all, 1.9 million more people were purged during that period compared with between 2012 and 2014.⁵⁷ Most states removed between 5 percent and 10 percent of their voter rolls, while Indiana removed a whopping 22.4 percent of its registered voters.⁵⁸ The governor of Indiana during that time—Mike Pence, the current vice president—now chairs the so-called Election Integrity Commission alongside Kansas Secretary of State Kris Kobach.⁵⁹

Voter purges can happen in several different ways, as detailed below. But what they all have in common is that they almost always have a disproportionately negative impact on communities of color.

Bad data-matching techniques

The improper removal of eligible voters may result from a state's reliance on inaccurate or unreliable databases.

In 2016, Georgia Secretary of State Brian Kemp (R) made headlines after removing tens of thousands of people from Georgia's voter rolls based on discrepancies—as minor as an out-of-place hyphen, space, or apostrophe—in voter registration forms. In all, nearly 35,000 voter registrations were canceled or placed in “pending status” and slated for removal between July 2013 and July 2016.⁶⁰ The state agreed to discontinue its removal process in September 2016, allowing those whose voter registrations had been canceled dating back to at least 2015 to vote in last year's general election.⁶¹ Of those targeted, nearly 64 percent were African Americans, making them eight times more likely to be affected by the purge than whites.⁶² Asian Americans and Latinos were more than six times more likely than white voters to be affected.⁶³

Four years earlier, in 2012, Texas officials used bad data matching to identify 68,000 people as possibly deceased and eligible for removal from that state's voter rolls.⁶⁴ According to the *Houston Chronicle*, in compiling the list, Texas officials “repeatedly and mistakenly matched active longtime Texas voters to deceased strangers across the country.”⁶⁵ Those living in districts with heavy concentrations of Hispanics or African Americans were more likely to be affected.⁶⁶ James Harris Jr., an African American veteran whose eligibility was challenged after he was confused with another man of the same name who died in Arkansas in 1996, said he felt “someone has gone to a concerted effort and gone to a lot of time and research coming up with this matrix in a way of being able to knock people off of the voting rolls.”⁶⁷

Florida's 2000 voter purge lives on in infamy. There, state election officials used unreliable felony conviction data to remove those whose last name matched 80 percent of the letters in the last name of someone with a criminal conviction.⁶⁸ In all, officials misidentified an estimated 12,000 people as ineligible to vote.⁶⁹ The company contracted to compile the list—Database Technologies Inc. (DBT)—had warned state officials that the state's broad search parameters would turn up “false positives.”⁷⁰ Many of those identified by the purge were people of color.⁷¹ For example, African Americans made up 66 percent of those identified by the state as potentially ineligible to vote in Miami-Dade County and 54 percent in Hillsborough County.⁷²

“... someone has gone to a concerted effort and gone to a lot of time and research coming up with this matrix in a way of being able to knock people off of the voting rolls.”

— Eligible voter

More than half of the African American registrants who appealed their removal in Miami-Dade were found to be eligible to vote.⁷³ One African American woman who was wrongly identified as a felon felt the removal process was politically motivated: “I don’t feel like it was an honest mistake ... I felt like they knew most of the minorities was going to vote against Bush.”⁷⁴

Improper use of databases

Reportedly, President Trump’s sham commission plans to check state voter rolls against the Systematic Alien Verification for Entitlements (SAVE) program.⁷⁵ SAVE is run by the U.S. Department of Homeland Security (DHS) and is used to verify immigration status for the purposes of determining eligibility for public benefits.

SAVE compiles records from other databases about individuals who have interacted with the U.S. immigration system, including naturalized citizens or those born outside the United States who retain citizenship through their parents. It is not designed for voter registration purposes and is ill-equipped to do so.⁷⁶ For one thing, SAVE contains data that are outdated, capturing people who were previously ineligible but who have since obtained citizenship status. As an example, a naturalized U.S. citizen who at one time interacted with a department of motor vehicles to obtain a driver’s license before she became a citizen could be misidentified by SAVE as ineligible to vote.⁷⁷ SAVE thus threatens hard-won voting rights for millions of naturalized citizens who came to the United States seeking a better life.⁷⁸

SAVE can also result in false matches between citizens and noncitizens who share the same name and birthdate. People of color are particularly vulnerable to being misidentified by the SAVE program, since it is more common in Hispanic and Asian American communities for people to have the same surnames, increasing the likelihood for misidentification and improper removal from voter rolls.⁷⁹

In 2012, the same year they received approval from DHS to access SAVE for voter registration purposes, Florida officials used motor vehicle databases to compile lists of more than 180,000 people suspected of being noncitizens.⁸⁰ The state threatened to remove these individuals from the voter rolls unless they could prove citizenship status, an unreasonable burden that could have resulted in eligible Florida voters being prevented from voting through no fault of their own.⁸¹ The state’s lists were based on “limited and often-outdated citizenship information that carried a high risk of making lawful voters look like noncitizens.”⁸² As reported by the *Miami Herald*, 87 percent of those whose eligibility was questioned were people of color.⁸³

County election officials, including 30 Republicans, refused to comply due to the list's inaccuracies.⁸⁴ The Miami-Dade election supervisor, Penelope Townsley, reported an error rate of more than 30 percent for that county alone, while another election supervisor said that he and other supervisors agreed, "The list is bad. And this is illegal."⁸⁵ The state was later found by a federal court to have violated federal prohibitions against engaging in systematic purges too close to Election Day.⁸⁶

"The list is bad.
And this is illegal!"
— Election supervisor

Inactive voters

Some states have violated the law against removing people from voter rolls who simply fail to participate in the electoral process:

In the lead-up to the 2016 election, Ohio removed thousands of people from its state voter rolls for failing to vote in previous elections.⁸⁷ Low-income, black voters were disproportionately affected. Between 2012 and 2016, more than 10 percent of voter registrants were purged in "heavily African American" neighborhoods near downtown Cincinnati, compared to only 4 percent of those living in the surrounding suburb of Indian Hill.⁸⁸ Those living in Democratic-leaning neighborhoods were nearly twice as likely to be purged.⁸⁹ Larry Harmon, an African American man removed from the voting lists for failing to participate in the 2012 and 2014 elections, had this to say: "Why should we fight for the country if they're gonna be taking away my rights? I mean, I'm a veteran, my father's a veteran, my grandfather's a veteran, now they aren't giving me my right to vote, the most fundamental right I have? I just can't believe it."⁹⁰

In upholding a challenge to Ohio's purging practice, the U.S. Court of Appeals for the 6th Circuit said that the law "constitutes perhaps the plainest possible example of a process that 'result[s] in' removal of a voter from the rolls by reason of his or her failure to vote" in violation of the NVRA.⁹¹ The state's appeal will be heard by the U.S. Supreme Court in the upcoming term.⁹²

Interstate Crosscheck System

In addition to championing documentary proof of citizenship requirements, Kansas Secretary of State Kobach is the progenitor of the Interstate Crosscheck System, widely criticized for being discriminatory and unreliable by voting rights advocates and state election officials.⁹³ In Kansas, Kobach has used the system as his own personal weapon in his futile attempt to prove widespread voter fraud and suppress voters.⁹⁴

The Interstate Crosscheck System compares voter lists across a handful of states to detect instances of double registrations or illegal voting.⁹⁵ The system’s minimal search criteria, which in practice often consider only first and last names and birthdates, result in eligible Americans being misidentified as potential illegal voters. People of color are especially likely to be improperly targeted by Crosscheck. According to a report by Greg Palast for *Rolling Stone* magazine, people of color are overrepresented in 85 out of the most common 100 last names.⁹⁶ For example, “If your name is Washington, there’s an 89 percent chance you’re African-American. If your last name is Hernandez, there’s a 94 percent chance you’re Hispanic. If your name is Kim, there’s a 95 percent chance you’re Asian.”⁹⁷ Fifty percent of people of color share a common surname, compared with only 30 percent of whites.⁹⁸ As a result, African Americans living in states relying on Crosscheck have a one in nine chance of being flagged as potentially ineligible. If you are Hispanic or Asian American, your chances increase to one in six and one in seven, respectively.⁹⁹

One analysis found that out of the roughly 7 million Americans flagged by Crosscheck, only four individuals have been charged with double voting or deliberate double registration.¹⁰⁰ At least two states have dropped out of the system voluntarily, with one of those states, Oregon, blaming Crosscheck’s “unreliable” results for its departure from the program.¹⁰¹

Voter caging

Purging may also occur through a process known as “caging,” whereby groups target certain communities by sending out mass direct mailings to registered voters through mail that cannot be forwarded.

Shortly before the 2016 election, a federal judge ordered North Carolina election officials in Cumberland, Moore, and Beaufort counties to add thousands of eligible voters back onto the state’s voter rolls after they were removed through a caging campaign waged by the conservative Voter Integrity Project, challenging the voter registrations of those whose mail was returned undeliverable.¹⁰² The group presented evidence of the returned mail to election officials to support a claim that the voter had died or moved and was no longer eligible to vote. The campaign and subsequent purge targeted communities of color. For example,

African Americans made up more than 65 percent of those purged in Beaufort County, even though they account for less than 26 percent of that county's population.¹⁰³ What's more, the removal process took place within the 90-day period before an election when states are prohibited from systematic purges.¹⁰⁴ Ultimately, the court found the three counties guilty of "systematically purging between 3,500 and 4,000 voters from registration rolls," ordering the state to add them back onto the rolls in time for Election Day.¹⁰⁵

Recommendations

Any attempt by the Trump administration to make it harder to register voters or easier to remove eligible voters from voter rolls will prevent Americans from exercising power and having their voices heard. Indeed, as explained by U.S. District Court Judge for the District of North Carolina Loretta C. Biggs, “electoral integrity is enhanced, not diminished, when all citizens who are eligible to vote are allowed to exercise that right free from interference and burden unnecessarily imposed by others.”¹⁰⁶ Voter registration lists can be properly maintained to ensure they are secure and accurate without violating the voting rights of eligible Americans.

To accomplish this, this report recommends that states take the following actions.

Adopt automatic voter registration (AVR)

Automatic voter registration offers a secure, modern way to use data efficiently to protect the integrity of voter rolls and facilitate voter participation. With AVR, a state updates or adds eligible people to its voter registration rolls using information it already has on file, unless the individual chooses not to become registered to vote or to have his or her address updated.¹⁰⁷ An individual who is registered through AVR has his or her voter registration updated automatically when they move, making it easy for the millions of Americans who change residence each year to maintain accurate voter registrations.¹⁰⁸ AVR also improves the security of the nation’s election rolls and prevents errors in registration, since it removes the guesswork that comes from having to decipher applicant handwriting and clerical errors that occur in the traditional data entry process.

Oregon’s first-in-the-nation AVR program proved a resounding success in increasing voter registration and participation amongst eligible Americans in 2016. Additionally, new analysis shows that those registered through Oregon’s AVR system were younger, more rural, and more diverse compared with traditional registrants.¹⁰⁹

“... electoral integrity is enhanced, not diminished, when all citizens who are eligible to vote are allowed to exercise that right free from interference and burden unnecessarily imposed by others.”

— U.S. District Court Judge Loretta C. Biggs

Thus, in addition to streamlining the voter registration process for voters and election administrators and making voter rolls more accurate and secure, AVR strengthens our democracy by opening up the democratic process to groups historically blocked from participating due to barriers in the voter registration system.

Participate in the Election Registration Information Center (ERIC)

Not all data-matching programs are created equal. The Electronic Registration Information Center is a membership organization that uses advanced technology to identify voter registrations that are outdated or invalid.¹¹⁰ States participate to keep their voting rolls up to date without subjecting voters to illegal purging and to identify new eligible residents in order to facilitate their registration. ERIC's data-matching criteria is much more comprehensive than the Interstate Crosscheck System—it considers names, addresses, birthdates, and other points of comparison using official data from voter registration rolls, motor vehicle records, postal addresses, and Social Security death records.¹¹¹ Upon receiving ERIC's results, states contact residents identified by the program as eligible but unregistered to vote to educate them on the most efficient means of completing their voter registration. For those whose registration information is identified by the report as inaccurate or outdated, the state provides them with information on how to update their record.¹¹² According to the ERIC membership guidelines, "All voter registration list maintenance activity based on information provided by ERIC must be conducted under the strict guidelines of the National Voter Registration Act (NVRA)."¹¹³

After implementing ERIC, the state of Washington updated 53,000 voter records and mailed registration information to another 140,000 unregistered but potentially eligible voters.¹¹⁴ Washington Secretary of State Kim Wyman praised the program, saying, "ERIC provides states with a powerful new set of tools that improve the accuracy of voter rolls and expand access to voter registration, achieving both goals more efficiently."¹¹⁵

Secure America's election infrastructure

Russia's interference in the 2016 presidential election, including attempts to hack at least 21 state and local election systems, was an assault on our democracy.¹¹⁶ While there is no evidence that Russia tampered with vote totals, there is also no telling what it may do in the future as its methods become more sophisticated.

"ERIC provides states with a powerful new set of tools that improve the accuracy of voter rolls and expand access to voter registration, achieving both goals more efficiently."

— Washington Secretary of State Kim Wyman

As warned by cybersecurity expert J. Alex Halderman, professor of computer science in the University of Michigan College of Engineering and director of the Center for Computer Security and Society, “there is no doubt that Russia has the technical ability to commit widescale attacks against our voting system, as do other hostile nations.”¹¹⁷ Former FBI Director James Comey has warned that the Russians “will be back.”¹¹⁸ Foreign interference in America’s elections undermines the integrity of our democracy and prevents us from governing ourselves freely.

Cybersecurity experts who have studied U.S. voting machines have found “severe vulnerabilities that would allow attackers to sabotage machines and to alter votes.”¹¹⁹ The Russian hacks in the 2016 election serve as a wake-up call for the dire need to begin investing in updating our electoral infrastructure to keep our elections safe from future malicious attacks. These measures include updating outdated voting machinery and technology, implementing minimum cybersecurity standards, and instituting voter verified paper trails and mandatory audits. Instead of wasting time and resources on a sham voter commission, the Trump administration should be putting into place safeguards to protect against the real threat that foreign interference poses to our elections and American voters.

Fully comply with the National Voter Registration Act

The NVRA helps ensure that eligible Americans are registered to vote. For more than two decades, the NVRA has proven vital in setting forth specific guidelines states must abide by when registering eligible people to vote and before removing them from registration rolls. This is especially true for people of color. In fact, one of the goals Congress had in mind when enacting the NVRA was to protect against discriminatory voter registration laws and procedures that target communities of color and keep them from exercising their political power.¹²⁰

The right to vote transcends partisan politics and is essential for our democracy to function. The NVRA was originally passed on a bipartisan basis, with both Democrats and Republicans alike recognizing the importance of protecting the ability of all eligible Americans, regardless of political affiliation, to have their voices heard on Election Day.¹²¹ By fully enforcing the NVRA, implementing programs such as AVR and ERIC, and investing in the security of our election infrastructure, states can enhance the overall security of our voter rolls, while making sure that all eligible Americans are able to exercise their fundamental right to vote.

Conclusion

We must ensure that government leaders are protecting the right to vote, not making it harder for Americans to participate in the process of self-government. Make no mistake: Baseless claims of illegal voting—such as the lie put forward by President Trump himself that millions of people voted illegally in the 2016 election—are a precursor to further voter suppression measures.¹²² In claiming that documentary proof of citizenship requirements and voter purges are necessary, people such as Kansas Secretary of State Kris Kobach ignore mountains of data and research showing that widespread illegal voting is exceedingly rare.¹²³

Rather than wasting time and taxpayer money on a fruitless investigation of American voters and questioning the integrity of the voter registration process, the Trump administration should focus on supporting programs aimed at increasing access, removing barriers, and ensuring that the American people can fully exercise their right to participate in our democracy. At a time when our democracy is under attack by foreign powers seeking to influence our elections and infiltrate our voter lists, we must find ways to safeguard the electoral process and the fundamental right to vote.

The NVRA plays an essential role in expanding participation and fighting against voter suppression tactics in the states. States have an important part to play in combating dangerous rhetoric and action by the federal government. Responsible leaders should refuse to cooperate with the dangerous overreach of the sham commission. Instead, states should expand access to the voting booth for Americans by ensuring that the National Voter Registration Act is fully enforced and encouraging legislatures to implement automatic voter registration and to participate in the Election Registration Information Center exchange.

About the authors

Liz Kennedy is the director of democracy and government reform at the Center for American Progress.

Danielle Root is the voting rights manager for the Democracy and Government team at the Center.

Endnotes

- 1 National Conference of State Legislatures, "Voter Registration," available at <http://www.ncsl.org/research/elections-and-campaigns/voter-registration.aspx> (last accessed July 2017).
- 2 Eight states and the District of Columbia have already passed automatic voter registration, with Illinois and Rhode Island expected to pass it this year. Same-day registration, or Election Day registration, is available in 14 states and the District of Columbia, while 38 states plus the District of Columbia have or will soon offer online registration. See Brennan Center for Justice, "Automatic voter registration," June 23, 2017, available at <https://www.brennancenter.org/analysis/automatic-voter-registration>; National Conference of State Legislatures, "Same Day Voter Registration," January 11, 2017, available at <http://www.ncsl.org/research/elections-and-campaigns/same-day-registration.aspx>; Brennan Center for Justice, "Automatic Voter Registration and Modernization in the States," February 3, 2017, available at <https://www.brennancenter.org/analysis/voter-registration-modernization-states>.
- 3 White House Office of the Press Secretary, "Presidential Executive Order on the Establishment of Presidential Advisory Commission on Election Integrity," Press release, May 11, 2017, available at <https://www.whitehouse.gov/the-press-office/2017/05/11/presidential-executive-order-establishment-presidential-advisory>; White House Office of the Press Secretary, "Readout of the Vice President's call with the Presidential Advisory Commission on Election Integrity," Press release, June 28, 2017, available at <https://www.whitehouse.gov/the-press-office/2017/06/28/readout-vice-presidents-call-presidential-advisory-commission-election>.
- 4 *National Voter Registration Act of 1993*, Public Law 31, 103d Cong., 1st sess. (May 20, 1993), available at <https://www.gpo.gov/fdsys/pkg/STATUTE-107/pdf/STATUTE-107-Pg77.pdf>.
- 5 J. Mijin Cha, "Registering Millions: Celebrating the Success and Potential of the National Voter Registration Act at 20" (New York: Demos), available at <http://www.demos.org/sites/default/files/publications/Registering-Millions-NVRA-Demos.pdf> (last accessed May 2017).
- 6 Hans von Spakovsky, a longtime proponent of discriminatory voter laws—such as strict voter ID requirements—also sits on the commission. See Peter Fenn, "The Voter Fraud Fraud," *U.S. News & World Report*, June 9, 2017, available at <https://www.usnews.com/opinion/thomas-jefferson-street/articles/2017-06-09/donald-trump-and-kris-kobachs-voter-fraud-commission-is-a-sham>; Amrit Cheng, "Kris Kobach, the 'King of Voter Suppression,' Will Lead Trump's Sham Voter Fraud Commission. Be Afraid, Very Afraid," *American Civil Liberties Union*, May 12, 2017, available at <https://www.aclu.org/blog/speak-freely/kris-kobach-king-voter-suppression-will-lead-trumps-sham-voter-fraud-commission-be>; Alex Horton and Gregory S. Schneider, "Trump's pick to investigate voter fraud is freaking out voting rights activists," *The Washington Post*, June 30, 2017, available at https://www.washingtonpost.com/news/post-nation/wp/2017/06/30/trumps-pick-to-investigate-voter-fraud-is-freaking-out-voting-rights-activists/?utm_term=.a7e128e40816.
- 7 Ari Berman, "The Man Behind Trump's Voter-Fraud Obsession," *The New York Times*, June 13, 2017, available at <https://www.nytimes.com/2017/06/13/magazine/the-man-behind-trumps-voter-fraud-obsession.html>.
- 8 Roxana Hegeman, "Voting rights group says 6,570 Kansas registrations purged," *Associated Press*, September 20, 2016, available at <https://www.apnews.com/6945d0e0964b46faab8e9187ca2a46d1/Voting-rights-group-says-6,570-Kansas-registrations-purged>.
- 9 Peggy Lowe, "Kansans Caught In Crosscheck System Singled Out For Kobach's Voter Fraud Campaign," *KCUR*, February 7, 2017, available at <http://kcur.org/post/kansans-caught-crosscheck-system-singled-out-kobachs-voter-fraud-campaign#stream/0>.
- 10 On June 23, 2017, Kobach was ordered by a federal magistrate to pay a \$1,000 fine for "deceptive conduct and lack of candor" by misleading the court on the contents of documents to amend the National Voter Registration Act. See *Fish v. Kobach*, Case No. 16-2105-JAR (D.C. Kansas) (2017), available at <http://www.politico.com/f/?id=0000015c-d697-d0dd-ad5e-f69fb4f40000>. See also Sam Levine, "The Head Of Trump's Voter Integrity Probe Just Got Sanctioned For A Lack Of Integrity," *The Huffington Post*, June 23, 2017, available at http://www.huffingtonpost.com/entry/kris-kobach-donald-trump_us_594d72f0e4b05c37bb766e6e.
- 11 Sam Levine, "Head Of Trump Voter Fraud Probe Wanted To Change Law To Make Registering More Difficult," *The Huffington Post*, July 15, 2017, available at http://www.huffingtonpost.com/entry/kris-kobach-nvra_us_59698037e4b017418627ac98; email from Kris Kobach to Gene Hamilton, November 9, 2016, available at <https://www.scribd.com/document/353834967/Kris-Kobach-Email>.
- 12 California Secretary of State Alex Padilla, in his response to the commission's request for voter information, said, "California's participation would only serve to legitimize the false and already debunked claims of massive voter fraud made by the President, Vice President, and Kobach," while Virginia Gov. Terry McAuliffe (D) warned, "At best this commission was set up as a pretext to validate Donald Trump's alternative election facts, and at worst is a tool to commit large-scale voter suppression." See letter from Kris Kobach to Matt Dunlap, June 28, 2017, available at [http://i2.cdn.turner.com/cnn/2017/images/06/30/peic.letter.to.maine\[2\].pdf](http://i2.cdn.turner.com/cnn/2017/images/06/30/peic.letter.to.maine[2].pdf); Sam Levine, "This DOJ Letter May Be More Alarming Than Trump Commission's Letter For Voter Data," *The Huffington Post*, July 5 2017, available at http://www.huffingtonpost.com/entry/department-of-justice-voter-purge_us_595d22b1e4b0da2c7326c38b; Brandon Carter, "Trump election panel asks all 50 states for voter roll data," *The Hill*, June 29, 2017, available at <http://thehill.com/homenews/administration/340117-trump-election-integrity-commission-requests-years-of-voter-data-from>; Josh Delk, "State officials refuse to turn over voter roll data to Trump election panel," *The Hill Blog Briefing Room*, June 29, 2017, available at <http://thehill.com/blogs/blog-briefing-room/news/340192-state-officials-refuse-to-turn-over-voter-roll-data-to-trump>; Jessica Huseman, "June 29, 2017, 11:55 a.m.," *Twitter*, <https://twitter.com/JessicaHuseman/status/880499901179809792> (last accessed July 2017).

- 13 Both the American Civil Liberties Union and the Lawyers' Committee for Civil Rights Under Law have filed lawsuits against the commission on the basis that it violated the Federal Advisory Committee Act. The Brennan Center for Justice, along with United to Protect Democracy, wrote to the White House Office of Management and Budget on July 3, 2017, alleging that the commission violated the Paperwork Reduction Act. Stark and Hauck, "Forty-four states and DC have refused to give certain voter information to Trump commission"; Electronic Privacy Information Center, "EPIC v. The Commission," available at <https://epic.org/privacy/litigation/voter/epic-v-commission/> (last accessed July 2017); Complaint of Plaintiffs, *EPIC v. Kobach*, Civil Action No. ____ (D.C.D.C.) (2017), available at <http://www.courthousenews.com/wp-content/uploads/2017/07/EPIC-Kobach-COMPLAINT.pdf>; Common Cause, "Common Cause Sues to Protect Voters Under Privacy Act," Press release, July 14, 2017, available at <http://www.commoncause.org/press/press-releases/PenceKobachLawsuit.html>; Complaint of Plaintiffs, *ACLU v. Trump et al.*, Case No: 1:17-cv-01351 (D.C.D.C.) (2017), available at <https://www.aclu.org/legal-document/american-civil-liberties-union-v-donald-trump-complaint>; Lawyers' Committee for Civil Rights Under Law, "Lawyers' Committee for Civil Rights Under Law Files Lawsuit To Halt Commission Hearing for Failure to Comply With Federal Law," Press release, July 10, 2017, available at <https://lawyerscommittee.org/press-release/lawyers-committee-civil-rights-law-files-lawsuit-halt-commission-hearing-failure-comply-federal-law/>; Brennan Center for Justice, "United to Protect Democracy & Brennan Center Letter to OMB Director: Protect States from 'Election Integrity' Commission's Sweeping Requests for Voter Information," July 3, 2017, available at <https://www.brennancenter.org/analysis/united-protect-democracy-brennan-center-letter-omb-director-protect-states-election>.
- 14 Lawyers' Committee for Civil Rights Under Law, "Lawyers' Committee for Civil Rights Under Law Files Hatch Act Complaint Against Kris Kobach," Press release, July 3, 2017, available at <https://www.commondreams.org/newswire/2017/07/03/lawyers-committee-civil-rights-under-law-files-hatch-act-complaint-against-kris>.
- 15 Richard L. Hasen, "Trump's voter fraud end game," *Slate*, June 30, 2017, available at http://www.slate.com/articles/news_and_politics/jurisprudence/2017/06/donald_trump_s_voter_fraud_commission_is_itself_an_enormous_fraud.html.
- 16 See Liz Kennedy and Danielle Root, "Trump's Threat to Investigate American Voters Is a Danger to Democracy," Center for American Progress, January 27, 2017, available at <https://www.americanprogress.org/issues/democracy/news/2017/01/27/297605/trumps-threat-to-investigate-american-voters-is-a-danger-to-democracy/>; Michael Wines, "All this talk of voter fraud? Across U.S., officials found none," *The New York Times*, December 18, 2016, available at https://www.nytimes.com/2016/12/18/us/voter-fraud.html?_r=0.
- 17 Philip Bump, "Reminder: In an anti-recount filing, Trump's lawyers said the election was 'not tainted by fraud or mistake,'" *The Washington Post*, January 25, 2017, available at https://www.washingtonpost.com/news/the-fix/wp/2016/12/05/in-an-anti-recount-filing-trumps-lawyers-say-the-election-was-not-tainted-by-fraud-or-mistake/?utm_term=.cbd862bdd9c.
- 18 *National Voter Registration Act of 1993*, Public Law 31, Sec. 5-6.
- 19 *Fish, et. al. v. Kobach*, Case No. 2:16-cv-02105-JAR-JPO (D.C. Kansas) (May 17, 2016), available at https://www.aclu.org/sites/default/files/field_document/opinion_on_prelim_injunction.pdf; Lisa Wagner, "Judge Blocks Kansas' Proof of Citizenship Voting Registration Requirement," NPR, May 18, 2016, available at <http://www.npr.org/sections/thetwo-way/2016/05/18/478496140/judge-blocks-kansas-proof-of-citizenship-voting-registration-requirement>.
- 20 *National Voter Registration Act of 1993*, Public Law 31, Sec. 5.
- 21 *Ibid.*
- 22 The U.S. Court of Appeals for the 10th Circuit found the NVRA's federal voter application's attestation clause to be the presumptive minimum amount of information necessary to carry out an eligibility assessment. The court noted that the presumption could be rebutted, but only by a strong, factual showing that substantial numbers of noncitizens have successfully registered to vote under the NVRA's attestation clause. There is no evidence of widespread illegal voter registration or voting, but Kobach may still use his role on the commission to exaggerate instances of illegal voting to rebut the presumption. See *Fish, et. al. v. Kobach*, Case No. 2:16-cv-02105-JAR-JPO (D.C. Kansas) (May 17, 2016); *Fish, et. al. v. Kobach*, Case No. 16-3147 (10th Cir.) (Oct. 19, 2016), available at <https://www.aclu.org/legal-document/fish-v-kobach-opinion>.
- 23 Complaint of Plaintiff *Fish v. Kobach*, Case No. 2:16-cv-02105 (Feb. 18, 2016), available at <https://www.aclu.org/legal-document/fish-v-kobach-complaint>.
- 24 *Ibid.* For example, the NVRA permits removal only if the registrant requests to be removed; has a mental incapacity; was convicted of a crime in accordance with state felon disenfranchisement laws; or has died. In the case of felony convictions, the NVRA requires U.S. attorney offices to forward notifications of felony convictions to state election officials. For registrants who have died, in some states, the department of health sends notification of an individual's death to the state election agency. In other places, states receive notice from local registrars or departments of vital statistics. In some cases, states rely on the obituary pages in local and state newspapers. The Help America Vote Act further requires state election officials to consult state agency felony and death records. A state may also remove an individual if that person moves outside the jurisdiction. When this occurs, the individual may notify the state directly that he or she has moved. In that case, the state may remove the individual's name from its voter rolls immediately. Most of the time, however, the state only receives notification that an individual has moved from a secondhand source—often through the post office—that there has been a change in address. Upon receiving information that an individual may have left the jurisdiction, a state must go through a set of procedures before it can remove the voter from its rolls. For example, a state must send a confirmation notice to the address listed in the registrant's registration file and wait a certain amount of time, designated by state law, for a response. If the individual does not respond, the state must still wait to see if the individual votes or "appears to vote" within the jurisdiction over the next two general election cycles. Only if the voter does not respond to the notice and does not vote or attempt to vote during this period may a state remove him or her from its rolls. See U.S. Department of Justice, "The National Voter Registration Act of 1993 (NVRA): Questions and Answers," available at <https://www.justice.gov/crt/national-voter-registration-act-1993-nvra> (last accessed May 2017); Myrna Perez, "Voter Purges" (New York: Brennan Center for Justice, 2008), available at <https://www.brennancenter.org/sites/default/files/legacy/publications/Voter.Purges.f.pdf>; *Help America Vote Act of 2002*, Public Law 252, Sec. 303(a), 107th Cong., 2d sess. (October 29, 2002), available at <https://www.gpo.gov/fdsys/pkg/PLAW-107publ252/pdf/PLAW-107publ252.pdf>.

- 25 Kobach's documentary proof of citizenship requirement was passed as part of the Secure and Fair Elections Act in 2011. See K.S.A. *Safe and Secure Elections (SAFE) Act* (2011). See State of Kansas, "Kansas Secure and Fair Elections Act (SAFE) signed by Governor," Press release, April 18, 2011, available at https://www.kssos.org/other/news_releases/PR_2011/PR_2011-04-18_on_SAFE_Act_Signing.pdf; See *The Kansas City Star*, "Timeline of Kris Kobach's drive to restrict voting in Kansas," July 20, 2016, available at <http://www.kansascity.com/news/state/kansas/article90723752.html>; American Civil Liberties Union, "Fish v. Kobach," available at <https://www.aclu.org/cases/fish-v-kobach> (last accessed July 2017); expert report of Dr. Michael P. McDonald, *Fish v. Kobach*, No. No. 2:16-cv-02105 (Feb. 26, 2016), available at https://www.aclukansas.org/sites/default/files/field_documents/fish_v._kobach_-_expert_report_of_dr._michael_mcdonald.pdf; Doug Bonney, "ACLU Testimony—SB 37," Testimony before Kansas Senate Ethics, Elections, and Local Government Committee, February 7, 2017, available at <https://www.aclukansas.org/en/legislation/aclu-testimony-sb-37>.
- 26 Expert report of Dr. Michael P. McDonald, *Fish v. Kobach*.
- 27 Complaint of Plaintiff *Fish v. Kobach*, Case No. 2:16-cv-02105 (Feb. 18, 2016).
- 28 Bonney, "ACLU Testimony—SB 37."
- 29 *Fish, et. al. v. Kobach*, Case No. 16-3147 (10th Cir.) (Oct. 19, 2016); Yael T. Abouhalkah, "Kris Kobach must stop violating voting rights of up to 50,000 Kansans," *The Kansas City Star*, June 11, 2016, available at <http://www.kansascity.com/opinion/opn-columns-blogs/yael-t-abouhalkah/article83192637.html>.
- 30 Brennan Center for Justice, "Citizens Without Proof" (2006), available at http://www.brennancenter.org/sites/default/files/legacy/d/download_file_39242.pdf.
- 31 Sari Horwitz, "Getting a photo ID so you can vote is easy. Unless you're poor, black, Latino, or elderly," *The Washington Post*, May 23, 2016, available at https://www.washingtonpost.com/politics/courts_law/getting-a-photo-id-so-you-can-vote-is-easy-unless-youre-poor-black-latino-or-elderly/2016/05/23/8d5474ec-20f0-11e6-8690-f14ca9de2972_story.html?utm_term=.c57d75522d77.
- 32 Robert Greenstein, Leighton Ku, and Stacy Dean, "Survey indicates House bill could deny rights to millions of U.S. citizens: Low-Income, African American, Elderly, and Rural Voters at Special Risk" (Washington: Center on Budget and Policy Priorities, 2006), available at <http://www.cbpp.org/research/survey-indicates-house-bill-could-deny-voting-rights-to-millions-of-us-citizens>.
- 33 *Ibid.*
- 34 U.S. Commission on Civil Rights, "Voting Rights and the Kansas Secure and Fair Elections Act" (2017), available at <http://www.usccr.gov/pubs/KS-Voting-Rights-Report.pdf>.
- 35 Keesha Gaskins and Sundeep Iyer, "The challenge of obtaining voter identification" (New York: Brennan Center for Justice, 2012), available at <http://www.brennancenter.org/publication/challenge-obtaining-voter-identification>.
- 36 *Ibid.*
- 37 Wendy Weiser, "Voter Suppression: How Bad? (Pretty Bad)," *American Prospect*, October 1, 2014, available at <http://prospect.org/article/22-states-wave-new-voting-restrictions-threatens-shift-outcomes-tight-races>.
- 38 Greenstein, Ku, and Dean, "Survey indicates House bill could deny rights to millions of U.S. citizens."
- 39 *Ibid.*
- 40 U.S. Commission on Civil Rights, "Voting Rights and the Kansas Secure and Fair Elections Act."
- 41 In *Harper v. Virginia Board of Elections*, the U.S. Supreme Court found that poll taxes violated the 14th Amendment's Equal Protection Clause and were unconstitutional. See *Harper v. Virginia Board of Elections*, 383 U.S. 663 (1966).
- 42 Authors' calculations are based on data from the November supplement of the Bureau of the Census, *Current Population Survey* (U.S. Department of Commerce, 2016), available at <http://www.nber.org/data/current-population-survey-data.html>.
- 43 Complaint of Plaintiff *Fish v. Kobach*, Case No. 2:16-cv-02105 (Feb. 18, 2016).
- 44 U.S. Commission on Civil Rights, "Voting Rights and the Kansas Secure and Fair Elections Act."
- 45 *Ibid.*
- 46 Steven Yaccino, "Colleges take a leap into voter registration," *The New York Times*, October 13, 2012, available at <http://www.nytimes.com/2012/10/14/us/politics/more-colleges-take-a-leap-into-voter-registration.html>.
- 47 Diana Kasdan, "State Restrictions on Voter Registration Drives" (New York: Brennan Center for Justice, 2012), available at <https://www.brennancenter.org/sites/default/files/legacy/publications/State%20Restrictions%20on%20Voter%20Registration%20Drives.pdf>.
- 48 Erin Ferns Lee, "Voter Registration Drives: A thing of the future" (Washington: Project Vote, 2010), available at <http://www.projectvote.org/blog/voter-registration-drives-a-thing-of-the-future/>; Stephen Mortellaro and Michelle Kanter Cohen, "Restricting Voter Registration Drives" (Washington: Project Vote, 2014), available at <http://www.projectvote.org/wp-content/uploads/2015/06/RESTRICTING-VR-DRIVES-POLICY-PAPER-SEPT-2014.pdf>.
- 49 David W. Nickerson, "Do voter registration drives increase participation? For whom and when?," *Journal of Politics* 77 (2015), available at <http://www.journals.uchicago.edu/doi/full/10.1086/678391>.
- 50 Berman, "The Man Behind Trump's Voter Fraud Obsession"; Mortellaro and Cohen, "Restricting Voter Registration Drives."
- 51 *National Voter Registration Act of 1993*, Public Law 31.
- 52 A simple typo or clerical error may be enough to cause mail to be returned. For example, of those confirmation notices sent by states in 2014, 16.4 percent were returned as undeliverable. In Florida, 32.9 percent of notices sent to voters believed to have moved were deemed undeliverable. The high percentage of returned notices in Florida is not surprising, given that a survey of a Florida social service database, conducted in 2004, found the city of Fort Lauderdale spelled 40 different ways on a list of addresses. See Perez, "Voter Purges"; U.S. Election Administration Commission, "The 2014 EAC Election Administration and Voting Survey Comprehensive Report" (2015), available at https://www.eac.gov/assets/1/1/2014_EAC_EAVS_Comprehensive_Report_508_Compliant.pdf.
- 53 *National Voter Registration Act of 1993*, Public Law 31, Sec. 8(b)(2).

- 54 Ibid., Sec. 8(c)(2)(A).
- 55 Ibid., Sec. 8(b)(1). In addition, Section 303(a) of the 2002 Help America Vote Act requires states to maintain an official, centralized computerized statewide voter registration list, which must be administered in a uniform and nondiscriminatory manner. The system must be capable of “providing immediate electronic access to appropriate State and local election officials; assigning unique identifiers; affording local officials expedited entry of voter registration information; allowing voter registration information to be verified with other State, local and Federal agencies; providing a means for list maintenance; tracking appropriate voting history; and ensuring appropriate system security.” In maintaining the list, state officials are required to coordinate with state agency felony and death records. See *Help America Vote Act*, Public Law 252, Sec. 303(a); U.S. Election Assistance Commission, “Voluntary Guidance on Implementation of Statewide Voter Registration Lists” (2005), available at <https://www.eac.gov/assets/1/1/Implementing%20Statewide%20Voter%20Registration%20Lists.pdf>.
- 56 U.S. Election Assistance Commission, “The Election Administration and Voting Survey: 2016 Comprehensive Report” (2017), available at https://www.eac.gov/assets/1/6/2016_EAVS_Comprehensive_Report.pdf.
- 57 Ibid.
- 58 Ibid.
- 59 Bryan Lowry, “Kris Kobach wants every U.S. voter’s personal information for Trump’s commission,” *The Kansas City Star*, June 29, 2017, available at <http://www.kansascity.com/news/politics-government/article158871959.html>.
- 60 The case was brought under the Voting Rights Act, in addition to the 1st and 14th Amendments of the U.S. Constitution. Another case, brought by Common Cause Georgia and the Georgia NAACP, challenged the state’s practice of removing inactive voters, in violation of the NVRA. See Tony Pugh, “Georgia secretary of state fighting accusations of disenfranchising minority voters,” McClatchy DC Bureau, October 7, 2016, available at <http://www.mcclatchydc.com/news/politics-government/article106692837.html>; *Georgia State Conference of the NAACP et al., v. Kemp*, Case No. ____ (N.D.G.) (Sept. 14, 2016), available at <https://lawyerscommittee.org/wp-content/uploads/2016/09/2016-09-13-GA-NAACP-Kemp-Complaint-FINAL.pdf>.
- 61 Letter from Russell D. Willard to William C. O’Kelley, “Re: *Georgia State Conf. of the NAACP, et al. v. Brian Kemp*,” September 23, 2016, available at <http://www.project-vote.org/wp-content/uploads/2016-09-23-NAACP-v-Kemp-Letter-from-GA-to-court-resp-to-PI.pdf>.
- 62 Pugh, “Georgia secretary of state fighting accusations of disenfranchising minority voters”; Kristina Torres, “Federal lawsuit alleges Georgia blocked thousands of minority voters,” *The Atlanta Journal-Constitution*, September 14, 2016, available at <http://www.myajc.com/news/state--regional-govt--politics/federal-lawsuit-alleges-georgia-blocked-thousands-minority-voters/EKb979oRoBe4yJ3Uo1nDf/>.
- 63 Torres, “Federal lawsuit alleges Georgia blocked thousands of minority voters.”
- 64 Lise Olsen, “Texas’ voter purge made repeated errors,” *Houston Chronicle*, November 2, 2012, available at <http://www.chron.com/news/politics/article/Texas-voter-purge-made-repeated-errors-4001767.php>.
- 65 Ibid.
- 66 Ibid.
- 67 Ibid.; Jake Miller, “Texas voter purge marked by mistakes, misidentifications,” CBS News, November 14, 2012, available at <http://www.cbsnews.com/news/texas-voter-purge-marked-by-mistakes-misidentifications/>; Olsen, “Texas’ voter purge made repeated errors.”
- 68 Perez, “Voter Purges.”
- 69 Ari Berman, “How the 2000 Election in Florida Led to a New Wave of Voter Disenfranchisement,” *The Nation*, July 28, 2015, available at <https://www.thenation.com/article/how-the-2000-election-in-florida-led-to-a-new-wave-of-voter-disenfranchisement/>; Katie Sanders, “Bill Nelson compares Rick Scott’s voter purge with a 2000 attempt,” *PolitiFact*, June 5, 2012, available at <http://www.politifact.com/florida/statements/2012/jun/05/bill-nelson/bill-nelson-compares-rick-scotts-voter-purge-2000-/>.
- 70 Berman, “How the 2000 Election in Florida Led to a New Wave of Voter Disenfranchisement.”
- 71 Katie Sanders, “Florida voters mistakenly purged in 2000,” *Tampa Bay Times PolitiFact Florida*, June 14, 2012, available at <http://www.tampabay.com/news/politics/stateroundup/florida-voters-mistakenly-purged-in-2000/1235456>.
- 72 Lisa Getter, “Florida Net Too Wide in Purge of Voter Rolls,” *Los Angeles Times*, May 21, 2001, available at <http://articles.latimes.com/2001/may/21/news/mn-620>.
- 73 Perez, “Voter Purges.”
- 74 Getter, “Florida net too wide in purge of voter rolls.”
- 75 Dave Boyer, “Voter fraud and suppression commission to meet in July,” *The Washington Times*, June 27, 2017, available at http://www.washingtontimes.com/news/2017/jun/27/voter-fraud-and-suppression-commission-to-meet-in-/?utm_source=RSS_Feedutm_medium=RSS.
- 76 American Immigration Council, “Using the Systematic Alien Verification for Entitlements (SAVE) Program for Voter Eligibility Verification” (2012), available at <https://www.americanimmigrationcouncil.org/research/using-systematic-alien-verification-entitlements-save-program-voter-eligibility>.
- 77 Ibid.
- 78 7.4 million people have become naturalized U.S. citizens over the past decade. See U.S. Citizenship and Immigration Services, “Naturalization Fact Sheet,” available at <https://www.uscis.gov/news/fact-sheets/naturalization-fact-sheet> (last accessed July 2017).
- 79 The Center for Public Integrity, “America scrubs millions from the voter rolls. Is it fair?” (2017), available at <https://www.publicintegrity.org/2016/08/22/20079/america-scrubs-millions-voter-rolls-it-fair>.
- 80 Ibid.; J. Mijin Cha and Liz Kennedy, “Millions to the polls” (New York: Demos, 2014), available at <http://www.demos.org/sites/default/files/publications/m2p-Main.pdf>; Lizette Alvarez, “After Mistakenly Purging Citizens, Florida Agrees to Let Them Vote,” *The New York Times*, September 12, 2012, available at <http://www.nytimes.com/2012/09/13/us/politics/florida-agrees-to-let-citizens-mistakenly-purged-from-rolls-to-vote.html>.
- 81 Liz Kennedy and others, “Bullies at the Ballot Box: Protecting the Freedom to Vote Against Wrongful Challenges and Intimidation” (New York: Demos, 2012), available at <http://www.demos.org/publication/bullies-ballot-box-protecting-freedom-vote-against-wrongful-challenges-and-intimidation>.

- 82 Marc Caputo, "How Rick Scott's noncitizen voter purge started small and then blew up," *Miami Herald*, June 12, 2012, available at <http://www.miamiherald.com/news/politics-government/article1940542.html>.
- 83 Ibid.; Marc Caputo, "Florida's voter purge sparks lawsuits between states and feds," McClatchy DC Bureau, June 12, 2012, available at <http://www.mcclatchydc.com/news/politics-government/article24730825.html>.
- 84 Judd Legum, "30 Elected Florida Republicans Stop Rick Scott's Voter Purge," ThinkProgress, June 8, 2012, available at <https://thinkprogress.org/30-elected-florida-republicans-stop-rick-scotts-voter-purge-d7e86549539b>; Josh Israel, "Elections Officials Throughout Florida Refuse To Use Rick Scott's Inaccurate Lists To Purge Voters," ThinkProgress, June 1, 2012, available at <https://thinkprogress.org/elections-officials-throughout-florida-refuse-to-use-rick-scotts-inaccurate-lists-to-purge-voters-b21e9ccbe1ca>.
- 85 Letter from Deidre Macnab and Diana Kasdan to Ken Detzner, June 27, 2012, available at https://www.brennancenter.org/sites/default/files/legacy/Democracy/VRE/062712_Letter_to_Detzner.pdf; Legum, "30 Elected Florida Republicans Stop Rick Scott's Voter Purge."
- 86 Steve Bousquet, "Florida Gov. Rick Scott's 2012 voter purge violated federal law, court rules," *Tampa Bay Times*, April 1, 2014, available at <http://www.tampabay.com/news/politics/stateroundup/appeals-court-rules-florida-voter-purge-violated-federal-law/2173054>.
- 87 Hannah Yi, Mori Rothman, and Chris Bury, "Why Ohio has purged at least 200,000 from the voter rolls," PBS, July 31, 2016, available at <http://www.pbs.org/newshour/bb/inside-ohios-fight-voting-rules/>; Matt Ford, "Use It or Lose It?," *The Atlantic*, May 30, 2017, available at <https://www.theatlantic.com/politics/archive/2017/05/supreme-court-ohio-voting/528573/>; Mariam Khan, "Inside the purge of tens of thousands of Ohio voters," ABC News, June 5, 2016, available at <http://abcnews.go.com/Politics/inside-purge-tens-thousands-ohio-voters/story?id=39586417>.
- 88 Andy Sullivan and Grant Smith, "Use it or lose it: Occasional Ohio voters may be shut out in November," Reuters, June 2, 2016, available at <http://www.reuters.com/article/us-usa-votingrights-ohio-insight-idUSKCN0YO19D>.
- 89 Ibid.
- 90 Yi, Rothman, and Bury, "Why Ohio has purged at least 200,000 from the voter rolls"
- 91 Brief in opposition, *Husted v. A Philip Randolph Institute*, No. 16-980 (U.S. ___) (2016), available at <http://www.scotusblog.com/wp-content/uploads/2017/04/16-980-BIO.pdf>; *A. Philip Randolph Institute v. Husted* (6th Cir.) (2016), available at <http://www.leadge.com/decision/In%20FCO%2020160923110/A.%20PHILIP%20RAN-DOLPH%20INSTITUTE%20v.%20HUSTED>.
- 92 SCOTUSBlog, "Live blog orders and opinions," May 30, 2017, available at http://live.scotusblog.com/Event/Live_blog_of_orders_and_opinions__May_30_2017/936073172.
- 93 The Center for Public Integrity, "America scrubs millions from the voter rolls. Is it fair?"; National Conference of State Legislatures, "Voter List Accuracy" (2016), available at <http://www.ncsl.org/research/elections-and-campaigns/voter-list-accuracy.aspx>.
- 94 Lowe, "Kansas Caught In Crosscheck System Singled Out For Kobach's Voter Fraud Campaign."
- 95 As of May 5, 2016, the Interstate Crosscheck System included 30 member states, according to the National Conference of State Legislatures. See National Conference of State Legislatures, "Voter List Accuracy," available at <http://www.ncsl.org/research/elections-and-campaigns/voter-list-accuracy.aspx> (last accessed June 2016); Lawyers' Committee for Civil Rights Under Law, "Concerns about Interstate Crosscheck," available at <http://www.fairelectionswi.com/legislation/2015/Lawyers%20committee.pdf> (last accessed June 2017); Ben Strauss, "Kris Kobach came after me for an honest mistake," *Politico*, May 21, 2017, available at <http://www.politico.com/magazine/story/2017/05/21/kris-kobach-voter-fraud-investigation-prosecution-215164>.
- 96 Greg Palast, "The GOP's Stealth War Against Voters," *Rolling Stone*, August 24, 2016, available at <http://www.rollingstone.com/politics/features/the-gops-stealth-war-against-voters-w435890>.
- 97 Ibid.
- 98 Lauren Harmon and others, "The Health of State Democracies" (Washington: Center for American Progress Action Fund, 2015), available at <https://www.americanprogressaction.org/issues/courts/reports/2015/07/07/116570/the-health-of-state-democracies/>.
- 99 Palast, "The GOP's Stealth War Against Voters."
- 100 Ibid.; Don C. Reed, "Voter Suppression Steals Election?," The Huffington Post, November 18, 2016, available at http://www.huffingtonpost.com/don-c-reed/voter-suppression-steals-_b_13069770.html; Michael Wines and Rachel Shorey, "Even Some Republicans Balk at Trump's Voter Data Request. Why the Uproar?," *The New York Times*, July 7, 2017, available at <https://www.nytimes.com/2017/07/07/us/politics/voter-fraud-commission.html>.
- 101 Lawyers' Committee for Civil Rights Under Law, "Concerns about Interstate Crosscheck"; Advancement Project, "Questions & Answers: Interstate Crosscheck Project ("Crosscheck") & Electronic Registration Information Center ("ERIC")" (2015), available at <http://b3cdn.net/advancement/1d6cccf4b34b9645dahdm6i29rp.pdf>.
- 102 Pete Williams, "Judge says North Carolina illegally purged voter lists," NBC, November 4, 2016, available at <http://www.nbcnews.com/storyline/2016-election-day/judge-says-north-carolina-illegally-purged-voter-lists-n677431>; *North Carolina State Conference of the NAACP, et. al v. North Carolina State Board of Elections 1:16CV1274* (D.M.D.N.C., November 4, 2016), available at <http://www.politico.com/f/?id=00000158-3178-dac2-a15c-bb7b927e0001>.
- 103 Complaint of Plaintiffs *North Carolina State Conference of the NAACP, et. al v. North Carolina State Board of Elections*, Case No. 16-cv-1274 (D.M.D.N.C.) (Oct. 31, 2016), available at http://d3n8a8bro7vhmx.cloudfront.net/naacpnc/mailings/1050/attachments/original/Time-Stamped_NC_NAACP_Initial_NVRA_Complaint__10-31-2016.pdf?1477925949; Julia Craven, "North Carolina NAACP Sues State Over Voter Suppression," The Huffington Post, October 31, 2016, available at http://www.huffingtonpost.com/entry/north-carolina-naacp-voter-suppression_us_5817634fe4b064e1b4b385df.
- 104 Williams, "Judge says North Carolina illegally purged voter lists"; Mark Joseph Stern, "Justice Department to North Carolina: Stop Illegally Purging Black Voters From the Rolls," *Slate*, November 2, 2016, available at http://www.slate.com/blogs/the_slatest/2016/11/02/justice_department_to_north_carolina_stop_purging_black_voters.html.

- 105 *North Carolina State Conference of the NAACP, et. al v. North Carolina State Board of Elections*; Tribune news services, "Judge: North Carolina counties must restore voters removed in 'insane' process," *Chicago Tribune*, November 4, 2016, available at <http://www.chicagotribune.com/news/nationworld/ct-north-carolina-voter-purge-ruling-20161104-story.html>.
- 106 *North Carolina State Conference of the NAACP, et. al v. North Carolina State Board of Elections*.
- 107 Liz Kennedy, Lew Daly, and Brenda Wright, "Automatic Voter Registration: Finding America's Missing Voters" (New York: Demos, 2016), available at http://www.demos.org/sites/default/files/publications/AVR_0.pdf.
- 108 See U.S. Census Bureau, "Moving in America," November 16, 2016, available at https://www.census.gov/library/visualizations/2016/comm/cb16-189_migration.html.
- 109 Rob Griffin and others, "Who Votes With Automatic Voter Registration?" (Washington: Center for American Progress, 2017), available at <https://www.americanprogress.org/issues/democracy/reports/2017/06/07/433677/votes-automatic-voter-registration/>.
- 110 Electronic Registration Information Center, "ERIC: Summary of Membership Guidelines and Procedures," available at http://www.ericstates.org/images/documents/ERIC_Membership_Summary_v1.0.pdf (last accessed June 2017); Electronic Registration Information Center, "Who we are," available at <http://www.ericstates.org/whowere> (last accessed June 2017).
- 111 Electronic Registration Information Center, "Frequently Asked Questions," available at <http://www.ericstates.org/faq> (last accessed June 2017); Advancement Project, "Questions & Answers: Interstate Crosscheck Progress ("Crosscheck") & Electronic Registration Information Center ("ERIC")."
- 112 Electronic Registration Information Center, "ERIC: Summary of Membership Guidelines and Procedures."
- 113 Ibid.
- 114 Reporter Staff, "Washington state upgrades voter registration program," *Mercer Island Reporter*, September 5, 2013, available at <http://www.mi-reporter.com/news/washington-state-upgrades-voter-registration-program/>.
- 115 Ibid.
- 116 Joseph Tanfani, "Russians targeted election systems in 21 states, but didn't change any results, officials say," *Los Angeles Times*, June 21, 2017, available at <http://www.latimes.com/politics/washington/la-na-essential-washington-updates-russians-targeted-election-systems-in-1498059012-htmistory.html>.
- 117 J. Alex Halderman, "Russian Interference in the 2016 U.S. Elections," Testimony before U.S. Senate Select Committee on Intelligence, June 21, 2017, available at <https://www.intelligence.senate.gov/sites/default/files/documents/os-ahalderman-062117.pdf>.
- 118 Peter Baker and David E. Sanger, "Trump-Comey Feud Eclipses a Warning on Russia: 'They Will Be Back,'" *The New York Times*, June 10, 2017, available at <https://www.nytimes.com/2017/06/10/us/politics/trump-comey-russia-fbi.html>.
- 119 Halderman, "Russian Interference in the 2016 U.S. Elections." In June, more than 100 cybersecurity professionals signed onto a letter to Congress warning of vulnerabilities in our election infrastructure, urging them to take steps to secure voting lists and processes. See letter from cybersecurity experts to members of Congress, June 20, 2017, available at <https://www.electiondefense.org/election-integrity-expert-letter/>.
- 120 Congress found, for example, that "discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office and disproportionately harm voter participation by various groups, including racial minorities." *National Voter Registration Act of 1993*, Public Law 31.
- 121 *National Voter Registration Act of 1993*, H. Rept. 2, 103 Cong. 1 sess. (Thomas.gov, 1993), available at <https://www.congress.gov/bill/103rd-congress/house-bill/2/cosponsors>; House.gov, "Final Vote Results for Roll Call 154," available at <http://clerk.house.gov/evs/1993/roll154.xml> (last accessed July 2017); Senate.gov, "Roll Call Vote 103rd Congress - 1st Session," available at https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm?congress=103&session=1&vote=00118 (last accessed July 2017).
- 122 Glenn Thrush, "Trump's Voter Fraud Example? A Troubled Tale With Bernhard Langer," *The New York Times*, January 25, 2017, available at https://www.nytimes.com/2017/01/25/us/politics/trump-bernhard-langer-voting-fraud.html?_r=0&mtref=undefined.
- 123 Liz Kennedy and Danielle Root, "Voter fraud isn't real—but voter suppression is a real danger," Center for American Progress, November 29, 2016, available at <https://www.americanprogress.org/issues/democracy/news/2016/11/29/293868/voter-fraud-isnt-real-but-voter-suppression-is-a-grave-danger/>.

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