

Kossack, Andrew

From: Christian Adams <
Sent: Wednesday, October 25, 2017 7:26 AM
To: Kossack, Andrew J Kris Kobach'
Cc:

Subject: [EXTERNAL] Pennsylvania Hearings Today on Non-Citizen registration
Attachments: 2017.10.23 PA SOS NVRA Request.pdf

Andrew and Kris:

Today the Pennsylvania House of Representatives is holding hearings on the problem of alien registration in the Commonwealth. For those of you who follow these matters nationwide, Pennsylvania was recently discovered to have serious failures in voter registration procedures that allowed large numbers of aliens to get on the voter rolls in the Motor Voter process. Their presence was undetected for many years, and about a third of them have been casting ballots. That this happened is not subject to any credible dispute. The Pennsylvania Secretary of State resigned after the facts were revealed.

Understanding how this happened and what practices should be in place to prevent it would be an extremely worthwhile exercise for the Commission. Today, Noel Johnson, an attorney at my organization is testifying before the Pennsylvania House State Government Committee about these problems. Our organization first discovered the presence of aliens on the voter rolls in Philadelphia earlier in 2016, and it turns out aliens on the rolls was a statewide problem and not confined to Philadelphia. We have been examining this issue carefully nationwide and you will recall our preliminary report about New Jersey - Garden State Gotcha - was submitted for the record at our New Hampshire hearing. The reasons why aliens are getting on the rolls are many, and it would seem something that no reasonable election administrator would want to ignore.

Yesterday my organization submitted the attached NVRA Section 8 inspection request to Pennsylvania. We hope the results will reveal the failures that resulted in thousands of aliens getting on the rolls and voting, and will provide facts that allow us to recommend procedures so it does not happen again. It's an excellent opportunity for the Commission to demonstrate it is serious about fixing real, undeniable, and significant illegal registration and voting. Perhaps staff can develop a similar information request about all of the problems which have plagued alien registration in Pennsylvania for over a decade. Perhaps the Commission can focus on something that no reasonable American would want to have happen, as happened in Pennsylvania. Rather than ignore or minimize this empirical problem, I would suggest we examine it.

Thanks everyone, and look forward to seeing you soon.

J. Christian Adams

VIA EMAIL, FACSIMILE

October 23, 2017

Mr. Jonathan M. Marks
Commissioner, Bureau of Commissions, Elections and Legislation
Pennsylvania Department of State
210 North Office Building, 401 North Street
Harrisburg, PA 17120
Email:
Fax:

RE: NVRA public disclosure request

Dear Disclosure Officer(s):

I am writing to request inspection or copies of records related to your office's voter list maintenance obligations under the National Voter Registration Act of 1993 (NVRA).

The National Voter Registration Act of 1993, 52 U.S.C. § 20501 *et seq.*, requires your office to 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).

Pursuant to Section 20507(i) of NVRA, I request that your office reproduce or provide the opportunity to inspect the following records contained within SURE:

1. Documents regarding all registrants who were identified as potentially not satisfying the citizenship requirements for registration from any official information source, including information obtained from the various agencies within the U.S. Department of Homeland Security and the Pennsylvania Department of Transportation since January 1, 2006. This request extends to all documents that provide the name of the registrant, the voting history of such registrant, the nature and content of any notice sent to the registrant, including the date of the notice, the response (if any) of the registrant, and actions taken regarding the registrant's registration (if any) and the date of the action. This request extends to electronic records capable of compilation.
 - a. This request includes all voter records that were referenced in recent news media reports regarding individuals improperly exposed to registration prompts due to a "glitch" in PennDOT's Motor Voter compliance system. At least one news report claims that "a Pennsylvania Department of State review is underway."¹ I seek all voter records contained in this review.

¹ The Philadelphia Inquirer; Glitch let ineligible immigrants vote in Philly elections, officials say (September 20, 2017), <http://www.philly.com/philly/news/politics/city/philly-voter-fraud-trump-immigrants-registration-commissioners-penn-dot-20170920.html>

2. All documents and records of communication received or maintained by your office from registered voters, legal counsel, claimed relatives, or other agents since January 1, 2006 requesting a removal or cancellation from the voter roll for any reason related to non-U.S. citizenship/ineligibility. Please include any official records indicating maintenance actions undertaken thereafter.
3. All documents and records of communication received or maintained by your office from jury selection officials—state and federal—since January 1, 2006 referencing individuals who claimed to be non-U.S. citizens when attempting to avoid serving a duty call. This request seeks copies of the official referrals and documents indicating where your office or local registrars matched a claim of noncitizenship to an existing registered voter and extends to the communications and maintenance actions taken as a result that were memorialized in any written form.
4. All communications regarding list maintenance activities relating to #1 through 3 above to appropriate local prosecutors, Pennsylvania Attorney General, Pennsylvania State Police, any other state law enforcement agencies, the United States Attorney's office, or the Federal Bureau of Investigation.

Understanding that federal file retention laws may impact some disclosures, an optimal grouping of documents presented per registered voter disclosed would contain the following:

- The completed voter application form (redacted where necessary to prevent disclosures of claimed Social Security number and signature);
- Referral documents/transmissions for new or updated voter registration applications provided by state agencies charged with National Voter Registration Act (Motor Voter) duties;
- Records indicating the “voter profile” or “voter view” or similar feature provided within the Statewide Uniform Registry of Electors (SURE) which details all information kept per voter, to include but is not limited to:
 - Full name on file (including previous names)
 - Date of birth
 - Voter ID number
 - Voter registration date (including previous dates of registration)
 - Date of last maintenance/update action
 - Reason code(s) for previous maintenance action(s)
 - County of registration
 - Detailed address information history (residential and mailing)
 - Political party designation history (if claimed/recorded)
 - Registration method history (e.g. self, NVRA agency transaction, third-party, etc.)
 - Assigned voting districts history
 - Election participation history in full
 - All internal memoranda stored within each “profile”

- All letters, postcards, and other mailings sent or maintained by your office to the voter in question with notations for types of postage or method of delivery indicated where possible;
- All letters, emails, logged phone calls, documents, and other communications from the voter in question maintained within SURE—including those communications from legal counsel or claimed relatives on their behalf;
- All documents your office may receive or maintain from federal entities to include but are not limited to the U.S. Department of Homeland Security/USCIS detailing inquiries regarding registered voters;
- All documents and communications contained in SURE between the registered voter in question and county registration officials with respect to pending immigration matters; and
- Any documents contained in SURE that were sent to the voter to require that an affirmation of citizenship or noncitizenship be given in writing with responses included, where applicable.

Should your office require any examples of the above data collected via NVRA request in other jurisdictions, I would be happy to supply them in electronic format.

If you would like to produce these requested documents in paper or digital form, I can dispense with the need to visit your office for inspection. I will be in Harrisburg on October 25, 2017 and would be available for a brief office visit to take delivery of responsive documents or further discuss this request, if necessary. My contact information is provided below.

Thank you for your service on this matter.

Sincerely,

Noel Johnson
Litigation Counsel
Public Interest Legal Foundation
Telephone

Kossack, Andrew

From: Christian Adams <
Sent: Monday, November 13, 2017 1:55 PM
To: Kossack, Andrew J.
Cc:

Subject: [EXTERNAL] Commission Action Request

Andrew:

I would suggest that you request as soon as possible the annual report of the Election Crimes Branch over at the Criminal Div for 2016. It has not been posted at the DOJ website yet and is usually available by now.

I would strongly suggest you request from the same office the number of voter fraud cases prosecuted over the last 9 or 10 years. As far as I can tell, there has not been a single prosecution whatsoever for any double voting or any non-citizen voting. I know with certainty that multiple instances of double voting and alien voting have been brought to the attention of the appropriate federal officials, and no action has been taken. Of course when you don't prosecute crimes, you tend to have more crimes. The cross check program in which at least two Commission members participate has yielded a demonstrable inventory of potential double voting. It is not possible that every single one of those is a false positive, and those that are not represent likely federal felonies. I know in some instances these matches were brought to the attention of the appropriate federal officials. Understanding the extent of un-prosecuted and known election crimes can inform the Commission's recommendations.

To summarize:

- 1) Would you please take steps to request from the Election Crimes Branch of the Justice Department their report that should have been produced for CY 2016 regarding election crimes.
- 2) Would you please take steps to request from the OPA or the Election Crimes Branch (or both) the aggregate number of voter fraud prosecutions from 2008 to present by category, particularly for non-citizen voting and double voting.

Christian Adams

Kossack, Andrew

From: Christian Adams
Sent: Monday, November 20, 2017 4:55 PM
To:

Subject: [EXTERNAL] Suggested data request for Commission

Andrew and Kris:

I would suggest that when you have the opportunity, that the Commission should obtain some public information prior to our next meeting.

You may recall that shortly before our Sept. 12 New Hampshire meeting, the Public Interest Legal Foundation released a preliminary report finding 616 non-U.S. citizens in the state of New Jersey in the voter registration system. A copy of the initial report entered into the record on September 12 can be found, [here](#). The figure is no doubt under-inclusive as it represents only those who *admitted* to their foreign citizenship status.

After our last meeting, we completed our survey of every New Jersey county, a survey that was merely in-progress on September 12. The results should be of interest to the Commission.

The completed survey of self-reported alien voter registration in New Jersey nearly doubled the preliminary finding. In all, 1,069 noncitizens were given unique voter identification numbers. Many of them managed to vote, sometimes repeatedly. Seventy-five percent of these cases resulted from a flawed Motor Voter transaction system —typically from the DMV and community college admissions documents. Based on the records returned, PILF could comfortably determine that pending naturalization applications were the core drivers for noncitizens to self-report their unlawful registration.

Registration and voting by noncitizens violates both state and federal law, and are grounds for removal under 8 U.S.C. 1227(a)(6). Our systems should work better for the sake of citizens and immigrants alike. After all, even when an alien unwittingly registers to vote, they are jeopardizing their efforts to naturalize.

The Commission should:

1. Gathering similar cancellations/deletions of noncitizen registration like those found in the New Jersey survey. This isn't complicated, and I am surprised that nobody attempted to catalog this before PILF began doing so in 2016. Federal law already provides any requestor full access to this information in all but six states.
2. Contact the U.S. Customs and Immigration Services to access metadata or reports, where available, involving the number of applicants for citizenship whose applications were frozen, denied, or approved given their answers to questions involving registration and voting activity. Question 12 on the N-400 federal form specifically gathers such information from each prospective American. Many applicants note they have been registered to vote and are voting. We should find the actual volume on federal records. Who could deny this is relevant information to the extent of problems with election integrity and squarely within the charge of the Commission?
3. Obtain from the Executive Office for Immigration Review of the Justice Department of all current and past immigration court cases where aliens were considered removable due to their unlawful participation in elections under 8 U.S.C. 1227(a)(6).

4. We should discuss building a survey or interview framework for each of the states subject to the NVRA to identify best practices and Motor Voter configurations in need of upgrades/fixes. I raise this issue in light of recent revelations in Pennsylvania, where state officials admitted that their registration system offered voter registration opportunities to all driver's license customers--even those with Green Cards--dating back to the mid-1990s. The state official responsible for the statewide election system resigned subsequent to the revelation that aliens were systematically getting on the voter rolls. It's worth noting that a cursory search of the most vocal critics of the commission in the mercenary media have failed to mention the circumstances in Pennsylvania even once, as if they do not exist.

I realize you have quite a bit to do right now. But beginning to do real research about the extent of alien registration and voting isn't difficult, and shouldn't be controversial. After all, who wouldn't want to improve a system that is showing real empirical flaws?

I'm happy to discuss with any of you this suggestion.

J. Christian Adams