



## ERRONEOUS VOTER PURGES

Many Americans first became aware of “list maintenance,” the process by which election officials remove voters’ names from the rolls because they have become ineligible to vote, have duplicate registrations, have moved from the jurisdiction where they registered to vote, or for other reasons as permitted by law, after the 2000 presidential election. At that time, we learned that thousands of African American citizens had been erroneously removed from the voting rolls, or “purged,” in Florida because of alleged felony convictions – one of the most egregious wrongs that occurred during that election. In general, the purge process has two steps: identifying voters who are deemed ineligible to vote consistent with state law and the National Voter Registration Act of 1993 (NVRA) and other federal law; and verification and notice procedures to ensure accuracy and an opportunity to correct errors before removing voters in accordance with the law. As states develop computerized voter registration databases, as required by the Help America Vote Act of 2002 (HAVA), they must also adopt safeguards to ensure that eligible voters are not removed from the databases erroneously and that “only voters who are not registered or who are not eligible to vote are removed.” HAVA, Sec. 15483(a)(2)(B)(ii).

### What causes erroneous voter purges?

There were two main sources of error in the felon purge process used in Florida in 2000<sup>1</sup>: the use of overbroad criteria to “match” eligible voters with ineligible felons<sup>2</sup> and the use of incomplete, inaccurate and unreliable databases and data sources for matching purposes. These errors were exacerbated by the fact that:

- **There was a presumption that the ex-felon purge lists provided to local election officials were accurate.**
- **Actual notice to voters who had been identified as ineligible to vote was not required before they were removed.**
- **The burden of proof was placed on voters to demonstrate their eligibility rather than on election officials to prove that the voters were ineligible.**

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<sup>1</sup> For in-depth analysis of the Florida felon purge process in 2000, *see* U.S. Commission on Civil Rights, “The Reality of List Maintenance,” *Voting Irregularities in Florida During the 2000 Presidential Election*, June 2001; Gregory Palast, “Florida’s ‘Disappeared Voters’: Disfranchised by the GOP,” *The Nation.*, Feb. 5, 2001, at 20.

<sup>2</sup> For instance, only a 90% match of an eligible voter’s last name with an ineligible felon’s last name resulted in the voter being tagged as potentially ineligible.

- **Election officials had limited time to independently and rigorously verify the data and data sources.**

Additional problems with states' felon purge procedures were recently documented in a report issued before the 2004 elections, including:

- **Lack of a regular mechanism to adjust individuals' eligibility status when their convictions are overturned.**
- **Infrequent data updates of information used to make eligibility decisions, which increases the likelihood of inaccurate purges based on outdated information.**<sup>3</sup>

### How can states and election officials protect against erroneous purges?

There is currently no method of generating reliable, error-free lists of duplicate records or of potentially ineligible voters by matching data from different sources. In light of this fact, and HAVA's requirements that states establish safeguards to ensure that eligible voters are not removed in error from voter registration databases and that names are removed from statewide voter registration databases in compliance with the NVRA, states should follow these guidelines in removing duplicate records and the records of ineligible voters from statewide voter registration databases:

- **Any uncertainty concerning voters' eligibility must be resolved in their favor – with the presumption that they are eligible to remain on the list.**
- **States must adopt uniform, non-discriminatory, transparent, specific and written criteria for determining when a voter registration record is a duplicate or belongs to an ineligible voter and therefore is subject to removal from the voter list.** If data and databases are “matched” to generate names of potentially duplicate or ineligible voters, states must require a 100% match on all criteria used to identify potentially duplicate or ineligible voters and avoid manipulating the data and criteria in an effort to increase the number of “matches.”
- **States must establish procedures to double-check matches at the state and county levels and to correct voter registration records before concluding that a record potentially is a duplicate or belongs to an ineligible voter.**
- **Before removing any name from the statewide list, election officials must notify the voter and provide her or him with an opportunity to correct any error or omission in the voter's record or to inform election officials that they have identified the wrong person.** Voters should receive actual notice that their voting rights are at risk – if an election official learns that a voter has not received actual notice, e.g. a letter mailed to the voter is returned undeliverable, the voter should not be removed.

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<sup>3</sup> See ACLU, Demos and Right to Vote, *Purged!: How a patchwork of flawed and inconsistent voting systems could deprive millions of Americans of the right to vote*, October 2004.

- **Regular, organized computer list maintenance activities and purges must be completed no later than 90 days before primary or general elections**, except with respect to voters who request removal, who die during that time period, or who become ineligible during that time period due to criminal convictions or other reasons.
- **States must implement security measures to protect against unauthorized database transactions**, including transactions that result in the removal of names of eligible voters from the statewide voter registration database.

### **In States that Disqualify Felons from Voting:**

- **States must standardize the felon conviction data that state- and/or county-level agencies and departments provide, and require that these agencies transmit and update the data frequently.**
- **Information concerning whether individuals convicted of felonies have been granted clemency, have had their convictions overturned, or otherwise have had their voting rights reinstated must be incorporated into the same computerized voter registration system**, and kept in the same format, as information concerning felony convictions, so that voters' eligibility status can be updated in real time and continuously.
- **Statewide voter registration databases must have appropriate linkages with the state- and county-level agencies and departments that collect information concerning when individuals have been released from incarceration, probation or parole** (such as courts, departments of corrections, and parole and probation agencies), so that this information can be transmitted electronically to the computerized voter registration database in real time and voters' eligibility status can be updated continuously.