

PUBLIC INTEREST

— LEGAL FOUNDATION —

VIA FIRST CLASS MAIL

August 27, 2015

Cathy Garrett
Wayne County Clerk
2 Woodward Ave.
City-County Bldg., Rm. 502
Detroit, MI
48226-3463

Dear Clerk Garrett:

I am writing on behalf of the Public Interest Legal Foundation (PILF) to notify you that your county is in apparent violation of Section 8 of the National Voter Registration Act (NVRA) based on our research.

The PILF is a nonpartisan, nonprofit, public-interest law firm that specializes in conducting civil litigation in high-profile matters affecting elections, voting, and other political processes of the nation and providing the public with information regarding efforts to damage the integrity of American elections.

Voter rolls across America have been discovered that contain substantial numbers of ineligible voters, resulting in the possible disenfranchisement of legally eligible voters via ballot dilution that threatens to subvert the nation's electoral process.

Based on our comparison of publicly available information published by the U.S. Census Bureau and the federal Election Assistance Commission, your county is failing to comply with Section 8 of the NVRA. Federal law requires election officials to conduct a reasonable effort to maintain voter registration lists free of dead voters, ineligible voters and voters who have moved away, 52 U.S.C. §§ 20507(a)(4) and 21083(a)(2)(A)(ii)(I).

In short, your county has significantly more voters on the registration rolls than it has eligible live voters and is thus not reasonably maintaining the rolls.

The Attorney General of the United States may enforce the list maintenance requirements of Section 8 of NVRA to ensure that ineligible voters are not participating in the political process, but she has failed to do so. PILF has therefore taken on the task of notifying you of your county's violation of the law.

This letter serves as the statutory notice to your county, required by 52 U.S.C. § 20510(b)(2) prior to the commencement of any lawsuit under 52 U.S.C. § 20510(b), in order to enforce provisions of Section 8 of the National Voter Registration Act, 52 U.S.C. § 20507. It appears that your county is in violation of Section 8 of the NVRA.

It is our hope that your county will work quickly towards full compliance with 52 U.S.C. § 20507. If it does not, pursuant to federal law, a lawsuit under the NVRA may be filed after the receipt of this notice by a private party because the NVRA contains a private right of action to enforce the provisions of the statute. *See* 52 U.S.C. § 20510(b)(2). For any lawsuits initiated by a private party pursuant to the NVRA, an award of attorney's fees, expenses and costs incurred are available under 52 U.S.C. § 20510(c).

If you believe the registration information reported by the Election Assistance Commission for 2014 is inaccurate, please state the basis for that belief. In particular, if the publicly available information cited above is no longer accurate, it would be helpful if you could provide the following:

- (a) updated registration data since the publication of the 2014 EAC report;
- (b) purge date(s);
- (c) the number of ineligible voters purged by category (e.g., dead, duplicate, ineligible) and by date;
- (d) the source agency that provided the identifying information of the purged deceased;
- (e) the date of the deceased data, meaning how fresh the deceased data was that was provided by third-party agencies;
- (f) the number of notices sent to inactive voters since the publication of the EAC report;
- (g) the names of the staff in your office responsible for conducting list maintenance obligations;
- (h) the number of ineligible voters removed for criminal conviction, if applicable, and the date of the most recent dataset containing criminal convictions against which you compared voter lists; and,
- (i) the total number of voters registered in your county as of the date of your response.

Section 8 requires your county office to also make available for public inspection “all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.” 52 U.S.C. § 20507(i)(1); *see also, Project Vote / Voting for Am., Inc. v. Long*, 682 F.3d 331 (4th Cir. 2012) (The NVRA requires local election officials to provide voter registration data to the public).

We are hopeful that full compliance with our request will make a public inspection of your county's registration data unnecessary; and we are particularly hopeful that the data contained in your response might demonstrate that your number of registered voters no longer exceeds 100% of those eligible to vote. If not, we would like to inspect your registration records at a time convenient to the responsible county officials prior to November 16, 2015.

Since steps necessary to ensure that only eligible voters are on the rolls will not involve significant effort or cost, we believe it is reasonable to expect your county's voter roll violations to be resolved before voting begins in the November 2016 elections.

Thank you for your time and attention to this matter. Please feel free to arrange a convenient time to discuss and arrange an inspection by contacting Noel Johnson at PILF at 209 W. Main St., Plainfield, IN 46168, or send e-mail to njohnson@publicinterestlegal.org

Sincerely,

Noel Johnson
Public Interest Legal Foundation

CC: Ruth Johnson
Michigan Secretary of State
Michigan Department of State
Lansing, MI 48918