



Department of the Secretary of State

Bureau of Corporations, Elections and Commissions

Matthew Dunlap
Secretary of State

Julie L. Flynn
Deputy Secretary of State

January 30, 2020

Noel H. Johnson, Litigation Counsel
Logan Churchwell, Communications & Research Director
Public Interest Legal Foundation
32 E. Washington Street, Suite 1675
Indianapolis, Indiana 46204



RE: Request for "Maine Statewide Voter Registration List"

Dear Mr. Johnson and Mr. Churchwell:

In correspondence with the Secretary of State last October, your organization requested "the opportunity to inspect or receive a copy of the Maine statewide voter registration list" pursuant to the disclosure provisions in section 8(i) of the National Voter Registration Act of 1993, 52 U.S.C. 20507(i). (The first letter from Mr. Churchwell stated that you would like to "receive or purchase an electronic copy of the Maine statewide voter registration list.") Maine does not have a "voter registration list," *per se*. Instead, we have a centralized electronic voter registration system, known as the "CVR," which was created pursuant to the Help America Vote Act. Different lists and reports can be generated from the CVR, but CVR is a dynamic database system that is constantly being accessed and updated by state and local election administrators.

Maine's election law provides that "information contained electronically in the central voter registration system and any information or reports generated by the system are confidential and may be accessed *only* by municipal and state election officials for the purposes of election and voter registration administration, and by others *only* as provided in this section." 21-A M.R.S. §196-A(1) (emphasis added). Section 196-A lists different types of reports that are available to certain persons and organizations to purchase for specific purposes. Organizations that are engaged in election campaigns or "get out the vote" efforts, for example, are allowed to purchase a report known as a "party/campaign use voter file" that includes the specific fields of data described in §196-A(1)(B). The persons and entities that are entitled to purchase an electronic "list or report" of voter information from the CVR, as described in §196-A(1)(B), do not expressly include an organization such as yours that is not engaged in a campaign or "get out the vote" effort. It is for that reason that your initial inquiry was met with a denial.

We understand that the state has an obligation to allow inspection of "records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters" pursuant to section 8(i) of the NVRA. We believe that

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providing you with an opportunity to inspect relevant records under NVRA section 8(i) constitutes performance of our “election and voter registration administration” duties as state election officials in accordance with §196-A(1), while also complying with the NVRA. However, state law does not allow us to provide you with an electronic copy of the CVR database, or any report in electronic form generated by the CVR other than as described in section 196-A(1)(D) or (F). It is unclear exactly what you mean by a “statewide voter registration list.” Accordingly, it would be helpful if you would describe, with greater specificity, what records (or data fields) you would like to inspect that you believe are within the scope of NVRA section 8(i).

The enclosed report that we recently submitted to the Legislature on administration of the CVR summarizes Maine’s “programs and activities” conducted over the past year to maintain the accuracy and completeness of voter data in the CVR. It also includes cumulative data on these activities since implementation of the CVR. This reflects work conducted by municipal election officials in 500 jurisdictions, as well as by our office.

In addition to regular on-going maintenance of the CVR, our office conducted a system-wide voter list maintenance process in 2007, 2009, 2011, and 2013. In 2007, we matched a list of all voters in CVR to the U.S. Postal Service National Change of Address (NCOA) data. In the subsequent odd-numbered years, we matched all voters who had not voted in the previous general election to the NCOA data. Each time, we followed up by mailing the change of address confirmation card (CACC) to all voters who matched, and making inactive those voters whose CACCs were returned undeliverable or were not returned within 20 days after mailing. In 2017, we conducted additional maintenance activities using data provided by Crosscheck, which enabled us to cancel voters who were registered to vote in another state and had voted in that other state after having previously registered in Maine. Paper copies of records reflecting this effort in 2017 are still available in our office, and we could provide photocopies of those to you if you wish.

This year, we plan to send out a mailing, pursuant to NVRA section 8(d)(2), after either the presidential primary on March 3, 2020, or the primary for other federal and state offices on June 9, 2020. At the conclusion of that effort, we could provide you with a list of the voters who received those notices, the text of the notice, and the lists of voters made inactive or canceled based on the results of that mailing.

If you would like to obtain photocopies as described above, or to arrange a date and time to come to our office in Augusta, Maine to inspect other records in the CVR, please contact me at: (207) 624-7736 or julie.flynn@maine.gov. I have copied our legal counsel on this letter, so if you wish to discuss any legal matters, please contact her at (207) 626-8830 or phyllis.gardiner@maine.gov. Thank you.

Sincerely,



Julie L. Flynn
Deputy Secretary of State

Encl.

cc: Matthew Dunlap, Secretary of State
Phyllis Gardiner, Assistant Attorney General

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