

Director's Office
240 Main Street Suite 400
P.O. Box 110017
Juneau, Alaska 99811-0017
☎ 907-465-4611 📠 907-465-3203
elections@alaska.gov



Elections Offices ☎
Absentee-Petition 907-270-2700
Anchorage 907-522-8683
Fairbanks 907-451-2835
Juneau 907-465-3021
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STATE OF ALASKA
Division of Elections
Office of the Lieutenant Governor

September 16, 2021

Mr. Logan Churchwell, Research Director
Public Interest Legal Foundation
lchurchwell@publicinterestlegal.org

Dear Mr. Churchwell:

On August 11, 2021, the Division of Elections (DOE) received your request for records under the National Voter Registration Act (NVRA). You requested: (1) data the Electronic Registration Information Center (ERIC) provided to DOE in 2019, 2020, and 2021 that identifies “deceased or potentially deceased” voters; and (2) reports or lists showing the voters DOE “removed from the list of eligible voters for reason of death for the years 2019, 2020, and 2021.” You specifically sought these voters’ “unique voter identification numbers, county or locality, full names, addresses, and dates of birth.”

Under federal law, DOE cannot provide the ERIC data identifying deceased or potentially deceased voters. Assuming that the NVRA’s disclosure requirement applies, it is subject to other federal laws. *Pub. Int. Legal Found. v. Boockvar*, 431 F. Supp. 3d 553, 563 (M.D. Pa. 2019) (holding the NVRA is subject to the Driver’s Privacy Protection Act). As you acknowledge, the source of ERIC’s data concerning deceased and potentially deceased voters is the Social Security Administration’s Limited Access Death Master File. Federal law protects the information contained in the Death Master File and permits disclosure only to certified entities. 42 USC 1306c; 15 CFR 1110.102. Accordingly, DOE cannot disclose the requested deceased-voter data.

In response to your second request, enclosed is a list of deceased voters DOE removed from the voter registration list between January 1, 2019 and August 11, 2021. As a courtesy, DOE includes data from more than two years ago because it is easily accessible and providing it did not cause DOE to incur any extra costs. *See* 52 USC 20507(i)(1) (requiring that states maintain records for only two years). The list does not include the voters’ dates of birth, because that information is confidential. *See* AS 15.07.195; *Project Vote, Inc. v. Kemp*, 208 F. Supp. 3d 1320, 1345 (N.D. Ga. 2016); *True the Vote v. Hosemann*, 43 F. Supp. 3d 693, 732-33 (S.D. Miss. 2014).

Sincerely,

A handwritten signature in blue ink that reads "Gail Fenumiai".

Gail Fenumiai, Director

Enclosure