



## FACTSHEET | The Six-Year Fight to Obtain Alien Voting Records in Pennsylvania

The Public Interest Legal Foundation (PILF) is fighting to obtain records detailing how Pennsylvania investigated and removed aliens from the voter roll after a so-called “glitch” allowed them to register to vote for decades.

- In 2017, Pennsylvania Secretary of State Robert Torres admitted that a so-called “glitch” had allowed **aliens to register to vote** when they got their driver's licenses in Pennsylvania for **more than two decades**.
- Al Schmidt, then the Philadelphia City Commissioner, testified before the Pennsylvania Senate that State Department officials briefed him on a study that identified **more than 100,000** registered voters who may lack U.S. citizenship.
  - Schmidt called on the State Department to release the details of its findings to county election boards, so counties could start to investigate and remove aliens from the voter rolls.
  - In an ironic turn of events, Al Schmidt is now Pennsylvania’s Secretary of State and is fighting the release of these alien voting records.
- To help identify the aliens on the voter roll, Pennsylvania hired an unknown expert—whose name, qualifications, and research methods remain a mystery to the public.
  - This expert mysteriously dwindled the list of suspected aliens on the voter roll from 100,000 to 11,198.
  - The public has a right to know what happened to the other 89,000 registrants who were suspected of lacking citizenship.
- Pennsylvania refuses to identify the suspected aliens they identified on the voter rolls, their voting histories, the name of the expert they hired to identify aliens on the voter roll, and the process he used to determine citizenship status.

**Under federal law, the public has a right to see records relating to aliens on the voter roll, how the Commonwealth identified them, and the steps they took to ensure they were removed.**

- The **National Voter Registration Act of 1993 (NVRA)** includes a public disclosure provision that **broadly requires access to all** voter list maintenance records, including records relating to alien registration and voting.
- The NVRA’s public disclosure provision was intended to allow oversight and accountability of election officials.
- In prior cases, PILF has won access to alien voting records in North Carolina and Texas.
- The Department of Justice filed a brief with the Third Circuit Court of Appeals agreeing that under the NVRA PILF is entitled to these records.

**States cannot hide voter list maintenance documents behind attorney work product privilege.**

- Pennsylvania argues the analysis performed by the outside expert to identify the aliens on the voter roll—including their names—is shielded by the **attorney work product doctrine** because it was done in anticipation of litigation.
- The analysis was conducted not for litigation but to remedy a decades-long list maintenance mistake.
- Allowing Pennsylvania to hide these records behind the work product doctrine would obliterate the NVRA by incentivizing election officials to funnel list maintenance work through their lawyers’ offices.