



**Judicial  
Watch**  
*Because no one  
is above the law!*

March 24, 2014

The District of Columbia Board of Elections  
Deborah Nichols, Member  
Stephen Danzansky, Member  
Devarieste Curry, Member  
Clifford D. Tatum, Executive Director  
441 4th Street, NW, Suite 250 North  
Washington, DC 20001

**Re: Violations of Section 8 of the National Voter Registration Act, 42 U.S.C. § 1973gg-6**

Dear Members and Director of the Board:

We write to bring your attention to violations of Section 8 of the National Voter Registration Act ("NVRA") in the District of Columbia ("DC" or the "District"). NVRA Section 8 requires the District to maintain accurate lists of eligible voters for use in conducting federal elections.<sup>1</sup> As you may know, Congress enacted Section 8 of the NVRA to protect the integrity of the electoral process. Allowing the names of ineligible voters to remain on the voting rolls harms the integrity of the electoral process and undermines voter confidence in the legitimacy of elections. As the U.S. Supreme Court has stated, "[P]ublic confidence in the integrity of the electoral process has independent significance, because it encourages citizen participation in the democratic process."<sup>2</sup>

This letter serves as statutory notice that Judicial Watch will bring a lawsuit against your office if you do not take specific actions to correct these violations of Section 8 within 90 days. In addition, by this letter we are asking you to produce certain records to us which you are required to make available under Section 8(i) of the NVRA.<sup>3</sup> We hope that litigation will not be necessary to enforce either of these claims.

Judicial Watch is a non-profit organization that seeks to promote integrity, transparency, and accountability in government and fidelity to the rule of law. As part of its mission, Judicial Watch is committed to the private enforcement of the NVRA, and we regularly commence and litigate NVRA lawsuits. We settled an NVRA lawsuit against the State of Ohio just a few weeks ago, and we are currently litigating a lawsuit against the State of Indiana over its failure to

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<sup>1</sup> In the District of Columbia, responsibility to coordinate statewide NVRA Section 8 compliance lies with the Board of Elections' Office. See 42 U.S.C. § 1973gg-10.

<sup>2</sup> *Crawford et al. v. Marion County Election Board*, 553 US 181, 197 (2008).

<sup>3</sup> 42 U.S.C. § 1973gg-6(i).

maintain its voter rolls. *Judicial Watch and True the Vote v. Husted*, Civil Action No. 2:12-cv-00792 (S.D. Oh.); *Judicial Watch, et al. v. King*, Case No. 1:12-cv-00800 (S.D. Ind.).

As the top election officials in DC, it is your responsibility under federal law to coordinate DC's effort to conduct a program that reasonably ensures the lists of eligible voters are accurate. The following information explains how we determined that DC is in violation of NVRA Section 8 and the remedial steps you now must take to comply with the law.

**1. The NVRA Requires You to Undertake Reasonable Efforts to Maintain Accurate Lists of Eligible Registered Voters**

Under Section 8 of the NVRA, DC is required to undertake a uniform, nondiscriminatory voter registration list maintenance program that complies with the Voting Rights Act of 1965.<sup>4</sup> Specifically, Section 8 requires the District to make a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters due to (A) "the death of the registrant" or (B) "a change in the residence of the registrant" to a place outside the jurisdiction in which he or she is registered.<sup>5</sup> Section 8 also requires the District to ensure noncitizens are not registered to vote.<sup>6</sup>

The list maintenance obligations of Section 8 of the NVRA were elaborated upon by the Help America Vote Act ("HAVA"), which requires the District to "ensure that voter registration records in the State are accurate and updated regularly" and undertake a "system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters."<sup>7</sup> HAVA also requires the District to coordinate its computerized statewide voter registration list with its agency death records.<sup>8</sup> Finally, HAVA requires the District to remove convicted felons from the voter rolls if felons cannot vote under state law.<sup>9</sup> As the chief election officials for DC, you are required to both lead and conduct all voter list maintenance efforts in the District.<sup>10</sup>

Programs to remove the names of ineligible voters from the official lists of eligible voters must be completed 90 days prior to a primary or general election.<sup>11</sup> This year's general election is on November 4, 2014, so your "systematic" list maintenance activities must be completed by

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<sup>4</sup> 42 U.S.C. § 1973gg-6(b)(1).

<sup>5</sup> 42 U.S.C. § 1973gg-6(a)(4).

<sup>6</sup> *U.S. v. Florida*, 870 F. Supp. 2d 1346, 1351 (N.D. Fla. 2012) ("For noncitizens, the state's duty is to maintain an accurate voting list . . . A state can and should . . . block a noncitizen from registering in the first place").

<sup>7</sup> 42 U.S.C. §§ 15483(a)(4) and 15483(a)(4)(A).

<sup>8</sup> 42 U.S.C. § 15483(a)(2)(A)(ii)(II).

<sup>9</sup> 42 U.S.C. § 15483(a)(2)(A)(ii) and (ii)(I).

<sup>10</sup> *U.S. v. Missouri*, 535 F.3d 844, 850-851 (8th Cir. 2008).

<sup>11</sup> 42 U.S.C. § 1973gg-6(c)(2)(A).

August 8, 2014, while your routine list maintenance activities should continue through the day of the election.<sup>12</sup>

## **2. DC is Not Maintaining Accurate Eligible Voter Lists**

Based on our review of 2010 and 2012 data from the U.S. Census Bureau and the U.S. Election Assistance Commission ("EAC"), DC is failing to comply with the voter registration list maintenance requirements of Section 8 of the NVRA. Specifically, a review of Census data and EAC data shows there were more people registered to vote in DC than there were adults over the age of 18 living there as of 2010, and as of 2012, which is the most recent data available. Your failure to maintain accurate, up-to-date voter registration lists has created the risk that future elections in DC will lack the integrity required by the NVRA, and will therefore undermine public confidence in the electoral process.

## **3. Failure to Comply with NVRA Subjects You to Lawsuits and Financial Costs**

In passing the NVRA, Congress authorized a private right of action to enforce the provisions of the NVRA, including Section 8. Accordingly, Judicial Watch and others may bring a lawsuit against you under the NVRA if you fail to correct these violations within 90 days of your receipt of this letter.<sup>13</sup> You are receiving this letter because you are the designated chief election official(s) for the District under the NVRA.

Congress also authorized awards of attorney's fees, including litigation expenses and costs, to the prevailing party.<sup>14</sup> Consequently, if we initiate a lawsuit under the NVRA and the court finds you in violation, you will be responsible for paying our attorneys' fees, costs, and litigation expenses.

## **4. Avoiding Litigation**

In order to avoid litigation, we hope you will promptly initiate efforts to comply with Section 8 so that no lawsuit will be necessary. We ask you to please respond to this letter in writing no later than 45 days from today informing us of the compliance steps you are taking. Specifically, we ask you to: (1) conduct or implement a systematic, uniform, nondiscriminatory program to remove from the list of eligible voters the names of persons who have become ineligible to vote by reason of a change in residence; (2) complete this program no less than 90 days prior to the November election; (3) conduct or implement additional routine measures to remove from the list of eligible voters the names of persons who have become ineligible to vote by reason of death, change in residence, or a disqualifying criminal conviction, and to remove noncitizens who have registered to vote unlawfully.

<sup>12</sup> *U.S. v. Florida*, 870 F. Supp. 2d 1346, 1350 (N.D. Fla. 2012).

<sup>13</sup> 42 U.S.C. § 1973gg-9(b)(2).

<sup>14</sup> 42 U.S.C. § 1973gg-9(c).

When you respond to this letter, please identify all the steps you are taking or plan to take in detail, and advise us of the results of those efforts or the target implementation date for each activity or program you will be undertaking. If you plan to begin taking new steps in 2014 to comply with your obligations, please outline them to us in your response, providing specific dates for completion of each activity. In order to avoid litigation, we may seek certain reasonable assurances that DC will affirmatively undertake the steps outlined, up to and including the execution of a settlement agreement between you and Judicial Watch. You may wish to consult Judicial Watch's recent settlement agreement with the State of Ohio for examples of certain activities which tend to show compliance with NVRA Section 8.<sup>15</sup> You should also evaluate whether your office is communicating and coordinating effectively for list maintenance purposes with the various federal and District entities listed immediately below in Section 5 of this letter.

## **5. Production of Records**

Finally, pursuant to your obligations under the NVRA,<sup>16</sup> please make available to us all pertinent records concerning "the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency" of DC's official eligible voter lists during the past 2 years. Please include these records with your response to this letter. These records should include, but are not limited to:

1. Copies of all email or other communications internal to the office of the DC Board of Elections, including any of its divisions, bureaus, offices, third party agents, or contractors, (hereinafter, collectively "Board's Office") relating to the maintenance of accurate and current voter rolls, including:
2. Copies of all email or other communications between the Board's Office and the DC Department of Health, the DC Department of Corrections, the DC Department of Motor Vehicles, and the DC Judiciary concerning obtaining information about deceased, relocated, convicted, or noncitizen registered voters for the purpose of updating DC's voter registration lists.
3. Copies of all email or other communications between the Board's Office and the U.S. Attorney for DC, the U.S. District Court for DC, the U.S. Social Security Administration, the U.S. Postal Service, and the U.S. Department of Homeland Security concerning obtaining information about deceased, relocated, convicted, or noncitizen registered voters for the purpose of updating DC's voter registration lists.
4. Copies of all email or other communications between the Board's Office and the Interstate Voter Registration Cross-Check Program, the Electronic Registration

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<sup>15</sup> A copy of the Settlement Agreement between Judicial Watch and Ohio is available at <http://www.judicialwatch.org/wp-content/uploads/2014/01/01-14-Ohio-Voter-Rolls-Settlement.pdf>.

<sup>16</sup> 42 U.S.C. § 1973gg-6(i).

Members and Director of the District of Columbia Board of Elections

March 24, 2014

Page | 5

Information Center, the National Association for Public Health Statistics and Information Systems, and any other U.S. State concerning obtaining information about deceased or relocated registered voters for the purpose of updating DC's voter registration lists.

If you do not produce these records within 45 days, or if you fail to otherwise advise us that you are making them available to us at specified times and locations, you will be deemed to be in violation of the NVRA and subject to litigation.

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We hope our concerns can be resolved amicably. However, with the November 2014 election on the horizon and in light of the importance of Section 8 of the NVRA to ensuring the integrity and legitimacy of the electoral process, we must emphasize the importance of timeliness. Accordingly, if we believe you do not intend to correct the above-identified problems, a federal lawsuit seeking declaratory and injunctive relief against you may be necessary. We look forward to receiving your prompt response.

Sincerely,

**JUDICIAL WATCH, INC.**



Thomas J. Fitton  
President

By: Federal Express  
cc: Robert D. Popper, Esq.



**Judicial  
Watch**  
*Because no one  
is above the law!*

March 24, 2014

The Honorable Scott Gessler  
Colorado Secretary of State  
1700 Broadway, Suite 200  
Denver, CO 80290

**Re: Violations of Section 8 of the National Voter Registration Act, 42 U.S.C. § 1973gg-6**

Dear Secretary Gessler:

We write to bring your attention to violations of Section 8 of the National Voter Registration Act ("NVRA") in Colorado. NVRA Section 8 requires states to maintain accurate lists of eligible voters for use in conducting federal elections.<sup>1</sup> As you may know, Congress enacted Section 8 of the NVRA to protect the integrity of the electoral process. Allowing the names of ineligible voters to remain on the voting rolls harms the integrity of the electoral process and undermines voter confidence in the legitimacy of elections. As the U.S. Supreme Court has stated, "[P]ublic confidence in the integrity of the electoral process has independent significance, because it encourages citizen participation in the democratic process."<sup>2</sup>

This letter serves as statutory notice that Judicial Watch will bring a lawsuit against your office if you do not take specific actions to correct these violations of Section 8 within 90 days. In addition, by this letter we are asking you to produce certain records to us which you are required to make available under Section 8(i) of the NVRA.<sup>3</sup> We hope that litigation will not be necessary to enforce either of these claims.

Judicial Watch is a non-profit organization that seeks to promote integrity, transparency, and accountability in government and fidelity to the rule of law. As part of its mission, Judicial Watch is committed to the private enforcement of the NVRA, and we regularly commence and litigate NVRA lawsuits. We settled an NVRA lawsuit against the State of Ohio just a few weeks ago, and we are currently litigating a lawsuit against the State of Indiana over its failure to maintain its voter rolls. *Judicial Watch and True the Vote v. Husted*, Civil Action No. 2:12-cv-00792 (S.D. Oh.); *Judicial Watch, et al. v. King*, Case No. 1:12-cv-00800 (S.D. Ind.).

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<sup>1</sup> In Colorado, responsibility to coordinate statewide NVRA Section 8 compliance lies with the Secretary of State's Office. See 42 U.S.C. § 1973gg-10.

<sup>2</sup> *Crawford et al. v. Marion County Election Board*, 553 US 181, 197 (2008).

<sup>3</sup> 42 U.S.C. § 1973gg-6(i).

As the top election official in Colorado, it is your responsibility under federal law to coordinate Colorado's statewide effort to conduct a program that reasonably ensures the lists of eligible voters are accurate. The following information explains how we determined that your state is in violation of NVRA Section 8 and the remedial steps you now must take to comply with the law.

**1. The NVRA Requires You to Undertake Reasonable Efforts to Maintain Accurate Lists of Eligible Registered Voters**

Under Section 8 of the NVRA, Colorado is required to undertake a uniform, nondiscriminatory voter registration list maintenance program that complies with the Voting Rights Act of 1965.<sup>4</sup> Specifically, Section 8 requires states to make a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters due to (A) "the death of the registrant" or (B) "a change in the residence of the registrant" to a place outside the jurisdiction in which he or she is registered.<sup>5</sup> Section 8 also requires states to ensure noncitizens are not registered to vote.<sup>6</sup>

The list maintenance obligations of Section 8 of the NVRA were elaborated upon by the Help America Vote Act ("HAVA"), which requires states to "ensure that voter registration records in the State are accurate and updated regularly" and undertake a "system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters."<sup>7</sup> HAVA also requires each state to coordinate its computerized statewide voter registration list with state agency death records.<sup>8</sup> Finally, HAVA requires all states to remove convicted felons from the voter rolls if felons cannot vote under state law.<sup>9</sup>

As the chief state election official for Colorado, you are required to lead and direct voter list maintenance efforts in your state, and you must conduct an active oversight program to monitor local county election officials' list maintenance activities.<sup>10</sup> If your oversight reveals that counties have failed to adequately execute list maintenance tasks, you must either change the state's program to ensure county compliance, or assume direct responsibility over the failing counties' list maintenance tasks.<sup>11</sup>

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<sup>4</sup> 42 U.S.C. § 1973gg-6(b)(1).

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Programs to remove the names of ineligible voters from the official lists of eligible voters must be completed 90 days prior to a primary or general election.<sup>12</sup> This year's general election is on November 4, 2014, so your "systematic" list maintenance activities must be completed by August 8, 2014, while your routine list maintenance activities should continue through the day of the election.<sup>13</sup>

## **2. Colorado is Not Maintaining Accurate Eligible Voter Lists**

Based on our review of 2010 and 2012 data from the U.S. Census Bureau and the U.S. Election Assistance Commission ("EAC"), Colorado is failing to comply with the voter registration list maintenance requirements of Section 8 of the NVRA. For example, a comparison of 2010 Census data and 2010 EAC data shows there were more people registered to vote than there were adults over the age of 18 living in each of the following 10 counties: Mineral, Gilpin, Ouray, San Miguel, Hinsdale, San Juan, Jackson, Cheyenne, Elbert, and Summit. A comparison of 2012 Census population estimates and 2012 EAC data shows that this trend has only worsened. The 2012 data shows 22 counties with more people registered to vote than adult residents over 18: Mineral, Ouray, Hinsdale, San Juan, Jackson, Gilpin, Summit, San Miguel, Gunnison, Dolores, Teller, Grand, Clear Creek, Elbert, Cheyenne, Archuleta, Pitkin, Boulder, Douglas, Routt, and Baca.

Your failure to maintain accurate, up-to-date voter registration lists has created the risk that the November 2014 federal elections will lack the integrity required by the NVRA, and will therefore undermine public confidence in the electoral process.

## **3. Failure to Comply with NVRA Subjects You to Lawsuits and Financial Costs**

In passing the NVRA, Congress authorized a private right of action to enforce the provisions of the NVRA, including Section 8. Accordingly, Judicial Watch and others may bring a lawsuit against you under the NVRA if you fail to correct these violations within 90 days of your receipt of this letter.<sup>14</sup> You are receiving this letter because you are the designated chief state election official under the NVRA.

Congress also authorized awards of attorney's fees, including litigation expenses and costs, to the prevailing party.<sup>15</sup> Consequently, if we initiate a lawsuit under the NVRA and the court finds you in violation, you will be responsible for paying our attorneys' fees, costs, and litigation expenses.

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<sup>12</sup> 42 U.S.C. § 1973gg-6(c)(2)(A).

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#### 4. Avoiding Litigation

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1. Copies of all email or other communications internal to the office of the Colorado Secretary of State, including any of its divisions, bureaus, offices, third party agents, or contractors, (hereinafter, collectively "Secretary's Office") relating to the maintenance of accurate and current voter rolls.

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<sup>17</sup> 42 U.S.C. § 1973gg-6(i).

2. Copies of all email or other communications between the Secretary's Office and all Colorado County Voter Registration Officials concerning:
  - a. Instructions to the counties concerning their general list maintenance practices and obligations;
  - b. Instructions to the counties for the removal of ~~specific noncitizens and deceased~~, relocated, or convicted persons identified by the Secretary's Office; and
  - c. Notices to the counties concerning any failure to comply with their voter list maintenance obligations under Colorado's program.
3. Copies of all email or other communications between the Secretary's Office and the Colorado State Department of Health, the Colorado State Department of Corrections, the Colorado Department of Motor Vehicles, and the Colorado State Judiciary concerning obtaining information about deceased, relocated, convicted, or noncitizen registered voters for the purpose of updating Colorado's voter registration lists.
4. Copies of all email or other communications between the Secretary's Office and the U.S. Attorney(s) for Colorado, the U.S. District Court for Colorado, the U.S. Social Security Administration, the U.S. Postal Service, and the U.S. Department of Homeland Security concerning obtaining information about deceased, relocated, convicted, or noncitizen registered voters for the purpose of updating Colorado's voter registration lists.
5. Copies of all email or other communications between the Secretary's Office and the Interstate Voter Registration Cross-Check Program, the Electronic Registration Information Center, the National Association for Public Health Statistics and Information Systems, and any other U.S. State concerning obtaining information about deceased or relocated registered voters for the purpose of updating Colorado's voter registration lists.

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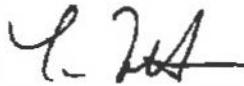
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The Honorable Scott Gessler  
March 24, 2014  
Page | 6.

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Sincerely,

**JUDICIAL WATCH, INC.**



Thomas J. Fitton  
President

By: Federal Express  
cc: Robert D. Popper, Esq.



**Judicial  
Watch**

*Because no one  
is above the law!*

March 24, 2014

The Honorable Matt Schultz  
Iowa Secretary of State  
Lucas Bldg., 1st Fl.  
321 E. 12th Street  
Des Moines, IA 50319

**Re: Violations of Section 8 of the National Voter Registration Act, 42 U.S.C. § 1973gg-6**

Dear Secretary Schultz:

We write to bring your attention to violations of Section 8 of the National Voter Registration Act ("NVRA") in Iowa. NVRA Section 8 requires states to maintain accurate lists of eligible voters for use in conducting federal elections.<sup>1</sup> As you may know, Congress enacted Section 8 of the NVRA to protect the integrity of the electoral process. Allowing the names of ineligible voters to remain on the voting rolls harms the integrity of the electoral process and undermines voter confidence in the legitimacy of elections. As the U.S. Supreme Court has stated, "[P]ublic confidence in the integrity of the electoral process has independent significance, because it encourages citizen participation in the democratic process."<sup>2</sup>

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<sup>1</sup> In Iowa, responsibility to coordinate statewide NVRA Section 8 compliance lies with the Secretary of State's Office. See 42 U.S.C. § 1973gg-10.

<sup>2</sup> *Crawford et al. v. Marion County Election Board*, 553 US 181, 197 (2008).

<sup>3</sup> 42 U.S.C. § 1973gg-6(i).

As the top election official in Iowa, it is your responsibility under federal law to coordinate Iowa's statewide effort to conduct a program that reasonably ensures the lists of eligible voters are accurate. The following information explains how we determined that your state is in violation of NVRA Section 8 and the remedial steps you now must take to comply with the law.

**1. The NVRA Requires You to Undertake Reasonable Efforts to Maintain Accurate Lists of Eligible Registered Voters**

Under Section 8 of the NVRA, Iowa is required to undertake a uniform, nondiscriminatory voter registration list maintenance program that complies with the Voting Rights Act of 1965.<sup>4</sup> Specifically, Section 8 requires states to make a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters due to (A) "the death of the registrant" or (B) "a change in the residence of the registrant" to a place outside the jurisdiction in which he or she is registered.<sup>5</sup> Section 8 also requires states to ensure noncitizens are not registered to vote.<sup>6</sup>

The list maintenance obligations of Section 8 of the NVRA were elaborated upon by the Help America Vote Act ("HAVA"), which requires states to "ensure that voter registration records in the State are accurate and updated regularly" and undertake a "system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters."<sup>7</sup> HAVA also requires each state to coordinate its computerized statewide voter registration list with state agency death records.<sup>8</sup> Finally, HAVA requires all states to remove convicted felons from the voter rolls if felons cannot vote under state law.<sup>9</sup>

As the chief state election official for Iowa, you are required to lead and direct voter list maintenance efforts in your state, and you must conduct an active oversight program to monitor local county election officials' list maintenance activities.<sup>10</sup> If your oversight reveals that counties have failed to adequately execute list maintenance tasks, you must either change the state's program to ensure county compliance, or assume direct responsibility over the failing counties' list maintenance tasks.<sup>11</sup>

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Programs to remove the names of ineligible voters from the official lists of eligible voters must be completed 90 days prior to a primary or general election.<sup>12</sup> This year's general election is on November 4, 2014, so your "systematic" list maintenance activities must be completed by August 8, 2014, while your routine list maintenance activities should continue through the day of the election.<sup>13</sup>

## **2. Iowa is Not Maintaining Accurate Eligible Voter Lists**

Based on our review of 2010 and 2012 data from the U.S. Census Bureau and the U.S. Election Assistance Commission ("EAC"), Iowa is failing to comply with the voter registration list maintenance requirements of Section 8 of the NVRA. For example, a comparison of 2010 Census data and 2010 EAC data shows there were more people registered to vote than there were adults over the age of 18 living in each of the following 10 counties: Fremont, Sac, Shelby, Adams, Cass, Johnson, Kossuth, Lyon, Dickinson, and Madison. A comparison of 2012 Census population estimates and 2012 EAC data shows that this trend has only worsened. The 2012 data shows 24 counties with more people registered to vote than adult residents over 18: Fremont, Johnson, Madison, Adams, Scott, Pocahontas, Kossuth, Poweshiek, Lyon, Iowa, Cass, Dickinson, Clay, Chickasaw, Shelby, Boone, Worth, Hancock, Ida, Dallas, Audobon, Sac, and Greene.

In addition, a review of your voter registration rolls indicates that over thirty thousand voters with currently active registrations have not voted in any election – federal, state, city, school, or special – or engaged in any new registration activity, for more than eight years. An attempt should have been made to contact these voters to determine whether their registrations should be cancelled or moved to the inactive list.

Your failure to maintain accurate, up-to-date voter registration lists has created the risk that the November 2014 federal elections will lack the integrity required by the NVRA, and will therefore undermine public confidence in the electoral process.

## **3. Failure to Comply with NVRA Subjects You to Lawsuits and Financial Costs**

In passing the NVRA, Congress authorized a private right of action to enforce the provisions of the NVRA, including Section 8. Accordingly, Judicial Watch and others may bring a lawsuit against you under the NVRA if you fail to correct these violations within 90 days of your receipt of this letter.<sup>14</sup> You are receiving this letter because you are the designated chief state election official under the NVRA.

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<sup>12</sup> 42 U.S.C. § 1973gg-6(c)(2)(A).

<sup>13</sup> *U.S. v. Florida*, 870 F. Supp. 2d 1346, 1350 (N.D. Fla. 2012).

<sup>14</sup> 42 U.S.C. § 1973gg-9(b)(2).

Congress also authorized awards of attorney's fees, including litigation expenses and costs, to the prevailing party.<sup>15</sup> Consequently, if we initiate a lawsuit under the NVRA and the court finds you in violation, you will be responsible for paying our attorneys' fees, costs, and litigation expenses.

#### **4. Avoiding Litigation**

In order to avoid litigation, we hope you will promptly initiate efforts to comply with Section 8 so that no lawsuit will be necessary. We ask you to please respond to this letter in writing no later than 45 days from today informing us of the compliance steps you are taking. Specifically, we ask you to: (1) conduct or implement a systematic, uniform, nondiscriminatory program to remove from the list of eligible voters the names of persons who have become ineligible to vote by reason of a change in residence; (2) complete this program no less than 90 days prior to the November election; (3) conduct or implement additional routine measures to remove from the list of eligible voters the names of persons who have become ineligible to vote by reason of death, change in residence, or a disqualifying criminal conviction, and to remove noncitizens who have registered to vote unlawfully.

When you respond to this letter, please identify all the steps you are taking or plan to take in detail, and advise us of the results of those efforts or the target implementation date for each activity or program you will be undertaking. If you plan to begin taking new steps in 2014 to comply with your obligations, please outline them to us in your response, providing specific dates for completion of each activity. In order to avoid litigation, we may seek certain reasonable assurances that Iowa will affirmatively undertake the steps outlined, up to and including the execution of a settlement agreement between you and Judicial Watch. You may wish to consult Judicial Watch's recent settlement agreement with the State of Ohio for examples of certain activities which tend to show compliance with NVRA Section 8.<sup>16</sup> You should also evaluate whether your office is communicating and coordinating effectively for list maintenance purposes with the various federal, state, and local entities listed immediately below in Section 5 of this letter.

#### **5. Production of Records**

Finally, pursuant to your obligations under the NVRA,<sup>17</sup> please make available to us all pertinent records concerning "the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency" of Iowa's official eligible voter lists during the past 2 years. Please include these records with your response to this letter. These records should include, but are not limited to:

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<sup>15</sup> 42 U.S.C. § 1973gg-9(c).

<sup>16</sup> A copy of the Settlement Agreement between Judicial Watch and Ohio is available at <http://www.judicialwatch.org/wp-content/uploads/2014/01/01-14-Ohio-Voter-Rolls-Settlement.pdf>.

<sup>17</sup> 42 U.S.C. § 1973gg-6(i).

The Honorable Matt Schultz

March 24, 2014

Page | 5

1. Copies of all email or other communications internal to the office of the Iowa Secretary of State, including any of its divisions, bureaus, offices, third party agents, or contractors, (hereinafter, collectively "Secretary's Office") relating to the maintenance of accurate and current voter rolls.
2. Copies of all email or other communications between the Secretary's Office and all Iowa County Voter Registration Officials concerning:
  - a. Instructions to the counties concerning their general list maintenance practices and obligations;
  - b. Instructions to the counties for the removal of specific noncitizens and deceased, relocated, or convicted persons identified by the Secretary's Office; and
  - c. Notices to the counties concerning any failure to comply with their voter list maintenance obligations under Iowa's program.
3. Copies of all email or other communications between the Secretary's Office and the Iowa State Department of Health, the Iowa State Department of Corrections, the Iowa Department of Motor Vehicles, and the Iowa State Judiciary concerning obtaining information about deceased, relocated, convicted, or noncitizen registered voters for the purpose of updating Iowa's voter registration lists.
4. Copies of all email or other communications between the Secretary's Office and the U.S. Attorneys for Iowa, the U.S. District Courts for Iowa, the U.S. Social Security Administration, the U.S. Postal Service, and the U.S. Department of Homeland Security concerning obtaining information about deceased, relocated, convicted, or noncitizen registered voters for the purpose of updating Iowa's voter registration lists.
5. Copies of all email or other communications between the Secretary's Office and the Interstate Voter Registration Cross-Check Program, the Electronic Registration Information Center, the National Association for Public Health Statistics and Information Systems, and any other U.S. State concerning obtaining information about deceased or relocated registered voters for the purpose of updating Iowa's voter registration lists.

If you do not produce these records within 45 days, or if you fail to otherwise advise us that you are making them available to us at specified times and locations, you will be deemed to be in violation of the NVRA and subject to litigation.

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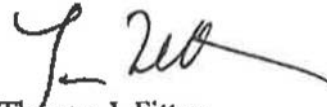


The Honorable Matt Schultz  
March 24, 2014  
Page 6

We hope our concerns can be resolved amicably. However, with the November 2014 election on the horizon and in light of the importance of Section 8 of the NVRA to ensuring the integrity and legitimacy of the electoral process, we must emphasize the importance of timeliness. Accordingly, if we believe you do not intend to correct the above-identified problems, a federal lawsuit seeking declaratory and injunctive relief against you may be necessary. We look forward to receiving your prompt response.

Sincerely,

**JUDICIAL WATCH, INC.**

A handwritten signature in black ink, appearing to read 'J. Fitton', with a long horizontal stroke extending to the right.

Thomas J. Fitton  
President

By: Federal Express  
cc: Robert D. Popper, Esq.