

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
HARRISBURG DIVISION

JUDICIAL WATCH, INC.,

Plaintiff,

v.

COMMONWEALTH of PENNSYLVANIA;  
KATHY BOOCKVAR, in her official  
capacity as Secretary of the Commonwealth;  
the BUCKS COUNTY COMMISSION; the  
BUCKS COUNTY BOARD OF  
ELECTIONS; the BUCKS COUNTY  
REGISTRATION COMMISSION;  
THOMAS FREITAG, in his official capacity  
as Elections Director for Bucks County; the  
CHESTER COUNTY COMMISSION; the  
CHESTER COUNTY BOARD OF  
ELECTIONS; the CHESTER COUNTY  
REGISTRATION COMMISSION;  
SANDRA BURKE, in her official capacity  
as Director of Elections in Chester County;  
the DELAWARE COUNTY COUNCIL; the  
DELAWARE COUNTY BOARD OF  
ELECTIONS; the DELAWARE COUNTY  
REGISTRATION COMMISSION; and  
LAUREEN HAGAN, in her official capacity  
as Chief Clerk, Elections Bureau for  
Delaware County,

Defendants.

Civ. No. 20-cv-\_\_\_\_\_

**COMPLAINT**

Plaintiff Judicial Watch, Inc., by and through counsel, files this Complaint for declaratory and injunctive relief against the Commonwealth of Pennsylvania; Kathy Boockvar, in her official capacity as Pennsylvania Secretary of the Commonwealth; the Bucks County Commission; the Bucks County Board of Elections; the Bucks County Registration Commission; Thomas Freitag,

in his official capacity as Elections Director for Bucks County; the Chester County Commission; the Chester County Board of Elections; the Chester County Registration Commission; Sandra Burke, in her official capacity as Director of Elections in Chester County; the Delaware County Council; the Delaware County Board of Elections; the Delaware County Registration Commission; and Laureen Hagan, in her official capacity as Chief Clerk of the Elections Bureau for Delaware County.

1. Plaintiff seeks declaratory and injunctive relief to compel Defendants to comply with their voter list maintenance obligations and their record production obligations under Section 8 of the National Voter Registration Act of 1993 (“NVRA”), 52 U.S.C. § 20507.

#### **JURISDICTION AND VENUE**

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, as this action arises under the laws of the United States and under 52 U.S.C. § 20510(b)(2), as the action seeks injunctive and declaratory relief under the NVRA.

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because a defendant resides in this district and all defendants reside in Pennsylvania, and because a substantial part of the events and omissions giving rise to the claims herein occurred in this district.

#### **PARTIES**

4. Plaintiff Judicial Watch, Inc. (“Judicial Watch”) is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, D.C. 20024.

5. Defendant Commonwealth of Pennsylvania is a “State” subject to the requirements of the NVRA. 52 U.S.C. §§ 20502(4), 20503.

6. Defendant Kathy Boockvar was appointed by the Governor of Pennsylvania in January 2019 to be the Secretary of the Commonwealth of Pennsylvania and to oversee the Department of State. She and her department are charged with implementing, regulating, and administering Pennsylvania's Statewide Uniform Registry of Electors ("SURE system"). 25 PA. C.S. §§ 1201 and 1222(e) and (f). Secretary Boockvar is Pennsylvania's chief State election official, responsible under federal law for coordinating the State's compliance with the NVRA. 52 U.S.C. § 20509. She is sued in her official capacity.

7. Defendant Bucks County Commission is the legislative body for Bucks County. 16 P.S. §§ 401(a)(1), 509.

8. Defendant Bucks County Board of Elections is an agency established under state law with jurisdiction over the conduct of elections within the county. 25 P.S. § 2641.

9. Defendant Bucks County Registration Commission is an agency established under state law with jurisdiction over voter registration within the county. 25 PA. C.S. § 1203(a).

10. Defendant Thomas Freitag serves as the Elections Director for Bucks County. He is sued in his official capacity.

11. Defendant Chester County Commission is the legislative body for Chester County. 16 P.S. §§ 401(a)(1), 509.

12. Defendant Chester County Board of Elections is an agency established under state law with jurisdiction over the conduct of elections within the county. 25 P.S. § 2641.

13. Defendant Chester County Registration Commission is an agency established under state law with jurisdiction over voter registration within the county. 25 PA. C.S. § 1203(a).

14. Defendant Sandra Burke serves as the Director of Elections for Chester County. She is sued in her official capacity.

15. Defendant Delaware County Council is the legislative body for Delaware County. DELAWARE CTY. HOME RULE CHARTER, Art. IV.

16. Defendant Delaware County Board of Elections is an agency established under state law with jurisdiction over the conduct of elections within the county. 25 P.S. § 2641.

17. Defendant Delaware County Registration Commission is an agency established under state law with jurisdiction over voter registration within the county. 25 PA. C.S. § 1203(a).

18. Defendant Laureen Hagan serves as the Chief Clerk of the Elections Bureau for Delaware County. She is sued only in her official capacity.

### **STATUTORY BACKGROUND**

19. The NVRA requires states to “conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters” by reason of death or change of address. 52 U.S.C. § 20507(a)(4).

20. Under Section 8 of the NVRA, a voter becomes “ineligible” and subject to removal from a jurisdiction’s voter rolls when the voter asks to be removed from the rolls, does not respond to an address inquiry and fails to vote during a specified statutory period, dies, or is disqualified from voting under state law because of a criminal conviction or mental incapacity; or when an erroneous registration record is corrected. 52 U.S.C. § 20507(a)(3), (4)(A), 4(B), (c)(2)(B)(ii).

21. The NVRA provides that a voter must be removed from a jurisdiction’s voter rolls if the voter either confirms in writing that he or she has moved outside the jurisdiction, or fails to respond to an address confirmation notice and then fails to vote during a statutory waiting period extending from the date of the notice through the next two general federal elections. 52 U.S.C. §§ 20507(d)(1), (d)(3); 52 U.S.C. § 21083(a)(4)(A).

22. Pennsylvania law requires each county registration commission to institute a program to “protect the integrity of the electoral process,” “ensure the maintenance of accurate and current registration records,” and “identify registered electors whose address may have changed.” 25 PA. C.S. § 1901(a), (b).

23. Pennsylvania law provides, like the NVRA, that an elector may be removed from the rolls if the elector either confirms a move outside of the county in writing, or fails to respond to a forwardable notice and then fails to vote during a waiting period extending from the date of the notice through the next two general federal elections. 25 PA. C.S. § 1901(d)(1)(ii).

24. Federal regulations and Pennsylvania’s list maintenance laws and related Commonwealth documents refer to voter registrations as “inactive” when a registrant has failed to respond to a notice and will be subject to removal if the registrant then fails to vote in the next two general federal elections. 11 C.F.R. § 9428.7; 25 PA. C.S. § 1901(c).

25. Under both the NVRA and Pennsylvania law, voters whose registrations are inactive may still vote on election day. 52 U.S.C. § 20507(d)(2)(A); 25 PA. C.S. § 1902.

26. In June of each odd-numbered year, the U.S. Election Assistance Commission (“EAC”) is required by law to report to Congress its findings related to state voter registration practices. 52 U.S.C. § 20508(a)(3). Federal regulations require states to provide various kinds of data to the EAC for use in this biennial report, including the numbers of active and inactive registered voters in the last two federal elections, and the numbers of registrations removed from the rolls any reason between those elections. 11 C.F.R. § 9428.7(b)(1), (2), (5).

27. Section 8(i) of the NVRA grants the public the right to request information concerning voter list maintenance. It provides that “[e]ach State shall maintain for at least 2 years and shall make available for public inspection” and copying “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).

28. Though not purporting to be an exhaustive list, Section 8(i)(2) provides two specific examples of responsive records: “The records maintained . . . shall include lists of the names and addresses of all persons to whom notices described in subsection (d)(2) are sent, and information concerning whether or not each such person has responded to the notice as of the date that inspection of the records is made.” 52 U.S.C. § 20507(i)(2), referring to 52 U.S.C. § 20507(d)(2).

## **FACTS**

### ***A. Judicial Watch’s Background, Mission, and Membership.***

29. Judicial Watch’s mission is to promote transparency, integrity, and accountability in government and fidelity to the rule of law. The organization, which has been in existence since 1994, fulfills its mission through public records requests and litigation, among other means.

30. Judicial Watch is supported in its mission by hundreds of thousands of individuals across the nation. An individual becomes a member of Judicial Watch by making a financial contribution, in any amount, to the organization. Members’ financial contributions are by far the single most important source of income to Judicial Watch and provide the means by which the organization finances its activities in support of its mission. Judicial Watch in turn represents the interests of its members.

31. Over the past several years, Judicial Watch’s members have become increasingly concerned about the state of the nation’s voter registration rolls, including whether state and local officials are complying with the NVRA’s voter list maintenance obligations.

32. Specifically, members are concerned that failing to comply with the NVRA's voter list maintenance obligations undermines the integrity of elections by increasing the opportunity for ineligible voters to cast ballots.

33. In response to this concern, Judicial Watch commenced a nationwide program to monitor state and local election officials' compliance with their NVRA list maintenance obligations. As part of this program, Judicial Watch utilizes NVRA Section 8(i) and public records laws to request and receive records from jurisdictions across the nation about their voter list maintenance efforts. It also obtains and analyzes voting and population data from the EAC and U.S. Census Bureau. It then analyzes these records and data and publishes the results of its findings to its members and the general public.

***B. Defendants' Admissions to the EAC That They Removed Almost No Registrations Pursuant to Section 8(d)(2) of the NVRA.***

34. In June 2019, the EAC published its biennial, NVRA-related report, entitled ELECTION ADMINISTRATION AND VOTING SURVEY, 2018 COMPREHENSIVE REPORT, A REPORT TO THE 116TH CONGRESS ("EAC Report"). The report is available at <https://www.eac.gov/research-and-data/studies-and-reports> by clicking on "2018 Election Administration and Voting Survey Report."

35. Along with its report, the EAC published the responses it received to a voter registration survey it sent to the states. The survey instrument sent by the EAC is available at <https://www.eac.gov/research-and-data/datasets-codebooks-and-surveys> under a 2018 link entitled "2018 Election Administration and Voting Survey Instrument." The states, in consultation with their county and local officials, provide answers to the survey directly to the EAC. The states' survey responses are compiled on the same webpage under the heading "EAVS Datasets Version 1.2 (released February 18, 2020)."

36. Judicial Watch reviewed the EAC Report and associated data to determine what states and counties had certified to the EAC about their own list maintenance practices.

37. If a jurisdiction removes few or no registration records belonging to electors who fail to respond to an address confirmation notice and fail to vote in two consecutive federal elections, that jurisdiction is not complying with Section 8(d)(2) of the NVRA.

38. Question A9e of the EAC's survey asked jurisdictions to report the number of registrations removed during the most recent two-year reporting period where the "[r]eason for [r]emoval" was "[f]ailure to respond to notice sent and failure to vote in two most recent federal elections." This question plainly refers to removals under Section 8(d)(2) of the NVRA.

39. In response to question A9e of the EAC's most recent survey, the Commonwealth of Pennsylvania represented that, during the most recent two-year reporting period, a total of eight (8) registrations had been removed in Bucks County for failing to respond to a notice and failing to vote in two federal elections.

40. In response to question A9e of the EAC's survey, the Commonwealth of Pennsylvania represented that, during the most recent two-year reporting period, a total of five (5) registrations had been removed in Chester County for failing to respond to a notice and failing to vote in two federal elections.

41. In response to question A9e of the EAC's survey, the Commonwealth of Pennsylvania represented that, during the most recent two-year reporting period, a total of four (4) registrations had been removed in Delaware County for failing to respond to a notice and failing to vote in two federal elections.



42. In the EAC Report, Bucks County indicated that it had 457,235 total registered voters; Chester County indicated that it had 357,307 total registered voters; and Delaware County indicated that it had 403,371 total registered voters.

43. The numbers of removals in Bucks, Chester, and Delaware Counties pursuant to the procedures set forth in Section 8(d)(2) of the NVRA, as reported by Pennsylvania to the EAC, are absurdly small given the size of those counties, the size of their voter rolls, and the rate at which their registrations become outdated because of changes in residence.

44. The numbers of removals in Bucks, Chester, and Delaware Counties pursuant to the procedures set forth in Section 8(d)(2) of the NVRA, as reported by Pennsylvania to the EAC, indicate a multi-year failure by those jurisdictions to comply with the core requirements of Section 8(d)(2) of the NVRA.

45. The numbers of removals in Pennsylvania pursuant to the procedures set forth in Section 8(d)(2) of the NVRA, which numbers the Commonwealth itself reported to the EAC, are absurdly low throughout Pennsylvania, ranging by county from a high of 72 down to zero.

46. The numbers of removals in Pennsylvania pursuant to the procedures set forth in Section 8(d)(2) of the NVRA, which numbers the Commonwealth itself reported to the EAC, indicate a multi-year failure by the Commonwealth and Secretary Boockvar, the chief State election official, to comply with a core requirement of Section 8 of the NVRA.

47. Other Pennsylvania counties have confirmed that they have been delinquent in removing old, inactive registrations under Section 8(d)(2) of the NVRA. David Voyer, Elections Manager for Allegheny County, stated in a televised report that “I would concede that we are behind in culling our rolls” and that it was an activity that had “been put on the back burner.” *Under Threat Of Lawsuit, Allegheny Co. Purging 69,000 Inactive Voters From Rolls* (CBS

Pittsburgh, Jan. 14, 2020), available at <https://pittsburgh.cbslocal.com/2020/01/14/allegheeny-county-board-of-elections-voter-rolls/>.

48. Allegheny County only took action regarding this failure after receiving notice from Judicial Watch on December 11, 2019.

49. Secretary Boockvar took no action regarding Allegheny County and defended its list maintenance practices as late as March 2020, despite the widely publicized admission by County officials of this multi-year failure to comply with Section 8 of the NVRA.

50. The Pennsylvania Department of State reports on its website that Pennsylvania still has over 800,000 inactive registrants on its voter rolls.

***C. The High Registration Rates in Bucks, Chester, and Delaware Counties.***

51. Judicial Watch also analyzed the 2019 EAC Report by comparing the registration numbers reported for U.S. states and counties with the best available census data for those jurisdictions.

52. When the number of voter registrations in a jurisdiction is close to the number of citizens over the age of 18 residing in that jurisdiction, it indicates that the jurisdiction is not taking steps required by law to cancel the registrations of ineligible registrants.

53. Judicial Watch's analysis showed that the registration rate for Bucks County was about 96%.

54. Judicial Watch's analysis showed that the registration rate for Chester County was about 97%.

55. Judicial Watch's analysis showed that the registration rate for Delaware County was about 97%.

56. The registration rates for Bucks, Chester, and Delaware Counties are high in comparison to other counties in Pennsylvania, and high in comparison to other counties throughout the U.S.

57. The registration rates for Bucks, Chester, and Delaware Counties are abnormally high.

58. A high registration rate is a natural and probable consequence of failing to remove old, inactive registrations that should be removed pursuant to Section 8(d)(2).

***D. Judicial Watch's Notice Letters and Correspondence with Defendants.***

59. On December 11, 2019, Judicial Watch wrote separately to Bucks County, Chester County, and Delaware County. Each of the letters to these counties was also addressed and sent to Secretary Boockvar. (These letters are attached to this complaint as Exhibits 1, 2, and 3.)

60. Each letter noted the relevant county's low number of removals under Section 8(d)(2) and its high registration rate, alleged violations of the NVRA, and provided formal notice pursuant to 52 U.S.C. § 20510(b)(2) that the county and Secretary Boockvar would be subject to a lawsuit if those violations were not corrected within 90 days.

61. Each letter asked whether the relevant county and Secretary Boockvar "agree that the EAC accurately quoted data it received from you regarding the number of registrations you removed under the process set forth in Section 8(d) of the NVRA"; and asked, if they did not agree with the quoted data, for their "own estimates regarding these numbers."

62. Each letter asked the relevant county and Secretary Boockvar to produce particular records pursuant to Section 8(i), and noted that the failure to timely produce these records would constitute a further violation of the NVRA. Among other things, each of these

requests sought the “names and addresses of all persons to whom notices described in 52 U.S.C. § 20507(d)(2) were sent, and information concerning whether or not each person responded to the notice.” Section 8(i)(2) specifically requires states to retain and produce these records.

### **Bucks County**

63. Bucks County responded by letter on March 4, 2020 (attached hereto as Exhibit 4). While it denied Judicial Watch’s allegations, the County only cited in response irrelevant data from a state report enumerating removals from its *active* registration list; and from its inactive list for a variety of reasons, including at the registrant’s request, or on account of the registrants’ death. Removals from the active list, or at the voluntary request of the registrant, or because of the death of the registrant, have nothing to do with the removal of *inactive* registrants under the process set forth in Section 8(d)(2).

64. Bucks County also cited the same state report to show that it removed (in 2018) 257 registrations for out-of-county moves and 1552 registrations for out-of-state moves. But that data does not indicate whether those removals occurred because registrants either requested removal at the time or confirmed a move after the fact, which are different circumstances from a failure to respond to a notice letter and a failure to vote in two federal elections.

65. Even if every registration associated with 257 out-of-county moves and 1552 out-of-state moves were removed in a single year by Bucks County pursuant to the procedures set forth in Section 8(d)(2), that is too few removals under that provision for a county of that size. Those registrations combined constitute only about 0.4% of the total number of registrations Bucks County reported to the EAC. The Census Bureau estimates that 8.2% of the residents of Bucks County are living in a different house than the one they were living in one year previously.

66. Bucks County also professed that it was unable to find where the EAC's data indicated that it only removed eight registrants in two years under Section 8(d)(2).

67. Judicial Watch wrote back to Bucks County on March 9, 2020. (The letter is attached hereto, without exhibits, as Exhibit 5). Judicial Watch explained exactly where the relevant data could be found, attaching the survey instrument and a spreadsheet with the data from the EAC's website. Judicial Watch noted that Bucks County still had not said exactly how many registrants were removed under the Section 8(d)(2) process. Judicial Watch asked, point blank, "how many voters were removed from Bucks County's voter rolls for failing to respond to a notice and failing to vote (or correct the registrar's records) for two general federal elections" during relevant time periods.

68. Bucks County responded with a final letter on March 20, 2020 (attached hereto as Exhibit 6). Bucks County made no substantive response but stated that "[t]here are answers to your questions, and you will have them in the detail you seek by the end of June." It declared, without basis, that the Judicial Watch's March 9 letter was a "new inquiry" that justified a new 90 days for a response. It added that, given our reliance on data "reported by the [EAC] and, possibly, the state," there was a need to "ascertain whether they reported everything Bucks County reported to either or both accurately, and if not, why not."

69. Bucks County has never represented to Judicial Watch, in that letter or otherwise, the exact number of registrations it removed under Section 8(d)(2) during any relevant period, notwithstanding the fact that the request for this information was first made on December 11, 2019.

**Chester County**

70. Chester County responded in a two-page letter dated December 19, 2020 (attached hereto as Exhibit 7). Chester County also denied Judicial Watch's allegations on the basis of information from a state report showing irrelevant removals from the *active* list, and a *total* of 2084 removals (in 2018) from the inactive list, which included irrelevant subcategories such as "VOTER'S REQUEST," "VOTER'S DEATH," and "PENNDOT MOVE CONFIRM."

71. Even if all 2084 registrants were removed in a single year by Chester County pursuant to the procedures set forth in Section 8(d)(2), that is too few removals under that provision for a county of that size. Those registrations combined constitute only about 0.6% of the total number of registrations Chester County reported to the EAC. The Census Bureau estimates that 14.0% of the residents of Chester County are living in a different house than the one they were living in one year previously.

72. Chester County has never represented to Judicial Watch, in that letter or otherwise, the exact number of registrations it removed under Section 8(d)(2) during any relevant period.

73. Chester County also gratuitously asserted that their registration rate was "less than 97%," without stating what they believed it was.

74. Chester County sent a subsequent letter concerning Judicial Watch's request for records, dated January 21, 2020 (attached hereto as Exhibit 8). In that response, Chester County applied Pennsylvania's public records laws to the requests, and did not treat them as requests mandated pursuant to federal law.

75. In response to the request for the "names and addresses of all persons to whom notices described in 52 U.S.C. § 20507(d)(2) were sent, and information concerning whether or not each person responded to the notice"—which Section 8(i)(2) specifically requires states to

retain and produce—Chester County stated that it “does not maintain and is not in possession, custody or control of these records,” although they “may be available through the” Department of State.

76. Judicial Watch never received these documents from either Chester County or from Secretary Boockvar.

**Delaware County**

77. Delaware County never made a response of any kind to Judicial Watch’s December 11, 2019 letter to it.

78. Delaware County never represented to Judicial Watch the exact number of registrations it removed under Section 8(d)(2) during any relevant period.

79. Delaware County never provided any documents to Judicial Watch.

**Secretary Boockvar**

80. Secretary Boockvar sent a single, two-page letter, dated March 9, 2020 (attached hereto as Exhibit 9) responding to all of Judicial Watch’s December 11, 2019 notice letters to Pennsylvania Counties.

81. Citing the same state report as Bucks and Chester Counties, Secretary Boockvar made the same error that those counties did in their responses. Specifically, Secretary Boockvar cited aggregate removals from the *active* list, which are irrelevant, and aggregate removals from the inactive list *for all causes*, many of which are irrelevant.

82. Secretary Boockvar never represented the exact number of registrations removed during any relevant period from any or all of Defendant Counties under Section 8(d)(2).

83. Secretary Boockvar’s response did not provide or offer any records responsive to Judicial Watch’s requests under Section 8(i).

***E. Judicial Watch's Injury.***

84. Judicial Watch has expended substantial resources, including staff time, investigating Defendants' failure to comply with their NVRA voter list maintenance obligations, communicating with both Commonwealth and county officials and concerned members about Defendants' failure, researching statements made by Defendants in their correspondence, and attempting to counteract their noncompliance.

85. Judicial Watch expended resources to research claims in Defendants' correspondence concerning the numbers of registrations removed in various categories, to read and analyze the state reports and sources they cited, and to review and analyze additional data made available by the EAC.

86. Judicial Watch was compelled to expend resources as stated above in part because none of Defendants ever represented the exact number of registrations removed during any relevant period from any or all of Defendant Counties under Section 8(d)(2), notwithstanding Judicial Watch's explicit and repeated requests that they do so.

87. Judicial Watch was compelled to expend resources as stated above in part because Defendants' responses to Judicial Watch's requests under Section 8(i) were inadequate.

88. The resources expended by Judicial Watch to investigate, address, research, and counteract Defendants' failure to comply with their NVRA voter list maintenance obligations are distinct from and above and beyond Judicial Watch's regular, programmatic efforts to monitor state and local election officials' NVRA compliance. Were it not for Defendants' failure to comply with their NVRA voter list maintenance obligations, Judicial Watch would have expended these same resources on its regular, programmatic activities or would not have



expended them at all. Instead, it diverted its resources to counteract Defendants' noncompliance and to protect members' rights.

***F. Judicial Watch's Members' Injuries.***

89. Members of Judicial Watch who are lawfully registered to vote in Bucks County, Chester County, Delaware County, and throughout Pennsylvania have a constitutional right to vote in state and federal elections, as well as a statutory right to the safeguards and protections set forth in the NVRA.

90. Defendants' failure to comply with their NVRA voter list maintenance obligations has burdened the constitutional right to vote of Judicial Watch members who are lawfully registered to vote in Bucks County, Chester County, Delaware County, and throughout Pennsylvania by undermining their confidence in the integrity of the electoral process, discouraging their participation in the democratic process, and instilling in them the fear that their legitimate votes will be nullified or diluted.

91. Defendants' failure to satisfy their NVRA voter list maintenance obligations also infringes the statutory rights of those Judicial Watch members who are lawfully registered to vote in Bucks County, Chester County, Delaware County, and throughout Pennsylvania. These individuals have a statutory right to vote in elections for federal office that comply with the procedures and protections required by the NVRA, including the voter list maintenance obligations set forth in Section 8.

92. Protecting the voting rights of Judicial Watch members who are lawfully registered to vote in Bucks County, Chester County, Delaware County, and throughout Pennsylvania is germane to Judicial Watch's mission. It also is well within the scope of the reasons why members of Judicial Watch join the organization and support its mission.

93. Because the relief sought herein will inure to the benefit of Judicial Watch members who are lawfully registered to vote in Bucks County, Chester County, Delaware County, and throughout Pennsylvania, neither the claims asserted nor the relief requested requires the participation of individual members.

94. In March 2020, nearly one thousand Judicial Watch members who are registered to vote throughout Pennsylvania, including in Bucks County, Chester County, and Delaware County, confirmed to Judicial Watch's staff that they were concerned about Defendants' failure to satisfy their voter list maintenance obligations under the NVRA and the resulting harm to these members' voting rights.

### **COUNT I**

#### **(Violation of Section 8(a)(4) of the NVRA, 52 U.S.C. § 20507(a)(4))**

95. Plaintiff realleges all preceding paragraphs as if fully set forth herein.

96. Judicial Watch and its members are all persons aggrieved by a violation of the NVRA, as set forth in 52 U.S.C. § 20510(b)(1).

97. The December 11, 2019 letters to each county and Secretary Boockvar constituted statutory notice, pursuant to 52 U.S.C. § 20510(b)(1), of violations of Section 8(a)(4) of the NVRA.

98. Defendants have failed to fulfill their obligations under Section 8(a)(4) of the NVRA to conduct a general program that makes a reasonable effort to cancel the registrations of registrants who are ineligible to vote in Pennsylvania's federal elections.

99. Judicial Watch and its members have suffered, and will continue to suffer, irreparable injury as a direct result of Defendants' failure to fulfill their obligations to comply with Section 8(a)(4) of the NVRA.

100. Plaintiff has no adequate remedy at law.

**COUNT II**

**(Violations of Section 8(i) of the NVRA, 52 U.S.C. § 20507(i) -  
Secretary Boockvar, Chester County Defendants,  
and Delaware County Defendants)**

101. Plaintiff realleges all preceding paragraphs as if fully set forth herein.

102. The December 11, 2019 letters to Chester County, Delaware County, and Secretary Boockvar constituted statutory notice, pursuant to 52 U.S.C. § 20510(b)(1), of violations of Section 8(i) of the NVRA.

103. The Chester County and Delaware County Defendants and Secretary Boockvar have failed to fulfill their obligations under Section 8(i) of the NVRA to make available to Plaintiff “all records” within the past two years “concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.”

104. Judicial Watch and its members have suffered, and will continue to suffer, irreparable injury as a direct result of Defendants’ failure to fulfill their obligations under Section 8(i) of the NVRA.

105. Plaintiff has no adequate remedy at law.

**Prayer for Relief**

WHEREFORE, Plaintiff prays for entry of a judgment:

- a. Declaring Defendants to be in violation of Section 8(a)(4) of the NVRA;
- b. Permanently enjoining Defendants from violating Section 8(a)(4) of the NVRA;

- c. Ordering Defendants to develop and implement a general program that makes a reasonable effort to remove the registrations of ineligible registrants from the voter rolls of Pennsylvania, Bucks County, Chester County, and Delaware County;
- d. Declaring that Defendants are in violation of Section 8(i) of the NVRA by refusing to allow Plaintiff to inspect and copy the requested records;
- e. Permanently enjoining Defendants from refusing to allow Plaintiff to inspect and copy the requested records;
- f. Ordering Defendants to pay Plaintiff's reasonable attorney's fees, including litigation expenses and costs, as allowed under 52 U.S.C. § 20510(c); and
- g. Awarding Plaintiff such other and further relief as this Court deems just and proper.

April 28, 2020

/s/ Shawn M. Rodgers  
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\* *Application for admission pro  
hac vice forthcoming*

# Exhibit 1



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

December 11, 2019

*VIA USPS CERTIFIED MAIL AND EMAIL*

Honorable Diane M. Ellis-Marseglia, Chair  
Bucks County Board of Elections  
55 E. Court St.  
Doylestown, Pennsylvania 18901

Honorable Kathy Boockvar  
Secretary of the Commonwealth of Pennsylvania  
401 North Street  
Harrisburg, Pennsylvania 17120

**Re: Statutory Notice of Violations of 52 U.S.C. § 20507 in Bucks County**

Dear Ms. Ellis-Marseglia and Secretary Boockvar:

I write as legal counsel for Judicial Watch, Inc. (“Judicial Watch”). This letter is to bring to your attention violations of Section 8 of the National Voter Registration Act (“NVRA”) committed in Bucks County (the “County”). Ms. Ellis-Marseglia, as Chair of the Bucks County Board of Elections, is receiving this letter because she and the other members of the Board have responsibilities under State law to act as (or appoint) election registrars and to maintain accurate and current voter lists.<sup>1</sup> Secretary Boockvar is receiving this letter because, as the chief state elections official of Pennsylvania (“the State”), she is charged with coordinating State responsibilities under the NVRA.<sup>2</sup>

This letter serves as official statutory notice under 52 U.S.C. § 20510(b)(1) & (2) that Judicial Watch will bring a lawsuit against you if these violations are not corrected within 90 days. Section 8(a)(4) of the NVRA requires states to “conduct a general program that makes a reasonable effort to remove the names of ineligible voters” by reason of death or change of address. 52 U.S.C. § 20507(a)(4). In order to ensure that states and counties are complying with these requirements, Congress provided a public inspection provision, which requires all records concerning the accuracy and currency of the voter registration list to be disclosed. 52 U.S.C. § 20507(i).

The following explains how we determined that Section 8 has been violated and the remedial steps that must be taken to comply with federal law.

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<sup>1</sup> Pa. Cons. Stat. §§ 1203, 1204, 1501-1514.

<sup>2</sup> See 52 U.S.C. § 20509; *PILF v. Boockvar*, 370 F. Supp. 3d 449, 457 (M.D. Pa. 2019).

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Judicial Watch examines a number of metrics in order to assess whether a jurisdiction is conducting a general program that makes a reasonable effort to remove ineligible registrants from its voter rolls. To begin with, Judicial Watch determines each jurisdiction's registration rate. States must report detailed registration data every other year to the U.S. Election Assistance Commission (EAC).<sup>3</sup> Judicial Watch hires experts to compare this data to the citizen voting-age population in each state and county where data is available.<sup>4</sup> An unusually high registration rate suggests that a jurisdiction is not removing voters who have died or who have moved elsewhere, as required by 52 U.S.C. § 20507(a)(4). Federal courts adjudicating NVRA claims have acknowledged the significance of high registration rates. *See Am. Civ. Rights Union v. Martinez-Rivera*, 166 F. Supp. 3d 779, 793 (W.D. Tex. 2015); *Voter Integrity Project NC, Inc. v. Wake Cnty. Bd. of Elections*, 301 F. Supp. 3d 612, 618 (E.D.N.C. 2017).

Judicial Watch also considers how many registrations were ultimately removed from the voter rolls because a registrant failed to respond to an address confirmation notice and then failed to vote during the NVRA's statutory waiting period. If few or no voters were removed by means of this process, the jurisdiction is obviously failing to comply with Section 8(d) of the NVRA. 52 U.S.C. § 20507(d)(1). States must report the number of such removals to the EAC.<sup>5</sup>

Our analysis of the data regarding Bucks County showed the following:

- The County reported removing only *eight* voter registrations in the last two-year reporting period on the grounds that the registrants failed to respond to an address confirmation notice and failed to vote in two consecutive federal elections. This is an absurdly low figure for a county of this size. If this figure is accurate, it establishes beyond any dispute that the County is not complying with the NVRA.
- The County has a high registration rate of about 96%.

These facts establish clear violations of Section 8(a)(4) of the NVRA.

\* \* \* \* \*

Pursuant to 52 U.S.C. § 20510(b)(2), if the foregoing violations are not corrected within 90 days of your receiving this letter, Judicial Watch and those on whose behalf it has sent this

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<sup>3</sup> 11 C.F.R. § 9428.7.

<sup>4</sup> EAC registration data is available publicly at <https://www.eac.gov/research-and-data/election-administration-voting-survey/>. For the latest American Community Survey population and demographic data, *see* <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>

<sup>5</sup> 11 C.F.R. § 9428.7(b)(5); U.S. Election Assistance Commission, ELECTION ADMINISTRATION AND VOTING SURVEY: 2018 COMPREHENSIVE REPORT at 197 (survey question A9e), available at [https://www.eac.gov/assets/1/6/2018\\_EAVS\\_Report.pdf](https://www.eac.gov/assets/1/6/2018_EAVS_Report.pdf).



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letter may commence an action against you in federal court. Please contact us about your plans for correcting these violations. In particular, please set forth in such communication:

- Whether you agree that the EAC accurately quoted data it received from you regarding the number of registrations you removed under the process set forth in Section 8(d) of the NVRA during the last two-year reporting period. If you believe the data reported was not accurate, please let us know your own estimates regarding these numbers.
- Your explanation regarding the County's registration rate discussed above.
- A description of the State's and the County's programs for sending address confirmation notices described in 52 U.S.C. § 20507(d)(2) to those who are believed to have moved, and for placing voters in an "inactive" status prior to their removal.
- A description of the State's and the County's programs for complying with the other voter list maintenance requirements of the NVRA, including all requirements to remove the registrations of those who have died or have otherwise become ineligible to register or vote.
- A description of your plan to remedy any noncompliance with the voter list maintenance requirements of the NVRA, including 52 U.S.C. § 20507(a)(4) and (d).

\* \* \* \* \*

Section 8(i)(1) of the NVRA requires that "[e]ach state shall maintain for at least 2 years and shall 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). That provision goes on to specifically provide that "[t]he records maintained . . . shall include lists of the names and addresses of all persons to whom [address confirmation] notices . . . are sent, and information concerning whether or not each such person has responded to the notice." *Id.*, § 20507(i)(2).

Pursuant to that section, please provide the following categories of records to Judicial Watch within two weeks of the date of this letter. If you fail to do so, we will deem it an independent violation of the NVRA. Specifically, please provide the following records insofar as they were generated by, or concern, the County:

1. Copies of the most recent voter registration database, or copies of the most recent voter registration lists drawn from the voter registration database, including fields indicating each registered voters' name, full date of birth, home address, most recent voter activity, and active or inactive status.
2. The names and addresses of all persons to whom notices described in 52 U.S.C. § 20507(d)(2) were sent, and information concerning whether or not each person responded to the notice.

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3. All documents and communications concerning the questions contained in Section A of the most recent Election Administration & Voting Survey (“EAVS”). This request includes, but is not limited to:

- a. Your written responses to the EAVS, along with any documents you provided along with your responses.
- b. Any internal or external communications about the EAVS.

4. All documents concerning any internal or external audit, evaluation, assessment, review, analysis, critique, or request for or response to any of the foregoing, relating to the accuracy and currency of official lists of eligible voters. This request includes, but is not limited to any of the foregoing documents relating to:

- a. Registered voters who were sent notices described in 52 U.S.C. § 20507(d)(2).
- b. Registered voters who have died.
- c. Registered voters who are noncitizens.

5. All documents concerning any instance(s) of voter fraud, including, but not limited to, impersonation fraud, double voting, registration fraud, absentee ballot fraud, mail-in ballot fraud, registration or voting by noncitizens, unlawful assistance, or aiding, abetting, or conspiring to commit any of the foregoing.

6. All manuals, training materials, protocols, written standards, and official guidance concerning efforts to ensure the accuracy and currency of your official list of eligible voters.

7. All contracts with the U.S. Postal Service or any other federal agency to provide change-of-address information concerning registered voters.

8. Copies of all documents and communications concerning the following:
- a. The Systematic Alien Verification for Entitlements (“SAVE”) database.
  - b. The Interstate Voter Registration Cross-Check Program.
  - c. The Electronic Registration Information Center (“ERIC”).

\* \* \* \* \*

I hope the concerns identified in this letter can be resolved amicably. We have a track record of resolving NVRA claims on reasonable terms. However, if you do not contact us about correcting or otherwise resolving the above-identified problems within 90 days, a federal lawsuit seeking declaratory and injunctive relief against both of you in your official capacities may be necessary. In such a lawsuit we would seek, in addition to injunctive relief, a judgment awarding reasonable attorney fees, expenses, and costs. *See* 52 U.S.C. § 20510(c). For the reasons set forth above, we believe that such a lawsuit would be very likely to succeed.

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We look forward to receiving your prompt response.

Sincerely,

**JUDICIAL WATCH, INC.**

*s/ Robert D. Popper*

Robert D. Popper  
Attorney, Judicial Watch, Inc.

# Exhibit 2



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

December 11, 2019

*VIA USPS CERTIFIED MAIL AND EMAIL*

Honorable Michelle Kichline, Chair  
Chester County Board of Commissioners  
313 West Market Street  
West Chester, Pennsylvania 19380

Honorable Sandra Burke, Director  
Voter Services, Chester County  
601 Westtown Road, Suite 150  
West Chester, Pennsylvania 19380-0990

Honorable Kathy Boockvar  
Secretary of the Commonwealth of Pennsylvania  
401 North Street  
Harrisburg, Pennsylvania 17120

**Re: Statutory Notice of Violations of 52 U.S.C. § 20507 in Chester County**

Dear Ms. Kichline, Ms. Burke, and Secretary Boockvar:

I write as legal counsel for Judicial Watch, Inc. (“Judicial Watch”). This letter is to bring to your attention violations of Section 8 of the National Voter Registration Act (“NVRA”) committed in Chester County (the “County”). Ms. Kichline, as Chair of the Chester County Board of Commissioners, is receiving this letter because she and the other members of the Board have responsibilities under State law to act as (or appoint) election registrars and to maintain accurate and current voter lists.<sup>1</sup> Secretary Boockvar is receiving this letter because, as the chief state elections official of Pennsylvania (“the State”), she is charged with coordinating State responsibilities under the NVRA.<sup>2</sup>

This letter serves as official statutory notice under 52 U.S.C. § 20510(b)(1) & (2) that Judicial Watch will bring a lawsuit against you if these violations are not corrected within 90 days. Section 8(a)(4) of the NVRA requires states to “conduct a general program that makes a reasonable effort to remove the names of ineligible voters” by reason of death or change of address. 52 U.S.C. § 20507(a)(4). In order to ensure that states and counties are complying with these requirements,

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<sup>1</sup> Pa. Cons. Stat. §§ 1203, 1204, 1501-1514.

<sup>2</sup> See 52 U.S.C. § 20509; *PILF v. Boockvar*, 370 F. Supp. 3d 449, 457 (M.D. Pa. 2019).

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Congress provided a public inspection provision, which requires all records concerning the accuracy and currency of the voter registration list to be disclosed. 52 U.S.C. § 20507(i).

The following explains how we determined that Section 8 has been violated and the remedial steps that must be taken to comply with federal law.

Judicial Watch examines a number of metrics in order to assess whether a jurisdiction is conducting a general program that makes a reasonable effort to remove ineligible registrants from its voter rolls. To begin with, Judicial Watch determines each jurisdiction's registration rate. States must report detailed registration data every other year to the U.S. Election Assistance Commission (EAC).<sup>3</sup> Judicial Watch hires experts to compare this data to the citizen voting-age population in each state and county where data is available.<sup>4</sup> An unusually high registration rate suggests that a jurisdiction is not removing voters who have died or who have moved elsewhere, as required by 52 U.S.C. § 20507(a)(4). Federal courts adjudicating NVRA claims have acknowledged the significance of high registration rates. *See Am. Civ. Rights Union v. Martinez-Rivera*, 166 F. Supp. 3d 779, 793 (W.D. Tex. 2015); *Voter Integrity Project NC, Inc. v. Wake Cnty. Bd. of Elections*, 301 F. Supp. 3d 612, 618 (E.D.N.C. 2017).

Judicial Watch also considers how many registrations were ultimately removed from the voter rolls because a registrant failed to respond to an address confirmation notice and then failed to vote during the NVRA's statutory waiting period. If few or no voters were removed by means of this process, the jurisdiction is obviously failing to comply with Section 8(d) of the NVRA. 52 U.S.C. § 20507(d)(1). States must report the number of such removals to the EAC.<sup>5</sup>

Our analysis of the data regarding Chester County showed the following:

- The County reported removing only *five* voter registrations in the last two-year reporting period on the grounds that the registrants failed to respond to an address confirmation notice and failed to vote in two consecutive federal elections. This is an absurdly low figure for a county of this size. If this figure is accurate, it establishes beyond any dispute that the County is not complying with the NVRA.
- The County has a high registration rate of about 97%.

These facts establish clear violations of Section 8(a)(4) of the NVRA.

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<sup>3</sup> 11 C.F.R. § 9428.7.

<sup>4</sup> EAC registration data is available publicly at <https://www.eac.gov/research-and-data/election-administration-voting-survey/>. For the latest American Community Survey population and demographic data, *see* <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>

<sup>5</sup> 11 C.F.R. § 9428.7(b)(5); U.S. Election Assistance Commission, ELECTION ADMINISTRATION AND VOTING SURVEY: 2018 COMPREHENSIVE REPORT at 197 (survey question A9e), available at [https://www.eac.gov/assets/1/6/2018\\_EAVS\\_Report.pdf](https://www.eac.gov/assets/1/6/2018_EAVS_Report.pdf).

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\* \* \* \* \*

Pursuant to 52 U.S.C. § 20510(b)(2), if the foregoing violations are not corrected within 90 days of your receiving this letter, Judicial Watch and those on whose behalf it has sent this letter may commence an action against you in federal court. Please contact us about your plans for correcting these violations. In particular, please set forth in such communication:

- Whether you agree that the EAC accurately quoted data it received from you regarding the number of registrations you removed under the process set forth in Section 8(d) of the NVRA during the last two-year reporting period. If you believe the data reported was not accurate, please let us know your own estimates regarding these numbers.
- Your explanation regarding the County's registration rate discussed above.
- A description of the State's and the County's programs for sending address confirmation notices described in 52 U.S.C. § 20507(d)(2) to those who are believed to have moved, and for placing voters in an "inactive" status prior to their removal.
- A description of the State's and the County's programs for complying with the other voter list maintenance requirements of the NVRA, including all requirements to remove the registrations of those who have died or have otherwise become ineligible to register or vote.
- A description of your plan to remedy any noncompliance with the voter list maintenance requirements of the NVRA, including 52 U.S.C. § 20507(a)(4) and (d).

\* \* \* \* \*

Section 8(i)(1) of the NVRA requires that "[e]ach state shall maintain for at least 2 years and shall 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). That provision goes on to specifically provide that "[t]he records maintained . . . shall include lists of the names and addresses of all persons to whom [address confirmation] notices . . . are sent, and information concerning whether or not each such person has responded to the notice." *Id.*, § 20507(i)(2).

Pursuant to that section, please provide the following categories of records to Judicial Watch within two weeks of the date of this letter. If you fail to do so, we will deem it an independent violation of the NVRA. Specifically, please provide the following records insofar as they were generated by, or concern, the County:

1. Copies of the most recent voter registration database, or copies of the most recent voter registration lists drawn from the voter registration database, including fields indicating each

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registered voters' name, full date of birth, home address, most recent voter activity, and active or inactive status.

2. The names and addresses of all persons to whom notices described in 52 U.S.C. § 20507(d)(2) were sent, and information concerning whether or not each person responded to the notice.

3. All documents and communications concerning the questions contained in Section A of the most recent Election Administration & Voting Survey ("EAVS"). This request includes, but is not limited to:

a. Your written responses to the EAVS, along with any documents you provided along with your responses.

b. Any internal or external communications about the EAVS.

4. All documents concerning any internal or external audit, evaluation, assessment, review, analysis, critique, or request for or response to any of the foregoing, relating to the accuracy and currency of official lists of eligible voters. This request includes, but is not limited to any of the foregoing documents relating to:

a. Registered voters who were sent notices described in 52 U.S.C. § 20507(d)(2).

b. Registered voters who have died.

c. Registered voters who are noncitizens.

5. All documents concerning any instance(s) of voter fraud, including, but not limited to, impersonation fraud, double voting, registration fraud, absentee ballot fraud, mail-in ballot fraud, registration or voting by noncitizens, unlawful assistance, or aiding, abetting, or conspiring to commit any of the foregoing.

6. All manuals, training materials, protocols, written standards, and official guidance concerning efforts to ensure the accuracy and currency of your official list of eligible voters.

7. All contracts with the U.S. Postal Service or any other federal agency to provide change-of-address information concerning registered voters.

8. Copies of all documents and communications concerning the following:

a. The Systematic Alien Verification for Entitlements ("SAVE") database.

b. The Interstate Voter Registration Cross-Check Program.

c. The Electronic Registration Information Center ("ERIC").

\* \* \* \* \*

I hope the concerns identified in this letter can be resolved amicably. We have a track record of resolving NVRA claims on reasonable terms. However, if you do not contact us about correcting or otherwise resolving the above-identified problems within 90 days, a federal lawsuit



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seeking declaratory and injunctive relief against both of you in your official capacities may be necessary. In such a lawsuit we would seek, in addition to injunctive relief, a judgment awarding reasonable attorney fees, expenses, and costs. *See* 52 U.S.C. § 20510(c). For the reasons set forth above, we believe that such a lawsuit would be very likely to succeed.

We look forward to receiving your prompt response.

Sincerely,

**JUDICIAL WATCH, INC.**

*s/ Robert D. Popper*

Robert D. Popper  
Attorney, Judicial Watch, Inc.

# Exhibit 3



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

December 11, 2019

*VIA USPS CERTIFIED MAIL AND EMAIL*

Honorable John P. McBlain  
Chairman, Delaware County Council  
201 West Front Street  
Government Center Building  
Media, Pennsylvania 19063

Honorable Carmen P. Belefonte  
Chair, Delaware County Board of Elections  
201 West Front Street  
Government Center Building  
Media, Pennsylvania 19063

Honorable Kathy Boockvar  
Secretary of the Commonwealth of Pennsylvania  
401 North Street  
Harrisburg, Pennsylvania 17120

**Re: Statutory Notice of Violations of 52 U.S.C. § 20507 in Delaware County**

Dear Mr. McBlain, Ms. Belefonte, and Secretary Boockvar:

I write as legal counsel for Judicial Watch, Inc. (“Judicial Watch”). This letter is to bring to your attention violations of Section 8 of the National Voter Registration Act (“NVRA”) committed in Delaware County (the “County”). Mr. McBlain is receiving this letter because he and the other members of the Council have responsibilities under State law to maintain accurate and current voter lists.<sup>1</sup> Secretary Boockvar is receiving this letter because, as the chief state elections official of Pennsylvania (“the State”), she is charged with coordinating State responsibilities under the NVRA.<sup>2</sup>

This letter serves as official statutory notice under 52 U.S.C. § 20510(b)(1) & (2) that Judicial Watch will bring a lawsuit against you if these violations are not corrected within 90 days. Section 8(a)(4) of the NVRA requires states to “conduct a general program that makes a reasonable effort to remove the names of ineligible voters” by reason of death or change of address. 52 U.S.C.

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<sup>1</sup> Pa. Cons. Stat. §§ 1203, 1204, 1501-1514.

<sup>2</sup> See 52 U.S.C. § 20509; *PILF v. Boockvar*, 370 F. Supp. 3d 449, 457 (M.D. Pa. 2019).

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§ 20507(a)(4). In order to ensure that states and counties are complying with these requirements, Congress provided a public inspection provision, which requires all records concerning the accuracy and currency of the voter registration list to be disclosed. 52 U.S.C. § 20507(i).

The following explains how we determined that Section 8 has been violated and the remedial steps that must be taken to comply with federal law.

Judicial Watch examines a number of metrics in order to assess whether a jurisdiction is conducting a general program that makes a reasonable effort to remove ineligible registrants from its voter rolls. To begin with, Judicial Watch determines each jurisdiction's registration rate. States must report detailed registration data every other year to the U.S. Election Assistance Commission (EAC).<sup>3</sup> Judicial Watch hires experts to compare this data to the citizen voting-age population in each state and county where data is available.<sup>4</sup> An unusually high registration rate suggests that a jurisdiction is not removing voters who have died or who have moved elsewhere, as required by 52 U.S.C. § 20507(a)(4). Federal courts adjudicating NVRA claims have acknowledged the significance of high registration rates. *See Am. Civ. Rights Union v. Martinez-Rivera*, 166 F. Supp. 3d 779, 793 (W.D. Tex. 2015); *Voter Integrity Project NC, Inc. v. Wake Cnty. Bd. of Elections*, 301 F. Supp. 3d 612, 618 (E.D.N.C. 2017).

Judicial Watch also considers how many registrations were ultimately removed from the voter rolls because a registrant failed to respond to an address confirmation notice and then failed to vote during the NVRA's statutory waiting period. If few or no voters were removed by means of this process, the jurisdiction is obviously failing to comply with Section 8(d) of the NVRA. 52 U.S.C. § 20507(d)(1). States must report the number of such removals to the EAC.<sup>5</sup>

Our analysis of the data regarding Delaware County showed the following:

- The County reported removing only *four* voter registrations in the last two-year reporting period on the grounds that the registrants failed to respond to an address confirmation notice and failed to vote in two consecutive federal elections. This is an absurdly low figure for a county of this size. If this figure is accurate, it establishes beyond any dispute that the County is not complying with the NVRA.
- The County has a high registration rate of about 97%.

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<sup>3</sup> 11 C.F.R. § 9428.7.

<sup>4</sup> EAC registration data is available publicly at <https://www.eac.gov/research-and-data/election-administration-voting-survey/>. For the latest American Community Survey population and demographic data, *see* <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>

<sup>5</sup> 11 C.F.R. § 9428.7(b)(5); U.S. Election Assistance Commission, ELECTION ADMINISTRATION AND VOTING SURVEY: 2018 COMPREHENSIVE REPORT at 197 (survey question A9e), available at [https://www.eac.gov/assets/1/6/2018\\_EAVS\\_Report.pdf](https://www.eac.gov/assets/1/6/2018_EAVS_Report.pdf).

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These facts establish clear violations of Section 8(a)(4) of the NVRA.

\* \* \* \* \*

Pursuant to 52 U.S.C. § 20510(b)(2), if the foregoing violations are not corrected within 90 days of your receiving this letter, Judicial Watch and those on whose behalf it has sent this letter may commence an action against you in federal court. Please contact us about your plans for correcting these violations. In particular, please set forth in such communication:

- Whether you agree that the EAC accurately quoted data it received from you regarding the number of registrations you removed under the process set forth in Section 8(d) of the NVRA during the last two-year reporting period. If you believe the data reported was not accurate, please let us know your own estimates regarding these numbers.
- Your explanation regarding the County's registration rate discussed above.
- A description of the State's and the County's programs for sending address confirmation notices described in 52 U.S.C. § 20507(d)(2) to those who are believed to have moved, and for placing voters in an "inactive" status prior to their removal.
- A description of the State's and the County's programs for complying with the other voter list maintenance requirements of the NVRA, including all requirements to remove the registrations of those who have died or have otherwise become ineligible to register or vote.
- A description of your plan to remedy any noncompliance with the voter list maintenance requirements of the NVRA, including 52 U.S.C. § 20507(a)(4) and (d).

\* \* \* \* \*

Section 8(i)(1) of the NVRA requires that "[e]ach state shall maintain for at least 2 years and shall 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). That provision goes on to specifically provide that "[t]he records maintained . . . shall include lists of the names and addresses of all persons to whom [address confirmation] notices . . . are sent, and information concerning whether or not each such person has responded to the notice." *Id.*, § 20507(i)(2).

Pursuant to that section, please provide the following categories of records to Judicial Watch within two weeks of the date of this letter. If you fail to do so, we will deem it an independent violation of the NVRA. Specifically, please provide the following records insofar as they were generated by, or concern, the County:

1. Copies of the most recent voter registration database, or copies of the most recent voter registration lists drawn from the voter registration database, including fields indicating each

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registered voters' name, full date of birth, home address, most recent voter activity, and active or inactive status.

2. The names and addresses of all persons to whom notices described in 52 U.S.C. § 20507(d)(2) were sent, and information concerning whether or not each person responded to the notice.

3. All documents and communications concerning the questions contained in Section A of the most recent Election Administration & Voting Survey ("EAVS"). This request includes, but is not limited to:

- a. Your written responses to the EAVS, along with any documents you provided along with your responses.
- b. Any internal or external communications about the EAVS.

4. All documents concerning any internal or external audit, evaluation, assessment, review, analysis, critique, or request for or response to any of the foregoing, relating to the accuracy and currency of official lists of eligible voters. This request includes, but is not limited to any of the foregoing documents relating to:

- a. Registered voters who were sent notices described in 52 U.S.C. § 20507(d)(2).
- b. Registered voters who have died.
- c. Registered voters who are noncitizens.

5. All documents concerning any instance(s) of voter fraud, including, but not limited to, impersonation fraud, double voting, registration fraud, absentee ballot fraud, mail-in ballot fraud, registration or voting by noncitizens, unlawful assistance, or aiding, abetting, or conspiring to commit any of the foregoing.

6. All manuals, training materials, protocols, written standards, and official guidance concerning efforts to ensure the accuracy and currency of your official list of eligible voters.

7. All contracts with the U.S. Postal Service or any other federal agency to provide change-of-address information concerning registered voters.

8. Copies of all documents and communications concerning the following:
- a. The Systematic Alien Verification for Entitlements ("SAVE") database.
  - b. The Interstate Voter Registration Cross-Check Program.
  - c. The Electronic Registration Information Center ("ERIC").

\* \* \* \* \*

I hope the concerns identified in this letter can be resolved amicably. We have a track record of resolving NVRA claims on reasonable terms. However, if you do not contact us about correcting or otherwise resolving the above-identified problems within 90 days, a federal lawsuit

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seeking declaratory and injunctive relief against both of you in your official capacities may be necessary. In such a lawsuit we would seek, in addition to injunctive relief, a judgment awarding reasonable attorney fees, expenses, and costs. *See* 52 U.S.C. § 20510(c). For the reasons set forth above, we believe that such a lawsuit would be very likely to succeed.

We look forward to receiving your prompt response.

Sincerely,

**JUDICIAL WATCH, INC.**

*s/ Robert D. Popper*

Robert D. Popper  
Attorney, Judicial Watch, Inc.

# Exhibit 4





## County of Bucks

OFFICE OF THE SOLICITOR  
55 East Court Street, Doylestown, PA 18901  
Phone: 215-348-6464 Fax: 267-885-1654  
EMAIL: [Solicitor@buckscounty.org](mailto:Solicitor@buckscounty.org)

*County Solicitor*  
JOSEPH J. KHAN

*Assistant County Solicitor*  
Stuart Wilder  
215-348-8003  
[swilder@buckscounty.org](mailto:swilder@buckscounty.org)

March 4, 2020

Robert D. Popper  
c/o Judicial Watch  
425 Third Street, SW  
Suite 800  
Washington, D.C. 20024

Re: Your December 11, 2019 letter to the Hon. Diane M. Ellis-Marseglia

Dear Mr. Popper:

This letter is in reply to your December 11, 2019 letter to Commissioner Diane M. Ellis-Marseglia.

Page 2 of your letter states that Bucks County removed “only eight voter registrations in the last two-year reporting period on the grounds that the registrants failed to respond to an address confirmation notice and failed to vote in two consecutive federal elections. This is false.

In 2018, the last year for which data is available, 12,149 active voter registrations were cancelled, and 1,901 inactive voter registrations were cancelled due to voter registration culling with tools available from the driver license registration process. *See THE ADMINISTRATION OF VOTER REGISTRATION IN PENNSYLVANIA; 2018 REPORT TO THE GENERAL ASSEMBLY*, Pennsylvania Department of State, June, 2019, pp. 35, 38. Using change of address information available from the United States Post Office, Bucks County marked 188 voters inactive, and cancelled 257 out of county and 1,552 out of state voters due to their relocation out of their voting districts. *Id.*, p.33. Bucks County, in short, does its part to maintain its voter registration rolls in line with the federal and state laws you cite in your letter. Bucks County actually cancelled 14,050 voters in 2018.

Robert D. Popper  
c/o Judicial Watch  
February 21, 2020  
Page 2

Bucks County participates in Pennsylvania's Statewide Uniform Registry of Electors system, which in turn uses information from the National Change of Address resources supplied by the United States Post Office. It thus complies with 52 U.S.C. §20507(c)(1), which provides that:

(1) A State may meet the requirement of subsection [52 U.S.C. §20507](a)(4) by establishing a program under which:

(A) change-of-address information supplied by the Postal Service through its licensees is used to identify registrants whose addresses may have changed; and

(B) if it appears from information provided by the Postal Service that--

(i) a registrant has moved to a different residence address in the same registrar's jurisdiction in which the registrant is currently registered, the registrar changes the registration records to show the new address and sends the registrant a notice of the change by forwardable mail and a postage prepaid pre-addressed return form by which the registrant may verify or correct the address information; or

(ii) the registrant has moved to a different residence address not in the same registrar's jurisdiction, the registrar uses the notice procedure described in subsection (d)(2) to confirm the change of address.

In 2018, counties performed regular list maintenance activities within the Statewide Uniform Registry of Electors system, which include the removal of deceased voters and voters who have confirmed that they moved outside of the county in which they were registered. Counties send five-year notices to registrants who have not voted in at least two federal general elections, as well as send address verification notices to voters identified by the United States Postal Service as having submitted a change of address to the Postal Service. During 2018, counties, including Bucks, sent 254,630 five-year notices and 142,475 address verification notices. (Information about 2019 will be

Robert D. Popper  
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available in the Board of Elections office sometime in June, 2020 after it is released by the Department of State. The latter may also place the data online.)

Also, as part of the list maintenance process, county elections officials mail notices to voters who may have moved using information by the USPS through its National Change of Address program. The notices provide an opportunity for the voter to confirm their address or to send an update to county officials. In 2018, 198,761 notices were mailed statewide to voters to confirm or update their address.

Additionally, 453,829 registered voters who moved were identified by the Pennsylvania Department of Transportation when they changed their address with it. The Pennsylvania Department of Transportation sends these address changes to the Department of State which forwards them to the counties to update their records. As a result of these combined list maintenance activities 761,288 voter registrations were marked "inactive" and 380,154 were cancelled in 2018. (Bucks County's numbers are recited above.) A voter is only cancelled after receiving a notice requesting the voter to confirm his or her address, has been placed in inactive status and the voter does not vote or otherwise contact the county for two federal general elections after receiving notice. Bucks County's compliance with and participation in the Statewide Uniform Registry of Electors system and the National Change of Address program constitutes a reasonable effort to remove voters who become eligible because of a change of address. *Belitto v. Snipes*, 935 F.3d 1192, 1203 (5th Cir. 2019).

I do not know where your data underlying your allegations that Bucks County only cancels a handful of registrations comes from. Where did you find statistics that say Bucks County reported only eight voter registrations in the last two years on the grounds that registrants failed to respond to an address confirmation and then failed to vote during the National Voter Registration Act's statutory waiting period? The websites cited in footnotes 4 and 5 of your letter are inactive, non-existent, or simply are not what you describe them to be, at least as of February 19, 2020. [https://www.eac.gov/assets/1/6/2018 EAVS Report.pdf](https://www.eac.gov/assets/1/6/2018_EAVS_Report.pdf) is an inactive page. <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> is a portal page to a soon to be discontinued website. Even when links are followed to Bucks County, all that is offered is a hodgepodge of information not directly relevant to your inquiry.

Robert D. Popper  
c/o Judicial Watch  
February 21, 2020  
Page 4

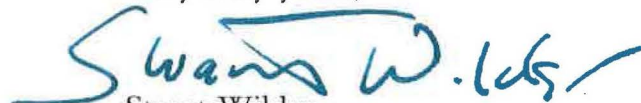
<https://www.eac.gov/research-and-data/election-administration-voting-survey> is likewise a portal page for election data, and I could not discern what part of that overall website your letter relied upon. I do note that at least one federal court of appeals found that use of "EAVS" data to assess the quality of an elections agency's compliance with federal mandates for culling voters from registration roles led to inaccurate and misleading conclusions. *Belitto v. Snipes*, 935 F.3d at 1207-08.

Your request for information pursuant to 52 U.S.C. §20507(i)(2) is declined. That section provides:

- (i) Public disclosure of voter registration activities.
  - (1) Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, 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, except to the extent that such records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.
  - (2) The records maintained pursuant to paragraph (1) shall include lists of the names and addresses of all persons to whom notices described in subsection (d)(2) are sent, and information concerning whether or not each such person has responded to the notice as of the date that inspection of the records is made.

52 U.S.C. §20507(i)(2). You are invited to visit the Bucks County Board of Elections during office hours and inspect the records covered by that law. You may make copies in accordance with Board of Election policies on copying records for members of the public.

Very truly yours,

  
Stuart Wilder

SW/js

# Exhibit 5





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

March 9, 2020

*VIA EMAIL*

Joseph J. Khan  
County Solicitor  
Bucks County Board of Elections  
55 East Court Street  
Doylestown, Pennsylvania 18901

**Re: Your March 4, 2020 letter.**

Dear Mr. Khan:

I write in reply to your letter of March 4, 2020, in which you responded to Judicial Watch's December 11, 2019 letter to Commissioner Diane M. Ellis-Marseglia, alleging violations of Section 8 of the National Voter Registration Act in Bucks County.

You took pointed exception to our statement that "[t]he County reported removing only *eight* voter registrations in the last two-year reporting period on the grounds that the registrants failed to respond to an address confirmation notice and failed to vote in two consecutive federal elections." You professed that you were unable to find such data on the Election Assistance Commission's (EAC's) website and asked where we found it.

I can tell you where. On the EAC's website, a page entitled "Research & Data: SURVEYS AND DATA, Election Administration and Voting Survey (EAVS) Datasets, Codebooks, and Survey Instruments" appears here: <https://www.eac.gov/research-and-data/datasets-codebooks-and-surveys>. Under the subheading for "2018," there is a sample survey, as well as the collected responses of every state and county in the United States that supplied answers.

The official survey is listed as the "2018 Election Administration and Voting Survey Instrument," and a clickable link takes you to it here: [https://www.eac.gov/sites/default/files/eac\\_assets/1/6/2018\\_EAC\\_Election\\_Administration\\_and\\_Voting\\_Survey\\_Instrument.pdf](https://www.eac.gov/sites/default/files/eac_assets/1/6/2018_EAC_Election_Administration_and_Voting_Survey_Instrument.pdf). Question 9 of that survey (on page 10 of the document) asks for the number of voters removed from the voter rolls, both in total and for various reasons. Question 9(e) particularly asks for the number of removals for "[f]ailure to respond to notice sent and failure to vote in two most recent federal elections." I have downloaded this official survey and attached a copy to the accompanying email.

Joseph J. Khan  
March 9, 2020  
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On the same “Research & Data” webpage, the collected responses to the 2018 survey are available in a number of data formats under the heading “EAVS Datasets Version 1.2 (released February 18, 2020).”<sup>1</sup> I have downloaded this data in Excel format and attached the spreadsheet to the accompanying email. In the column containing the responses to survey question 9(e), Bucks County is reported to have removed “8” registrations during the relevant two-year period because the registrant failed to respond to a notice and failed to vote in the two most recent federal elections. (See row 3527 at column CX.)

If, as you maintain, that particular data point is incorrect, then there is no one to blame but the Pennsylvania and Bucks County officials who certified it to the EAC pursuant to their obligations under federal law. *See* 11 C.F.R. § 9428.7. I note, however, that your letter does not show that the response provided to the EAC was incorrect. You refer to active and inactive registrations that were cancelled in the County and the State, but registrations may be cancelled for any number of reasons. *You never indicate how many registrations were cancelled in Bucks County during the reporting period for failing to respond to a notice letter and then failing to vote for two general federal elections*—the question 9(e) inquiry. Nor do you clarify matters by referring to THE ADMINISTRATION OF VOTER REGISTRATION IN PENNSYLVANIA, 2018 REPORT TO THE GENERAL ASSEMBLY, Pennsylvania Department of State, June 2019. Page 35 of that report indicates that 830 inactive voters were removed pursuant to a “Voter Removal Program.” Is that the number we are looking for, at least for 2018? But the same page shows that 233 *active* voters were removed in Bucks County under the same program. That would not make sense under Section 8(d)(2), because active voters would be placed on the inactive list, not removed.

To make matters clear, please provide us with the following information.

(1) Is the data given in response to question 9(e), which indicates that eight voters were removed for failing to respond to a notice and failing to vote in two general federal elections, accurate? If not, how many voters were removed from Bucks County’s voter rolls for failing to respond to a notice and failing to vote (or correct the registrar’s records) for two general federal elections, from November 2016 through November 2018?

(2) How many voters were removed from Bucks County’s voter rolls for failing to respond to a notice and failing to vote (or correct the registrar’s records) for two general federal elections, in 2019, and so far in 2020?

If the answers to these questions are not what we have come to expect, it could materially alter our decision whether to pursue this matter. If, on the other hand, we get no answers to these questions, or if we get evasive or unclear answers, or if we are told to wait until June, we will sue, and attach this correspondence to the complaint. We will then obtain this information in discovery.

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<sup>1</sup> This is an updated dataset from the one made available in October 22, 2019, which is listed right below it on the same webpage, also in a number of data formats. The relevant data concerning Bucks County is the same in both releases.

Joseph J. Khan

March 9, 2020

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Although I have been blunt, please do not misinterpret this as an unwillingness to compromise or work together. We are always glad to avoid needless litigation and to resolve a dispute that should be amicably resolved. But we do intend to obtain the data we requested.

As for your offer to inspect and copy the records covered by Section 8(i) of the NVRA, thank you, we accept. Eric W. Lee from our office will be reviewing the relevant records. We will call shortly to discuss any necessary logistics and to set up a particular time.

We look forward to your response.

Sincerely,

**JUDICIAL WATCH, INC.**

*s/ Robert D. Popper*

Robert D. Popper  
Attorney, Judicial Watch, Inc.



# Exhibit 6



# County of Bucks

## OFFICE OF THE SOLICITOR

55 East Court Street, Doylestown, PA 18901

Phone: 215-348-6464 Fax: 267-885-1654

EMAIL: [Solicitor@buckscounty.org](mailto:Solicitor@buckscounty.org)

*County Solicitor*  
JOSEPH J. KHAN

*Assistant County Solicitor*  
Stuart Wilder  
215-340-8003  
[swilder@buckscounty.org](mailto:swilder@buckscounty.org)

March 20, 2020

Robert D. Popper  
c/o Judicial Watch  
425 Third Street, SW  
Suite 800  
Washington, D.C. 20024

Dear Mr. Popper:

This is in response to your March 9, 2020 letter.

I ask your patience awaiting for a point by point response. Your letter came eight days before a special election in a legislative house district to fill a vacancy. This election came amidst the purchase and receipt of hundreds of new machines the County purchased to comply with a November, 2019 state law, requiring the Board of Elections to become familiar with the programming of the equipment, training staff and voters to use them (they differ significantly from past machines), receiving the new machines and shipping them to polling places. In addition, we had to make sudden and extensive preparations to protect the voting public in the current health emergency, something the Board of Elections has never had to worry about. We now must prepare for the regularly scheduled April 28 primary election, for which we must continue training the rest of the County (staff and voters) to use the machines, implement increasingly stringent a labor intensive measure to protect voters' and poll-workers' health, and implement a new voting law that has significantly changed our procedures. That law contains, in addition to other major revisions, a mail-in ballot provision that will first be used on April 28. We have already received thousands, and anticipate (especially due to the current emergency) will continue to receive thousands more mail-in ballot applications. These must be processed in accordance with the new law, every voter receiving a ballot. (In the past we only had to process a few hundred absentee ballots.) Further, we have had to answer a routine but extensive inquiry/survey from the United States Department of Justice regarding accessibility issues. Finally, there are national, state and County states of emergency due to the spread of a virus that could be fatal to many members of our and other communities. As a result, the County's operations are limited for the next few weeks, and maybe longer as the situation warrants. I cannot say from day to day what access will be allowed to our building for both employees and the public. Already many employees are being told to stay home (some offices operating with skeletal staff) both due to illness and President Trump's and government public health agencies' guidance on quarantines.

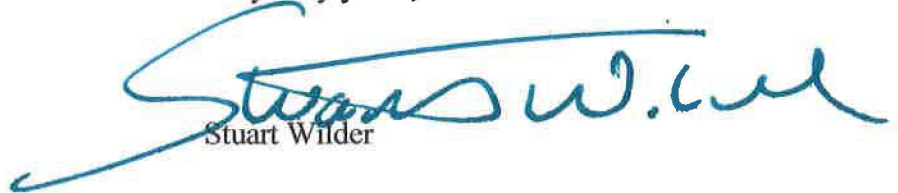
Robert D. Popper  
c/o Judicial Watch  
March 20, 2020  
Page 2

There are answers to your questions, and you will have them in the detail you seek by the end of June. I ask in light of the current situation you be patient. As to Mr. Lee visiting Bucks County, if he calls me in advance I will do all I can to make sure when he arrives he sees whatever publicly available information he wants to see that is within our control. He should also check with the County website, buckscounty.org, for day-to-day changes due to the current situation. I do not know how much longer I will be allowed to enter my building, nor how fully staffed the Board of Elections will be both up to and especially immediately after the April 28 primary. Your threat to sue absent an immediate answer to your questions I will take as being made before you fully understood the magnitude of the crises Bucks County and the nation face. In any event, your March 9 letter is a new inquiry and will be answered within ninety days unless the local and national emergencies engender further delays.

I want to share one observation with you. Your letter focuses on 2018 removals from the rolls of persons who did not vote in two successive federal elections. The vast number, if not all of removals, occur in uneven years because the removals are based on participation in national elections. Those elections occur in November of even years. Bucks County's results are not certified until December. For that reason, the bulk of the culling occurs in uneven years, and the results reported in June of uneven years. You are relying on information reported by the federal Election Assistance Commission and, possibly, the state. I want to ascertain whether they reported everything Bucks County reported to either or both accurately, and if not, why not. Again, in the current crises, this is impossible to do on your timetable.

Thank you for your patience.

Very truly yours,



Stuart Wilder







# THE COUNTY OF CHESTER

## COMMISSIONERS

Michelle H. Kichline  
Kathi Cozzone  
Terence Farrell

## SOLICITOR'S OFFICE

313 W. Market Street, Suite 6702  
P.O. Box 2748  
West Chester, PA 19380-0991  
(610) 344-6195



Thomas L. Whiteman  
County Solicitor

December 19, 2019

Robert Popper  
Judicial Watch  
425 Third St. SW  
Ste. 800  
Washington, DC 20024

Dear Mr. Popper:

Chester County ("County") received your letter dated December 11, 2019 alleging violations of Section 8 of the National Voter Registration Act ("NVRA"). The County strongly disagrees with these allegations and the statistics stated in your letter as the basis for your allegations.

The County has a robust program to maintain voter registration lists in compliance with Pennsylvania and federal law. The County performs list maintenance activities within the Statewide Uniform Registry of Electors system maintained by the Pennsylvania Department of State ("DOS"). Through these activities, the County updates voter registration lists by cancelling voter registrations or marking them inactive after appropriate notice has been given to the voter. The County sends notices to registered voters who have not voted in at least two federal general elections and address verification notices to voters identified by the United States Postal Service ("USPS") as having submitted changes of address to the USPS or been identified as having moved through the USPS National Change of Address program. In addition, PennDOT identifies voters who move through a change of address with PennDOT, and those address changes are sent by the DOS to the County for action. All of these activities can result in cancellations for voters who have moved out of the County.

In addition to change of address maintenance activities, the County receives notices from the Pennsylvania Department of Health relating to voters who have died. In combination with notification from relatives and decedent representatives, the County uses these notices to cancel registrations of deceased voters.

Statistics relating to the County's list maintenance activities are contained in annual reports to the Pennsylvania General Assembly from the DOS entitled "The Administration of Voter Registration in Pennsylvania." These reports are publicly available at <https://www.dos.pa.gov/VotingElections/OtherServicesEvents/VotingElectionStatistics/Pages/Annual-Reports-on-Voter-Registration.aspx>. For your convenience, I have enclosed copies of Appendix D from the 2017 and 2018 reports relating to list maintenance activities. Far from the number of 5 voters stated in your letter, in 2017, the County cancelled 8,977 active voter registrations and 12,522 inactive registrations; in 2018, the County cancelled 10,072 active registrations and 2,084 inactive registrations.

Your letter also states that the County has a high registration rate of 97%, which we believe is overstated. We reviewed the most recently available data of citizen voting age population for the County from the American Community Survey. When compared to the number of registered voters from 2017, the number is less than 97%. And importantly, when inactive voters are removed from this number, the number is significantly less. As you know, the NVRA requires that voters be given notice and placed in an inactive status before cancellation.

Beyond list maintenance activities, given the growth rate and demographics of the County, we are not surprised that a significant number of voting age citizens are registered to vote. The County has the highest median income and educational level in Pennsylvania. It is also recognized as one of the fastest growing counties in the Commonwealth; population is expected to increase by 30% by 2040. A high registration rate in a county with these demographics does not suggest a violation of the NVRA. Lastly, you have requested various records in your letter. Accordingly, we will construe this as a request for information pursuant to the Pennsylvania Right to Know Law (RTKL), 65 P.S. § 67.101, *et seq.*

Pursuant to Section 902(a) of the RTKL, we require an additional 30 days to respond because the extent and nature of your request precludes a response within five business days.

We anticipate responding to your request on or before January 19, 2020. It is possible that your duplication fees will exceed \$100.00.

Sincerely,

A handwritten signature in blue ink, appearing to read 'T. Whiteman', with a stylized flourish extending to the right.

Thomas L. Whiteman, Esq.  
Solicitor

Attachments (2)

cc: Kathy Boockvar, Secretary, Commonwealth of Pennsylvania







# THE COUNTY OF CHESTER

## COMMISSIONERS

Marian D. Moskowitz  
Josh Maxwell  
Michelle H. Kichline

## SOLICITOR'S OFFICE

313 W. Market Street, Suite 6702  
P.O. Box 2748  
West Chester, PA 19380-0991  
(610) 344-6195



Kristen Mayock  
Deputy Solicitor

January 21, 2020

Robert Popper  
Judicial Watch  
425 Third St. SW  
Ste. 800  
Washington, DC 20024

Dear Mr. Popper:

Chester County responded to your letter dated December 11, 2019, on December 19, 2019, attached. In our December 19, 2019 response to your letter, we provided you with copies of 2017 and 2018 reports relating to voter list maintenance activities. In your letter, however, you had requested additional various records. Accordingly, your letter was construed as a request for information pursuant to the Pennsylvania Right to Know Law (RTKL), 65 P.S. § 67.101, *et seq.* The County invoked Section 902(a) of the RTKL, which provided an additional 30 days to respond to your request because the extent and nature of it precluded a response within five business days.

You have requested the following records for the last two years. The County's responses are granted in part and denied in part, in blue below.

1. Copies of the most recent voter registration database, or copies of the most recent voter registration lists drawn from the voter registration database, including fields indicating each registered voters' name, full date of birth, home address, most recent voter activity, and active or inactive status.  
Chester County does not maintain and is not in possession, custody or control of these records. 65 P.S. §67.705. The most recent, up-to-date information you request is available through the Pennsylvania Department of State (DOS) via this link:  
<https://www.pavoterservices.pa.gov/Pages/PurchasePAFULLVoterExport.aspx>.
2. The names and addresses of all persons to whom notices described in 52 U.S.C. § 20507(d)(2) were sent, and information concerning whether or not each person responded to the notice.  
Chester County does not maintain and is not in possession, custody or control of these records. 65 P.S. §67.705. The information you request, however, may be available through the DOS, which maintains the statewide voting records for Pennsylvania. The DOS can be contacted here: [https://www.votespa.com/Pages/Contact-Us.aspx#googtrans\(en\)](https://www.votespa.com/Pages/Contact-Us.aspx#googtrans(en)).



3. All documents and communications concerning the questions contained in Section A of the most recent Election Administration & Voting Survey ("EAVS"). This request includes, but is not limited to:
  - a. Your written responses to the EAVS, along with any documents you provided along with your responses.
  - b. Any internal or external communications about the EAVS.

Chester County does not maintain and is not in possession, custody or control of these records. 65 P.S. §67.705. The information you request, however, may be available through the DOS, which maintains the statewide voting records for Pennsylvania. The DOS can be contacted here: [https://www.votespa.com/Pages/Contact-Us.aspx#googtrans\(en\)](https://www.votespa.com/Pages/Contact-Us.aspx#googtrans(en)).
4. All documents concerning any internal or external audit, evaluation, assessment, review, analysis, critique, or request for or response to any of the foregoing, relating to the accuracy and currency of official lists of eligible voters.

This request is partially denied because the request lacks specificity, 65 P.S. § 67.703, and could also be construed as pertaining to a noncriminal investigation, 65 P.S. § 67.708(b)(17). Without waiving the aforementioned, this request is granted to the extent that there are 31 pages of documents pertaining to maintenance of official lists of eligible voters, attached. Per Chester County policy and Pennsylvania law, there is a \$0.25 per page fee. The cost of photocopies of these records, therefore, is \$7.75. Please remit payment in that amount to "The Treasurer, County of Chester," but send to the undersigned's attention.

This request includes, but is not limited to any of the foregoing documents relating to:

- a. Registered voters who were sent notices described in 52 U.S.C. § 20507(d)(2). Please see the County's response to No. 2, above.
  - b. Registered voters who have died. Chester County does not maintain and is not in possession, custody or control of any internal or external audit documents regarding deceased voters. 65 P.S. §67.705.
  - c. Registered voters who are noncitizens.

There are 51 pages of documents pertaining to registered voters who are noncitizens, attached. Per Chester County policy and Pennsylvania law, there is a \$0.25 per page fee. The cost of photocopies of these records, therefore, is \$12.75. Please remit payment in that amount to "The Treasurer, County of Chester," but send to the undersigned's attention.
5. All documents concerning any instance(s) of voter fraud, including, but not limited to, impersonation fraud, double voting, registration fraud, absentee ballot fraud, mail-in ballot fraud, registration or voting by noncitizens, unlawful assistance, or aiding, abetting, or conspiring to commit any of the foregoing.

See the County's response to 4(c) above in regard to noncitizens.  
Chester County does not maintain and is not in possession, custody or control of the remaining requested records. 65 P.S. §67.705. The information you request, however, may be available through the DOS, which maintains the statewide voting records for Pennsylvania.
  6. All manuals, training materials, protocols, written standards, and official guidance concerning efforts to ensure the accuracy and currency of your official list of eligible voters.

This request is granted. There are 181 pages of documents responsive to this request. Per Chester County policy and Pennsylvania law, there is a \$0.25 per page fee. The cost of photocopies of these records, therefore, is \$42.25. This payment may be combined with the copying fees related to



Nos. 4 and 4(c). The total amount due is \$65.75. Please remit payment in that amount to "The Treasurer, County of Chester," but send to the undersigned's attention.

7. All contracts with the U.S. Postal Service or any other federal agency to provide change-of-address information concerning registered voters.  
Chester County does not maintain and is not in possession, custody or control of these records. 65 P.S. §67.705. The information you request, however, may be available through the DOS, which maintains the statewide voting records for Pennsylvania.
8. Copies of all documents and communications concerning the following:
  - a. The Systematic Alien Verification for Entitlements ("SAVE") database. Chester County does not maintain and is not in possession, custody or control of these records. 65 P.S. §67.705. The information you request, however, may be available through the DOS, which maintains the statewide voting records for Pennsylvania.
  - b. The Interstate Voter Registration Cross-Check Program. Chester County does not maintain and is not in possession, custody or control of these records. 65 P.S. §67.705. The information you request, however, may be available through the DOS, which maintains the statewide voting records for Pennsylvania.
  - c. The Electronic Registration Information Center ("ERIC").  
Please see response to No. 6 above.

You have a right to appeal the denials of information contained in this correspondence in writing to the Pennsylvania Office of Open Records, 333 Market St., 16th Floor, Harrisburg, PA 17101-2234. Please consult the Pennsylvania Open Records Act for your appellate rights at 65 P.S. § 67.101, *et seq.*, more specifically §1101(a)(1).

Sincerely,



Kristen Mayock  
Deputy Solicitor

cc: Sandra Burke, Chester County Voter Services

# Exhibit 9



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE

March 9, 2020

Robert D. Popper  
Judicial Watch, Inc.  
425 Third Street, SW  
Suite 800  
Washington, DC 20024

Dear Mr. Popper:

I am writing regarding the letters you directed concurrently to me and to four of Pennsylvania's county boards of elections, wherein you allege that those counties have not complied with Section 8(d) of the National Voter Registration Act (NVRA) relating to the conduct of programs for the removal of ineligible voters from the counties' official voter rolls.

As Pennsylvania's chief state elections official, I take very seriously the counties' efforts to conduct uniform and nondiscriminatory voter removal programs in accordance with applicable federal and state law.

The department has made substantial commitments of time and resources to voter list maintenance activities in Pennsylvania. We monitor the Commonwealth's statewide voter registration database on a daily basis to track our counties' activities related to the National Change of Address (NCOA) program and Pennsylvania's other statutorily mandated and NVRA-compliant voter removal programs. In addition, our partnerships with the Pennsylvania Departments of Health and Transportation provide our counties with timely information about deceased voters and voters who have moved. We augment those efforts through our membership in the Electronic Registration Information Center (ERIC) program, which allows us to share our voter data with about 30 other states to enhance list maintenance activities. While we are currently in a quiet period during which no list maintenance activities are permitted by law, in June we will provide to counties new post-primary data obtained through ERIC to enable the counties to perform additional list maintenance activities before the general election.

I understand and appreciate my obligation to review any allegations of failure to conduct voter list maintenance in the Commonwealth. Likewise, I appreciate my obligation to identify and combat with facts any misinformation that might erode the citizens' confidence in the integrity of our elections. To that end, my staff and I reviewed the allegations in each of the four letters and the data you provided to support those allegations. Based on our review of your allegations, available data, and the responses by the counties, we must respectfully note our fervent disagreement with your allegations and conclusions. In short, your allegations are inaccurate and contradicted by verified data.

Please note you can find information about the Commonwealth's voter list maintenance activities as reported in the Department of State's annual reports. Detailed breakdowns of the data summarized in the following paragraphs can be found in Appendix D of each annual report



Robert D. Popper

March 9, 2020

Page 2

published on the department's website here:

<https://www.dos.pa.gov/VotingElections/OtherServicesEvents/VotingElectionStatistics/Pages/Annual-Reports-on-Voter-Registration.aspx>.

In 2018 alone, Allegheny, Bucks, Chester and Delaware counties together cancelled 52,317 active voter records and 13,178 inactive voter records via annual voter list maintenance activities, accounting for nearly 18% of the 372,694 voter list maintenance cancellations in Pennsylvania during that year. In 2017, these four counties accounted for 106,338 (22%) of the 487,768 voter list maintenance cancellations statewide, and in 2016, these four counties accounted for 74,416 (18%) of the 405,163 voter list maintenance cancellations statewide. In January of this year, Allegheny County cancelled 69,695 voter records that were inactive for two (2) federal elections after back to back quiet periods due to special elections in 2019 that prevented them from finalizing last year's voter list maintenance before the end of 2019.

I am aware that at least two of the four counties – Bucks and Chester – have provided written responses to your letters, confirming that they conducted voter list maintenance efforts in accordance with both the NVRA and Pennsylvania's voter registration law. In addition, both counties noted that a review of their own data, which they certify to the department annually for publication in the aforementioned annual reports, directly contradicts the figures alleged in your letters. We have confidence in Pennsylvania counties' performance of voter list maintenance activities and the programs the department administers to support those activities.

Please feel free to reach out with any additional questions.

Sincerely,

A handwritten signature in black ink that reads "Kathy Boockvar". The signature is written in a cursive, flowing style.

Kathy Boockvar

Secretary of the Commonwealth