

**EXHIBIT 18**  
**Part 3**

affirmative responsibility of adding all eligible citizens in its records to the voter lists. Under such a system, there would be far fewer unregistered voters who show up at the polls on Election Day since virtually all eligible citizens would be registered. In addition to providing a fail-safe for those voters wrongly purged, universal voter registration would increase confidence in the accuracy of voter registration lists since they would have been assembled by election officials rather than by voters.

Universal voter registration has other benefits as well: it would add up to 50 million unregistered Americans to the voter rolls; eliminate the opportunity for partisan or other gamesmanship with voter registration rules and procedures; reduce fears of potential voter fraud, as those derive largely from the potential for fraudulent registrations; and reduce burdens on election officials, who currently devote substantial resources to processing voter registration forms in the months and days leading up to an election. The elements of a system of universal registration are as follows:

- The government takes affirmative responsibility to build clean voter lists consisting of all eligible citizens.
- Each eligible citizen only has to register once within a state; the government ensures that voters stay on the lists when they move within state.
- Election Day registration is available as a fail-safe for those eligible citizens whose names are erroneously not added to or erroneously purged from the voter rolls.

## V. EMERGING ISSUES WITH RESPECT TO PURGES

There are numerous blemishes in our country's voting history. Since the end of Reconstruction in the late nineteenth century, the voting rights of poor and minority citizens have been restricted through a complex system of laws enacted by state legislatures and intended to limit or ignore the commands of the 14th and 15th Amendments. In the immediate aftermath of the Civil War and the Reconstruction Amendments, voting among African American men briefly soared in the former slave states.<sup>166</sup> In Louisiana in 1867, for example, approximately 90% of the eligible black male population had registered to vote.<sup>167</sup> However, by the end of the Reconstruction era in 1877, most Southern states had erected significant new barriers to minority voting that re-established control by the white Democratic Party, eliminating these hard-won rights from the vast majority of non-white voters.<sup>168</sup> At first glance, these new voting laws appeared race-neutral, so as not to violate the 14th and 15th Amendments, but in effect they purposely excluded many African Americans from the polls. Poll taxes, literacy tests, and grandfather clauses, for example, proved to be effective barriers to African American voting. Though these new restrictions did not, on face, target one group of voters over another, they were discriminatorily applied to African American voters.<sup>169</sup>

Some commentators argue that voter purges are simply a variation of older, more overt methods of disenfranchisement intended to reduce minority participation.<sup>170</sup> Courts have agreed: one court overturned the aforementioned Louisiana purge, finding it “massively discriminatory in

purpose and effect,”<sup>171</sup> and another referred to a Texas statute requiring yearly re-registration as a “direct descendant of the poll tax” that unconstitutionally disenfranchised voters.<sup>172</sup> Although other courts differ on the motivations of purges, they do not deny that their effect can be discriminatory.<sup>173</sup>

Irrespective of whether purging officials act with racial animus, if done without adequate protections, voter purges can have the same disenfranchising effect as the overt voter restrictions used in earlier decades. While new nuances to problematic purges are always emerging, there are at least two relatively new issues for which problems are predictable.

## A. VOTER CAGING

In the later half of the twentieth century, a category of voter purges known as “voter caging” arose as a new tactic to generate lists of voters to be purged from voter registration lists or challenged at the polls. Adapted from a direct mail marketing practice of sorting mailing addresses,<sup>174</sup> voter caging is a controversial method of targeting voters in which non-forwardable mail is sent to registered voters at their voter registration address.

Some percentage of that mail is returned to the sender as undeliverable for a variety of reasons, many unrelated to the recipient’s status as a voter.<sup>175</sup> On this basis alone, the sender (typically a political operative) uses the list of returned mail to either request election officials to purge the names from the registration list or later challenge the validity of the voter’s registration at the polls on Election Day, or both.

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Voter caging has been demonstrated to produce grossly inaccurate results and has threatened to disenfranchise thousands of legitimately registered voters.<sup>176</sup> The history of voter caging is littered with examples of political operatives targeting poor and minority neighborhoods where mail delivery might be less reliable or where voters are believed to be threatening to certain political interests. First uncovered in 1958, the practice has frequently been used to generate purges of thousands of voters. In 1986, for example, the Republican National Committee (“RNC”) hired a vendor to conduct a voter caging effort in at least three states, intending to purge voters residing in primarily African American neighborhoods.<sup>177</sup> Unearthed in subsequent litigation, an RNC internal memorandum discussing the targeting of Louisiana voters stated the goal of the voter caging program:

I would guess that this program will eliminate at least 60-80,000 folks from the rolls . . . If it’s a close race, which I’m assuming it is, this could really keep the black vote down considerably.<sup>178</sup>

In more modern times, reports of intended voter caging efforts have surfaced in Ohio, Michigan, and Virginia.<sup>179</sup> Because voters who are victims of caging cannot cast a regular ballot, purges of this kind pose a significant threat to the completeness of voter registration lists, and ultimately, to the legitimacy of our nation's elections.

## B. COMPARING DATABASES WITHIN AND ACROSS STATE LINES

HAVA's requirement of centralized computer voter registration databases has allowed election officials to maintain their voter lists with greater ease as states move away from many separate voter lists, but it also significantly amplifies the potential for large-scale disenfranchisement.<sup>180</sup> Indeed, computerized voter registration lists now make it possible for thousands of voters to be disenfranchised with a single keystroke.

Officials have increasingly focused attention on ways of making state databases “interoperable” with other databases that may contain relevant information on registered voters. “Interoperability” is generally defined as a method of connecting or integrating multiple databases so that changes in one database can be recognized and mirrored in a second database automatically. Seizing on language in HAVA which requires or recommends states to “coordinate” voter registration databases with felony conviction databases, death records, and records of voter moves through state DMV databases,<sup>181</sup> several groups of states have started to compare voter registration lists among each other and initiate voter purges based on matches between records on different states' lists, presuming that individuals who have moved from one state to another have neglected to notify the original state before registering to vote in the new state.<sup>182</sup>

The problem is that there are not always sufficient protections to ensure that the same individuals are identified as opposed to two different individuals with similar identifying information. In 2006, for example, the Kentucky State Board of Elections attempted to match names on its registration database against lists of voters in Tennessee and South Carolina, and purged 8,000 voters as a result of the match — without notifying the voters, and in violation of specific provisions of federal law.

Interoperability technology grants many opportunities to improve election administration and the maintenance of voter registration databases. Yet because of the speed and scale at which information can be shared, interoperability in many ways poses a greater threat to the right to vote than traditional methods of record coordination. State and local officials should strive to use existing computer and electronic technology in a way that enhances the experiences of voters and minimizes disenfranchising errors during the voter registration processes.

## VI. CONCLUSION

Purges should be a carefully calibrated process designed to account for the complications that invariably arise. Without adequate safeguards, voters experience an unreasonable risk of disenfranchisement, and purges are vulnerable to manipulation. The above recommendations will go far in minimizing unnecessary risks to voters and should be implemented without delay.

## ENDNOTES

- 1 U.S. Election Assistance Comm'n, *The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2005-2006: A Report to the 110<sup>th</sup> Congress*, 50 (2007), available at [http://www.eac.gov/clearinghouse/docs/the-impact-of-the-national-voter-registration-act-on-federal-elections-2005-2006/attachment\\_download/file](http://www.eac.gov/clearinghouse/docs/the-impact-of-the-national-voter-registration-act-on-federal-elections-2005-2006/attachment_download/file).
- 2 Ford Fessenden, *Florida List for Purges of Voters Proves Flawed*, N.Y. TIMES, July 10, 2004, at A02.
- 3 *Id.*
- 4 *Florida Scraps Flawed Felon Voting List*, ASSOC. PRESS, USA TODAY, July 10, 2004.
- 5 John Ferro, *Deceased Residents on Statewide Voter List*, POUGHKEEPSIE JOURNAL, Oct. 29, 2006.
- 6 *Id.*
- 7 Adam C. Smith, *No Telling if Voter Rolls are Ready for 2004*, ST. PETERSBURG TIMES, Dec. 21, 2003.
- 8 Gregory Palast, *The Wrong Way To Fix the Vote*, WASH. POST, June 10, 2001, at B1.
- 9 *Id.*
- 10 WASH. REV. CODE ANN. § 29A.08.620 (2008).
- 11 See *United States v. McElveen*, 180 F. Supp. 10, 11-14 (E.D. La. 1960) (ruling that the removals were in violation of the Fifteenth Amendment and that the voters taken off the registration rolls were illegally removed) *Id.* at 14.
- 12 Marsha Shuler, *Registrar Drops More than 21,000 from Voters Rolls*, THE ADVOCATE, Aug. 17, 2007, at A10.
- 13 *Id.*
- 14 Joe Gyan Jr., *Study: N.O. Population Older, Less Poor, City Remains Majority Minority*, THE ADVOCATE, Sept. 13, 2007, at A1 (reporting that New Orleans' black population dropped from 67% before Hurricane Katrina to 58% a year later).
- 15 Press Release, Secretary of State Jay Dardenne, Voters Registered in Multiple States Should Notify Registrar of Voters to Avoid Being Cancelled (June 15, 2007); Letter from Robert Poche to Voter entitled "Notice: Letter of Intent to Challenge" (June 15, 2007). Both documents were attached as exhibits to the Complaint filed in *Segue v. Louisiana*, No. 07-5221, 2007 U.S. Dist. LEXIS 74428 (E.D. La. Oct. 3, 2007) and are available at [http://moritzlaw.osu.edu/electionlaw/litigation/documents/exhibit\\_000.pdf](http://moritzlaw.osu.edu/electionlaw/litigation/documents/exhibit_000.pdf).
- 16 Although, it was not too long ago in which a political operative involved in a voter caging effort noted, "I would guess that this program will eliminate at least 60-80,000 folks from the rolls. . . . If it's a close race, which I'm assuming it is, this could really keep the black vote down considerably." See Martin Tolchin, G.O.P. Memo Tells of Black Vote Cut, N.Y. TIMES, Oct. 25, 1986, at 7.
- 17 North Dakota is the only state that does not require voter registration. Eight other states — Idaho, Maine, Minnesota, Montana, New Hampshire, Wisconsin and Wyoming — have Election Day registration, which allows voters to register and vote on Election Day. See IOWA CODE ANN. § 48A.7A (2008); IDAHO CODE ANN. § 34-408A (2008); ME. REV. STAT. ANN. tit. 21-A, § 122.4 (2008); MINN. R. 8200.5100 (2007); MONT. ADMIN. R. 44.3.2015(1)(a) (2008); N.H. REV. STAT. ANN. § 654:7-a (2008); WIS. STAT. ANN. § 6.55 (2007); WYO. STAT. ANN. § 22-3-104(f) (2008).
- 18 42 U.S.C. § 1973gg-6(b)(1) (2008).

- 19 See 42 U.S.C. § 1973gg-6(d)(1)-(2) (2008).
- 20 42 U.S.C. § 15483(a)(2)(A)(i) (2008).
- 21 42 U.S.C. § 15483(a)(4) (2008).
- 22 LAWRENCE NORDEN *ET. AL*, BETTER BALLOTS 10 (Brennan Center for Justice ed., 2008), available at <http://www.brennancenter.org/page/-/Democracy/Better%20Ballots.pdf> (calculated average of number of voting-age persons who moved between 2000 and 2006, as reported by the U.S. Census Bureau).
- 23 U.S. Federal Election Commission, *The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 1997-1998: A Report to the 106<sup>th</sup> Congress* 11 (July 1999), available at [http://www.eac.gov/files/clearinghouse/reports\\_surveys/The%20Impact%20of%20the%20NVRA%20of%201993%20on%20Admin%20of%20Elections%20for%2097-98/pdf](http://www.eac.gov/files/clearinghouse/reports_surveys/The%20Impact%20of%20the%20NVRA%20of%201993%20on%20Admin%20of%20Elections%20for%2097-98/pdf).
- 24 U.S. Election Assistance Commission, *The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2005-2006: A Report to the 110<sup>th</sup> Congress* 10 (June 2007), available at [http://www.eac.gov/program-areas/research-resources-and-reports/copy\\_of\\_docs/the-impact-of-the-national-voter-registration-act-on-federal-elections-2005-2006/attachment\\_download/file](http://www.eac.gov/program-areas/research-resources-and-reports/copy_of_docs/the-impact-of-the-national-voter-registration-act-on-federal-elections-2005-2006/attachment_download/file).
- 25 Confirmed by interviews with local boards of election officials in Missouri and Washington conducted in 2007. All interviews are on file at the Brennan Center.
- 26 Confirmed by interviews with local boards of election officials in Kentucky, Missouri, and Washington conducted in 2007. All interviews are on file at the Brennan Center.
- 27 While the NVRA does not specifically raise the issue of duplicates, and instead clarifies that the limitations imposed by the NVRA are not interpretable as precluding “correction of registration records,” 42 U.S.C. § 1973gg-6(c)(2)(B)(ii), (2008) HAVA instructs states to conduct list maintenance “in a manner that ensures that . . . duplicate names are eliminated from the computerized list,” 42 U.S.C. § 15483(a)(2)(B)(iii). Some states, like Washington, WASH. REV. CODE ANN. § 29A.08.610 (2008) and Florida, FLA. STAT. ANN. §§ 98.075, 98.073 (2008), have codified some guidance for addressing the problem of duplicate registrations, albeit with varying degrees of helpfulness. Election statutes in other states, for example, Ohio, and Wisconsin, however, remain silent on the topic of duplicate registration. A number of local officials indicated that duplicates are generally the result of change of addresses, and as such, their processes for responding to duplicates are essentially the purge practices with respect to change of addresses.
- 28 The NVRA makes clear that no person is to be removed from the statewide registration list solely on account of failure to vote. 42 U.S.C. § 1973gg-6(b)(2). The NVRA does permit, however, the removal of a name from the registration list if a person does not respond to an address confirmation notice AND does not vote in the subsequent two federal elections. *Id.*
- 29 A problem occurred in Travis County, Texas whereby individuals believed to have moved because of returned mail were purged despite having voted in at least one of the two subsequent federal elections after the mail was returned. Any update or information needed by election officials should have occurred while the person was at the polls voting. But for reasons not entirely clear, these voters were purged despite their having voted. See Marty Toohey, *Glen Maxey TV Ads Allege Voter Disenfranchisement*, AUSTIN AMERICAN-STATESMAN, Feb. 3, 2008.
- 30 Arkansas, Florida, Maine and Oklahoma all permit the mailing of address confirmation notices in such circumstances. See ARK. CONST. amend. 51, § 7 (2008); FLA. STAT. § 98.065(4) (2008); ME. REV. STAT. ANN. tit. 21-A, § 162-A (2008); OKLA. STAT. ANN. tit. 26, § 4-120.2 (2008).

- 31 WASH. REV. CODE § 29A.08.620 (2008).
- 32 The section that follows is taken in large part from: JUSTIN LEVITT & ANDREW ALLISON, BRENNAN CTR. FOR JUSTICE, *A GUIDE TO VOTER CAGING 3-6* (2007), *available at* [http://www.brennancenter.org/dynamic/subpages/download\\_file\\_49608.pdf](http://www.brennancenter.org/dynamic/subpages/download_file_49608.pdf).
- 33 MCLS § 168.499(3) (2008).
- 34 *See* ASSOCIATION FOR COMPUTING MACHINERY, STATEWIDE DATABASES OF REGISTERED VOTERS 21 (Feb. 2006), *available at* [http://www.acm.org/usacm/PDF/VRD\\_report.pdf](http://www.acm.org/usacm/PDF/VRD_report.pdf).
- 35 NANCY COLE & ELLIE LEE, ABT ASSOCS., INC., FEASIBILITY AND ACCURACY OF RECORD LINKAGE TO ESTIMATE MULTIPLE PROGRAM PARTICIPATION, VOL. III, RESULTS OF RECORD LINKAGE 20 (Econ. Research Serv., Elec. Publ'ns from the Food Assistance & Nutrition Research Program, 2004).
- 36 *See* NAT'L COALITION FOR THE HOMELESS, STATE-BY-STATE CHART OF HOMELESS PEOPLE'S VOTING RIGHTS (2008), *available at* <http://www.nationalhomeless.org/getinvolved/projects/vote/chart.pdf>; *cf.* SEC'Y OF STATE OF MO., MANDATE FOR REFORM: ELECTION TURMOIL IN ST. LOUIS, NOVEMBER 7, 2000 27 (2001), *available at* <http://bond.senate.gov/mandate.pdf>.
- 37 Jon Margolis, *GOP Sued Over Voters Tactic*, CHI. TRIBUNE, Oct. 8, 1986, at C9. There are many other examples of voters who are temporarily away from their permanent residences. A college student may legally reside at her parents' home address and register to vote there while she is away at school, even though she does not receive mail at her parents' house. A voter may be on an extended vacation and have canceled or transferred mail service, or may have done the same for a temporary job transfer. *See* Steve Suo, *Some Inactive Voters Aren't*, THE OREGONIAN, Aug. 27, 2000, at C1. A citizen living overseas, but registered to vote at her last domestic residence, might also receive no mail at her registered address; for example, mail sent to one such voter in New Hampshire was returned undelivered despite the fact that the voter was eligible to vote. Memorandum from Bud Fitch, Deputy Att'y Gen., N.H. Dep't of Justice, to Robert Boyce, Chairman, N.H. Sen. Internal Aff. Comm., et al. 3 (Apr. 6, 2006), *available at* [http://doj.nh.gov/publications/nreleases/pdf/040606wrongful\\_voting.pdf](http://doj.nh.gov/publications/nreleases/pdf/040606wrongful_voting.pdf). Similarly, a member of the armed forces, stationed away from his voting residence, could illegitimately get caught up in the purge process.
- 38 *More Mail Undelivered*, FT. LAUDERDALE SUN-SENTINEL, Apr. 16, 1994, at 3A.
- 39 Felicity Barringer, *Cities Seek Bush's Backing to Avert Census 'Crisis'*, N.Y. TIMES, Apr. 18, 1990, at A17. *See also, e.g.*, James Barron, *Sign of Approval, But Will It Bring Mail?*, N.Y. TIMES, Aug. 2, 2004, at B1. Also, in larger group residential homes, the voting residence may quite properly list the street address, but mail will not be delivered without a unit number.
- 40 *See* Dayne L. Cunningham, *Who Are To Be the Electors? A Reflection on the History of Voter Registration in the United States*, 9 YALE L. & POL'Y REV. 370, 393-94 & nn.134-35 (1991) (considering studies of the distribution of census surveys and tax forms shows that ineffective mail delivery is more common in poor and minority communities). *Cf.* CHANDLER DAVIDSON ET AL., REPUBLICAN BALLOT SECURITY PROGRAMS: VOTE PROTECTION OR MINORITY VOTE SUPPRESSION—OR BOTH? 14 (2004), [http://www.votelaw.com/blog/blogdocs/GOP\\_Ballot\\_Security\\_Programs.pdf](http://www.votelaw.com/blog/blogdocs/GOP_Ballot_Security_Programs.pdf).
- 41 Larry Sandler & Greg Borowski, *Parties Spar Over City Voter Lists*, MILWAUKEE J. SENTINEL, Oct. 27, 2006, at B1; *see also* Tom Kertscher, *Landlord Sees a Lot in a Name*, MILWAUKEE J. SENTINEL, June 8, 2004 at B5. The same apparently happened to some challenged voters in Louisiana in 1986. *See* Thomas M. Burton, *Democrats Sue Over GOP Bid to Mail Down the Vote*, CHI. TRIBUNE, Sept. 25, 1986, at C1.
- 42 John Riley, *Complications, Challenges Abound*, NEWSDAY, Oct. 31, 2004, at A37; *see also*, Sandy Theis, *Fraud-busters Busted*, CLEVELAND PLAIN DEALER, Oct. 31, 2004, at H1.

- 43 42 U.S.C. § 1973gg-6(e)(1)(2008). Similarly, a voter who has moved within the same registrar's jurisdiction and congressional district may return to vote at her former polling place without re-registering. 42 U.S.C. § 1973gg-6(e)(2)(A)(i)(2008). Especially in urban areas where there is high mobility within a particular neighborhood, undeliverable mail may simply reflect the recent move of a voter who remains fully eligible to vote.
- 44 42 U.S.C. § 1973gg-6(2)(A).
- 45 See also Kandiss Crone, *Hosemann: Voter Purge Violated Federal Law*, WLBT News 3, Mar. 5, 2008, <http://www.wlbt.com/Global/story.asp?s=7973229>; Joint Press Release, Advancement Project, MERA, Michigan NAACP and ACORN, Voting Groups Caution Michigan Election Officials on Eve of National Secretary of State Conference (July 24, 2008), available at [http://www.democraticunderground.com/discuss/duboard.php?az=view\\_all&address=159x12543](http://www.democraticunderground.com/discuss/duboard.php?az=view_all&address=159x12543).
- 46 42 U.S.C. § 1973gg-6(c)(2008).
- 47 For example, one Kentucky election official reported that the information compiled by the Postal Service does not match the criteria his county uses to identify voters.
- 48 Indiana and Florida are examples of states that use jury notices and information from other government agencies to identify people who may have moved. IND. CODE ANN. § 3-7-38.2-2(c) (2), (4) (2008) (permitting the use of information from a court regarding jury notices and from the bureau of motor vehicles regarding the surrender of a person's Indiana license for the operation of a motor vehicle to another jurisdiction); FLA. STAT. ANN. § 98.065(4) (2008) (permitting the use of information regarding jury notices signed by a voter and returned to the courts and information from the Department of Highway Safety and Motor Vehicles indicating that the legal address of a registered voter might have changed).
- 49 Unless another authority is otherwise cited, information in this report about Kentucky was derived from interviews with county clerks conducted in April 2007 and an interview with an official from the State Board of Election conducted in September 2008. All interviews are on file at the Brennan Center.
- 50 NEV. REV. STAT. ANN. § 293.535 (2008).
- 51 MICH. COMP. LAWS SERV. § 168.509dd(3)(a) (2008) (permitting house-to-house canvasses as part of a program to remove the names of unqualified voters from the voter registration list); WIS. STAT. ANN. § 6.40(2)(b) (2007) (permitting municipal clerks to conduct door-to-door canvasses to identify voters who no longer reside at their registered addresses); 25 PA. CONS. STAT. ANN. § 1901(b)(2) (2008) (allowing election officials to visit registered addresses to supplement other list maintenance activities); NEV. REV. STAT. ANN. § 293.530(2) (2008) (permitting county clerks to conduct house-to-house canvasses to investigate registrations). New York's statute provides a variation whereby New York Board of Elections employees are required to conduct a canvass upon written request of any Board of Elections member. N.Y. ELEC. LAW § 5-710 (Consol. 2008).
- 52 This was reported to us by an interviewee from Nevada in March 2007. Unless another authority is cited, information in this report about Nevada was derived from interviews conducted with county clerks and registrars in March, 2007.
- 53 MO. REV. STAT. § 115.191 (2008).
- 54 WASH. REV. CODE ANN. § 29A.08.620(1) (2008) (designating voters as inactive if certain pieces of mail are returned to sender as undeliverable); N.Y. ELEC. LAW § 5-712(5) (Consol. 2008) (designating all voters who are sent an address confirmation notice as inactive); OR. REV. STAT. § 247.563(3) (2007) (designating the registration of voters sent address confirmation notices as inactive until further determination).
- 55 FLA. STAT. ANN. § 98.065 (4)(c) (2008) (designating as inactive all voters who have been sent an address confirmation notice and who have not returned the postage prepaid, preaddressed return form



within 30 days or for which an address confirmation notice has been returned as undeliverable.); MO. REV. STAT. § 115.193(5) (2008) (designating any voter as an inactive voter if . . . the voter fails to respond to the notice . . . within thirty days after the election authority sends such notice).

- 56 See 950 MASS. CODE REGS. 54.04(6) (2008).
- 57 Cf. OR. REV. STAT. § 254.470(2)(a) (2007) (directing that ballots be sent “to each *active* elector”) (emphasis added).
- 58 42 U.S.C. § 1973gg-6(a)(4)(A) (2008).
- 59 42 U.S.C. § 15483(a)(2)(A)(ii)(II) (2008).
- 60 See e.g. FLA. STAT. ANN. § 98.093(2)(a) (2008) (requiring the Department of Health to furnish monthly to the department a list containing the name, address, date of birth, date of death, social security number, race, and sex of each deceased person 17 years of age or older.); IND. CODE ANN. § 3-7-45-2.1(b)(1) (2008) (stating that the state department of health provides election officials with information on decedents); N.Y. ELEC. LAW § 5-708(1) (Consol. 2008) (stating that state health department must deliver to the state board of elections monthly records of the names of all persons of voting age for whom death certificates were issued); OHIO REV. CODE ANN. § 3503.18 (2008) (directing the chief health officer and director of health to file list of decedents with board of elections); 4 PA. CODE § 183.6(d)(1) (2008) (stating that death notices are received from the department of health for the purposes of removing records).
- 61 See e.g., MO. REV. STAT. § 115.195(1) (2008) (state or local registrar of vital statistics provides election officials with a list of decedents); WASH. REV. CODE ANN. § 29A.08.510(1) (2008) (state department of vital statistics provides the list to the Secretary of State).
- 62 Nevada statute does not specify what state agency provides the names of Nevada residents who have died. In fact, the statute permits local officials to cancel the registration of a voter only if the county clerk “has personal knowledge of the death of the person registered, or if an authenticated certificate of the death of any elector is filed in his office.” NEV. REV. STAT. § 293.540(1) (2008).
- 63 WASH. REV. CODE ANN. § 29A.08.510(2) (2008) (permitting county auditors to use newspaper obituary articles to cancel a voter’s registration). Election officials in three Washington counties confirmed the use of this practice.
- 64 WASH. REV. CODE ANN. § 29A.08.510(3) (2008).
- 65 Kentucky permits the removal of a deceased registrant based on the notification of “other reliable sources.” KY. REV. STAT. ANN. § 116.113(1) (2008). Similarly, Florida law suggests that the state permits removal of deceased registrants based on information from “other sources.” FLA. STAT. ANN. § 98.093(3) (2008).
- 66 For more information on the voting rights of persons with criminal convictions, please visit the Brennan Center’s website at: [http://www.brennancenter.org/content/section/category/voting\\_after\\_criminal\\_conviction/](http://www.brennancenter.org/content/section/category/voting_after_criminal_conviction/). See also ERIKA WOOD, RESTORING THE RIGHT TO VOTE (Brennan Center for Justice ed., 2008) available at [http://www.brennancenter.org/content/resource/restoring\\_the\\_right\\_to\\_vote/](http://www.brennancenter.org/content/resource/restoring_the_right_to_vote/) for a discussion of why voting rights should be restored to persons with criminal convictions upon release from prison.
- 67 The thirteen states are Hawaii, Illinois, Indiana, Massachusetts, Michigan, Montana, New Hampshire, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, and Utah.
- 68 Those eight states are Alabama, Arizona, Delaware, Florida, Mississippi, Nevada, Tennessee, and Wyoming.

- 69 The five states are California, Colorado, Connecticut, New York, and South Dakota.
- 70 These twenty states are Alaska, Arkansas, Georgia, Idaho, Indiana, Kansas, Louisiana, Maryland, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, Washington, West Virginia, Wisconsin. (Nebraska imposes a two-year waiting period after completion of sentence.)
- 71 42 U.S.C. § 1973gg-6(a)(3)(b) (2008).
- 72 42 U.S.C. § 15483(a)(2)(A)(ii)(I) (2008).
- 73 *See* KY. REV. STAT. ANN. § 116.113 (2008).
- 74 *See* NEV. REV. STAT. ANN. § 293.540(3) (2008) (vesting county clerks with the task of canceling the voter registrations of persons convicted of felonies).
- 75 Unless otherwise cited, information pertaining to Washington was derived from interviews with four county board of elections officials as well as with staff from the Secretary of State's office conducted during February-April, 2007. All interviews are on file with the Brennan Center.
- 76 FLA. STAT. ANN. § 98.075(5) (2008).
- 77 For example, the Missouri statute specifically requires the county's election authority, which is generally the county auditor, to *remove* registrants reported dead or adjudged incapacitated, but with respect to those with criminal convictions, the statute only directs that the election authority to determine the voting qualifications of those reported convicted or pardoned. MO. REV. STAT. § 115.199 (2008). Some local officials in Missouri indicated that it is not their practice to purge persons convicted of disenfranchising crimes from the rolls. Instead, the registrant is placed in a particular status indicating current ineligibility. When the registrant's sentence has been completed, the person's eligibility is reactivated upon a showing of the appropriate documentation. *See* interviews with officials from city boards of election in Missouri conducted in 2007. Also, Pennsylvania, which automatically restores voting rights upon release from prison, does not indicate in its election statutes that individuals are removed because of incarceration — instead, the statute specifies that incarcerated persons are not eligible for absentee ballots. *See* 25 PA. CONS. STAT. ANN. § 2602(w) (2008).
- 78 42 U.S.C. §§ 1973gg-6(g)(1), (g)(5) (2008).
- 79 FLA. STAT. ANN. § 98.093(2)(c)-(f) (2008) (stating that the department of law enforcement, board of executive clemency, and department of corrections, in addition to the U.S. Attorney, will provide information about people with criminal convictions to election officials); IND. CODE ANN. §§ 3-7-46-4.1, 3-7-46-6 (2008) (stating that department of correction and county sheriffs will provide information about people with criminal convictions).
- 80 For example, in Nevada, the state statute does not specify where the purging officials are to receive information on who has been convicted of disqualifying convictions. NEV. REV. STAT. ANN. § 293.540(3) (2008). Note, however that Nevada statutes do require the Director of the Department of Corrections to submit monthly to each county clerk in this state a list which provides the name of each persons released from prison by expiration of term of imprisonment during the previous month or who was discharged from parole during the previous month. *See* NEV. REV. STAT. ANN. § 209.134 (2008).
- 81 In Nevada, local election officials reported varying practices with respect to the removal of individuals with criminal convictions. One local official reported a practice of obtaining information on disqualifying convictions from jury questionnaires. Another stated that he receives such information from the state Department of Corrections. A third reported finding information on disqualifying convictions by reviewing courts' judgments.
- 82 42 U.S.C. § 15483(a)(2)(B)(iii) (2008).

- 83 Nevada officials offered examples of this assumption.
- 84 Interview with a county election official in Michigan conducted in September 2008 is on file at the Brennan Center. A county official in Washington similarly reported that the newer registration record is removed when faced with a known duplicate.
- 85 *E.g.*, Missouri's statewide voter registration database creates a duplicate list on a monthly basis, and local election officials are responsible for working through the list. (Confirmed by a Missouri county board of election official.) Washington's statewide voter registration list produces a potential duplicate report that local election officials check daily. (Confirmed by a Washington county board of elections official.) The Ohio Secretary of State's office creates a daily duplicate list that is accessed by county elections officials. (Confirmed by a Ohio county board of elections officials.)
- 86 MO. ANN. STAT. § 115.165(4) (2008).
- 87 Unless another authority is otherwise cited, information in this report about Missouri was derived from interviews with staff from the Secretary of State's office, officials from city boards of election, a county election official, and voter protection advocates conducted in 2007. All interviews are on file with the Brennan Center.
- 88 *See, e.g.*, NEV. REV. STAT. ANN. § 293.540(9) (2008) (authorizing removal of duplicate records, but providing no criteria for identifying matching records). *But see* WASH. REV. CODE ANN. § 29A.08.610 (2008) (providing required criteria of identical date of birth, similar names and compared signatures; the only statute of those surveyed to provide such detailed criteria).
- 89 Unless another otherwise cited, information in this report about Ohio was derived from interviews with county board of elections officials conducted during February-March, 2007. All interviews are on file with the Brennan Center.
- 90 A Missouri board of election official attested to the consequences of these periods of heightened activity.
- 91 This has been the case, for instance, in Missouri and Ohio according to local elections officials there.
- 92 *See* 42 U.S.C. § 1973gg-6(b)(2) (2008).
- 93 42 U.S.C. § 1973gg-6(d)(2) (2008).
- 94 *See, e.g.*, U.S. Election Assistance Commission, *The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2005-2006* 97 (2007), available at [http://www.eac.gov/clearinghouse/docs/the-impact-of-the-national-voter-registration-act-on-federal-elections-2005-2006/attachment\\_download/file](http://www.eac.gov/clearinghouse/docs/the-impact-of-the-national-voter-registration-act-on-federal-elections-2005-2006/attachment_download/file).
- 95 This scenario reportedly occurred in both 2000 and 2006 in precincts in St. Louis, Missouri according to voter protection advocates working in the state.
- 96 Interviews with voter protection advocates in Missouri conducted in 2007.
- 97 OHIO REV. CODE ANN. § 3503.21(B) (2008).
- 98 Ohio boards of election officials confirmed this practice.
- 99 WIS. STAT. ANN. § 6.50(1)-(3) (2007). Note that Wisconsin, a state with Election Day registration, is exempt from the NVRA.
- 100 While the NVRA and some state laws contemplate the removal of persons from voter registration rolls for the reason of mental incapacitation in accordance with state law, our interviews with local officials indicate that very few registrants are purged from voter rolls on this basis.

- 101 42 U.S.C. § 1973gg-6(a)(3)(b) (2008).
- 102 25 PA. CONS. STAT. § 1302(a)(4) (2008).
- 103 IND. CODE ANN. § 12-26-2-8(1)(F) (2008).
- 104 *See Id.* § 3-5-5-17 (2008) (specifying that individuals who are committed to institutions for the mentally ill do not gain residency in the precinct of the institution).
- 105 OR. CONST. art. 2, § 3 (2007).
- 106 MO. REV. STAT. §§ 115.199, 115.133 (2) (2008); N.Y. ELEC. LAW § 5-400(1)(c) (Consol. 2008) (cancelling a voter's registration, including the registration of a voter in inactive status, if he has been adjudicated incompetent).
- 107 NEV. REV. STAT. ANN. § 293.540(2) (2008).
- 108 FLA. STAT. ANN. § 98.075(4) (2008). Washington and Ohio similarly indicate that the declaration of mental incapacitation must be specifically with respect to voting to warrant removal from the rolls. WASH. REV. CODE ANN. § 29A.08.515 (2008) (cancelling the voter registration for one who has been appointed a guardian and adjudicated incompetent with respect to voting); OHIO REV. CODE ANN. § 3503.21(4) (2008) (cancelling a registration based upon adjudication of incompetency of the registered elector for the purpose of voting).
- 109 Confirmed by interviews with local boards of election officials in Kentucky, Nevada, and Ohio conducted in 2007. All interviews are on file at the Brennan Center.
- 110 KY. REV. STAT. § 116.113(2) (2008) (circuit court). In Florida, Missouri, Nevada, and Ohio, election officials also receive lists of individuals ineligible to vote due to adjudication of mental incapacity from state courts. FLA. STAT. ANN. § 98.093(2)(b) (2008) (circuit court); MO. REV. STAT. § 115.195(3) (2008) (probate division of the circuit court); NEV. REV. STAT. ANN. § 293.542 (2008) (district court); OHIO REV. STAT. § 3503.18 (2008) (probate judge).
- 111 Washington's statutes strongly suggest as much. The text of the statute indicates that the computerized statewide voter registration list must be coordinated with other agency databases within the state, including the office of the administrator for the courts. *See* WASH. REV. CODE ANN. § 29A.08.651(5) (2008). However, the statute is not more explicit than the county auditor will receive official notice that a court has imposed a guardianship for an incapacitated person and has determined that the person is incompetent for the purpose of rationally exercising the right to vote. *See Id.* § 29A.08.515.
- 112 *See* N.Y. ELEC. LAW §§ 5-614(5), 5-106(6) (Consol. 2008). Note that lists can be also be supplied by any court with jurisdiction over such matters. *Id.* § 5-708(3).
- 113 This was confirmed by county boards of election officials in Washington; Press Release, Wash. Sec'y of State, State's First Consolidated List of Registered Voters Combats Voter Fraud (Feb. 20, 2007), *available at* [http://www.secstate.wa.gov/office/osos\\_news.aspx?i=FenKyLcm7pnRO0P0kcR9kA%3d%3d](http://www.secstate.wa.gov/office/osos_news.aspx?i=FenKyLcm7pnRO0P0kcR9kA%3d%3d).
- 114 John Ferro, *Deceased Residents on Statewide Voter List*, POUGHKEEPSIE JOURNAL, Oct. 29, 2006.
- 115 *Id.*
- 116 *Id.*
- 117 Office of the Inspector General, Social Security Administration, *Audit Report 2* (Sept. 2006), *available at* <http://www.ssa.gov/oig/ADOBEPDF/A-06-06-26020.pdf>.
- 118 An Ohio election official reported that entire households were removed when an address appeared in the national change of address list on account of one individual associated with that address moving. A

Kentucky county official similarly reported that the National Change of Address database is unreliable and that the postal service is incapable of differentiating which person in a household has moved.

- 119 An Ohio county official reported that the list he received with the names of deceased residents sometimes contained records without dates of birth, making it hard to use to guide the removal of deceased registrants. A Nevada official opined that the lists from the Department of Vital Statistics were of an adequate quality, but sometimes hard to use because they provided a decedent's age instead of providing the decedent's date of birth.
- 120 *Id.*
- 121 *Id.*
- 122 Greg Palast, *Ex-Con Game: How Florida's "Felon" Voter-Purge Was Itself Felonious*, HARPER'S MAG., Mar. 1, 2002, available at <http://www.ejfi.org/voting/voting-95.htm>.
- 123 Kandiss Crone, *Hosemann: Voter Purge Violated Federal Law*, WLBT News 3, Mar. 5, 2008, <http://www.wlbt.com/Global/story.asp?s=7973229>; Lucy Weber, *Purged Voting Rolls to be Fixed*, CLARION LEDGER, Mar. 6, 2008, at 1A; Lucy Weber, *Thousands of Names Removed From Madison County Voter Rolls*, CLARION LEDGER, Mar. 5 2008, at 1; Lucy Weber, *Resignation, Investigation Urged in Madison Co. After Vote-Roll Purge*, CLARION LEDGER, Mar. 7, 2007, at 1A; Cheryl Lasseter, *Landrum Asking for Voter-Roll Investigation*, WLBT News 3, Mar. 6, 2008, <http://www.wlbt.com/Global/story.asp?s=7977823>.
- 124 Andrew Ujifusa, *Change to Voter Rolls Called Into Question*, MADISON COUNTY HERALD J., Mar. 13, 2008, at 1; Kandiss Crone, *Hosemann: Voter Purge Violated Federal Law*, WLBT News 3, Mar. 5, 2008, <http://www.wlbt.com/Global/story.asp?s=7973229>; Lucy Weber, *Purged Voting Rolls to be Fixed*, CLARION LEDGER, Mar. 6, 2008, at 1A; Lucy Weber, *Thousands of Names Removed From Madison County Voter Rolls*, CLARION LEDGER, Mar. 5 2008, at 1; Lucy Weber, *Resignation, Investigation Urged in Madison Co. After Vote-Roll Purge*, CLARION LEDGER, Mar. 7, 2007, at 1A; Cheryl Lasseter, *Landrum Asking for Voter-Roll Investigation*, WLBT News 3, Mar. 6, 2008, <http://www.wlbt.com/Global/story.asp?s=7977823>
- 125 See generally WASH. REV. CODE ANN. § 29A.08.605 (2008); KY. REV. STAT. ANN. § 116.112(6) (2008).
- 126 See FLA. STAT. ANN. § 98.075(3) (2008); N.Y. ELEC. LAW § 5-402(2) (Consol. 2008). Interestingly, Florida's decision to exempt persons presumed deceased from notice requirements is in contrast to its statute squarely requiring that a registrant be given notice and the opportunity to respond to the charge of ineligibility on account of mental incapacitation prior to removal from the registration rolls, FLA. STAT. ANN. § 98.075(4), (7) (2008), protections for which Florida is unique among the states studied in expressly providing.
- 127 IND. CODE ANN. § 3-7-46-9 (2008) (requiring notification after removal from the registration list, specifically sent to the last known address of all people disenfranchised on account of imprisonment not later than the day following the day that the registration has been canceled from the rolls).
- 128 FLA. STAT. ANN. § 98.075(7) (2008); WASH. REV. CODE ANN. § 29A.08.520(1) (2008) (requiring that if a registrant is found on a list of felons, the canceling authority must send a notice of the proposed cancellation and an explanation of the requirements for restoring the right to vote once all terms of sentencing have been completed; if the person fails to respond within thirty days, the registration is to be canceled).
- 129 IND. CODE ANN. § 3-7-46-9 (2008).
- 130 See, e.g., Alan Riquelmy, *Political Confusion: Removal Letter Confuses Law-Abiding Voters*, COLUMBUS LEDGER-ENQUIRER, April 3, 2008, at A01.

- 131 See e.g., American Civil Liberties Union, *Purged!: How Flawed and Inconsistent Voting Systems Could Deprive Millions of Americans of the Right to Vote* 8 (2004), available at <http://tinyurl.com/4vdl75>.
- 132 Election officials in Washington state reported only using a few fields to identify voters for removal.
- 133 Michael P. McDonald & Justin Levitt, *Seeing Double Voting* 11 (July 1, 2007) (unpublished manuscript, submitted to the 2007 Conference on Empirical Legal Studies), available at [http://papers.ssrn.com/sol3/Delivery.cfm/SSRN\\_ID997888\\_code698321.pdf?abstractid=997888&mirid=1](http://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID997888_code698321.pdf?abstractid=997888&mirid=1).
- 134 Brennan Center for Justice at NYU School of Law & Michael McDonald, Preliminary Analysis of the September 15, 2005 Report Submitted to the New Jersey Attorney General by the New Jersey Republican Party 6-7 (2005), available at [http://www.brennancenter.org/page/-/d/download\\_file\\_35010.pdf](http://www.brennancenter.org/page/-/d/download_file_35010.pdf).
- 135 FLA. STAT. ANN. § 98.093(2)(a) (2008).
- 136 Gregory Palast, *The Wrong Way To Fix the Vote*, WASH. POST, June 10, 2001, at B1.
- 137 *Id.*
- 138 U.S. Commission on Civil Rights, Voting Irregularities in Florida During the 2000 Presidential Election, Ch. 5 (June 2001) available at <http://www.usccr.gov/pubs/vote2000/report/ch5.htm>. African Americans constituted over 65% of the voters on the county's exclusion list. *Id.* Ch. 1, available at <http://www.usccr.gov/pubs/vote2000/report/ch1.htm>.
- 139 N.Y. COMP. CODES R. & REGS. tit. 9 § 6217.8 (2008).
- 140 Missouri's statutes are an example of a wide grant of authority given to election officials regarding the sources and methods permitted to verify a person's address, reading "[t]he election authority may investigate the residence or other qualifications of any voter at any time it deems necessary. The election authority shall investigate material affecting any voter's qualifications brought to its attention from any source, and such investigations shall be conducted in the manner it directs." MO. ANN. STAT. § 115.191 (2008).
- 141 WASH. REV. CODE ANN. § 29A.08.620 (2008).
- 142 OHIO REV. CODE ANN. § 3503.18 (2008).
- 143 FLA. STAT. ANN. § 98.075(4) (2008). WASH. REV. CODE ANN. § 29A.08.515 (2008) ("Upon receiving official notice that a court has imposed a guardianship for an incapacitated person and has determined that the person is incompetent for the purpose of rationally exercising the right to vote, under chapter 11.88 RCW, if the incapacitated person is a registered voter in the county, the county auditor shall cancel the incapacitated person's voter registration."); OHIO REV. CODE ANN. § 3503.21(4) (2007) ("The adjudication of incompetency of the registered elector for the purpose of voting as provided in section 5122.301 [5122.30.1] of the [Ohio] Revised Code.").
- 144 Confirmed by county boards of election officials in Ohio.
- 145 42 U.S.C. § 1973gg *et. seq.*
- 146 42 U.S.C. § 1973gg-4(a)(1) (2006); see *Charles H. Wesley Educ. Found. v. Cox*, 408 F.3d 1349, 1355 (11th Cir. 2005) (holding that NVRA prohibited state from rejecting voter registration applications postmarked by correct date under state law); see also *Assoc. of Cmty. Organizations for Reform Now v. Edgar*, 56 F.3d 791, 792-3, 795 (7th Cir. 1995) (overriding state law to the extent that it conflicts with the NVRA).
- 147 42 U.S.C. § 1973gg-4(b) (2006).

- 148 42 U.S.C. § 1973gg-3(a)(1) (2006).
- 149 42 U.S.C. § 1973gg-5(a)(2)(A) (2006).
- 150 42 U.S.C. § 15483(a)(2)(A)(ii)(I) (2006).
- 151 42 U.S.C. § 15483(a)(2)(A)(ii)(II) (2006).
- 152 42 U.S.C. § 1973gg-6(a)(1) (2006) (enumeration omitted) (emphasis added).
- 153 42 U.S.C. § 1973gg-6(a)(4)(A)-(B) (2006).
- 154 42 U.S.C. § 1973gg-6(a)(3)(A)-(B) (2006).
- 155 42 U.S.C. § 15483(a)(4)(A) & (B)(2)(iii) (2006).
- 156 *Id.* § 15483(a)(2)(B)(i) & (ii).
- 157 The New York Board of Elections must notify voters by mail and wait 14 days prior to cancellation for any reason except request to be removed (which includes registering in another state), death, or inactivity for two general elections. N.Y. ELECTION LAW § 5-402(2) (McKinney 2007).
- 158 25 PA. CONS. STAT. ANN. § 1203(h) (2006).
- 159 *Id.* § 1505(c) (2006).
- 160 Lucy Weber, *Purged Voter Rolls To Be Fixed*, CLARION-LEDGER, Mar. 6, 2008 at 1A.
- 161 Lucy Weber, *Resignation, Investigation Urged in Madison Co. After Voter-Roll Purge*, MADISON COUNTY JOURNAL, Mar. 7, 2008 at 1; Andrew Ujifusa, *Change to Voter Rolls Called Into Question*, MADISON COUNTY JOURNAL, Mar. 13, 2008 at 1.
- 162 See Letter from C. Delbert Hosemann, Mississippi Secretary of State (Mar. 31, 2008) (on file with the Brennan Center). A later conversation with staff from the Secretary of State's office clarified this feature.
- 163 WASH. REV. CODE § 29A.08.770 (2008). Other states grant the public varying degrees of access to records of voters purged. See, e.g., FLA. STAT. ANN. § 98.045(2)-(3) (2007); MICH. COMP. LAWS § 168.514 (2007); WIS. STAT. §§ 6.33, 6.36 (2007).
- 164 Of the twelve states covered in this report, for example, the following ten provide readily accessible voter portal functions on their websites: Indiana, Kentucky, Michigan, Missouri, Nevada, New York, Ohio, Pennsylvania, Washington, and Wisconsin.
- 165 See, e.g., People for the American Way et al., *Shattering the Myth: An Initial Snapshot of Voter Disenfranchisement in the 2004 Elections*, at 8 (December 2004); Demos, *Continuing Failures in "Fail-Safe" Voting*, at 4 (Dec. 2005), available at <http://www.demos-usa.org/pubs/December%20PB%20Report%20Draft%2015.pdf>.
- 166 See ROBERT M. GOLDMAN, RECONSTRUCTION AND BLACK SUFFRAGE: LOSING THE VOTE IN REESE AND CRUIKSHANK 13 (Univ. Press of Kansas 2001).
- 167 CHANDLER DAVIDSON AND BERNARD GROFMAN EDS., QUIET REVOLUTION IN THE SOUTH 104 (Princeton Univ. Press 1994).
- 168 *Id.* at 105.
- 169 *Id.*
- 170 Steve Barber et al., *The Purging of Empowerment: Voter Purge Laws and the Voting Rights Act*, 23 HARV. C.R.-C.L. L. REV. 483, 486-87 (1988).

- 171 *United States v. McElveen*, 180 F.Supp. 10, 11-13 (E.D. La. 1960) (finding that purges for errors in voter registration affected 85% of black voters and only 0.07% of white voters, despite similar errors among half of white registrations).
- 172 *Beare v. Smith*, 321 F. Supp. 1100, 1103 (S.D. Tex. 1971), *aff'd sub nom. Beare v. Briscoe*, 498 F.2d 244, 248 (5th Cir. 1974).
- 173 *See, e.g., Toney v. White*, 488 F.2d 310, 312 (5th Cir. 1973) (voiding the results of an election on the ground that a voter purge conducted 30 days prior to the election had a racially discriminatory effect, notwithstanding a lack of evidence suggesting the purge was racially motivated).
- 174 Paul Kiel, TPMuckraker.com, *Cage Match: Did Griffin Try to Disenfranchise African American Voters in 2004?*, <http://www.tpmuckraker.com/archives/003523.php> (June 26, 2007).
- 175 JUSTIN LEVITT & ANDREW ALLISON, *A GUIDE TO VOTER CAGING 3-6* (Brennan Center for Justice ed., 2007) *available at* [http://www.brennancenter.org/dynamic/subpages/download\\_file\\_49608.pdf](http://www.brennancenter.org/dynamic/subpages/download_file_49608.pdf).
- 176 *Id.*
- 177 CHANDLER DAVIDSON ET AL., CENTER FOR VOTING RIGHTS AND PROTECTION, *REPUBLICAN BALLOT SECURITY PROGRAMS: VOTE PROTECTION OR MINORITY VOTE SUPPRESSION OR BOTH?* 17 (2004) *available at* [http://www.votelaw.com/blog/blogdocs/GOP\\_Ballot\\_Security\\_Programs.pdf](http://www.votelaw.com/blog/blogdocs/GOP_Ballot_Security_Programs.pdf).
- 178 Martin Tolchin, *G.O.P. Memo Tells of Black Vote Cut*, N.Y. TIMES, Oct. 25, 1986, at 7.
- 179 *See 2004 Presidential Election: Hearing Before the Committee on House Judiciary Subcommittee on Constitution, Civil Rights, and Civil Liberties*, (2008) (statement of J. Gerald Hebert, Executive Director & Director of Litigation, The Campaign Legal Center); Chandler Davidson *et al.*, *Election Law: Vote Caging as a Republican Ballot Security Technique*, 34 WM. MITCHELL L. REV. 533, 561 (2008); Teresa James, *Caging Democracy: A 50-Year History of Partisan Challenges to Minority Voters* 16-20, 22 (Project Vote ed., Sept. 2007), *available at* <http://projectvote.org/index.php?id=355>.
- 180 At the time of publication, most, but not all, states have implemented centralized statewide voter registration databases. For example, California's VoteCal system is not expected to be fully deployed until 2010. *See* [http://www.sos.ca.gov/elections/bidders\\_library/q\\_a\\_rfp\\_regional\\_co.pdf](http://www.sos.ca.gov/elections/bidders_library/q_a_rfp_regional_co.pdf).
- 181 42 U.S.C. § 15483(1)(A)(iv); *see also* §§ 15483(2)(A)(ii)(I)-(II), (5)(B)(i)-(ii).
- 182 *See* Memorandum of Understanding Between the States of Missouri, Iowa, Nebraska and Kansas for the Improvement of Election Administration, December 2005, *available at* [http://www.sos.mo.gov/elections/2005-12-11\\_MO-KS-IA-NE-MemorandumOfUnderstanding.pdf](http://www.sos.mo.gov/elections/2005-12-11_MO-KS-IA-NE-MemorandumOfUnderstanding.pdf); *see also* Sean Greene, *Midwest Voter Registration Data-Sharing Project Moves Forward: Kansas Leads Groups of States Crosschecking Information; Advocates Voice Concern*, electionline.org, Dec. 13, 2007, [http://www.pewcenteronthestates.org/report\\_detail.aspx?id=33612](http://www.pewcenteronthestates.org/report_detail.aspx?id=33612); M. Mindy Moretti, *Western States Contemplate Voter Information Sharing: Interstate Cooperation Has Promise and Pitfalls, Officials Decide*, electionline.org, Feb. 2, 2006, [http://www.pewcenteronthestates.org/report\\_detail.aspx?id=33814](http://www.pewcenteronthestates.org/report_detail.aspx?id=33814).



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