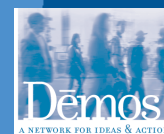


# PURGED!

How a patchwork of flawed and inconsistent  
voting systems could deprive millions of  
Americans of the right to vote



RIGHT=VOTE



# STATE REPORT CARDS

## Rating States On Each Purge Issue Area Examined In The Report

States	When disfranchised/how restored?	How are purge lists compiled?	How is match performed?	Notice of removal given?
AZ	Felony convictions: incarceration, probation and parole; limited restoration	C - Statewide voter registration system not yet integrated with court system	C - No criteria mandated; counties reported using reliable criteria; check twice	C - No statute; one county reported giving pre-removal notice
CA	Felony convictions: incarceration and parole; automatic restoration	F - FCD sources not centralized; purge lists sent only to counties; data updated twice annually	D - No criteria mandated; 1 county reported using more reliable criteria than other; only check once	D - No statute; one county reported giving post-removal notice
GA	Felony convictions: incarceration, parole and probation; automatic restoration	C - Statewide voter registration system not yet integrated with court system	C - No criteria mandated; counties reported using reliable criteria; check twice	B - Statutory pre-removal notice; two counties reported giving same
IL	Felony convictions: incarceration and parole; automatic restoration	F - FCD sources not centralized; purge lists sent only to counties	D - No criteria mandated; counties reported using unreliable criteria; check once	F - No statutory or reported notice
IA	Felony convictions: incarceration, parole and probation; limited restoration.	C - No FCD statute; FCD sources not centralized; purge lists sent to state then counties	D - No criteria mandated	D - No notice statute; one county reported giving post-removal notice
LA	Felony convictions: incarceration, parole and probation; automatic restoration with restrictions	B - FCD sources centralized; purge lists sent to state then counties; courts notify when convictions overturned	C - No criteria mandated; counties reported using reliable criteria; check twice	B - Statutory pre-removal notice; two counties reported giving same
MD	Felony or theft convictions: incarceration, parole and probation; limited restoration	F - Unclear laws; error prone voter registration database and unreliable FCD	F - No criteria mandated; counties reported using unreliable criteria	C - No notice statute; one county reported giving pre-removal notice
NV	Felony convictions: incarceration, parole and probation; limited restoration	F - No FCD statute; multiple FCD sources; sources not centralized; purge lists sent only to counties	F - No criteria mandated; counties reported using unreliable criteria; check once	C - No notice statute; one county reported giving pre-removal notice
NM	Felony convictions: incarceration, parole and probation; automatic restoration with restrictions	A - FCD sources linked directly to county/state registration database; real time updates	B - No criteria mandated; counties reported using reliable criteria; check once	C - No notice statute; one county reported giving pre-removal notice
NY	Felony convictions: incarceration and parole; automatic restoration	F - FCD sources not centralized; courts send purge lists sent to state/local election agency at their discretion	D - No criteria mandated; 1 county reported using more reliable criteria than other; check once at officials' discretion	A - Statutory pre-removal notice; same reported by two counties who also give reinstatement information
OH	Felony convictions: incarceration; automatic restoration	D - FCD sources not centralized; purge lists sent only to counties	D - No criteria mandated; 1 county reported using more reliable criteria than other; check once	F - No statutory or reported notice
PA	Felony convictions: incarceration; automatic restoration	A - System eliminates data management	N/A	N/A
SD	Felony convictions: incarceration and parole; automatic restoration	A - No FCD statute; centralized FCD sources linked to HAVA compliant county/state registration database; real time updates	B - No criteria mandated; counties reported using reliable criteria; check twice	D - No notice statute; one county reported giving post-removal notice
TX	Felony convictions: incarceration, parole and probation; automatic restoration.	B - No FCD statute; centralized FCD sources; purge lists sent to state then counties	D - No criteria mandated; neither county reported using specific criteria; cannot confirm if county double-checks	C - No notice statute; pre-removal notice reported by one county
VA	Felony convictions: incarceration, parole and probation; limited restoration	B - Centralized FCD sources; purge lists sent to state then counties	C - No criteria mandated; counties reported using reliable criteria; check twice	B - Statutory pre-removal notice; one county confirmed; other reported giving post-removal notice

FCD = Felony Conviction Data

# Purged!

## How a patchwork of flawed and inconsistent voting systems could deprive millions of Americans of the right to vote

Published October 2004

**THE AMERICAN CIVIL LIBERTIES UNION** is the nation's premier guardian of liberty, working daily in courts, legislatures and communities to defend and preserve the individual rights and freedoms guaranteed by the Constitution and the laws of the United States.

**DEMOS** is a public policy organization that seeks to strengthen US democracy and to seek a broadly shared prosperity characterized by greater opportunity. Founded in 1999, Demos' work combines research with advocacy — melding the commitment to ideas of a think tank with the organizing strategies of an advocacy group.

**RIGHT TO VOTE** is a coalition of eight national civil rights and public interest organizations - the American Civil Liberties Union, Brennan Center for Justice at NYU School of Law, Demos, the Mexican American Legal Defense and Educational Fund, the National Association for the Advancement of Colored People, the NAACP Legal Defense and Educational Fund, the People for the American Way Foundation and The Sentencing Project. These groups came together in 2002 to work collaboratively to end felony disenfranchisement through research, public education, voter registration and litigation. The Campaign seeks to broaden discussion of the issue and promote re-enfranchisement nationwide, and supports work in five target states, Alabama, Florida, Maryland, New York and Texas. The Campaign's partners in these states are Alabama Alliance to Restore the Vote, Florida Rights Restoration Coalition, the Maryland Voting Rights Restoration Coalition, New York Unlock the Block Campaign and the Texas Unlock Your Vote Campaign. For further information, please visit [www.righttotvote.org](http://www.righttotvote.org).

### ACKNOWLEDGMENTS

This report was written by Laleh Ispahani, Voting Rights Fellow at the ACLU with Nick Williams, Policy Analyst at Demos and with support from RTV and RTV partners. The statements made are the responsibility of the ACLU and Demos.

The ACLU and Demos gratefully acknowledge the generous support for their felony disenfranchisement work provided by the Carnegie Corporation of New York and the Tides Foundation (with funds from the Ford Foundation, JEHT Foundation, Open Society Institute, and the Sandler Family Supporting Foundation).



**RIGHT=VOTE**



**PURGED!**

---

# Table of Contents

Introduction .....1

Executive Summary .....3

Issue I: Purge List Compilation .....5

    Federal Felony Conviction Data .....5

    Out-Of-State Felony Conviction Data .....5

    In-State Felony Conviction Data .....5

Issue II: Notification Of Persons Matched .....8

    Good Practice For States That Disfranchise Incarcerated Felons Only .....8

    Good Practice For States That Disfranchise Incarcerated Felons, Felony Parolees And/Or Probationers .....8

    Bad Practice: States That Use Few Matching Criteria And Do Not Double-Check Matches .....9

Issue III: Criteria Used To Determine Matches .....9

    Good Practice: States That Statutorily Mandate Pre-removal Notice And Opportunity To Contest Purges .....9

    Less Acceptable Practice: States That Report Providing Non-statutory Pre-removal Notice .....10

    Bad Practice: States That Report Providing Non-statutory Notice After Removal .....11

    Worst Practice: States That Provide No Notice At All .....11

Recommendations .....12

State Purge Summaries .....15

Endnotes .....34

**PURGED!**

---

# Purged!

## How a patchwork of flawed and inconsistent voting systems could deprive millions of Americans of the right to vote

### INTRODUCTION

The flawed purges of people with felony convictions from Florida’s voter rolls during the 2000 and 2004 elections are now well known. In 2000, thousands of legal voters were purged from Florida’s voter rolls. One list sent to Florida officials erroneously included the names of 8,000 Florida residents who had committed misdemeanors – not felonies – in Texas. In 2004, despite Florida’s sizable Hispanic population, the state’s purge list contained only 61 Hispanic surnames, and also mistakenly included thousands who had had their voting rights restored. After these and other errors were publicized, the state withdrew its felon purge list. But under Florida law, county election officials may still purge voters based on their own, locally generated lists.

While Florida’s purges of felons from voter rolls in 2000 have received national attention, little is known about the procedures other states use. To shed some light on these procedures, we surveyed the purge processes of 15 states. The states have a wide variety of disenfranchisement laws. All except Maine and Vermont prohibit incarcerated felons from voting. Thirty-five states restrict those on parole, 31 of them also restrict those on probation, and seven deny the right to vote to all felons who have completed their sentences. In seven other states, described here as “mixed status” states, a person can permanently lose the right to vote based on criminal history, type of offense, or when the offense occurred. The result: Nearly

5 million American citizens, two percent of the voting-age population, have lost the fundamental right to participate in our political process.

African-American men make up one and a half million of this number, 13 percent of black men. This is a rate 7 times the national average. Worse, three in ten of the next generation of black men can expect to be disenfranchised at some point in their lives.

*We surveyed Arizona, California, Georgia, Illinois, Iowa, Louisiana, Maryland, Nevada, New Mexico, New York, Ohio, Pennsylvania, South Dakota, Texas and Virginia.*

Given the variations in state disenfranchisement policies, we selected states in each of the categories above.<sup>1</sup>

This survey reflects our research of state law as supplemented by conversations with representatives from each state’s chief elections agency and two county election agencies. Through our research and conversations, we sought to answer the following questions: (1) how does the state compile its felon purge list?, (2) how do the state’s elections officials “match” people with felony convictions against individuals listed on their voter registration list before purging them from the rolls?, and (3) does the state notify the individuals deemed “matched” that they will be or have been purged?

## **PURGED!**

Our key findings reflect that states, even those with identical disfranchisement policies, conduct their purges with great unevenness:

**Purge List Compilation** – One-quarter of the states surveyed compile their purge lists without reference to any legislative standards whatever, while half the states surveyed do so using only an individual’s name and address.

**Criteria Used to Determine Matches** – No state surveyed has codified any specific or minimum set of criteria for its officials to use in ensuring that an individual with a felony conviction is the same individual being purged from the voter rolls.

**Notification of Persons Matched** – Two-thirds of the states surveyed do not require elections officials to notify voters when they purge them from the voter rolls, denying these voters an opportunity to contest erroneous purges.

Our examination was limited to purge structures and procedures, because the actual purge lists – unlike Florida’s 2004 purge list, which ultimately became available to the public – were not available to us. Still, we were able to identify myriad structural and procedural flaws such as the lack of standardized or sufficient felony conviction data and inadequate matching and notification procedures – issues that also contributed to Florida’s flawed 2000 and 2004 purges.

In each issue area, some states stood out as employing better and others worse practices than their counterparts. We highlight these practices hoping to spur legislative thinking about reform of state purge processes, particularly in light of the federal Help America Vote Act of 2002 (HAVA) which requires states to establish official, uniform and nondiscriminatory statewide computerized voter registration lists that are centralized and interactive by

January 2006.<sup>2</sup> We offer recommendations aimed at correcting the deficiencies in the policies examined, and show that purges can be conducted in ways that both maximally protect voters and minimally burden purge administrators.

Our history of purging felons from the voter rolls is a shameful one. Purges were first instituted immediately after African Americans were granted the franchise.

After the 15<sup>th</sup> Amendment was ratified in 1870, forbidding states from depriving citizens of the vote because of race, color, or previous condition of servitude, many states deliberately adopted purge policies and revised their criminal disfranchisement laws so as to prohibit many blacks from voting. It is sad that even in the twenty-first century minorities are fighting for the right to vote. The act of voting, of having a voice in one’s own government, is one of America’s founding principles. The National Voter Registration Act of 1993 recognized as much in its preamble: “The right of the citizens of the United States to vote is a fundamental right...discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office and disproportionately harm voter participation by various groups, including racial minorities.”<sup>3</sup> Unfair and unjust disfranchisement of citizens should not be tolerated and by no means should it be law.



### EXECUTIVE SUMMARY

In all three issue areas examined, we found inconsistent practices both across and within states, even in states with identical disenfranchisement laws. We offer detailed recommendations for remedying these inconsistencies in the last section of this report, and attach detailed state-by-state purge fact sheets to the end of this report.<sup>4</sup>

#### *Issue I: Purge List Compilation*

**Findings:** Purge lists are vulnerable to inaccuracy given the manner in which they are compiled. Generally, they are drawn from information provided by a variety of sources at different times. One-quarter of the states surveyed have no legislation that specifies the type of felony conviction data in-state source agencies must convey, while half of the states surveyed only require in-state source agencies to convey an individual's name and address, a high risk proposition where an individual has moved and matching is done on name alone. Only one state election agency required notice of overturned in-state felony convictions. No state legislated the type of felony conviction data required from other states about its residents, or required other states to send notices of overturned felony convictions.

**Recommendations:** To reduce the burden on elections administrators, whose resources are already stretched, and in turn, promote greater respect for voter rights, we advocate streamlining list compilation. This can be partly accomplished through each state's HAVA compliance process by requiring coordination and connection between relevant state agencies. It also involves codifying and standardizing the felony conviction data that source agencies and other states provide; requiring source agencies to provide felony conviction data simultane-

ously and frequently; and including notification of overturned felony convictions from state to state and within states.

#### *Issue II: Criteria Used to Determine Matches*

**Findings:** Not a single state surveyed has codified any specific or minimum set of criteria that must be used by officials in ensuring that a person with a felony conviction is the same person being purged from the voter rolls. Accordingly, states, and in many cases, the counties within them, use quantitatively and qualitatively different information. Use of inconsistent matching criteria has the deleterious effect of treating similarly situated voters unequally.

**Recommendations:** In compliance with the HAVA requirement that states develop matching criteria, to provide clear guidance to officials conducting the matches, and to equally protect all voters, states should adopt statutes that specify and standardize matching criteria. These statutes should prescribe the use of numerous matching criteria, require exact matches of felony conviction and voter registration data, and require that matches be double-checked at state and county levels. Matching criteria should include first name, middle name, last name, gender, maiden name, alias, date of birth, place of birth and driver's license number if any.

#### *Issue III: Notification of Persons Matched*

**Findings:** Only four of the 15 states surveyed address this issue of due process by statute. Of the 11 others, five reported providing varying types of notice and an opportunity to contest the purge; four reported notifying people only after they have been purged, and two reported providing no notice at all.

## **PURGED!**

---

**Recommendations:** All states should adopt legislation that requires state officials to send a first notice by certified, forwardable mail; follow up by telephone where possible; accept replies in writing or in person; include a stamped, addressed envelope for replies, and allow a minimum of 30 days for a reply. Where no response is received to the first notice, a second notice should be mailed that permits another 14 days for a response and includes state-specific information regarding reinstatement of the right to vote and/or re-register. Purges should be completed by 90 days preceding an election.

## **ISSUE I: PURGE LIST COMPILATION**

States compile their purge lists by collating information from a number of different sources. All states receive felony conviction data from (a) United States attorneys, concerning their residents' commission of federal felonies; (b) other states' chief elections agencies, concerning their residents' commission of felonies in other states; and (c) in-state agencies, concerning their residents' commission of felonies in state.

With the exception of Pennsylvania, in several states surveyed, in-state felony conviction data is provided by multiple agencies, including judicial and law enforcement agencies, to the elections agency compiling the purge list. Moreover, in many states, different agencies provide felony conviction data at different times.

The sources of felony conviction data, their content, and the degree of synchronicity between them give us a sense of the lists' accuracy and efficacy.

We highlight South Dakota and New Mexico, because their procedures are most streamlined, as exemplary of good practices, and Maryland, whose procedures seem almost haphazard, as exemplifying bad practices.

### ***a. Federal felony conviction data***

All states' chief election agencies receive notices of their residents' convictions in federal district courts, pursuant to the National Voter Registration Act (NVRA).<sup>5</sup> The NVRA requires United States attorneys to give written notice of federal felony convictions to chief state elections officials.<sup>6</sup> The notices must contain a person's name, age and residence, date of entry of the judgment, a description of the offenses of which the individual was convict-

ed, and the sentence imposed.<sup>7</sup> The nature of the information that United States attorneys send state elections officials is critical in helping them identify ineligible voters, and while the NVRA at least provides a uniform standard, federal courts might also send these agencies additional available data such as a state driver's license number. The NVRA also requires federal courts to notify state election officials when federal felony convictions are overturned.<sup>8</sup>

### ***b. Out-of-state felony conviction data***

State chief election agencies also receive felony conviction data from other states in which their residents have been convicted of felonies. We were unable to locate state statutes that, like NVRA provisions, specify the information one state must send to another when providing such notice. Without such uniform standards, states may not send the best available data, making it difficult for receiving states to accurately identify ineligible voters. We were similarly unable to locate statutes concerning state-to-state notification of overturned felony convictions. Because different states disqualify individuals for different crimes, out-of-state conviction data should always include the description of the crime committed.<sup>9</sup>

### ***c. In-state felony conviction data***

Variations in practice in the collection of in-state conviction data are great. For example, eight states compile their purge lists at the state level, six do so at the county level, and one state has no purge list. Some states' criminal justice and judicial agencies are more connected to their boards of election than those of other states. Some states have statewide, centralized voter registration databases, while oth-

## PURGED!

ers do not. Louisiana aside, no state surveyed statutorily mandates in-state notification of overturned felony convictions. And in only two states does the department of corrections notify the board of elections when an individual's sentence is complete. Rather than further belaboring these intricacies here, we proceed directly to examples of good and bad practices. (Detailed information on individual state purge practices may be found in the addendum to this report.)

*South Dakota election officials reported receiving a relatively extensive and nearly standardized set of data that includes gender and birth place. Furthermore, all information is updated in "real time," which effectively precludes purges based on outdated information.*

### *i. Good practice: centralized databases, applicable to all states*

South Dakota, which disfranchises incarcerated felons and felony parolees, is far along in its HAVA compliance,<sup>10</sup> and we recommend replication of its system.<sup>11</sup> The state uses a system that is centralized at the state level, receives in-state felony conviction data from a single source (its courts), and updates information in "real time". One drawback, however, is the absence of legislative standards concerning the nature of the felony conviction data the state's courts must convey to the agency compiling the list (such as the NVRA provision that regulates what type of federal felony conviction data United States attorneys must provide states' chief election agencies).

South Dakota has a computerized statewide registration database, which is HAVA compliant and is connected to the state's Unified Judicial System, a computerized database of all state courts (UJS). This database has

records of all persons who have passed through the state's criminal justice system since 1989. United States attorneys and the chief state election agencies of other states both report felony convictions to the secretary of state's office. The information is then sent to the board of elections for the county where the person was last registered. For in-state convictions, there is a single source of information, the UJS. UJS court clerks also send felony conviction data to the elections division of the secretary of state's office. The information is then forwarded to the board of elections for the county where the person was last registered. Though we were unable to find a statute prescribing the nature of the data UJS court clerks must convey, multiple elections officials reported receiving a relatively extensive and nearly standardized set of data that includes gender and birthplace.<sup>12</sup> Furthermore, all information is updated in "real time," which effectively precludes purges based on outdated information.

New Mexico, which disfranchises prisoners, parolees and probationers, also employs commendable compilation practices. New Mexico has a centralized system that is administered at the county level.<sup>13</sup> Because it is centralized, simultaneously updated, and requires standardized felony conviction data, New Mexico's compilation process is more streamlined than most of the others surveyed.<sup>14</sup> Unlike South Dakota, New Mexico statutorily requires its in-state sources of felony conviction data to provide specific and uniform data. New Mexico law requires that courts submit felony conviction data that includes a person's full name, age, gender, marital status, birthplace, birth date, social security number, date of conviction and last known address.<sup>15</sup> Each county's courts and election boards are electronically connected. Each county is also electronically connected to the statewide voter registration database.

These connections allow felony conviction data to be updated in real time.<sup>16</sup>

### *ii. Good practice: an interim solution for states that disfranchise only incarcerated felons*

Although limited in applicability and a short-term solution, Pennsylvania's absentee ballot statute is nonetheless a significant improvement on the procedures in place in the states surveyed with analogous disfranchisement policies. Applicable only to states that, like Pennsylvania, disfranchise incarcerated felons,<sup>17</sup> the Pennsylvania statute is also only a temporary 'fix' for the period until states have instituted their HAVA-mandated centralized voter registration systems, including state-specific purge procedures. Realistically, however, since only nine states have *not* requested waivers of compliance, it will take most states well beyond the 2006 deadline to comply with HAVA and to include the state-specific safeguards we recommend in this report.<sup>18</sup> A Pennsylvania-style law may be a good interim measure for states that disfranchise incarcerated felons only.

Pennsylvania does not purge felons from its voter list. Instead, the state employs an innovative and administratively simple procedure to keep incarcerated felons from voting: Under Pennsylvania law, absentee ballots are not sent to those mailing requests for them from prison addresses.<sup>19</sup> Illinois and Ohio are the other states surveyed here that, like Pennsylvania, disfranchise prisoners only. We suggest that Illinois and Ohio enact similar absentee ballot statutes and abandon their purge lists, thereby reducing the administrative burdens of managing these lists and decreasing the likelihood of errors. Concomitantly, these states would also dispense with having to re-register these voters.

### *iii. Bad practice: complex disqualification schemes in "mixed status states"*

List compilation in Maryland is onerous not least because of the state's convoluted disfranchisement law.<sup>20</sup> State officials receive in-state felony conviction data from the state's Judicial Information System (JIS) and courts.<sup>21</sup> Officials must sort through the data and separate the names of persons convicted of infamous crimes and non-infamous crimes, because only the former crimes render an individual ineligible to vote.<sup>22</sup> Officials also have to parse through misdemeanor and felony conviction data because some misdemeanors also disqualify individuals from voting in Maryland.

*Concomitantly, these states would also dispense with having to re-register these voters.*

Moreover, Maryland does not use a centralized database and data is updated "about once a month." (Even with a statewide criminal justice database, Maryland's complicated disfranchisement law would make accurate purging difficult.)

In addition, Maryland law only requires its sources of felony conviction data to send an individual's name and address to compiling agencies. Enactment of a uniform law requiring courts to transmit first name, middle name, last name, alias, maiden name, date of birth, place of birth, gender, date of conviction, type of crime, and driver's license number if any, would alleviate burdens for both state and local election officials.

Thus, the state's complex disfranchisement law, in addition to its lack of a centralized database, use of insufficient standardized felony conviction data, and infrequent updates of that data, make list compilation an unwieldy task. One local election official in Montgomery County admitted as much when she described the system as "kind of disorganized."

## **ISSUE II: CRITERIA USED TO DETERMINE MATCHES**

In removing individuals with felony convictions from the voter rolls, we found that none of the states surveyed has codified any specific or minimum set of criteria for elections officials to use to ensure that an individual with a felony conviction is the same individual being purged from the voter rolls.<sup>23</sup> The practical implications of this is that these states, and in many cases the counties within each of them, conduct purges using quantitatively and qualitatively different information. This in turn means certain states and counties better safeguard voters against being improperly purged than other states and counties. Apart from Pennsylvania, then, which does not engage in felon purging, no state surveyed afforded adequate protection to voters it purged. Based on oral accounts of procedures followed, however, South Dakota appears to use procedures that – *if codified* – may be adequate to verify matches.<sup>24</sup>

*In removing individuals with felony convictions from the voter rolls, we found that none of the states surveyed has codified any specific or minimum set of criteria for elections officials to use to ensure that an individual with a felony conviction is the same individual being purged from the voter rolls.*

### ***a. Good practice for states that disfranchise incarcerated felons only***

Until states complete their implementation of HAVA-mandated statewide computerized voter registration databases, which when modified to include specific matching criteria will render matching a simpler task, Pennsylvania provides the best system for

states like it that disfranchise incarcerated felons only. There, no matching is conducted because the state never purges felons from its voter list, instead simply denying absentee ballots to prisoners. Of the 15 states surveyed, Illinois and Ohio, which like Pennsylvania, disfranchise prisoners only, could, by enacting similar absentee ballot statutes, abandon their purge lists, thereby reducing the administrative burdens of managing these lists and preventing erroneous purges of eligible voters.<sup>25</sup> They would concomitantly dispense with having to re-register them.<sup>26</sup>

### ***b. Good practice for states that disfranchise incarcerated felons, felony parolees and/or probationers***

The procedures followed by South Dakota, *if codified*, could serve as a solution for states that also disfranchise felony parolees and/or probationers and cannot therefore rely on the Pennsylvania model. Though South Dakota has not enacted statutes mandating either a specific or minimum set of criteria officials must use to perform matches, reports from county officials indicate that, when conducting matches, state and county officials use a greater number of criteria than most states surveyed and double-check matches at state and county levels.<sup>27</sup>

Both state and county officials reported that upon receiving felony conviction data from the state's Unified Judicial System, the first step in performing a match was for state officials to check the following ten pieces of felony conviction data against the statewide registration database: first name, middle name, last name, social security number, date of birth, gender, place of birth, date of conviction, age, and address.<sup>28</sup> Though no statute specifies what matching criteria officials must use, or requires all 10 items to

match, a state elections official reported that only if an individual appears in the statewide database and is a clear match is the information sent to the appropriate county official responsible for making the final determination before removing the person from the county's "master" registration list (which contains more pieces of information than the statewide registration database). If the person does not appear in the statewide registration list, the information is not forwarded to the county and is usually discarded. When there is any doubt or a need for additional corroborating information, officials telephone the Department of Justice or the court that issued the judgment before sending the names to the county boards of election where the person is registered.

Once county officials confirm the match, they then remove the person from county registration records. This means that the match is effectively checked twice, first at the state and then at the county level, where the more replete master lists reside. The county board of elections also notifies the secretary of state that the individual has been removed from the county file and should be flagged in the statewide registration database.<sup>29</sup>

***c. Bad practice: States that use few matching criteria and do not double-check matches***

Counties in Maryland and Nevada report using among the least extensive data in conducting matches and do not double-check matches at state and county levels. One Frederick County, Maryland official reported that she had only ever seen matches conducted using name and date of birth. Admitting that "the system [was] disorganized," Maryland's Montgomery County election director advised us that

Montgomery County matched name, date of birth and address.<sup>30</sup> Additionally, Maryland conducts matches at only the county level. In Nevada, Clark County matched using only name and date of birth, while Washoe County used name, date of birth and sometimes address. A Clark County official reported that she might find a match where even name and date of birth did not match exactly. Like Maryland, Nevada also conducts matches at only the county level.<sup>31</sup>

*When conducting matches, South Dakota state and county officials use a greater number of criteria than most states surveyed and double-check matches at state and county levels.*

### **ISSUE III: NOTIFICATION OF PERSONS MATCHED**

The states surveyed are also inconsistent concerning notification of those they purge from their voter rolls. Only four of the 15 states surveyed— Georgia, Louisiana, New York and Virginia — address this important issue of due process by statute. Of the 11 others, five — Arizona, Maryland, New Mexico, Nevada and Texas — report nevertheless providing varying types of notice and an opportunity to contest the purge. Four states — California, Iowa, South Dakota and Virginia — report notifying people after they have been purged, and two states, Illinois and Ohio, provide no notice at all.

***a. Good practice: States that statutorily mandate pre-removal notice and opportunity to contest purges***

Only four states — Georgia, New York, Louisiana and Virginia — statutorily require their elections officials to notify people to be purged prior to the disfranchisement. The pre-

## PURGED!

scribed notice is not always meaningful, however. Louisiana's statute, for example, requires individuals to appear before the Board of Elections within 21 days of the date of the postmark on the notice. Georgia's statute provides for even less time, 14 days. Individuals may have moved, and even forwarded notices may not reach them in time to allow them to contest erroneous purges.

*Only four of the 15 states surveyed— Georgia, Louisiana, New York and Virginia — address this important issue of due process by statute.*

New York's statutory notification process is the best though it, too, has serious shortcomings. The county board of elections first mails a forwardable letter to the individual to be purged to that individual's last known address stating that his/her name will be removed from the voter registration rolls if he or she fails to respond in person or in writing within 14 days. The mailing includes a postage-paid card that asks the person to list the reasons why he or she should not be removed. By allowing the person to respond in writing as opposed to in person, as well as including a postage-paid return statement, New York's election officials make the process slightly less onerous for people who may have been erroneously removed.

If the individual fails to respond, New York officials mail another notice advising of the right to re-register or apply to a court for reinstatement, whichever is appropriate. Sending individuals who have lost their right to vote a second notice, and one containing information regarding reinstatement, is a unique and good practice for other states to adopt.

Still, the New York statute's provision of 14 days to respond is little time for individuals to receive and prepare to contest an erroneous

removal, particularly where people have moved and the letter is forwarded to the new address. Nor is regular mail, as provided in the statute, adequate for this type of notification. Notices must be sent by certified, forwardable mail to ensure that the correct person receives them. Officials might also telephone individuals when contact information is available, in order to ensure that notices were received.

To best protect voting rights, we suggest that courts, departments of corrections and related agencies notify people convicted of felonies of their right to vote at every possible point in the process. At the very first point in time that an individual becomes ineligible to vote — when a defendant is being sentenced to prison or probation, where applicable, for a felony crime — the judge should advise defendants that they will lose the right to vote and when and how they may regain the right. When paroled, the parole board or parole officers should be required to advise parolees if they are, or when they will be, eligible to vote or register. In states where individuals can vote while on probation, the sentencing court or probation officers should inform probationers that they can vote. These notifications will go a long way toward dispelling the now well-documented confusion surrounding ex-felons' eligibility to vote.<sup>32</sup>

### ***b. Less acceptable practice: States that report providing non-statutory pre-removal notice***

Officials in Arizona, Maryland, Nevada, New Mexico and Texas report that, though not mandated by statute, they also notify individuals and permit them the opportunity to respond prior to purging their names from the voter rolls. Absent a mandatory, prescribed notification process, notification is discretionary, inconsistently conducted and there is no legal recourse for persons wrongly removed from voter registration lists. For example, Maryland



officials reported that some counties allow two weeks for a response but others longer. In Texas, the Program Director of the Voter Registration Department told us that local registrars mail notices advising individuals that their registrations are in jeopardy; these mailings include a questionnaire asking whether the individual has ever served time, and allow up to 30 days for individuals to respond. But this practice could only be confirmed by one of two counties we contacted. In Arizona, a Pima County elections official stated that before removing anyone from the registration list, the county sends two letters of notification, but officials in Maricopa County could not confirm this. Absent a statute delineating a reasonable time for a reply, followed by telephone calls and an additional notice where necessary, such practices are discretionary and provide voters little real protection.

***c. Bad practice: States that report providing non-statutory notice after removal***

Though these states do not address notification by statute, officials in California, Iowa, South Dakota and Virginia reported a practice of notifying individuals they purge from the registration lists after the fact. In Iowa's Linn County, an election official reported mailing notices to the last known addresses of those purged, advising us that individuals purged could later correct any mistakes. In Virginia, an election official in Fairfax County told us that the county mails a letter to the person purged explaining the reason therefor. Elections officials in two California counties reported following different procedures when individuals are purged: San Francisco County's Election Supervisor reported taking no action as doing so would increase the office's workload, while Los Angeles County's assistant county recorder told us that office mails a letter to the individual's last known address after purging the individual.

The letter also advises individuals that if they believe they were wrongly removed, they should contact the registrar's office immediately. South Dakota county election officials, like California's, reported contradictory notification practices: Pennington County's election supervisor reported notifying individuals when their registration had been cancelled, but an election official in Minnehaha County scoffed at the idea asking, "Why would we do such a thing?" States with inconsistent notification practices illustrate the problems inherent in leaving this issue to the discretion of county officials.

Because these states reported notifying individuals only after they are removed, they place the entire burden of contesting and re-registering on those erroneously purged, in whatever time remains before the next election, if any. As a result, individuals so notified may not know that they have been erroneously purged until they go to the polls to cast a ballot.

***d. Worst practice: States that provide no notice at all***

Illinois and Ohio neither address notification by statute, nor did officials report any informal practice of notifying individuals purged from voter registration lists. Without affirmative action by state and/or county officials to alert individuals that they will be removed from the voter registration records, the possibility of error increases dramatically and affords the voter no protection against inadvertent disfranchisement.

### RECOMMENDATIONS

#### *Issue I: Purge List Compilation*

Purge lists are vulnerable to inaccuracy because they are compiled by collating felony conviction data from United States attorneys, other states' chief election agencies, and in-state agencies.

- Given this fact, the mechanics of list compilation must be streamlined as much as possible through fast and full compliance with HAVA's requirement that states establish official, uniform and nondiscriminatory statewide computerized voter registration lists that are centralized and interactive.
- These centralized systems must be enhanced to account for state-specific information, including state law, that affects purges.
- These centralized systems must involve a high degree of coordination of felony conviction data among courts, departments of corrections, boards of elections, departments of motor vehicles and other relevant agencies.
- These centralized systems must include two-way communication between departments of corrections and boards of elections so that departments of corrections notify boards of elections when individuals with felony convictions become eligible to vote again.
- In those "mixed status" states with waiting periods, the date of an individual's release must be conveyed to the board of elections with instructions that the individual appear eligible on the rolls in the applicable number of years.

- In permanent disfranchisement states, communications must be three-way, among the board of elections, department of corrections, and the agency that has the authority to restore the right to vote.

In many states, the various sources of felony conviction data provide it to the compiling agency at different times. This problem is magnified where there is no central repository of felony conviction data.

- Information from the different sources of felony conviction data must reach the compiling agency at the same time, and be updated in real time, so that purges can be based on the most recent information.

While federal law requires United States attorneys to provide specific, standardized information concerning individuals convicted of federal crimes, one-quarter of the states surveyed do not require their source agencies to provide any specific or uniform felony conviction data, and half the states surveyed require only name and address.

- States must require their sources of felony conviction data to provide the compiling agency standardized felony conviction data.
- Departments of corrections, courts and boards of elections should collectively develop sets of standards that include first name, middle name, last name, maiden name, alias, date of birth, place of birth, gender, date of conviction, type of crime, and driver's license number if any. This will facilitate the matching process and will eliminate many common errors.

With respect to out-of-state felony conviction data, no state required standardized felony conviction data of other states.

- Without uniform standards, sending states may not send the best available felony conviction data, which in turn makes it harder for receiving states to differentiate eligible from ineligible voters.
- States should require the same felony conviction data as for in-state felony convictions. (See recommendation above.)
- Because state disfranchisement laws differ, out-of-state conviction data should include a description of the crime in question.
- When a person completes his or her sentence or has his or her rights restored, the state election agency originally notified of the conviction should be notified that the person is eligible again.

In 14 of 15 states surveyed, we did not find state law provisions, like NVRA Section 1973gg-6(g)(4), requiring notification of overturned felony convictions both from state to state and within states.

- States should adopt statutes that, like NVRA, require state-to-state, and in-state, notification of overturned felony convictions. In both cases, courts would be required to notify the relevant board of elections of overturned convictions. When this occurs, the individual should not have to re-register.

### ***Issue II: Criteria Used in Matching***

None of the states surveyed has codified any specific or minimum set of criteria that must be used by officials in ensuring that a person with a felony conviction is the same person being purged from the voter rolls.

- Statutes that specify and standardize matching criteria are essential to provide

clear guidance to officials conducting the matches and to equally protect similarly situated voters.

- Officials must be trained to strictly adhere to these criteria, given our finding that even in states with standardized criteria, officials exercising their discretion erroneously purged voters, by using less than all available criteria for matching purposes.

States, and counties within them in many cases, conduct purges using quantitatively and qualitatively different information, better safeguarding some voters against improper purges than others.

- Matching criteria should be numerous including first name, middle name, last name, alias, maiden name, date of birth, place of birth, gender, date of conviction, type of crime, and driver's license number if any.
- Matches should be double-checked at state and county levels.
- An exact match of felony conviction data and voter registration data should be required. Absent an exact match, we recommend seeking corroboration from courts or law enforcement agencies or by contacting the alleged felon, but in no event removing that individual's name from the voter registration list.

### ***Issue III: Notification of Persons Matched***

Only four of the 15 states surveyed address notification by statute. Even New York's statute, the best of those surveyed, was deficient in the short time it allowed for a response.

- All the states surveyed should enact statutes that require state elections officials to:

## **PURGED!**

**STEP 1:** Send a first notice by certified, forwardable mail advising the addressee that his or her registration is in jeopardy because that individual's voter registration data has been matched with the data of an individual with a felony conviction. Include a stamped, addressed envelope for replies and state that replies will be accepted in writing or in person.

**STEP 2:** Follow up by telephone where possible.

**STEP 3:** Allow a minimum of 30 days for a reply, as the individual may have moved or be traveling.

**STEP 4:** If no response is received to the first notice, send a second notice stating that the individual's name is being removed from the rolls in two weeks unless he or she responds to this notice. Include information regarding reinstatement of the right to vote and/or re-register.

**STEP 5:** Check the most current information before purging voters.

**STEP 6:** Complete purges by 90 days before an election.

To dispel the now well-documented confusion surrounding ex-felons' eligibility to vote, people convicted of felonies should be advised of their right to vote at every possible point:

- When a defendant is being sentenced to prison or probation, where applicable, for a felony crime, the judge should advise the defendant that he/she will lose the right and when and how he/she may regain the right.
- When paroling an individual, the parole board or parole officers should be required to advise parolees if they are, or when they will be, eligible to register or vote.

- In states where individuals can vote on probation, the sentencing court or probation officers should inform probationers that they can vote or register to vote.

To better protect voters who have had their rights restored or were erroneously purged from the voter lists, elections officials should keep a permanent record of all persons removed, preferably in a computerized database, including the date and reason for ineligibility and the date and reason a notice of ineligibility was sent. Under HAVA, persons whose names do not appear on voter registration lists are allowed to cast provisional ballots. When election officials check their active voter registration files, they should also check files that contain the names of voters whose rights were suspended due to a felony conviction.

### ARIZONA PURGE SUMMARY

#### *The law*

Rights of individuals convicted of felonies are suspended while they are incarcerated, on probation, or on parole.<sup>1</sup> There is no automatic restoration for persons convicted of more than one felony; you must wait two years before applying for civil rights restoration to the judge who discharged you at the end of the term of probation.<sup>2</sup>

*Number disfranchised (2000):* 147,340

*Disfranchisement rate*<sup>3</sup>: 4.06%

#### *Sources of felony conviction data*

U.S. attorneys, election agencies of other states, clerks of superior courts, electors when reporting on signed jury questionnaires.

#### *Federal and out-of-state convictions*

U.S. attorneys report federal convictions to the secretary of state's office. Other states' election agencies also report felony convictions to the secretary of state. This information is then sent to the county recorder where the person was registered to vote.

#### *In-state convictions*

Arizona state law requires clerks of superior courts to send final conviction notices to the county recorders where the individual was convicted, but state election officials also reported receiving in-state felony conviction data from clerks of superior courts.

#### *What information is sent?*

Courts are statutorily required to send name, date of birth, place of birth,

social security number if available, address, and usual place of residence.<sup>4</sup>

#### *Frequency of updates*

There are no statutory requirements; official notice from courts is "after the fact."<sup>5</sup>

#### *Who performs the matching?*

A state election official reported that the state performs the match and could not say whether the counties do any follow-up. An election official in Pima County indicated that the county performs a match before removal, but this could not be verified in Maricopa County. The state may check the person's voter registration against its computerized statewide registration database, but state officials did not report this.<sup>6</sup>

#### *What is a match?*

There is no strict set of matching criteria. Pima County reported matching information on the voter registration form with the information from the courts, including the name, last 4 digits of the social security number or driver's license number, and the mother's maiden name. State election officials did not indicate what they considered to be a match.

#### *Notification of removal*

Arizona has no statutory requirement to inform voters that their names are being taken off the voter list, or that they have already been removed. Pima County officials advised us that they send two notices. If there is no response, the person is placed on the inactive list.

---

<sup>1</sup> Arizona Constitution, art. VII, § 2a. Arizona Revised Statutes, § 16-101.

<sup>2</sup> Arizona Revised Statutes § 13-909-912.

<sup>3</sup> Percentage of Voting Age Population (VAP) disfranchised in 2000.

<sup>4</sup> Arizona Revised Statutes § 16-126(c).

<sup>5</sup> Arizona Revised Statutes § 16-165(9)(c).

<sup>6</sup> Arizona did not request a waiver to postpone implementation of the HAVA-required, statewide voter registration database. At the time this survey was conducted, the database was not integrated into the court system.

## **CALIFORNIA PURGE SUMMARY**

### *The law*

Rights are suspended for felony convictions when the individual is incarcerated or on parole.<sup>1</sup> Felony probationers may vote. The right to vote is automatically restored upon completion of sentence, but one must reregister.

*Number disfranchised (2000):* 288,362

*Disfranchisement rate<sup>2</sup>:* 1.16%

### *Sources of felony conviction data*

U.S. attorneys, election agencies of other states, clerks of superior courts.

### *Federal and out-of-state convictions*

U.S. attorneys report federal convictions to the secretary of state's office. Election agencies of other states also report felony convictions to the secretary of state. Information from the secretary of state is then sent to the county registrar where the person last resided.

### *In-state convictions*

Clerks of superior courts send final conviction notices directly to the registrar for the county where the individual was convicted.

### *What information is sent?*

Courts are statutorily required to send name, address and date of birth.<sup>3</sup>

### *Frequency of updates*

Twice yearly (April 1, September 1).

### *Who performs the matching?*

The appropriate county registrar's office.

### *What is a match?*

There is no strict set of matching criteria. San Francisco and Los Angeles counties reported

matching different information. Los Angeles County reported matching more information than San Francisco County, including name, date of birth and place of birth. Los Angeles County also indicated that a person's name would not be removed without an exact match. San Francisco was less stringent in its matching and said it only required an exact match of name and address.

### *Notification of removal*

California has no statutory requirement to inform voters that their names are being taken off the voter list, or that they have already been removed. An election official in San Francisco County said that the county did not have the time or resources to inform every voter each time someone was taken off the county voter registration list. However, in Los Angeles County, an election official said that the county sends a letter of notification to the person's last known address stating that the person has been removed from the registration rolls. The letter also states that if the person believes he or she was wrongly removed, the individual should contact the registrar's office immediately. The person's name is not removed from the voter registration list but is flagged with the word "canceled" and the reason for removal. Los Angeles County indicated that this was done to allow for a person who might not be on the registration list to cast a provisional ballot. It is unclear whether this is a state mandate or a county practice.

---

<sup>1</sup> California Constitution, art. II. California Code § 2201(c).

<sup>2</sup> Percentage of Voting Age Population (VAP) disenfranchised in 2000.

<sup>3</sup> California Code § 2212.

### **GEORGIA PURGE SUMMARY**

#### *The law*

Rights are suspended for individuals convicted of felonies when incarcerated, on parole or on probation.<sup>1</sup> The right to vote is automatically restored upon completion of sentence, but one must re-register.

*Number disfranchised (2000):* 286, 277

*Disfranchisement rate*<sup>2</sup>: 4.86%

#### *Sources of felony conviction data*

U.S. attorneys, state election agencies of other states, clerks of superior courts, law enforcement agencies.

#### *Federal and out-of-state convictions*

U.S. attorneys send final conviction notices to the secretary of state's offices. Election agencies of other states also report felony convictions to the secretary of state. The information is then forwarded to the registrar for the county where the person was last registered.<sup>3</sup>

#### *In-state convictions*

Clerks of superior courts send certificates of felony convictions to the secretary of state's election division. This information is then forwarded to the county registrar where the person was last registered to vote. Additional information may be obtained from law enforcement agencies such as sheriffs' departments.

#### *What information is sent?*

Courts are statutorily required to send name, address and age.<sup>4</sup>

#### *Frequency of updates*

Monthly. (Court clerks must send lists

by the tenth of every month to the secretary of state).

#### *Who performs the matching?*

County registrars.

#### *What is a match?*

There is no strict set of matching criteria. Counties reported matching first, middle and last name, date of birth, and social security number (if available) with information on the voter registration form. If the name is not an exact match, and all other information lines up, they usually consider it a match. A Fulton County election official admitted inadvertently removing eligible persons after only matching the person's name and address; for example, a father and son who share the same name and address. Part of her explanation as to why she sometimes overlooks important indicators is that she gets "so many notices."

#### *Notification of removal*

Georgia has a statutorily required pre-removal notification. If there is a match, the election official has two months (60 days) to send out a forwardable notice to the voter indicating that his or her name will be removed from the registration list. The voter then has 14 days to dispute the charge. If the voter does not respond, the file is marked, "Deleted – Felon." In Fulton County, the deleted files are archived every two years; in Dekalb County they are archived every five years.

---

<sup>1</sup> Georgia Constitution, art. II § 1. Georgia Code § 21-2-216(b).

<sup>2</sup> Percentage of Voting Age Population (VAP) disenfranchised in 2000.

<sup>3</sup> Georgia has a statewide voter registration database in place, a ten-year-old mainframe system that was not connected to the courts or criminal justice agencies at the time this survey was conducted.

<sup>4</sup> Georgia Code § 21-2-231(a).

## **ILLINOIS PURGE SUMMARY**

### *The law*

The rights of convicted felons are suspended when they are incarcerated or on parole. The right to vote is automatically restored upon completion of sentence, but one must reregister.<sup>1</sup>

*Number disfranchised (2000): 46,992*

*Disfranchisement rate<sup>2</sup>: 0.52%*

### *Sources of felony conviction data*

U.S. attorneys, state election agencies of other states, circuit court clerks.

### *Federal and out-of-state convictions*

U.S. attorneys report federal convictions to the secretary of state's office. Election agencies of other states also report felony convictions to the secretary of state. The information is then sent to the county clerk's office where the person last resided.

### *In-state convictions*

County circuit courts send notices of final judgments for individuals convicted of felonies (with orders of incarceration) directly to the county clerk's office where the person was convicted.

### *What information is sent?*

Courts are statutorily required to send name and last known residence.<sup>3</sup>

### *Frequency of updates*

Monthly.

### *Who performs the matching?*

County clerk's office.

### *What is a match?*

There is no strict set of matching criteria. If use of the first name, last name and date of birth does not produce a match, officials look at the address or driver's license number. An election official in Cook County indicated that they do not purge if they cannot narrow it down to a single individual.

### *Notification of removal*

There are no statutory requirements to inform voters that their names are being taken off the voter list, or that they have already been removed. Once the county clerk has identified a match, the clerk immediately removes the individual's name from the voter file. There were no reports from state or county election officials that persons removed from voter rolls for felony conviction received any notification.

---

<sup>1</sup> Illinois Compiled Statutes § 730-5-5-5(d). Illinois Compiled Statutes § 10-5-3-5.

<sup>2</sup> Percentage of Voting Age Population (VAP) disenfranchised in 2000.

<sup>3</sup> Illinois Compiled Statutes § 10-5/6-61.



### **IOWA PURGE SUMMARY**

#### *The law*

Rights are suspended for conviction of “infamous crime” while incarcerated, on parole or on probation.<sup>1</sup> There is no automatic restoration. Persons convicted must apply for clemency from the Governor.<sup>2</sup>

*Number disfranchised (2000):* 100,631

*Disfranchisement rate*<sup>3</sup>: 4.65%

#### *Sources of felony conviction data*

U.S. attorneys, election agencies of other states, district court clerks.

#### *Federal and out-of-state convictions*

U.S. attorneys report federal convictions to the state registrar. Election agencies of other states also report felony convictions to the state registrar. The information is then sent to the county commissioner of registration for the county where the person last resided.

#### *In-state convictions*

District court clerks send notices of final judgments for individuals convicted of infamous crimes to the state registrar. This information is then sent to the county commissioners of registration where the person last resided. Iowa is in the process of procuring a statewide voter registration database from private vendors.

#### *What information is sent?*

There is no statutory requirement; it may include name, date of birth and social security number.

#### *Frequency of updates*

Monthly.

#### *Who performs the matching?*

The state registrar performs an initial match on the state registration list. When there is a “possible match, the state directs the counties to remove the individuals. County election officials in Polk and Linn Counties also reported performing a match.

#### *What is a match?*

Iowa has no strict set of matching criteria. A Polk County official said the registrar double-checks name, social security number and date of birth two or three times. A Linn County official said the county checks the name and date of birth. Iowa’s HAVA bill does not directly address matching felons and voters, though there is a provision directing the state registrar to prescribe “access protocols for adding, changing, or deleting information from the state voter registration file.”

#### *Notification of removal*

There is no statutory requirement, but an election official in Linn County said a notice is mailed to the last known address to advise the individual he or she has been removed. This could not be confirmed in Polk County.

---

<sup>1</sup> Iowa Code § 903.1(1)(b)(2). Iowa’s disfranchisement law has not significantly changed since 1857.

<sup>2</sup> Iowa Code § 48a.6.

<sup>3</sup> Percentage of Voting Age Population (VAP) disfranchised in 2000.

## **LOUISIANA PURGE SUMMARY**

### *The law*

Rights are suspended for felony convictions when a person is incarcerated, on parole or on probation. Rights may be reinstated after completion of sentence, including parole or probation. The registrant must appear in person and provide documentation from the appropriate corrections official that he or she is no longer under an order of imprisonment.<sup>1</sup>

*Number disfranchised (2000):* 37,684

*Disfranchisement rate<sup>2</sup>:* 1.16%

### *Sources of felony conviction data*

U.S. attorneys, election agencies of other states, clerks of state courts, the Department of Public Safety and Corrections (DPSC), sheriffs and district attorneys.

### *Federal and out-of-state convictions*

U.S. attorneys report federal convictions to the elections division of the secretary of state. Election agencies of other states also report felony convictions to the elections division of the secretary of state. The information is then sent to the parish registrar in the county where the person was last registered.

### *In-state convictions*

Clerks of court must send certified copies of final judgments to the secretary of state, elections division, and to the parish registrar where the individual was convicted. In addition, the DPSC sends a supplemental report for all those in custody or supervision whose name did not appear in a previous notice from the courts. Clerks of courts also send notices when convictions are overturned to the elections division of the secretary of state's office.

### *What information is sent?*

Both the DPSC and court clerks are statutorily required to send the name,

alias, date of birth, sex and address of each person convicted of a felony where there is an order of imprisonment. Sheriffs and district attorneys also provide supplemental information such as the date of birth, driver's license number, address, or mother's maiden name.<sup>3</sup>

### *Frequency of updates*

Courts send monthly updates. DPSC sends quarterly updates.

### *Who performs the matching?*

The election division of the secretary of state's office first verifies that the individual is registered in Louisiana against the elections and registration information network (ERIN).<sup>4</sup> When there is a "possible match," the state sends the information to the parish registrar who then matches the information again.

### *What is a match?*

There is no codified set of matching criteria for officials to follow, but an election official at the secretary of state's office reported that the state first matches the last name and the first two letters of the first name against ERIN. An election official at the Jefferson Parish Registrar reported matching the person's full name (including any aliases), date of birth, address and sometimes gender. An election official at the Orleans Parish Registrar's office corroborated this and added that they sometimes match the social security number as well. Matches are not required to be exact but need to be "close enough."

### *Notification of removal*

Louisiana statutorily requires parish registrars to notify registrants that their names will be removed and provide them with an opportunity to contest removal. Once there is a match, the

*Continued On Next Page*

### *Continued From Previous Page*

registrar sends a notice indicating that the registrar has information that the person was convicted of a felony and is under an order of imprisonment. The notice also states that the individual must appear in person at the office of the registrar within 21 days of the date the notice was mailed to show cause why his or her registration should not be suspended. If the voter does not do so, the registration is deleted from the statewide registration list. The person's name is also crossed out of any duplicate registration rolls and initialed by the person who crossed it out. The original application is placed in a suspended file, dated and flagged with the reason for suspension (in this case, a felony conviction) as well as an indication that the person was notified. The files are kept in a separate file of suspended voters for a period of two years.

---

<sup>1</sup> Louisiana Constitution, Art. I, § 10.

<sup>2</sup> Percentage of Voting Age Population (VAP) disfranchised in 2000.

<sup>3</sup> Louisiana Revised Statutes § 18-171(a)-(c)

<sup>4</sup> At the time of this survey ERIN was not connected to DPSC or the courts. The lack of synchronization was mentioned in Louisiana's final HAVA state plan.

## **MARYLAND PURGE SUMMARY**

### *The law*

The rights of an individual who has been convicted of a “theft or other infamous crime” are suspended while the person is incarcerated, on parole or on probation. Automatic restoration is granted for first time non-violent offenders only. The duration of disfranchisement for all others depends on the number of convictions and on whether the individual is convicted of a crime of violence.<sup>1</sup>

*Number disfranchised (2000)*<sup>2</sup>: 128,836

*Disfranchisement rate*<sup>3</sup>: 3.31%

### *Sources of felony conviction data*

U.S. attorneys, election agencies of other states, the Judicial Information System, clerks of state courts.

### *Federal and out-of-state convictions*

U.S. attorneys report federal convictions to the elections division of the secretary of state’s office. Election agencies of other states also report felony convictions to the state registrar. The information is then sent to the local registrar for the person’s last place of residence.

### *In-state convictions*

The secretary of state reported receiving felony conviction data from the Judicial Information System. The Maryland state code also requires that the clerks of circuit courts for each county and the administrative clerk for each district court provide information for all those convicted to the secretary of state.<sup>4</sup> After removing individuals convicted of “non-infamous” crimes and ensuring that individuals’ names, addresses and dates of birth are contained in the reports, the secretary of state sends the reports to the local registrars where the person last resided. A Montgomery County election supervisor noted that the system was “pretty disorganized.”

### *What information is sent?*

Maryland requires name and address to be sent. State election officials indicated the reports “typically” include name, address and date of birth.<sup>5</sup>

### *Frequency of updates*

There is no statutory requirement. The secretary of state reported receiving information “about once a month.”

### *Who performs the matching?*

The state performs an initial check (a) to see if the name or address is missing and (b) to determine if the crime committed disqualifies the individual, under Maryland law, from voting, but it does not perform a specific match. It then forwards the information to the county registrar to be matched against the voter rolls.

### *What is a match?*

There is no codified set of matching criteria for officials to follow. A Montgomery County election official indicated that his staff usually stops at the name and address of the person, but if there are duplicates they may check date of birth. A Frederick County election official indicated that his staff had only ever seen the name and date of birth, which they then matched.

### *Notification of removal*

Maryland has no statutory requirement. The Montgomery County election official reported sending letters to individuals before they are removed. The letters state that individuals have two weeks to contest the planned purge. If an individual contests removal, he or she must contact the election board and show cause why his or her voting rights should not be suspended. If the individual does not contest the purge, or fails to show cause why his

*Continued On Next Page*

*Continued From Previous Page*

or her registration should not be suspended, the local registrar has the authority to remove the individual's name from the voter file.

---

<sup>1</sup> Maryland Constitution, art. I, Elective Franchise, § 4 and Maryland Election Code § 3-102(b)-(c).

<sup>2</sup> The law was changed in 2002, affecting the number of disfranchised.

<sup>3</sup> Percentage of Voting Age Population (VAP) disfranchised. Maryland's legal change affected the disfranchisement rate.

<sup>4</sup> It is unclear which system they actually use or if they receive information from both sources.

<sup>5</sup> Maryland Election Code § 3-505(a)(3).

## **NEVADA PURGE SUMMARY**

### *The law*

Rights are suspended for felony convictions when the individual is incarcerated, on parole or on probation. Automatic restoration is granted only to first-time, non-violent felons. Others “may petition the court in which the person was convicted for an order granting restoration of his or her civil rights.”<sup>1</sup>

*Number disfranchised (2000)*<sup>2</sup>: 66,390

*Disfranchisement rate*<sup>3</sup>: 4.78%

### *Sources of felony conviction data*

U.S. attorneys, election agencies of other states, local law enforcement agencies, jury commissioners.

### *Federal and out-of-state convictions*

U.S. attorneys report federal convictions to the elections division of the secretary of state’s office. Election agencies of other states also report felony convictions to the secretary of state. The information is then sent to the county registrar for the county where the person last resided.

### *In-state convictions*

Nevada’s Administrative Code states that county registrars may receive information from the secretary of state or the “Central Repository for Nevada Records of Criminal History” regarding the conviction of any person of a felony.”<sup>4</sup> Washoe County reported obtaining information from local law enforcement agencies and jury commissioners. Clark County reported receiving information from the Metropolitan Police Department.

### *What information is sent?*

Nevada has no statutory requirement; “typically” the information includes name, address and date of birth.

### *Frequency of updates*

Unspecified. Clark County reported receiving information once a month.

### *Who performs the matching?*

County clerks perform the matching.

### *What is a match?*

There is no codified set of matching criteria for officials to follow. Each county follows its own procedure. Washoe County matches by name, date of birth, and sometimes address as well, believing date of birth to be most important. Clark County matches mainly by name and date of birth and noted many people have the same names, including middle initial. They also admit that even matching a name, an alias, date of birth and address could be a problem if the person has a twin. A match may be found where even name and date of birth do not match exactly. On occasion, officials query the police department for additional information such as aliases.

### *Notification of removal*

There is no statutory requirement, but Washoe County advised us that a letter is sent to the person advising that his or her registration is going to be cancelled because of a felony conviction. The person can call and contest removal. There does not appear to be a formal process for doing so. Clark County also reported sending notices advising individuals that they would be removed, along with a brochure about rights restoration. The person can call to contest erroneous removal and Clark County will take their information and try to sort out the matter with the police department. There does not seem to be a formal process. Rather, it’s a matter of the county official, the voter, and the police determining whether the person is or is not the person convicted of a felony.

---

<sup>1</sup> Nevada Revised Statutes § 213.155(1)-(2).

<sup>2</sup> The law was changed in 2003, affecting the number of disfranchised.

<sup>3</sup> Percentage of Voting Age Population (VAP) disfranchised.

<sup>4</sup> Nevada Administrative Code § 293.414(2).

### **NEW MEXICO PURGE SUMMARY**

#### *The law*

Rights are suspended for felony convictions when a person is incarcerated, on parole or on probation. In March 2001, New Mexico adopted a bill repealing the state's lifetime ban on voting for individuals convicted of a felony.<sup>1</sup> To reregister, the individual must bring documentation that all terms of his or her sentence have been fulfilled.

*Number disfranchised (2000)<sup>2</sup>*: 78,406

*Disfranchisement rate<sup>3</sup>*: 6.21%

#### *Sources of felony conviction data*

U.S. attorneys, election agencies of other states, clerks of state courts.

#### *Federal and out-of-state convictions*

U.S. attorneys report federal convictions to the elections division of the secretary of state's office. Election agencies of other states also report felony convictions to the secretary of state. The information is then sent to the registrar in the county where the person was last registered.

#### *In-state convictions*

Clerks of courts electronically send relevant information to the county registrar in the county where the conviction occurred. When county registrars flag a person to be removed at the county level, the name is automatically flagged in the state system.

#### *What information is sent?*

Courts are statutorily required to include name, age, sex, marital status, birthplace, birthdate, social security number (if any), date of conviction and address.<sup>4</sup>

#### *Frequency of updates*

Lists are updated daily in real time (for

31 of 33 counties). The court clerks', registrars' and statewide voter registration databases are linked.

#### *Who performs the matching?*

County registrars.

#### *What is a match?*

There are no minimum criteria for what constitutes a match. Courts are required to send nine pieces of information. New Mexico's voter registration application requires all registrants to include their full nine-digit social security numbers. Officials use this to look up existing registrants to see if a person is a qualified voter as well as to verify that an individual on the purge list is the same person on the registration list. A Santa Fe County election official pointed out, however, that more than one person may have the same social security number and therefore, it was extremely important to look at the other information provided as well.

#### *Notification of removal*

New Mexico has no statutory requirement, but Santa Fe and Bernalillo Counties reported sending a certified letter to matched voters. The letter cites the name, date of conviction, and the case number of the person. The letter states that the person can no longer vote in New Mexico due to a felony conviction. The letter also indicates state laws on restoration of rights for people with felony convictions and what documentation is required to restore those rights. The files are flagged as "felony conviction," but are not removed from the voter registration list. New Mexico state law also requires courts to notify the county where the person was registered when he or she is again eligible to vote. When re-registering these individuals must show that they have completed their sentence.

---

<sup>1</sup>New Mexico Constitution, Art. 7, § 1.

<sup>2</sup>The law was changed in 2001, affecting the number of disfranchised.

<sup>3</sup>Percentage of Voting Age Population (VAP) disfranchised. New Mexico law changed in 2000, affecting the state's disfranchisement rate.

<sup>4</sup>New Mexico Statutes § 1-4-27.1.

## **NEW YORK PURGE SUMMARY**

### *The law*

Rights are suspended for persons convicted of a felony and sentenced to incarceration, or on parole. Felony probationers may vote. Incarceration includes parole but not probation. After an individual has served his or her sentence, the right to vote is automatically restored.<sup>1</sup>

*Number disfranchised (2000):* 131,273

*Disfranchisement rate<sup>2</sup>:* 0.95%

### *Sources of felony conviction data*

U.S. attorneys, election agencies of other states, clerks of state courts.

### *Federal and out-of-state convictions*

U.S. attorneys report federal convictions to the state board of elections. State election agencies of other states also report felony convictions to the state board of elections. The information is then sent to the county board of elections for the county where the person last resided.

### *In-state convictions*

Courts send lists to county boards of elections for the counties where the person was convicted, or the state board of elections, at their discretion. If the person was not living in the county of conviction, the county board must then send the information to the county where the person last resided.

### *What information is sent?*

Courts are statutorily required to send name, address and date of birth.<sup>3</sup>

### *Frequency of updates*

By statute, at least quarterly, though state and county officials indicated that updates were received much more frequently.

### *Who performs the matching?*

County boards of elections.

### *What is a match?*

There is no strict set of matching criteria and matches rest in the discretion of the auditor. The New York City Board of Elections advised that if the name, date of birth and address are the same, it is considered a match. Erie County advised us that no one was removed without 100 percent verifiability of name, date of birth, sex, and last known address. If there is a discrepancy between the voter registration list and the information provided by the courts, the Erie County board sends a letter to the person at the last known address inquiring as to his or her identity. If a telephone number is provided, it may also try to contact the person that way. After sending the letter, if it does not hear anything back but the discrepancy remains, it will not remove the person from the list. The New York City Board of Elections Registration Supervisor would not reveal her office's fact-checking process.

### *Notification of removal*

Counties are statutorily required to send a pre-removal notice. If there is a match, a forwardable letter is sent to the address where the person was last registered, advising that he or she will be removed from the registration rolls. The letter indicates that the person may appear before the board or send a written statement explaining why he or she should not be removed from the list. The letter also includes a postage-paid card that asks the person to list the reasons why he or she should not be removed. If the person does not respond within 14 days, his or her name is removed. If the person's response does not satisfy the board, it will send another notice advising that the name has been removed. The notice advises the individual of the right

*Continued On Next Page*



*Continued From Previous Page*

to re-register or to apply to a court of law for reinstatement, whichever is appropriate. If the person does not prove that he or she has the right to vote in New York within 14 days, he or she must reregister.<sup>4</sup>

---

<sup>1</sup> New York Consolidated Laws § 5-106.

<sup>2</sup> Percentage of Voting Age Population (VAP) disfranchised in 2000.

<sup>3</sup> New York Consolidated Laws § 5-708.

<sup>4</sup> New York Consolidated Laws § 5-402

## **OHIO PURGE SUMMARY**

### *The law*

Rights are suspended for persons convicted of a felony and sentenced to incarceration. Felony probationers and parolees may vote. After the individual has served his or her sentence, the right to vote is automatically restored.<sup>1</sup>

*Number disfranchised (2000): 47,461*

*Disfranchisement rate<sup>2</sup>: 0.56%*

### *Sources of felony conviction data*

U.S. attorneys, election agencies of other states, clerks of courts.

### *Federal and out-of-state convictions*

U.S. attorneys report federal convictions to the elections division of the secretary of state's office. Election agencies of other states also report felony convictions to the secretary of state. The information is then sent to the board of elections for the county where the person last resided.

### *In-state convictions*

Clerks of courts of common pleas file lists of persons who have been convicted of felonies with the board of elections in the county in which the conviction occurred.

### *What information is sent?*

Courts are statutorily required to include name and address. One county election official reported that the data may also include the social security number and date of birth.<sup>3</sup>

### *Frequency of updates*

Monthly.

### *Who performs the matching?*

County boards of election.

### *What is a match?*

There is no strict set of matching criteria but county election officials reported using the name, address, social security number, and usually the date of birth.

### *Notification of removal*

Ohio has no statutory requirement. Upon finding a match, a voter's registration is cancelled. According to Wayne County, the board does not send a notice to voters. The Wayne County official thought but was not certain that voters were informed of the loss of voting rights when they were incarcerated.

---

<sup>1</sup> Ohio Revised Code § 19-2961.01.

<sup>2</sup> Percentage of Voting Age Population (VAP) disfranchised in 2000.

<sup>3</sup> Ohio Revised Code § 19-3503.18

**PENNSYLVANIA PURGE SUMMARY**

*The law*

Only those incarcerated are unable to vote. Voting rights are automatically restored upon release.

*Who performs the matching?*

N/A

*What is a match?*

N/A

*Number disfranchised (2000): 36,847*

*Disfranchisement rate<sup>1</sup>: 0.40%*

*Notification of removal*

N/A

*Sources of felony conviction data*

U.S. attorneys, election agencies of other states.

*Federal and out-of-state convictions*

Nothing is done with the information from federal and out-of-state convictions because Pennsylvania does not purge individuals incarcerated from its voter registration lists.

*In-state convictions*

Pennsylvania does not purge individuals incarcerated from its voter registration lists and therefore the state does not collect lists of those incarcerated. Rather, the state prohibits incarcerated felons from voting by denying applications for absentee ballots mailed from prison addresses.<sup>2</sup>

*What information is sent?*

N/A

*Frequency of updates*

N/A

---

<sup>1</sup> Percentage of Voting Age Population (VAP) disfranchised.

<sup>2</sup> 25 PA Cons. Stat. § 3146.1

## **SOUTH DAKOTA PURGE SUMMARY**

### *The law*

Rights are suspended if an individual is under a sentence of imprisonment. Rights are automatically restored thereafter, but the person must reregister and may be asked to show proof that his or her sentence was completed.<sup>1</sup>

*Number disfranchised (2000)<sup>2</sup>: 2,727*

*Disfranchisement rate: 0.50%*

### *Sources of felony conviction data*

U.S. Attorneys, election agencies of other states, Unified Judicial System (UJS).<sup>3</sup>

### *Federal and out-of-state convictions*

U.S. attorneys report federal convictions to the elections division of the secretary of state's office. Election agencies of other states also report felony convictions to the secretary of state. The information is then sent to the county board of elections where the person was last registered.

### *In-state convictions*

The clerks of the UJS courts send information to the secretary of state. The information is then sent to the county boards of elections where the person was registered.

### *What information is sent?*

South Dakota has no statutory matching requirements but reported matching ten pieces of information: first, middle and last name, address, social security number, age, date of birth, gender, birthplace and date of conviction.

### *Frequency of updates*

Rolls are updated in "real time."

### *Who performs the matching?*

The secretary of state's elections division and the county boards of election.

### *What is a match?*

There are no statutory criteria for election officials to follow. However, the information that county and state officials receive is far more replete than in most other states. State election officials first fill in any information that may be missing or unclear. This is often done by telephoning the court where the person was convicted. The person's name and other information is then checked against the computerized statewide registration database that is HAVA compliant and is connected to the UJS computerized database. If the person is registered or appears to be registered, the information is sent to the appropriate county board of elections. Once the county board of elections receives the information, the county verifies it to make sure there is a match. An election official in Pennington County advised that they look at the name (first, middle, last), social security number, date of birth, gender, place of birth, date of conviction, age and address to verify that the person should be removed. If the information matches, the person is removed and the county board notifies the secretary of state that the person has been removed from the county list. The file is then flagged in the statewide registration database as that of a felon. The file is not removed but made inactive.

### *Notification of removal*

There is no statutory requirement. An election official in Pennington County said that the county sends a notice after the person has been removed from the list. A Minnehaha County official said that they did not do so and asked, "Why would we do such a thing?"

<sup>1</sup> South Dakota Constitution art. VII, § 2. South Dakota Codified Laws § 12-4-1.1.

<sup>2</sup> Percentage of Voting Age Population (VAP) disfranchised.

<sup>3</sup> South Dakota's Constitution provides for a centralized court structure, the Unified Justice System.

### **TEXAS PURGE SUMMARY**

#### *The law*

The rights of people convicted of felonies are suspended while the person is incarcerated, on parole or on probation. The right to vote is automatically restored upon completion of the sentence.<sup>1</sup>

*Number disfranchised (2000): 525,967*

*Disfranchisement rate<sup>2</sup>: 3.54%*

#### *Sources of felony conviction data*

U.S. attorneys, election agencies of other states, the Department of Public Safety (DPS).

#### *Federal and out-of-state convictions*

U.S. attorneys report federal convictions to the elections division of the secretary of state's office. Election agencies of other states also report felony convictions to the secretary of state. The information is then sent to the registrar in the county where the person last resided.

#### *In-state convictions*

The DPS prepares abstracts of final judgments and files them with the secretary of state. The secretary in turn files the information with the appropriate county registrar of voters.<sup>3</sup>

#### *What information is sent?*

Texas has no statutory requirement. The secretary of state indicated that DPS sends the person's name, driver's license number, and date of birth.

#### *Frequency of updates*

Weekly (for both the DPS and the secretary of state).

#### *Who performs the matching?*

While the secretary of state maintains that matches conducted at the state level are used to indicate "possible felons," it is unclear what the counties check, or whether they verify the information at all. Dallas County reported following instructions from the secretary of state "to the letter." Harris County said it simply receives notice that someone in the county is a felon and then removes that person from the voter rolls. Neither county reported performing any sort of match.

#### *What is a match?*

Texas has no specific criteria for officials to determine a match. The secretary of state matches name, driver's license number and date of birth.

#### *Notification of removal*

There is no statutory requirement. One state election official indicated that the local registrar sends a notice to the registrant informing him or her that the registration is in jeopardy and allowing an opportunity to contest it before removing the person's name from the voter file. The notice informs the registrant that he or she has 30 days to contest and provides a form, which may be submitted either in person or by mail. If the registrant fails to act within 30 days, the local registrar removes the individual from the voter file. A Harris County election official confirmed that the County sends a letter that includes questions pertaining to the person's current eligibility status.

---

<sup>1</sup> Texas Statutes § 11.002(4).

<sup>2</sup> Percentage of Voting Age Population (VAP) disfranchised.

<sup>3</sup> Texas Statutes § 16.003

## **VIRGINIA PURGE SUMMARY**

### *The law*

The rights of people convicted of felonies are suspended while they are incarcerated, on parole or on probation. Virginia permanently disfranchises those with felony convictions. Individuals wishing to regain their rights must wait five years after the completion of their sentences and petition the circuit court of the county of conviction, or in which they presently reside.<sup>1</sup>

*Number disfranchised (2000):* 310,661

*Disfranchisement rate<sup>2</sup>:* 5.9%

### *Sources of felony conviction data*

U.S. attorneys, election agencies of other states, and Central Criminal Records Exchange (CCRE).<sup>3</sup>

### *Federal and out-of-state convictions*

U.S. attorneys report federal convictions to the state board of elections. Election agencies of other states also report felony convictions to the state board of elections. The information is then sent to the county registrar where the person last resided.

### *In-state convictions*

The state board of elections receives the list of felonies from the CCRE electronically. The state board then sends the information to county registrars in the county where the person last resided.

### *What information is sent?*

Courts are statutorily required to send name, address, county, city, social security number, date of birth, and date of conviction.<sup>4</sup>

### *Frequency of updates*

Monthly.

### *Who performs the matching?*

State officials indicated that matching is done at both the state and county levels, but it was difficult to determine the extent to which matching occurs at the state level. For example, we do not know if the state simply verifies that an individual is registered in a particular county or does something more.

### *What is a match?*

The Prince William County registrar reported using social security number, date of birth, and address to determine a match. Another county election official was unwilling to share what she considered a match.

### *Notification of removal*

Counties are statutorily required to send notices. The registrar must publish the names of the voters to be removed and provide actual notice by mail to the last known address of the voter. This notice must include “when the registrar, at his office during regular office hours, will hear testimony produced for or against the right of the persons named in the notice to be retained on the registration records.” At the hearing, the registrar “shall determine if the registered voter named in the notice is qualified to vote.” Voters who fail to appear to defend their right will have their registration cancelled by the registrar.

---

1 Virginia Constitution, Art. II, § 1.

2 Percentage of Voting Age Population (VAP) disfranchised.

3 Central Criminal Records Exchange (CCRE) is a collection of information from law enforcement agencies and final dispositions from clerks of courts. The State Board of Elections has access to the Non-Criminal Justice Interface (NCJI).

4 Code of Virginia § 24.2-409.



## ENDNOTES

<sup>1</sup> We chose Arizona, California, Georgia, Illinois, Iowa, Louisiana, Maryland, Nevada, New Mexico, New York, Ohio, Pennsylvania, South Dakota, Texas and Virginia. Of these states, Illinois, Ohio and Pennsylvania prohibit incarcerated felons from voting; California, New York and South Dakota also prohibit felony parolees; Georgia, Louisiana, New Mexico and Texas also restrict probationers; Arizona, Maryland, and Nevada are mixed status states, and Iowa and Virginia permanently disfranchise felons.

<sup>2</sup> Title III, Sec. 303(a) (1-5). While HAVA does address purges, HAVA voter registration databases will not entirely remedy purge list compilation, matching and notification problems. First, HAVA only sets out general guidelines for purges. Second, given the variations in state disfranchisement law, each state will need to build into its HAVA database state-specific procedures. We also note that 41 states are behind schedule.

<sup>3</sup> 42 U.S.C. Sec. 1973gg (a) (1), (3).

<sup>4</sup> We exclude Pennsylvania from these recommendations because that state has no purge list.

<sup>5</sup> 42 U.S.C. Sec. 1973gg-6(g). The NVRA covers all the states in this survey.

<sup>6</sup> *Id.* The NVRA grants the states considerable latitude in the routine and systematic methods by which they may ensure the accuracy of their voter registration lists by removing the names of those who are no longer eligible. As will become evident, states approach the rather technical and detailed problems of list maintenance quite differently.

<sup>7</sup> *Id.* This provision continues: “[3] On request of the chief State election official of a State or other State official with responsibility for determining the effect that a conviction may have on an offender’s qualification to vote, the United States attorney shall provide such additional information as the United States attorney may have concerning the offender and the offense of which the offender was convicted... [5] The chief State election official shall notify the voter registration officials of the local jurisdiction in which an offender resides of the information received.” 42 U.S.C. Sec.1973gg-6(g) (3), (5).

<sup>8</sup> 42 U.S.C. Sec. 1973gg-6(g) (4).

<sup>9</sup> Information from federal courts and other states is eventually sent from the chief state election officials to the local election agency responsible for removing convicted felons from the lists. In some states, the chief

state election officials first verify that these individuals are registered in the statewide list, while others immediately forward the information to the county where the individual last resided.

<sup>10</sup> Title III, Sec. 303 (a) (1-4) requires that each state implement a single, centralized computerized statewide voter registration list that is coordinated with other in-state agency felony conviction data.

<sup>11</sup> The other states, like South Dakota, that also disfranchise incarcerated felons and felony parolees are California, Colorado, Connecticut and New York.

<sup>12</sup> The state officials also report receiving social security numbers. Given data mining and identity theft concerns we do not advocate collection of this data. All information collected should be used only for matching, and must be strictly safeguarded.

<sup>13</sup> The other 15 states that also disfranchise prisoners, parolees and/or probationers and automatically restore the right to vote when sentences have been served are Alaska, Arkansas, Colorado, Connecticut, Idaho, Kansas, Minnesota, Missouri, New Jersey, North Carolina, Oklahoma, Rhode Island, South Carolina, West Virginia, and Wisconsin.

<sup>14</sup> As of July 2004, this system was operational in 31 of New Mexico’s 33 counties.

<sup>15</sup> Again, we do not advocate collection of social security numbers.

<sup>16</sup> While centralized county-administered voter registration databases like New Mexico’s may provide more local control if an individual is erroneously purged, centralized state-administered voter registration databases like South Dakota likely allow for greater accountability from a specific agency in the event of a problem. For instance, if a particular county in New Mexico is receiving inaccurate information from the courts or systematically purging eligible voters, the problem may be more difficult to detect at the local level. If problematic purges occur in South Dakota, the state can be more easily audited and the errors more easily fixed. Conversely, placing authority for the maintenance of such a centralized database in the hands of a few state officials could be used to facilitate large purges of eligible voters.

<sup>17</sup> The District of Columbia and nine other states also disfranchise only incarcerated felons. The nine states are Hawaii, Indiana, Massachusetts, Michigan, Montana, New Hampshire, North Dakota, Oregon and Utah.

<sup>18</sup> The nine states are Arizona, Alaska, Georgia, Hawaii, Kentucky, Minnesota, South Carolina, South Dakota and West Virginia.



<sup>19</sup> 25 PA Cons. Stat. § 3146.1. Though the Pennsylvania model may leave the state vulnerable to the possibility of identity theft, we found no reported instances of it.

<sup>20</sup> Maryland election law disqualifies from voting persons convicted of theft or other “infamous crime” unless: (a) the individual has been pardoned, (b) in connection with a first conviction, has completed the court-ordered sentence imposed for the conviction, including probation, parole, community service, restitutions, and fines, or (c) in connection with a subsequent conviction, has completed the court-ordered sentence imposed for the conviction, including probation, parole, community service, restitutions, and fines, and at least 3 years have elapsed since the completion of the court-ordered sentence imposed for the conviction, including probation, parole, community service, restitutions, and fines; (d) is under guardianship or disability; (e) has been convicted of buying or selling votes; (f) has committed a second or subsequent crime of violence. Maryland Constitution, Art. I, Elective Franchise, Section 4; Maryland Election Code, Election Article, Section 3-102(b)-(c).

<sup>21</sup> JIS administers data processing systems, collects and analyzes statistics, and maintains computer hardware and software for the judiciary. JIS also helps state and local judicial agencies meet their data processing and information technology needs. From judicial data files, JIS provides information to judicial, criminal justice, and law enforcement agencies. JIS has been cited as difficult to use and prone to security breaches. School Library Association, 2003 ([http://www.ibillio.org/slanews/conferences/sla2003/programs/Commercial\\_Public\\_Records.pdf](http://www.ibillio.org/slanews/conferences/sla2003/programs/Commercial_Public_Records.pdf)); Government Computer News, 2001 ([http://www.gcn.com/state/7\\_9/news/16732-1.html](http://www.gcn.com/state/7_9/news/16732-1.html)).

<sup>22</sup> According to the Maryland Board of Elections’ website, “infamous crime” is any felony or crime involving an element of deceit, fraud, or corruption. The court-imposed sentence includes probation, parole, community service, restitutions and fines.” The site then provides a definition of “Infamous Crimes” and directs those interested to contact the attorney general’s office to ascertain the current list of infamous crimes. Curiously, while the board of elections includes “theft” as an infamous crime, state criminal statutes define theft below \$500 as a misdemeanor, and theft above \$500 as a felony. Though state board of elections officials advise us that they only consider theft in excess of \$500 to be a disqualifying crime, the definition of “infamous crimes” embraces yet other misdemeanors.

<sup>23</sup> Pennsylvania aside, of course, since that state has no purge list.

<sup>24</sup> Legislation of matching criteria is vital but so is education of officials that they must adhere to it. In Georgia, despite the existence of legislation that sources of felony

conviction data provide several pieces of data, a Fulton County official conducting matches admitted only using individuals’ name and address and thus erroneously purging a man with the same name and address as his son who had been convicted of a felony but had never registered to vote. Thus, name and address are by themselves insufficient matching criteria. Furthermore, unless mandated by statute, and educated about it, officials conducting matches may in their discretion use less than all available data, leading to erroneous purges. Election officials in other states also expressed having problems matching when using few pieces of information, citing, for example, the probability that data were entered incorrectly, transposed in some way or that the address had likely changed.

<sup>25</sup> The other states that only disfranchise incarcerated felons are Hawaii, Indiana, Massachusetts, Michigan, Montana, New Hampshire, North Dakota, Oregon and Utah, and the District of Columbia.

<sup>26</sup> Though the Pennsylvania model may leave the state vulnerable to the possibility of identity theft, we found no reported instances of it.

<sup>27</sup> Only two other states surveyed double-checked matches, Louisiana and Virginia.

<sup>28</sup> An official in the state’s largest county, Minnehaha County, told us that five pieces of information, rather than ten, were matched: social security number, date of birth, first name, middle name, and last name. Even use of these five data points constitute better practice than that in most states. However, though state officials report matching social security numbers, we do not advocate use of this data. We also reiterate that all information collected should be used only for matching, and must be strictly safeguarded.

<sup>29</sup> Flagging rather than deleting protects voters mistakenly taken off voter registration lists. If at the polls a person learns that he or she is not on the voter registration list, that person is allowed to vote by provisional ballot. When the provisional ballot is checked, because the name was not removed from the database, elections officials will be able to more easily trace and determine the accuracy of the purge.

<sup>30</sup> Counties in Arizona, California and Virginia also reported using discrepant matching criteria: In Arizona, Maricopa County reported having no purge list, while Pima County reported using the last four digits of the social security number or driver’s license number and parent’s name. In California, Los Angeles County officials reported using name, date and place of birth while San Francisco County matched name, date of birth and address. In Virginia, a Fairfax County official would not tell us what information the county used to determine a match, while a Prince William County official advised us

## **PURGED!**

---

that county used date of birth, address and social security number.

<sup>31</sup> Of the states surveyed, only Louisiana, South Dakota and Virginia reported matching both at state and county levels. Arizona and Texas county officials may or may not double check matches, at their discretion. The other states surveyed matched only at the county level (California, Georgia, Illinois, Iowa, Nevada, New Mexico, New York, and Ohio. This list excludes Pennsylvania because that state has no purge list.).

<sup>32</sup> Studies in New York by the Brennan Center for Justice, in Minnesota by the Lawyers' Committee for Civil Rights Under Law, and in Idaho by the *Idaho Statesman* all uncovered widespread confusion among state and local county agencies about restoration of voting rights.





**National Office**  
125 Broad Street, 18th Fl.  
New York, NY 10004-2400  
(212) 549-2500  
[www.aclu.org](http://www.aclu.org)