

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

OHIO A. PHILIP RANDOLPH INSTITUTE,
NORTHEAST OHIO COALITION FOR THE
HOMELESS, and LARRY HARMON,

Plaintiffs,

v.

SECRETARY OF STATE, JON HUSTED,

Defendant.

Case No. 2:16-cv-303
JUDGE GEORGE C. SMITH
Magistrate Judge Deavers

STATEMENT OF INTEREST OF THE UNITED STATES

The United States of America (“United States”) respectfully submits this Statement of Interest pursuant to 28 U.S.C. § 517, which authorizes the Attorney General to attend to the interests of the United States in any pending lawsuit. This case presents an important question of statutory interpretation of the National Voter Registration Act of 1993 (NVRA), 52 U.S.C. § 20501 *et seq.*, pertaining to the standard for removing voters from registration rolls. Congress gave the Attorney General broad authority to enforce the NVRA on behalf of the United States. *See* 52 U.S.C. § 20510. Pursuant to this authority, the United States filed a brief as *amicus curiae* in the appeal of this matter in the United States Court of Appeals for the Sixth Circuit. Accordingly, the United States has a strong interest in ensuring that the NVRA is fully and uniformly enforced.

The United States files this Statement of Interest to explain why Defendant’s proposed remedial plan does not fully remedy the NVRA violation found by the Sixth Circuit, is inconsistent with remedial principles in cases involving unlawful voter purges, and is

inconsistent with the NVRA.

I. BACKGROUND

On September 23, 2016, the United States Court of Appeals for the Sixth Circuit held that Ohio's Supplemental Process for removing voters from its registration rolls violates Section 8(b) of the NVRA because it removes voters for failure to vote. *A. Philip Randolph Inst. v. Husted*, No. 16-3746, 2016 WL 5328160, at *9 (6th Cir. Sept. 23, 2016). The Sixth Circuit remanded the case for this Court to determine an appropriate remedy for Ohio's NVRA violations.

The parties have submitted their proposals, both of which are premised on permitting voters who were illegally purged to cast valid provisional ballots. The parties differ on which provisional ballots should be counted. The State proposes to count the provisional ballots of voters who were illegally purged in 2015 (as opposed to all identifiable voters harmed by the State's illegal purge program), and whose address on their provisional ballot envelope matches their address on their last registration record. Def.'s Mot. to Implement Remedy, ECF No. 72 at 1; Ex. 1 to *id.*, at 1; *see also* Def.'s Mem. in Opp'n to Pls.' Req. for a TRO, ECF No. 80 at 6-9. Conversely, Plaintiffs propose that Defendant count the provisional ballots of all voters purged pursuant to the Supplemental Process since 2011 (the apparent limit of Defendant's record-keeping), whose current address, as indicated by their provisional ballot, falls within the same county in Ohio as their most recent voter registration. Mem. in Support of Pls.' Emergency Mot. for a TRO and Order to Show Cause Why a Prelim. Inj. Should Not Issue, ECF No. 74 at 2-3.

II. ARGUMENT

A. Defendant's Proposal Does Not Fully Remedy the Violation and Would Likely Deprive Thousands of Illegally-Purged Ohio Voters of Any Relief Whatsoever.

Defendant argues that the proper remedy here consists only of overhauling its purge

process to make it NVRA-compliant during future list-maintenance procedures. Def.’s Mot. to Implement Remedy, ECF No. 72 at 1. Such a remedy, however, ignores how parties and courts—including the Sixth Circuit—have resolved similar cases by restoring the franchise to those from whom it was improperly deprived. Perhaps recognizing this shortcoming, Defendant proffers a partial remedy that would restore the vote to some, but not all, identifiable voters harmed by Ohio’s illegal voter purges. But that partial remedy does not fully correct the violation of federal law. Indeed, it would perpetuate the harms already inflicted on affected Ohio voters, and deprive many of these voters the right to relief afforded by the NVRA.

1. This Court Should Require Ohio to Restore the Franchise to All Identifiable Citizens Harmed by Ohio’s Illegal Purges, Not a Mere Subset of Them.

When federal laws have been violated, federal courts “may use any available remedy to make good the wrong done.” *Franklin v. Gwinnett Cty. Pub. Sch.*, 503 U.S. 60, 66 (1992) (quoting *Bell v. Hood*, 327 U.S. 678, 684 (1946)). And the Sixth Circuit has made clear that the appropriate remedy for voters who have been improperly purged from voting rolls is to restore their names to those rolls.

In *United States Student Association Foundation v. Land*, for example, the district court found that a Michigan statute that led to purging of certain voters from the voting rolls violated the NVRA. 585 F. Supp. 2d 925, 951 (E.D. Mich. 2008) (“*Land I*”), *aff’d* 546 F.3d 373 (6th Cir. 2008) (“*Land II*”). The district court not only enjoined the state statute’s future enforcement, but also adopted, and the Sixth Circuit approved, a complete remedy that “ensure[d] that each individual who ha[d] properly registered to vote but was removed due to an error that [was] out of his or her control [would] be able to cast a ballot on election day.” *Land II*, 546 F.3d at 388.

That remedial principle should govern here. This Court should certainly enjoin Ohio’s future enforcement of its Supplemental Process. But it should also “make good” the harm done

by ensuring that voters already illegally purged will, to the fullest extent possible, be restored to the voting rolls and entitled to cast a valid ballot on election day.

Other NVRA cases mirror this approach. In challenges to improper purging procedures under Section 8 of the NVRA, the United States has obtained complete relief restoring illegally-purged voters to the rolls. *See* Amended Joint Stipulation, *United States v. Cibola Cty.*, No. 93-1134 (D. N.M. Mar. 19, 2007), ECF No. 89 ¶ 12 (Ex. 1) (restoring improperly-purged voters to the rolls); Consent Order, *United States v. Pulaski Cty.*, Civil Action No. 4:04-cv-389 (E.D. Ark. Apr. 19, 2004), ECF No. 9 ¶ 7 (Ex. 2) (restoring improperly-purged voters to the rolls); *see also* Stipulation of Facts and Consent Order, *United States v. City of St. Louis*, No. 4:02-cv-1235 (E.D. Mo. Aug. 14, 2002), ECF No. 4 ¶ XV (Ex. 3) (ensuring that improper list maintenance and polling place procedures did not prevent voters previously targeted for removal from casting a ballot).¹

Indeed, restoring the names of illegally-purged voters to the voting rolls has been an appropriate and consistent remedy in purging cases long before the NVRA was enacted. *See, e.g., United States v. McElveen*, 180 F. Supp. 10, 13 (E.D. La. 1960), *aff'd in part sub nom. United States v. Thomas*, 362 U.S. 58 (1960) (issuing injunction restoring voters to rolls after their removal was found to violate the Civil Rights Act).

2. Failure to Provide Complete Relief Would Undermine the NVRA and Perpetuate Proven NVRA Violations.

Defendant's proposal does not fully remedy the harm done to all identifiable

¹ The United States has also obtained full relief in matters to enforce Section 5 of the NVRA (which requires voter registration opportunities at motor vehicle authorities). *See* Memorandum of Understanding, The United States and the State of Connecticut at 9 (Aug. 5, 2016) (Ex. 4) (requiring state to provide NVRA-mandated voter registration opportunities to citizens who had previously been denied them); Memorandum of Understanding, The United States and the State of Alabama at 12 (Nov. 13, 2015) (Ex. 5) (same).

improperly-purged voters. The proposed remedy also undermines the NVRA and perpetuates Ohio's NVRA violations.

Congress granted private parties the right to challenge NVRA violations, and, if necessary, bring an action for “declaratory or injunctive relief with respect to the violation.” 52 U.S.C. § 20510(b)(2). But under Defendant’s theory, relief “with respect to the violation” applies only to *future* voters, not to those voters who were actually harmed by the violation and filed suit as a result. That is illogical. *See Guzman v. U.S. Dep’t of Homeland Sec.*, 679 F.3d 425, 432 (6th Cir. 2012) (“Interpretations of a statute which would produce absurd results are to be avoided if alternative interpretations consistent with the legislative purpose are available.” (internal quotation marks omitted)).

Moreover, Defendant’s proposed remedy would result in a continuing NVRA violation unfairly affecting thousands of Ohio voters. Ohio’s Supplemental Process violates Section 8(b)(2) of the NVRA by improperly purging voters due to failure to vote. *A. Philip Randolph Inst.*, 2016 WL 5328160, at *9. Correcting this violation requires making whole all affected voters who can reasonably be identified. Thus, if Plaintiffs’ claims that Defendant can identify voters illegally purged in 2011 and 2013 are correct, and those voters are not permitted to cast a ballot that counts, they will continue to suffer harm as a direct result of Ohio’s NVRA violation.² This Court should not ratify and perpetuate that violation by denying voters illegally purged prior

² The United States recognizes that there may not be sufficient time to restore voters to the rolls before the November 8, 2016 election, particularly in light of the start of absentee voting by mail and in-person. That may be a fact question for the Court to determine. And in that circumstance, allowing a wrongfully purged voter to cast a provisional ballot that will be counted may be sufficient as a temporary matter. But identifiable voters who were unlawfully removed from the rolls must be fully restored to the voter registration list once time permits. To the extent that Ohio does not plan to restore such individuals to the statewide list of legally registered voters, and instead plans to require them to cast provisional ballots, this would also constitute a continuing violation of federal law.

to 2015 the right to vote in upcoming elections, if such wrongly purged voters can be identified.

B. The NVRA Bars Defendant’s Proposal to Reject Provisional Ballots Cast by Voters Who Have Changed Addresses within a County.

Defendant’s proposal is not merely incomplete and inadequate, but also inconsistent with the NVRA’s protections for voters who have moved within the same registrar’s jurisdiction. Under Defendant’s plan, provisional ballots cast by voters who had been purged in 2015 and restored to the rolls will nonetheless be rejected based on any change of address between their last date of registration and the date of the election. However, Section 8 of the NVRA does not allow Ohio to purge voters based on intra-county moves.

Section 8 generally protects voters from removal from the rolls if they have not become ineligible to vote. Of specific relevance here, Section 8 protects voters who move within the same registrar’s jurisdiction, because such voters remain eligible to vote.³ Section 8(d) prohibits purging voters based on a changed address without either (a) the confirmation process improperly triggered in the instant case, or (b) “confirm[ation] in writing that the registrant has changed residence to a place *outside the registrar’s jurisdiction* in which the registrant is registered.” 52 U.S.C. § 20507(d)(1) (emphasis added). The notice sent to voters under Section 8(d) similarly makes clear that voters who move within the registrar’s jurisdiction, just like voters who have not moved at all, will not be removed from the voter registration list. *See* 52 U.S.C. § 20507(d)(2)(A) (“If the registrant did not change his or her residence, or changed residence but remained in the registrar’s jurisdiction, . . .”). Section 8(f) likewise instructs that when a voter changes address within the same registrar’s jurisdiction, “the registrar shall correct the voting registration list accordingly, and the registrant’s name may not be removed from the official list of eligible voters by reason of such a change of address except as provided in

³ In Ohio, the “registrar’s jurisdiction” is the county. 52 U.S.C. § 20507(j)(2).

subsection (d) of this section.” 52 U.S.C. § 20507(f). Furthermore, under Section 8(c), when USPS change-of-address information indicates that a voter has moved within the same registrar’s jurisdiction, officials meet NVRA requirements if they “change[] the registration records to show the new address” rather than initiating the removal process of Section 8(d). 52 U.S.C. § 20507(c)(1)(B)(i).

Each of these provisions confirms that a voter moving *within* the registrar’s jurisdiction remains eligible to vote absent some other basis for removal, and that a registrar should update such a voter’s address rather than removing him or her from the rolls.⁴

Yet, Defendant would count provisional ballots of improperly-purged voters only if “[t]he voter’s provisional ballot affirmation reflects *the same address at which the voter was last registered* to vote in the State of Ohio at the time of cancellation.” Def.’s Mot. to Implement Remedy, Ex. 1 at 1, ECF No. 72 (emphasis added); *see also* Def.’s Mem. in Opp’n to Pls.’ Req. for a TRO, ECF No. 80 at 17-19. His proposal makes no exception to allow ballots to count for voters who move within the same county. It is thus inconsistent with Section 8 of the NVRA.

Defendant may contend that he has never *officially* restored these purged voters to the registration rolls, and thus rejecting their provisional ballots falls outside of Section 8’s aegis. But these voters never should have been purged in the first place (and, as was true of failure to vote, information indicating a move within the same county would not have provided a valid basis for removal under the NVRA). All eligible voters affected by Ohio’s illegal purge should be able to cast votes that count, and Defendant should not be permitted to compound his error by

⁴ Section 8(e) provides yet another safeguard, prescribing a particular procedure for many voters who move within a registrar’s jurisdiction to cast a valid ballot even if their registration has not been updated to reflect their new address. *See* 52 U.S.C. § 20507(e) (permitting voters to cast valid ballots following within-precinct moves and within-county moves in the same congressional district).

disenfranchising these voters again in a manner inconsistent with yet another NVRA provision.

Accordingly, any order fully correcting Ohio's violation of the NVRA should allow illegally-purged voters who have moved within a county to cast a ballot that counts, just as Defendant proposes for those who have not moved at all.

III. CONCLUSION

For the foregoing reasons, Defendant's proposal does not fully remedy the NVRA violation, is inconsistent with the remedial principles in cases involving unlawful purges, and is itself inconsistent with the NVRA.

Dated: October 17, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been served this day on all counsel of record through the ECF Filing System.

Date: October 17, 2016

/s/ Matthew J. Horwitz
MATTHEW J. HORWITZ
Assistant United States Attorney

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 93-1134-LH/LFG
)	
CIBOLA COUNTY, NEW MEXICO;)	
CIBOLA COUNTY BOARD OF)	
COMMISSIONERS; ELMER CHAVEZ,)	
BENNIE COHOE, FRANK EMERSON,)	
ANTONIO GALLEGOS, EDWARD)	
MICHAEL, and JANE PITTS, Members)	
of the Cibola County Board of)	
Commissioners; and EILEEN M.)	
MARTINEZ, Cibola County Clerk,)	
)	
Defendants.)	

AMENDED JOINT STIPULATION

The United States and Defendants ("Cibola County" or "the County"), agree through their undersigned counsel to the following Amended Joint Stipulation.

Cibola County has been subject to Section 203 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973aa-1a, ("Section 203") since 1984 for American Indians who speak the Keresan language. In 1992, the County's coverage under Section 203 was extended to American Indians who speak the Navajo language. In 2002, the Director of the Bureau of the Census determined that coverage under Section 203 should be continued for both language groups. This coverage was triggered by three American Indian reservations located in whole or in part in the County – the Acoma Pueblo ("Acoma"), the Laguna Pueblo ("Laguna"), and the Ramah Chapter of the Navajo Nation ("Ramah").

Section 203 requires that all information that is provided by Cibola County in English about voter “registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots,” must be provided in the Keresan and Navajo languages to the extent that they are needed to allow language minority group members to be informed of and participate effectively in the electoral process and all voting-related activities. 42 U.S.C. § 1973aa-1a(c). The provisions of Section 203 apply to all stages of the electoral process, “including, for example the issuance, at any time during the year, of notifications, announcements, or other informational materials concerning the opportunity to register, the deadline for voter registration, the time, places and subject matters of elections, and the absentee voting process.” *Attorney General’s Procedures for the Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups*, 28 C.F.R. § 55.15. Because the Keresan and Navajo languages are historically unwritten, defendants are required to furnish oral instructions, assistance and other information relating to registration and voting in the Keresan and Navajo languages. 42 U.S.C. § 1973aa-1a(c); see also 28 C.F.R. § 55.12(c).

The United States filed this action against Cibola County, New Mexico, the Cibola County Board of Commissioners, the individual members of the Cibola County Board of Commissioners, and the Cibola County Clerk (collectively, “County”) on September 27, 1993, alleging violations of Sections 2 and 203 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §§ 1973 and 1973aa-1a, arising from Cibola County’s election practices and procedures as they affected Native American citizens of the County, including those Native American citizens who rely in whole or in part on the Keresan or Navajo language.

The County did not contest that, prior to 1994, it failed to make the election process in Cibola County equally available to Native American and non-Native American citizens as

required by Section 2 and the Fourteenth and Fifteenth Amendments, nor did the County contest that in past elections it had failed to comply fully with the minority language requirements of Section 203. On April 21, 1994, this Court entered a Stipulation and Order (“Stipulation”) between the parties instituting the Native American Election Information Program (“NAEIP”) in Cibola County to remedy past non-compliance with the above-mentioned provisions of federal law. The Order, by its terms, was scheduled to expire on March 15, 2004.

From 1994 through 2003, the County made some progress under the Stipulation, but the County had failed to comply fully with its requirements. The County conceded that its failure to provide all instructions, assistance and other voting related information orally in Navajo and Keresan constituted good cause to extend the Stipulation through December 31, 2006, and the United States agreed to renegotiate its provisions. On March 15, 2004, the parties moved this Court for an Order extending and modifying the Court’s April 21, 1994 Order, as set forth in an accompanying Joint Stipulation. Although the Joint Stipulation streamlined the County’s obligations, it retained the core requirements of the NAEIP. The Court approved the Joint Stipulation as an Order on April 22, 2004.

The County has not met these streamlined requirements. In particular, the County failed to provide the Voting Rights Coordinators (“Coordinators”) with required training regarding their obligations and responsibilities under the Joint Stipulation and NAEIP before the November 2004 and June 2006 elections. As a consequence, the County did not perform tasks agreed to and ordered in the Joint Stipulation. For example, the County did not ensure that the requisite radio announcements in the relevant American Indian languages were made during the sixty-day period before the 2004 and 2006 elections. Nor did it ensure that the Coordinators conducted translation training for bilingual poll workers for those elections. At least one Coordinator did

not attend tribal meetings to provide election and registration information to community members, as required by the Joint Stipulation. In 2005, the County decided not to employ Coordinators, even though each of the individuals who had served most recently as a Coordinator was required to attend State and County election training in accordance with the NAEIP. Although the Coordinators objected to such treatment, the County rejected their request to be paid for their services in 2005.

The County also failed to process many valid, timely voter registration applications for the November 2004 election in violation of Section 8 of the National Voter Registration Act of 1993 ("NVRA"), 42 U.S.C. § 1973gg-6. In fact, the County failed to process as many as a hundred voter registration applications before early voting began for the November 2004 election. This failure, in turn, prevented several would-be voters from participating in early voting, and forced many more to cast provisional ballots on election day. Moreover, at least 16 of the provisional ballots which were rejected and not counted for the November 2004 election were cast by voters who had on file with the County valid, timely voter registration applications. These 16 voters, all of whom cast ballots at precincts located on American Indian reservations in the County, were disenfranchised by the County's errors. Cibola County continued to have numerous registration list errors for the June 6, 2006 federal primary election due, in part, to the County's practice of having voters' names removed from the registration list or placed on the inactive list solely on the basis that the voter had not voted in any election for two federal election cycles (or four years).

In addition, the County disenfranchised many other voters by failing to ensure that provisional ballots were available in all polling places by the time the polls were scheduled to open on November 2, 2004 and/or failed to provide some provisional voters with the voter

identification/affirmation envelope. These failures violate Section 302 of the Help America Vote Act of 2002 ("HAVA"), 42 U.S.C. § 15482. Many polling places in Cibola County did not receive provisional ballots until more than two hours after the polls opened. As a result, several prospective voters were turned away without being offered a provisional ballot. Moreover, the County did not provide at least two polling places with voter identification/affirmation envelopes, by which voters affirm their eligibility to vote, as required by Section 302 of HAVA, 42 U.S.C. § 15482(a)(2). At least 36 provisional ballots from the November 2004 election, most of which were cast at polling places on the Laguna Pueblo reservation, were rejected because the County failed to provide the envelope used for the required affirmation. Cibola County did not properly train election officials prior to the June 6, 2006 federal primary election to ensure that voters, who were otherwise qualified to receive a provisional ballot, would receive a provisional ballot for that election.

Pursuant to Section 303(b) of HAVA, 42 U.S.C. § 15483(b), for elections for federal office held in 2004 and after, election officials are required to obtain appropriate identification information from voters who registered to vote by mail on or after January 1, 2003 and who had not previously voted in an election for federal office. The County failed to ensure that such voters provided appropriate identifying information prior to casting ballots in the November 2, 2004 federal election. For the June 6, 2006 federal primary election, Cibola County did not train poll workers regarding the identification requirements for such voters or the forms of identification sufficient to meet these requirements.

With the written consent of the County, on January 31, 2007, the United States filed an amended complaint against the County to enforce the provisions of the NVRA and HAVA discussed above.

The County concedes that it has failed to comply substantially with the Joint Stipulation in this case, and that its voter registration practices before and after the November 2004 general election violate Section 8 of the NVRA. The County further admits that, for federal elections in 2004 and 2006, it failed to comply substantially with the provisional ballot requirements of Section 302 of HAVA and failed to obtain the appropriate identification information from first-time voters in the jurisdiction who registered by mail, as required by Section 303 of HAVA.

Based on these violations, the parties agree that there is good cause to extend the provisions of the Joint Stipulation, as amended herein. The parties agree that these amendments and the additional relief set forth below are necessary to ensure future compliance with this Amended Joint Stipulation, Sections 2 and 203 of the Voting Rights Act, Section 8 of the NVRA, and Sections 302 and 303 of HAVA.

Accordingly, the parties stipulate to the following:

1. The County Commission shall at all times provide adequate funding to ensure that the County's duties and obligations under this Amended Joint Stipulation are carried out to the greatest possible extent.
2. The County Defendants agree to carry out their responsibilities under this Amended Joint Stipulation in accordance with appropriate state and federal laws.
3. The County shall make all phases of the election process as accessible to the Native American populations at the Acoma, Laguna and Ramah reservations within Cibola County as they are to the remainder of the County's population. Accordingly, the County shall provide information, publicity, and assistance in the Keresan and Navajo languages regarding all aspects of the electoral process, including but not limited to voter registration, voter registration cancellation, absentee voting, early voting, provisional voting, procedures at the polls including

translation of the ballot, and training of polling officials and translators as outlined in the NAEIP, as amended and attached to this Amended Joint Stipulation. The revised NAEIP shall supersede any and all previous NAEIPs for the County.

4. To assist in the effectiveness of this Amended Joint Stipulation and to ensure the continued enforcement of the voting guarantees of the Voting Rights Act and the Fourteenth and Fifteenth Amendments to the Constitution, Cibola County should remain designated for federal observers pursuant to Section 3(a) of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973a(a). The County recognizes the authority of federal observers to observe all aspects of the voting process conducted in the polls on election day, including assistance to voters in the voting booth provided that the voter does not object to being observed.

5. The County recognizes and agrees that greater supervision of the NAEIP is necessary to ensure compliance with this Amended Joint Stipulation and, as set forth herein, shall provide greater supervision and more frequent reports regarding the County's compliance with this Amended Joint Stipulation and the NAEIP.

6. The County shall ensure that the Coordinators are fairly compensated for the time they expend fulfilling their responsibilities under the NAEIP. Work performed by the Coordinators outside of the contract period will be compensated on a per diem and pro rata basis.

7. The County shall immediately notify counsel for the United States in the event a vacancy should occur in a Coordinator position.

8. For each month of his or her contract, each Coordinator shall complete the Monthly Coordinator Report, which is attached to this Amended Joint Stipulation, detailing his or her activities under the NAEIP and provide a copy to the County Clerk not later than the end of the first week following such month. The County shall submit a copy of the completed

Monthly Coordinator Reports to the State Director of Elections and counsel for the United States by the end of the second week following such month.

9. After each election, the County shall prepare a report detailing, by paragraph, the specific efforts made by the County to comply with each provision of the NAEIP. The County may incorporate by reference any information already supplied in the Monthly Coordinator Reports. If an appropriate provision is not specifically mentioned in the report and the County fails to provide details within 30 days of written notice of such omission by the United States, noncompliance with that provision shall be presumed. The County shall submit the report to the State Director of Elections and counsel for the United States not later than 30 days after the election.

10. The County shall ensure that all timely, valid voter registration applications are processed and entered into the computerized statewide voter registration list not later than five business days after their receipt by the County, unless registration is closed pursuant to N.M.S.A. § 1-4-8(A). Notwithstanding this requirement, the County shall ensure that all valid voter registration applications are processed and entered into the computerized statewide voter registration list no later than 20 days before any federal election. At least 15 days before any such election, the County shall certify in writing that it has processed all valid voter registration applications and that the names of such voters appear in the computerized statewide voter registration list. The County shall file this certification with this Court with service copies to counsel for the United States.

11. The County shall ensure that the County's official voter registration lists to be used for early voting and those to be used in the polls on election day are prepared at a time and

in a manner calculated to reflect all voters who have submitted timely, valid voter registration applications.

12. The County shall restore to the official voter registration list the name of any voter whose name was placed on the inactive list or otherwise removed from the official voter registration list in a manner inconsistent with the procedures set forth in Section 8 of the NVRA during the preceding two years. The County shall complete this requirement no later than sixty days from the date of this filing. The County shall provide to counsel for the United States a list of the names of all voters whose names were restored to the official voter registration list pursuant to this paragraph.

13. The County shall not place the name of any voter on the inactive list or otherwise remove the voter's name from the official voter registration list solely by reason of the person's failure to vote. The County shall only place the name of any voter on an inactive list based on objective information indicating that the voter has become ineligible to vote due to having moved, such as returned mail with no forwarding address or National Change of Address program data showing a move outside the County. This shall not preclude the County from immediate removals from the voter registration list, in accordance with state law, of the name of any voter who is confirmed to have become ineligible to vote due to death or disqualifying felony, or who confirms in writing a move outside the County.

14. For all Cibola County voters who registered to vote on or after January 1, 2003, and prior to October 6, 2004, the County shall identify all such individuals who registered to vote by mail and have not provided identification pursuant to Section 303(b) of HAVA, 42 U.S.C. § 15483(b)(2)(A). For all such voters, the County shall ensure that the voter complies with the

HAVA identification requirements in the next federal election in which the voter attempts to vote, unless:

- (a) The voter voted in any Federal election in New Mexico prior to filing the registration application, as set forth in Section 303(b)(1)(B); or
- (b) The voter provided a copy of a valid photo identification or another form of acceptable identification with his or her voter registration application, as set forth in Section 303(b)(3)(A) of HAVA and N.M.S.A. § 1-4-5.1(I)(4)(a); or
- (c) The voter provided at least the last 4 digits of his or her social security number with his or her voter registration application and the County or State election official can match the information submitted with an existing State identification record bearing the same number, name and date of birth as provided in the individual's voter registration, as set forth in Section 303(b)(3)(B) of HAVA; or
- (d) The voter is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff-1, et seq., or is entitled to vote otherwise than in person under any other federal law, as set forth in Section 303(b)(3)(C) of HAVA.

The County shall complete the requirements of this paragraph no later than 60 days from the date of this filing. For all mail-in registrations received by the County on or after the date of this Amended Joint Stipulation, the County shall ensure that voters requiring identifying information under HAVA are so identified at the time their voter registration information is entered in the computerized statewide voter registration list and that such list reflects such identification. The County shall provide to counsel for the United States a list of the names of all voters who were identified under this paragraph.

15. The County shall ensure that all poll workers are trained prior to any election for federal office regarding the designation on the registration lists of voters who are required to produce identification in order to cast a ballot, the need to request identification from such voters, and the forms of identification that may be accepted for this purpose.

16. The County shall ensure that sufficient numbers of provisional ballots are provided not later than 6:00 a.m. on election day to all polling places to be used for any federal election. The County also shall ensure that sufficient numbers of provisional ballots are available at any location to be used for early voting in any federal election at least one hour before early voting is scheduled to begin. In addition, the County shall ensure that each provisional ballot includes the necessary voter identification/affirmation envelope.

17. The County shall ensure that all poll workers for federal elections are trained regarding the need to contact the County Clerk's office to verify the registration status of any individual who seeks to vote, but whose name is not on the voter registration list; the circumstances under which a voter is to be offered a provisional ballot; and the requirement that a provisional voter complete fully the identification/affirmation envelope for such a ballot.

18. The Parties agree that, in the event of substantial non-compliance with this Amended Joint Stipulation, the parties shall confer for the purpose of seeking the appointment of a third party to oversee the NAEIP and to ensure the County's compliance with federal voting laws.

19. This Amended Joint Stipulation shall remain in effect through January 15, 2009.

20. The Court shall retain jurisdiction to enter further relief or such other orders as may be necessary for the effectuation of the terms of this Amended Joint Stipulation and to

ensure compliance with Sections 2 and 203 of the Voting Rights Act, the NRVA, HAVA, and the Fourteenth and Fifteenth Amendments to the Constitution.

Agreed and stipulated to on this 31st day of January, 2007.

For Plaintiff:

UNITED STATES OF AMERICA

ALBERTO R. GONZALES
Attorney General

WAN J. KIM
Assistant Attorney General
Civil Rights Division

DAVID C. IGLESIAS
United States Attorney

For Defendants:

CIBOLA COUNTY, NEW MEXICO, *et al.*

/s/

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/s/

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I hereby certify that on January 31, 2007,
I filed the foregoing pleading electronically
through the CM/ECF System, which caused
the following parties of counsel to be served
by electronic means, as more fully reflected on
the Notice of Electronic Filing.

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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case
who therefore require manual noticing).

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Gaye L. Tenoso
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M. Eric Eversole
Sada Manickam
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MODRALL, SPERLING, ROEHL, HARRIS
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By: /s/

Joe C. Diaz
Joan D. Marsan
Attorneys for Cibola County

THE NATIVE AMERICAN ELECTION INFORMATION PROGRAM

I. Native American Voting Rights Coordinators

A. Cibola County shall continue to employ three Native American Voting Rights Coordinators ("Coordinator(s)") to coordinate the Native American Election Information Program ("NAEIP") in the County. One of the Coordinators shall be bilingual in Navajo and English, and shall serve primarily the area of the Ramah Chapter of the Navajo Nation. Two of the Coordinators shall be bilingual in Keresan and English, and one shall serve primarily the area of the Acoma Pueblo, while the other shall serve primarily the area of the Laguna Pueblo.

B. Cibola County shall ensure that each Coordinator is paid a salary commensurate with his or her services rendered under this NAEIP and shall provide compensation to cover all reasonable travel, lodging and food expenses incurred for his or her attendance at State, local or other election training or other events permitted or required by this NAEIP.

C. In the event of a vacancy in the Coordinator position, the County Clerk shall immediately notify the United States and tribal officials from the appropriate Pueblo or Chapter. Although the County is free to solicit applicants through its normal job selection process, it must seek recommendations on four qualified applicants from the appropriate tribal leaders. The County shall select the most qualified candidate, who otherwise satisfies any County employment requirements, from all available applicants. The County must complete this process within 90 days of the vacancy. A vacancy does not relieve the County of its obligations under the NAEIP.

D. The Coordinators shall be trained by the State and County in all aspects of the election process, and shall attend all election seminars by the Secretary of State and/or the Cibola County clerk. In addition, at least 90 days before any federal primary or general election,

the County Clerk shall fully brief the coordinators regarding their duties under the NAEIP and Section 203 of the Voting Rights Act. The County Clerk must ensure that each Coordinator has a copy of the current NAEIP and the Amended Joint Stipulation and other materials that would ensure their compliance with the NAEIP. The County Clerk shall notify tribal leaders from Acoma, Laguna, and Ramah and attorneys from the Department of Justice of County-sponsored training sessions at least seven days before the training and shall invite the participation of these tribal leaders and Department of Justice attorneys.

E. The Coordinators shall, under the supervision of the County Clerk, oversee the NAEIP generally and regularly attend meetings of their respective communities. In years with federal elections, the Coordinators shall attend at least two events or meetings in their respective communities where 30 or more voting-age members of the reservation are likely to be in attendance. These events or meetings may include, but are not limited to, tribal council or tribal officers meetings, public gatherings, tribal fairs, events at the local high schools or centers that serve elderly citizens, and other public functions. During any event or meeting attended by the Coordinator, he shall, as appropriate: (1) announce the date of the next scheduled election, the offices, if any, open for election, and any non-candidate provisions which shall appear on the ballot; (2) announce the availability of and deadlines for voter registration; (3) provide an opportunity to register to vote by making voter registration applications available and offering language assistance in filling out the applications; and (4) announce any scheduled training for election translators and invite the public to attend.

F. The Coordinator for the Ramah Navajo Chapter shall post the election schedule and all other election-related information at the Chapter House; the Coordinators for the Acoma Pueblo and the Laguna Pueblo shall post the election schedule and other election-related

information at the relevant tribal office building. The Coordinators shall ensure that voter registration applications are available in plain view at each location.

G. Beginning sixty days before any election and continuing through election day, the Coordinators shall ensure that at least three announcements a day in are made on weekdays on the radio station KTDB, in the Navajo language, and radio station KUNM, for the Keresan language, or other comparable stations. These radio announcements shall be prepared by the Coordinators and shall provide voters with information regarding (1) the date and time of the next election; (2) the offices on the ballot; (3) opportunities to register to vote and the deadline for registering before the election; (4) the availability of absentee balloting; (5) the availability of trained translators at the polls on election day; and (6) the right of each voter to oral assistance in their native language from either the County's translators or a person of the voter's choice provided that person is not the voter's employer, an agent of that employer, or officer or agent of the voter's union (42 U.S.C. § 1973aa-6); and (7) the name(s) and telephone number(s) of the Coordinator(s) who can be contacted to receive more detailed information about the election. In addition, the Coordinators shall ensure that at least once a day during this period taped translations of the ballot made by either the New Mexico Office of the Secretary of State or the Coordinator are broadcast on radio station KTDB, for the Navajo language, and radio station KUNM, for the Keresan language, or other comparable stations.

H. The Coordinators, under the supervision of the County Clerk shall conduct the language assistance training in the Coordinator's respective American Indian language for all bilingual poll officials and other election-related personnel. This training shall be in addition to any election training provided by the County. The training shall be held at least nine days before any election and shall be held at an appropriate location within each Coordinator's community.

At a minimum, the training must cover: (1) translating the entire ballot into the appropriate language, (2) practicing the translation of the ballot with each translator, and (3) correcting any errors in translation. In addition, the training must cover the procedures for identifying and assisting voters who may need language assistance, instructions for casting a ballot on a voting machine, and assisting voters who need to cast a provisional ballot. The translation of the ballot by each translator shall be made according to the taped translations made by the Office of the New Mexico Secretary of State, if such tapes are available. If standardized translations by the Office of the Secretary of the State are not available or will not be available, the Coordinator shall record a taped translation of the entire ballot, make the tape available to the translators, and train them in this translation at the training session. If the ballot contains offices or ballot proposition(s) specific to Cibola County for which the Office of the Secretary of State has not provided a Navajo or Keresan language translation, the Coordinator shall record a taped translation of the offices and/or proposition(s), make the tape available to the translators and train them in this translation at the training session. The County shall notify tribal leaders from Acoma, Laguna, and Ramah and attorneys from the Department of Justice of County-sponsored training sessions at least seven days before the training and shall invite the participation of these tribal leaders and Department of Justice attorneys.

I. The Coordinator shall be available as needed at the Ramah Chapter House, in the case of the Navajo Coordinator, and the appropriate tribal offices in the case of the Keresan Coordinators, to assist in voter registration or to answer election-related questions when not engaged in the other activities required under this NAEIP.

J. Cibola County shall establish a separate travel budget for the Coordinators which shall be sufficient to cover their travel expenses incurred in carrying out their duties, obligations

and responsibilities to effectively implement the NAEIP. Coordinators shall be reimbursed for expenses incurred for travel incident to bona fide NAEIP business, including but not limited to visits to Pueblos or Navajo Chapters and to sites for training programs.

K. In each year with federal elections, the Coordinators shall prepare a Monthly Coordinator Report, as set forth in Schedule 1, *infra*. The Report requires a detailed, paragraph-by-paragraph recitation of the specific efforts made by the Coordinators to comply with each provision of the NAEIP. For example, the report must detail the various community centers or events attended by the Coordinator, the dates and times of those visits, detailed information regarding any training session attended or given by the Coordinator, dates and times for any election-related radio announcements made by a Coordinator, and/or any other information that demonstrates the County's compliance with the NAEIP. To the extent that any written materials are distributed at any training session, those written materials should be included as part of the report required herein. These reports must be provided to the United States within fourteen days after the end of the month in which the reports were compiled.

II. Intergovernmental Coordination

In administering the NAEIP, Cibola County and its Coordinators shall:

A. Request and accept all training, materials, and services available from the State of New Mexico in furtherance of the implementation of this NAEIP. The Coordinators shall attend all election-related seminars or training sessions conducted by the New Mexico Office of the Secretary of State, including the Coordinator and/or County Clerk meetings sponsored by the New Mexico Native American Election Information Program. As set forth in I.B., supra, the

County must compensate the Coordinators for their services and cover any reasonable expenses that result from such training.

B. Encourage contact and collaboration with other counties engaged in similar language assistance programs.

C. Invite assistance of tribal officials and by the Navajo Election Administration and the All Indian Pueblo Council as needed to administer effectively the NAEIP.

D. The parties recognize the separate powers and authority of the tribal governments, and nothing in this NAEIP limits or infringes tribal powers or authority. Accordingly, where this NAEIP requires Cibola County to perform acts in consultation and cooperation with tribal governments, the County is obligated to undertake its obligations using all good faith efforts. The County shall not be required to perform such acts if a tribal government refuses the County's efforts. In the event of any such refusal, the County shall promptly, and prior to the date for performance of the act or event to be performed by the County, notify counsel for the United States of the refusal or noncooperation.

III. Satellite Election Offices

A. Within ten days of the effective date of this NAEIP, the County shall contact tribal officials at the Acoma and Laguna Pueblos and the Ramah Chapter to discuss the possibility of establishing Satellite Election Offices convenient to the populations of the respective communities.

B. Each Satellite Election Office shall serve as the principal place for office hours for the Coordinators, as a distribution point for the dissemination of election-related information, and as a site for the performance of functions related to the election process that can be

performed at the County courthouse, including, but not limited to, registering to vote or updating voter registration information, early voting, and the casting of absentee ballots.

C. The Coordinators also may conduct the election and registration related functions in Paragraph III.B., supra, by using their personal vehicles to visit members of their respective communities, especially those members who may not have transportation or may not be capable of traveling to the Satellite Election Office.

D. Delivery of a voter registration application or performance of any other election-related task at a Satellite Election Office or delivery of any election-related application to a Coordinator shall be effective in terms of all time deadlines and requirements as if the application had been delivered to, or the task performed at, the County courthouse.

E. A supply of all forms and materials necessary to complete these functions shall be maintained at each Satellite Election Office.

IV: Translations

A. The County shall ensure that taped versions of the Navajo and Keresan language translations of the statewide offices and ballot propositions to appear on the ballot provided by the Office of the New Mexico Secretary of State are delivered to the Coordinator as soon as they are available. Taped versions of the translations and playback equipment shall be made available to the translators during their translation training and on election day at the Acoma, Laguna and Ramah polling places.

B. The County shall provide each Coordinator with tape recording and playback equipment and a sufficient supply of blank tapes for use in translator training.

C. During elections, translations of the ballot into Navajo and Keresan shall be provided according to the written and/or taped translations made by the Office of the New Mexico Secretary of State, to the extent such translations are available.

V. Election Day Procedures

A. The County shall assign at least one trained translator to the polling places at the Acoma and Laguna Pueblos and the Ramah Chapter for every voting machine.

B. Polling place translators shall orally advise voters of the availability of language assistance.

C. Any voter who needs language assistance in Navajo or Keresan from polling place translators shall be provided a full and complete translation of each office, the party (when appropriate) of each candidate, all ballot propositions, and relevant instructions on how to cast a ballot and the use of the voting machine (including, when appropriate, instructions on write-in votes), and shall be read all candidates' names for each office. In addition, any voter who needs language assistance in Navajo or Keresan will be provided instructions in their respective language regarding other voting procedures as necessary, including, for example, instructions for casting a provisional ballot.

VI. Voter List Maintenance

At least 30 days before any registrants from the Ramah Chapter or the Acoma or Laguna Pueblos, are sent notice of the potential cancellation of their registration in accordance with Section 8(d)(2) of the National Voter Registration Act of 1993, 42 U.S.C. 1973gg-6(d)(2), a list of the names of these registrants shall be provided to the

appropriate Coordinator. If the Coordinator or tribal officials identify any registrant on the list within the thirty day period who remains eligible to vote in Cibola County and that registrant completes a new registration application or change of address application, the registrant shall not be sent a notice of potential cancellation and shall be maintained on the list of eligible voters. The NAEIP does not otherwise prohibit the proper authorities from removing from the voter list those ineligible to vote by reason of a change of address, conviction of a felony, or death, provided that the requirements of the National Voter Registration Act of 1993, 42 U.S.C. §§ 1973gg, et seq., are met.

VII. Adjustments to the NAEIP

Before making any adjustments to the NAEIP, the County shall endeavor to safeguard future compliance with Sections 2 and 203 of the Voting Rights Act, 42 U.S.C. §§ 1973 and 1973aa-1a, and the Fourteenth and Fifteenth Amendments to the Constitution, shall consult in good faith with tribal officials from the Acoma and Laguna Pueblos and the Ramah Chapter, and shall provide notice to counsel for the United States of any proposed changes.

Schedule 1

Monthly Coordinator Report

Coordinator: _____

Community: _____

Date: _____

Presentations of election and registration information (*see* Para. I.E.):

Date	Location	Number of Persons who Attended	Topic(s) Covered

Radio announcements (*see* Para. I.G.):

[illegible]

Date	Times Aired	Topic(s) Covered

Posting or distribution of election materials (*see* Para. I.F.):

Date	Location	Describe Materials Posted

State and County Training attended by Coordinator (*see* Para. I.D.):

Date	Location	Topics Covered in Meeting

Training of poll workers organized and conducted by Coordinator (*see* Para. I.H.):

Date	Location	PW*	O**	Description of training (attach copies of all written material used during training)

* Number of poll workers who attended training (attach sign-in sheet).

** Number of other persons, such as members of the public, who attended training (attach sign-in sheet).

Number of voters registered by the Coordinator this month: _____

Other activities of the Coordinator, including voter registration drives:

Date	Location	Description of activity

EXHIBIT 2

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

APR 19 2004

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS

JAMES W. McCORMACK, CLERK
By: *[Signature]* DEP. CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

PULASKI COUNTY; CAROLYN STALEY, in
her official capacity as Pulaski
County Circuit-County Clerk;
JERRY LARKOWSKI, in his official
capacity as Chair of the Pulaski
County Board of Election
Commissioners; SALLY STEVENS and
CHARLES KING, in their official
capacities as members of the
Pulaski County Board of Election
Commissioners; and the PULASKI
COUNTY BOARD OF ELECTION
COMMISSIONERS,
Defendants.

CIVIL ACTION NO.

4-04-CV-389SW

CONSENT ORDER

The United States of America initiated this action on April 16, 2004, pursuant to the National Voter Registration Act of 1993 ("the NVRA"), 42 U.S.C. 1973gg et seq., and 28 U.S.C. 2201, against Pulaski County, the Pulaski County Board of Election Commissioners, and Carolyn Staley, Jerry Larkowski, Sally Stevens, and Charles King in their official capacities (collectively "Defendants"). The Complaint alleges violations of the NVRA from Defendants' voter registration practices and procedures for elections for Federal office.

The United States and Defendants, through their counsel, have conferred in good faith and have agreed to resolve this matter without further litigation. Accordingly, they have agreed to the entry of this Consent Order as an appropriate resolution of the claims alleged in the Complaint. While the Defendants do not contest that there exists a sufficient factual basis for the entry of this Consent Order, they do not admit liability and agree to a settlement of this cause of action for the purpose of avoiding the expense of litigation.

This Consent Order establishes requirements in four general areas: the processing of voter registration applications; registration list maintenance procedures; pre-election activities; and election-day activities. This Consent Order requires Defendants to take specific corrective actions with regard to the voter registration rolls and in the conduct of the 2004 and 2006 Federal elections to comply with the NVRA. The Consent Order also requires Defendants to develop and implement uniform and nondiscriminatory rules and policies governing the maintenance of an accurate and current voter registration roll for elections for Federal office that are in compliance with the Voting Rights Act of 1965, 42 U.S.C. 1973 et seq., and the NVRA. These requirements are necessary to ensure that Pulaski County will achieve and maintain compliance with Federal law during the

2004 and 2006 Federal elections.

The Court has considered the Consent Order filed by the parties. The Court finds the terms of the Consent Order fair and reasonable. Therefore, it is hereby ORDERED that Defendants and their successors in office, agents, and all persons acting on their behalf, shall implement the terms of this Consent Order as follows:

A. VOTER REGISTRATION AND LIST MAINTENANCE PROCEDURES

1. Defendant Staley shall, consistent with the requirements of Section 8 of the NVRA, as clarified by Section 903 of the Help America Vote Act of 2002, ensure that all completed applications for voter registration received not later than 30 days before the date of an election for Federal office are processed in a timely manner so eligible applicants are registered to vote for that election. Defendant Staley shall ensure that each newly registered voter's name, residential address, and eligibility to vote are accurately recorded; that each newly registered voter is assigned to the correct voting precinct and election districts based upon the voter's residential address of record; and that each newly registered voter is listed on the voter rolls of the correct precinct during absentee voting, early voting, and on election day.

2. Defendant Staley shall not remove the name of a

registrant from the official list of eligible voters except (a) at the request of the registrant; (b) as provided by State law by reason of criminal conviction or mental incapacity; or (c) as provided in this Consent Order, which implements Section 8 of the NVRA.

3. Defendant Staley shall conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official list of eligible voters by reason of the death of the registrant or a change of address of the registrant.

4. On or before April 30, 2004, Defendant Staley shall provide to the United States a list of all registered voters currently designated as inactive, and a list of all voters who have been removed from voter registration rolls since January 1, 1996, by reason of a change of address of the registrant. In the absence of any objection by the United States within two weeks after receipt, Defendant Staley shall employ this list as provided below in Paragraphs Five through Ten. Any objection by the United States shall be resolved as provided in Paragraph 24 below.

5. On or before April 30, 2005, Defendant Staley shall mail to all persons identified pursuant to Paragraph Four who prior to December 31, 2003 were designated inactive or had been removed from the rolls by reason of change of address as having

been removed from the rolls by reason of change of address a postage prepaid and pre-addressed return card, sent by forwardable mail, on which the registrant may state his or her current address. All address confirmation cards shall provide notices that:

- a) if the registrant did not change his or her residence, or changed residence but remains in Pulaski County, the registrant should return the card not later than 30 days before the next scheduled election for Federal office;
- b) if the card is not returned, affirmation or confirmation of the registrant's address in Pulaski County may be required before the registrant is permitted to vote in a Federal election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice, and if the registrant does not vote in an election during that period the registrant's name will be removed from the list of eligible voters; and
- c) if the registrant has changed residence to a place outside Pulaski County, inform the registrant how he or she can remain eligible to vote.

6. Defendants may mail address confirmation notices to active voters for whom there is reason to believe there has been a change of address, subject to the same requirements as provided in Paragraph Five.

7. On or before April 30, 2004, Defendants shall restore to the voter rolls any registered voters who have been removed by reason of a change of address of the registrant since January 1,

1996, except those voters who a) have made a written request to be removed; b) have responded in person that they no longer reside in Pulaski County; or c) for whom the Defendants have received other written documentation showing that the voter is no longer eligible to vote under applicable State law in Pulaski County. Defendants may designate such restored voters as inactive.

8. During the pendency of this decree, Defendant Staley shall not remove any registered voters from the voter rolls on the ground that the registrant has changed residence, unless:

- a) the registrant confirms in person or in writing that the registrant has changed residence to a place outside the registrar's jurisdiction;
- b) Defendant Staley receives notice of registration from the registrar in another county or state; or
- c) the voter has failed to:
 - (1) respond to an address confirmation mailing described in Paragraph Five or Six that conforms to Section 8(d)(2) of the NVRA; and
 - (2) vote in two federal elections.

9. With respect to registered voters who have changed their addresses within Pulaski County, the registrar shall correct the voting registration list as provided by the procedures set forth in Section 8(f) of the NVRA, and such registrants' names may not be removed from the official list of

eligible voters by reason of such a change of address except as provided in subsection (d), 42 U.S.C. 1973gg-6(d).

10. On or before April 30, 2004, Defendant Staley shall provide to the United States an accurate street maintenance listing showing the correlation between voting precincts and address ranges within Pulaski County. This listing shall be used to assign registered voters to the correct voting precincts and election districts based upon their street address. Any objection by the United States shall be resolved as provided in Paragraph 24 below. In the absence of any objection by the United States within two weeks after receipt, Defendant Staley shall continue to employ the street maintenance listing, and keep it updated to reflect changes in precinct boundaries and street addresses, during the pendency of this Consent Order. The Defendants shall make any data processing consultants used for this purpose available to the United States.

11. On or before April 23, 2004, Defendant Staley shall provide to the United States a proposed set of uniform written rules and policies governing the following:

- a) the provision and processing of applications for voter registration for Federal office, consistent with the requirements of Section 8(a) of the NVRA, 42 U.S.C. 1973gg-6(a);
- b) the removal of the names of ineligible voters by reason of a change in the residence or death of the

registrant;

- c) the removal of the names of ineligible voters as provided by State law by reason of criminal conviction or mental incapacity;
- d) the prompt updating of voter registration records to reflect any changes made on address affirmation forms on election day;
- e) the prompt updating of voter registration records to designate as active any inactive voter whom the Clerk determines to be eligible to cast a ballot as the result of information provided by the voter, contact by an election judge, the voter's completed [address affirmation form], or the voter's change-of-address form; and
- f) the prompt assignment of accurate election districts and voting precinct information to voter registration records, including any necessary updating based on voters' change of address within the county or changes in precinct boundaries due to redistricting.

Such procedures shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965, 42 U.S.C. 1973 et seq. Any objection by the United States shall be resolved as provided in Paragraph 24 below. In the absence of any objection filed by the United States not later than May 7, 2004, Defendants shall thereafter adhere to the agreed rules and policies during the pendency of the this Consent Order. Within two weeks after agreement by the United States, Defendants shall provide in-person training in such rules and policies for all agents, employees and representatives of the Defendants responsible for voter list maintenance and the processing of voter registration

from the Clerk within five (5) days before an election:

- 1) may have an incorrect address listed on the roll and may be removed from the voter rolls if they do not appear to vote in two consecutive federal general elections;
- 2) need to contact the Clerk before election day to verify whether their voter registration status remains active and address is correct; and
- 3) will be required to complete additional administrative steps prior to casting a ballot on election day if they are designated as inactive, or if their address is incorrect;

14. Defendants shall issue the announcements described in Paragraph 13 in the print and radio media, including but not limited to the Arkansas Democrat-Gazette, as well as on at least two local area radio stations at peak times.

15. Defendants shall post the notices described in Paragraph 14 in a permanent, conspicuous location on the Circuit-County Clerk's Internet website:

<http://www.co.pulaski.ar.us/d0200p01.htm>.

16. Defendants shall make available on Pulaski County's website (either through the Clerk's Office or through the Election Commission) a "polling place lookup" feature whereby residents may identify their assigned polling place location

based upon their residential street address. The website shall provide this feature continuously other than for routine maintenance, and shall be made available prior to the May 2004 primary, or as soon thereafter as is practicable not later than October 1, 2004. Defendants shall ensure the functionality of the polling place lookup feature on the Pulaski County website and shall provide and/or secure all necessary authority and resources to do so. This provision will be deemed to have been met if the Secretary of State provides this service on the State website and the Pulaski County website provides a link to the State's website. Defendant Staley will also make available a telephonic, automated voice recognition system whereby voters may ascertain their polling place.

C. ELECTION DAY PROCEDURES

17. Defendant Election Commissioners shall provide election judges in each precinct with the tools necessary to determine the proper voting location for each voter (hereinafter "Polling Place Locator").

18. Defendant Election Commissioners shall ensure that the election judges in each voting precinct have ready access to a working telephone (either land-line or cellular).

19. When a voter appears at a precinct and is not listed on the precinct roster of active voters, an election judge shall

contact the Clerk to ascertain whether that voter is registered and eligible to vote. The election judge shall also confirm with either the Clerk or the polling place locator that the voter is in the correct precinct. The election judge shall then proceed as follows:

- a) If the person is registered and in the correct precinct, the voter shall be permitted to vote in the same manner as all other voters.
- b) If the person is registered and in an incorrect precinct, the election judge shall direct the voter to his or her correct polling place, and shall offer the person, in the alternative, the opportunity to cast a provisional ballot to the extent that such practice is allowed under Arkansas revised statutes Section 7-5-306 (provisional voting).
- c) If the person is registered and in the correct precinct but the record for that voter reflects an outdated or incorrect address, the election judge shall offer the voter the opportunity to correct his or her address of record, and to cast a ballot in the same manner as all other voters.
- d) If the election judge cannot confirm either the voter's eligibility or polling place, the election judge shall offer the person the opportunity to cast a provisional ballot to the extent that such practice is allowed under Arkansas revised statutes Section 7-5-306 (provisional voting), or to appear in person at the Board of Election Commissioners.

20. During each election Defendants shall record the number and the nature of phone calls from election judges and citizens that were processed by Defendants or their staff; the number of inactive voters who were authorized to vote on election day; the number of persons who requested but were not given authority to

vote; the number of persons who cast provisional ballots; and the number of active voters who were directed by election judges to alternate precincts on election day. These records shall be made available to any party to this action upon request.

21. Defendants shall ensure that the procedures and policies described above are implemented by preparing training manuals and election forms, distributing such manuals and forms to all election judges, and training all election judges in the procedures. At least 14 days before distributing these materials, Defendants shall provide an advance copy to counsel for the United States in order to ensure that such materials are in compliance with the terms of this Consent Order. Counsel for the United States shall communicate any concerns to the Defendants within seven days of receiving the materials. If no concerns are raised, the materials shall be deemed to meet the terms of this Consent Order.

22. Defendants shall permit attorneys from the United States Department of Justice to monitor voting procedures inside polling places and inside the Clerk's office during elections in Pulaski County. Defendants shall further permit Department of Justice attorneys to observe the training of election judges prior to elections.

23. The United States and the Defendants shall confer

during the Defendants' development of the written procedures required by Paragraph 12 as necessary to ensure that potential disagreements are minimized. If, despite the parties' best efforts, the United States objects to one or more aspects of the specified proposed procedures, the parties agree that the matter may be submitted by motion to the Court for referral to a federal magistrate or for such other resolution as the Court may deem appropriate. In any matter requiring its approval under this Consent Order, the United States shall not unreasonably withhold any such approval.

24. The terms of this Consent Order are intended by the parties to address the particular circumstances present in this case and do not necessarily represent the procedures required by the NVRA in other cases and circumstances. The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Consent Order shall not be construed so as to create such status. The rights, duties, and obligations contained in this Consent Order shall operate only between the parties to the Order, and shall inure solely to the benefit of the parties to the Order. This Order is not intended to impair or expand the right of any person or organization to seek relief against the County for its conduct or the conduct of county employees or agents; accordingly, it does not alter legal

26. Defendant Pulaski County shall not unreasonably withhold contracting approval or unreasonably refuse to appropriate the funds necessary to implement this Order. All state and county purchasing laws shall apply to any contracts that are entered.

- 15 -

THIS DOCUMENT ENTERED ON
DOCKET SHEET IN COMPLIANCE
WITH RULE 53 AND/OR 79(a) FRCP
4-20-04 BY Y

F I L E C O P Y

vjt

UNITED STATES DISTRICT COURT
Eastern District of Arkansas
U.S. Court House
600 West Capitol, Suite 402
Little Rock, Arkansas 72201-3325

April 20, 2004

* * MAILING CERTIFICATE OF CLERK * *

Re: 4:04-cv-00389.

True and correct copies of the attached were mailed by the clerk to the following:

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Housing and Civil Enforcement Section
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Washington, DC 20530

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Pulaski County Attorney's Office
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cc: press, post

James W. McCormack, Clerk

V. Turner

Date: 4/20/04

BY: _____

ATTACHMENT TO CIVIL COVER SHEET

United States v. Pulaski County, et. al

I. Plaintiffs

(c) Attorneys (Firm Name, Address and Telephone Number)

UNITED STATES DEPARTMENT OF JUSTICE

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Civil Rights Division

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EXHIBIT 3

RECEIVED

AUG. 14 2002

U. S. DISTRICT COURT
EASTERN DISTRICT OF MO.
ST. LOUISIN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FILED

W

CLERK OF COURT
U.S. DISTRICT COURT
EASTERN DISTRICT OF MO.
ST. LOUIS

THE UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

BOARD OF ELECTION COMMISSIONERS)

FOR THE CITY OF ST. LOUIS, and)

each individual member of the)

Board of Election Commissioners)

for the City of St. Louis in)

his or her official capacity;)

CITY OF ST. LOUIS, MISSOURI,)

Defendants.)

Civil Action No.:

4: 02CV001235 CEJ

STIPULATION OF FACTS AND CONSENT ORDER

The United States of America filed this action on August 14, 2002, pursuant to Section 8 of the National Voter Registration Act of 1993 ("NVRA"), 42 U.S.C. 1973gg-6, and pursuant to Section 11(a) of the NVRA, 42 U.S.C. 1973gg-9(a).

The United States' Complaint alleges that the placement of eligible voters on inactive status by the Board of Election Commissioners for the City of St. Louis, when combined with the election-day procedures that inactive voters were required to follow in order to restore their active voter status and vote during the November 2000 and March 2001 elections, constituted a removal of those voters from the voter registration rolls in violation of Section 8 of the NVRA.

1

Prior to the filing of this complaint and consent order, all defendants, and in particular the Board of Election Commissioners for the City of St. Louis, demonstrated a high level of cooperation with the United States and a strong commitment to ensuring fair and efficiently run elections in the City of St. Louis.

The United States, Defendants Board of Election Commissioners for the City of St. Louis and the City of St. Louis, through their counsel, have conferred and agree that this action should be settled without the delay and expense of litigation. Accordingly, the United States and the defendants have entered into the following factual stipulation and consent order as an appropriate resolution of this action:

STIPULATION OF FACTS

1. Defendant City of St. Louis is a political subdivision of the State of Missouri. The City of St. Louis is the primary budget authority for Defendant Board of Election Commissioners and is responsible for determining the Board's total annual budget allocation and disbursing operating funds to the Board.

2. Defendant Board of Election Commissioners (hereinafter "Board of Elections" or "Board") serves as the primary election authority for the City of St. Louis, and is responsible for the conduct and administration of elections in the City of St. Louis. Each of the Board's individual members has been sued in his or her official capacity. See Fed. R. Civ. P. 25(d)(2).

3. The Board's responsibilities include, but are not limited to, the registration of voters in the City of St. Louis, the maintenance of the official list of registered voters in the city, and conducting the casting and counting of ballots.

4. Between January 1994 and May 2001, the Board conducted a series of mail canvasses of its voter registration rolls.

5. None of the mail canvasses conducted by the Board between January 1994 and May 2001 included any of the notices required by Section 8(d)(2) of the NVRA, 42 U.S.C. 1973gg-6(d).

6. In reliance upon the mail canvasses that it conducted between January 1994 and May 2001, the Board designated as "inactive" any registered voter for whom a mailing was returned by the United States Postal Service as "Attempted-Not Known," "Not Deliverable as Addressed," "Forwarding Order Expired," or otherwise not deliverable.

7. For all elections it conducted between January 1994 and May 2001, the Board did not include any voter whom it had designated as "inactive" on the list of eligible registered voters it provided to precinct election judges.

8. The voting procedures enforced by the Board require that any person whose name does not appear on the precinct-level list of active registered voters can cast a ballot on election day only if: 1) an election judge at the voting precinct obtains authorization, either by telephone or in writing, from an official at the Board's downtown headquarters; or 2) the voter appears in person at the Board's headquarters and is permitted to cast a ballot there.

9. For all of the elections it conducted between January 1994 and May 2001, the Board made no effort to notify inactive voters that their registration status had changed, that their names would not appear on the voter registration lists provided to election judges in each voting precinct, or that they would face additional administrative steps on election day before they would be permitted to vote.

10. By the time of the November 7, 2000, federal general election, the Board had designated as inactive more than 54,000 registered voters in the City of St. Louis, an increase of over 52,000 registered voters since the November 5, 1996, federal general election.

11. Voter turnout in the City of St. Louis for the November 2000 general election (125,230 ballots cast for President of the United States) was not unusually high by comparison with either the 1992 general election (147,404 ballots cast for President) or the 1996 general election (122,003 ballots cast for President).

12. During the November 2000 general election, election judges throughout the City of St. Louis instructed voters to go to the Board's headquarters at 300 North Tucker Boulevard because they were unable to contact the Board (due to busy signals or lack of access to working telephones) to verify the registration status of persons whose names were not in the precinct-level lists of active registered voters.

13. Over 300 eligible inactive voters were able to obtain authorization to vote in the November 2000 general election only after they personally appeared at the Board's downtown headquarters.

14. It was reported that the Board's downtown headquarters was filled to overflowing during the November 2000 general election.

15. The Board was unable to process a significant number of persons who appeared at the Board's downtown headquarters during the November 2000 general election.

16. Certain eligible but inactive voters were unable to vote in the November 2000 general election because there were insufficient phone lines, staff, and other infrastructure to enable those voters to complete the verification procedures employed by the Board on election day.

17. During the March 2001 municipal primary election in the City of St. Louis, the Board provided additional cellular phones to election judges and opened additional phone lines to its downtown headquarters to handle phone calls from election judges who would be calling to verify the registration status of voters whose names did not appear in the precinct-level lists of active registered voters. Despite these efforts, election officials at the Board's downtown headquarters were unable to keep pace with the calls they received from election judges.

18. The lack of adequate resources employed by the Board during the November 2000 federal general election and the March 2001 municipal primary election adversely impacted the completion of adequate verification procedures employed by election officials on election day and prevented a number of eligible inactive voters from being able to reactivate their registration status and cast their ballots.

19. As of June 1, 2001, the Board had designated as inactive more than 70,000 registered voters in the City of St. Louis.

20. In June 2001, the Board sent a forwardable mailing to all registered voters in the City of St. Louis who were designated as inactive as of the date of the mailing. This forwardable mailing contained all notices required by Section 8(d)(2) of the NVRA, 42 U.S.C. 1973gg-6(d).

FINDINGS AND CONCLUSIONS

Accordingly, on the basis of the preceding stipulated facts and upon the consent of the parties, it is hereby ORDERED, ADJUDGED AND DECREED that:

I. This Court has jurisdiction over this action pursuant to 28 U.S.C. 1345.

II. Eligible registered voters who had been placed on inactive status by the Board of Election Commissioners for the City of St. Louis (hereinafter "Board of Elections" or "Board") at the time of the November 7, 2000, federal general election were removed from the list of eligible voters within the meaning of Section 8 of the NVRA, 42 U.S.C. 1973gg-6, because, as a result of several factors in combination, it was impossible for them to secure active status in time to vote on election day. These factors included: 1) the lack of any notice to these voters before election day that they had been placed on an inactive list and thus would be required to complete certain administrative steps before voting; 2) the Board's requirement that eligible inactive voters receive approval from officials at the Board's downtown headquarters prior to voting; 3) election judges' lack of telephone access to the Board's downtown headquarters; 4) the lack of adequate resources at polling places to respond to voters whose names were not on the list of active registered voters; and 5) the lack of adequate resources at the Board's downtown headquarters on election day to respond to election judges by telephone or to voters who appeared in person. In this case, it is the combination of these factors, and not any one factor standing alone, that constituted a de facto removal under the NVRA.

III. By agreement of the parties, the Board of Elections, its successors in office, its agents and all persons acting in concert with it shall implement the terms of this Order in order to resolve the United States' claims in this action.

PRE-ELECTION NOTICE PROCEDURES

IV. The Board of Elections shall initiate a media strategy designed to encourage city residents to verify whether their voter registration status remains active and, if necessary, to contact the Board to reactivate their status well in advance of each election.

V. At least once during the period 45 to 60 days prior to each election, and at least once within the period between seven (7) and ten (10) days prior to each such election, the Board of Elections shall issue announcements pursuant to Paragraph VI, infra, containing the following information:

- a) voters who have changed residences within the City of St. Louis need to notify the Board so that their registration records can be updated;
- b) voters who have not received Notice of Election cards or other mailings from the Board within five (5) days before an election:
 - 1) may be designated as inactive, and may be removed from the voter rolls if they do not appear to vote in two consecutive federal general elections;
 - 2) need to contact the Board before election day to verify whether their voter registration status remains active; and

- 3) will be required to complete additional administrative steps prior to casting a ballot if they remain designated as inactive on election day.

VI. The Board of Elections shall issue the announcements described in Paragraph V, supra, in the print and radio media, including but not limited to the St. Louis Post-Dispatch and the St. Louis American, as well as on at least two radio stations at peak times, including but not limited to KMOX AM 1120 and KMJM FM 104.9.

VII. Defendant City of St. Louis shall post the notices described in Paragraph V, supra, in a permanent, conspicuous location on the Board of Elections' Internet web page:
<http://www.stlouiscity.org>.

PRE-ELECTION PREPARATIONS

VIII. Prior to each election the Board of Elections shall determine the number of precincts in which the percentage of inactive voters exceeds 30 percent of all voters in that precinct. The Board shall assign at least one additional election judge (beyond the statutory minimum) to each precinct in which inactive voters constitute more than 30 percent of all voters (active plus inactive) in that precinct. This election judge shall be known as the "specialist judge" whose primary responsibility on election day will be to process inactive voters. See Paragraph XV(a), *infra*. In those precincts with an additional election judge (where the total number of judges is an odd number), the specialist judge shall have no voting power or authority to resolve any disputes regarding a voter's qualifications or right to cast a ballot. The Board of Elections shall take reasonable steps to recruit additional specialist judges as needed.

IX. Prior to each election the Board of Elections shall ensure that the telephone system at its downtown headquarters is adequate to handle the volume of telephone calls that reasonably can be expected during that election.

X. Prior to each election the Board of Elections shall ensure that the number of personnel working at its downtown headquarters on election day is adequate to handle the volume of telephone calls that reasonably can be expected during that election, as well as sufficient personnel to serve the number of voters and other individuals who reasonably can be expected to appear at the Board's headquarters during that election.

ELECTION-DAY PROCEDURES

XI. In order to provide an opportunity for eligible inactive voters to timely cast their ballots, the Board of Elections shall adhere to the election-day procedures and policies described below:

XII. In August 2002, the Board of Elections chose to initiate the practice of providing at least one fully alphabetized, updated list containing the names of all inactive voters in the city (hereinafter "Citywide Inactive List") to each voting precinct. So long as the Board maintains such a list, the Board shall continue this practice during the span of this decree. See Paragraph XXVI(a), infra.

XIII. For each voting precinct the Board of Elections shall provide specialist judges with the tools necessary to determine the proper voting location for each voter (hereinafter "Polling Place Locator").

XIV. The Board of Elections shall ensure that the election judges in each voting precinct have ready access to a working telephone (either land-line or cellular).

XV. Election judges shall employ the following procedures with respect to any person presenting himself or herself to vote whose name does not appear upon the precinct roster of eligible active voters. Such persons can be classified as follows: (1) eligible, inactive voters who appear at the correct precinct (see subparagraph (e), infra), (2) eligible, inactive voters who appear at an incorrect precinct (see subparagraph (f), infra), and (3) individuals for whom election judges and/or the Board cannot immediately determine eligibility (see subparagraph (g), infra).

- (a) The Board of Elections shall designate a specialist judge in every voting precinct. In those precincts where the percentage of inactive voters is greater than 30 percent, the additional judge (beyond the statutory minimum) shall be designated the specialist judge. See Paragraph VIII, supra. In those precincts where the percentage of inactive voters is less than 30 percent, one of the four (or other statutory minimum number of) existing judges shall be designated the specialist judge. Specialist judges shall assume primary responsibility for processing inactive voters on election day.
- (b) When a person appears at a voting precinct and is not listed on the precinct roster of active voters, that voter shall be processed by the specialist judge.
- (c) When processing a person described in subparagraph (b), supra, the specialist judge shall first check the Citywide Inactive List to determine whether the person is an eligible voter.

- (d) The specialist judge shall then consult the Polling Place Locator to determine whether the voter is at the proper voting location.
- (e) If the voter is listed in the Citywide Inactive List, and the voter's current address is served by the precinct at which he or she has appeared, the voter shall complete the Consolidated Voters Affidavit and shall be permitted to cast a full ballot in the same manner as all other voters. See Paragraph XVI, infra (discussing amending the Board's existing version of the Consolidated Voters Affidavit).
- (f) If the voter is listed in the Citywide Inactive List but has appeared at an incorrect precinct, the specialist judge shall consult the Polling Place Locator and provide the voter with the address of the correct precinct or the Board's downtown headquarters, whichever is more convenient for the voter. Once at the correct precinct, the voter shall be permitted to cast his or her ballot as provided in subparagraph (e), supra.
- (g) If the person does not appear in the Citywide Inactive List, or if the specialist judge cannot otherwise determine the person's eligibility, the specialist judge shall first consult the Polling Place Locator to determine whether the person is at the proper voting location. If the person is at the proper voting location, the specialist judge shall then contact the Board of Elections, and if authorized by the Board, the person shall be permitted to vote in the same manner as all other voters. If the person is not authorized by the Board of Elections, or if the specialist judge is unable to obtain final authorization by the Board within ten minutes, the specialist judge shall offer the person the opportunity to cast a provisional ballot to the extent that practice is allowed under Missouri Revised Statutes § 115.138 (West 2002) (provisional voting), or to appear in person at the Board of Elections.

- (h) An inactive voter who appears to vote at the precinct serving his or her current address, and who presents a valid Authorization to Vote at Precinct form or other form of written authorization from the Board of Elections, shall be permitted to vote in the same manner as all other voters.
- (i) In the event there is a dispute regarding a voter's address or correct polling place, nothing in this Order shall preclude the specialist judge from offering the voter the opportunity to cast a provisional ballot to the extent that practice is allowed under Missouri Revised Statutes § 115.138 (West 2002) (provisional voting).

XVI. In consultation with the undersigned counsel for the United States, the Board of Elections shall amend its current Consolidated Voters Affidavit as necessary to conform to the requirements of this Order.

XVII. During each election the Board of Elections shall record the number of phone calls from election judges that were processed by Board personnel, the number of inactive voters who were authorized to vote on election day, and the number of persons who requested but were not given authority to vote on election day. These records shall be made available to any party to this action upon request.

XVIII. The Board of Elections shall ensure that the procedures and policies described above are implemented by preparing training manuals and election forms, distributing such manuals and forms to all election judges, and training all election judges in the above-described procedures. At least 14

days before distributing these materials, the Board shall provide an advance copy to the undersigned counsel for the United States in order to ensure that such materials are in compliance with the terms of this Order. Counsel for the United States shall communicate any concerns to the Board within seven (7) days of receiving the materials. If no concerns are raised in the requisite period, the materials shall be deemed sufficient to meet the terms of this Order.

XIX. The Board of Elections shall permit attorneys from the United States Department of Justice, Civil Rights Division, Voting Section, to monitor voting procedures inside polling places and inside the Board's downtown headquarters during elections in the City of St. Louis. The Board shall further permit Department of Justice attorneys to observe the training of election judges prior to elections.

LIST MAINTENANCE PROCEDURES

XX. Section 8 of the NVRA, 42 U.S.C. 1973gg-6, prohibits the Board of Elections from removing any voters from the list of eligible voters on the basis of the Board's voter canvasses conducted between January 1994 and May 2001, because those mailings did not provide voters with the notices required by Section 8(d)(2) of the NVRA, 42 U.S.C. 1973gg-6(d).

XXI. The Board, in its discretion, may remove the names of any voters from the voter rolls in accordance with the requirements of the NVRA, but has agreed not to use its June 2001 mailing as the basis for removing voters for failing to vote or appear to vote.

XXII. The Board shall promptly update its records to reflect any changes reflected in the completed Consolidated Voters Affidavit forms.

XXIII. Once the Board of Elections has determined that an inactive voter is eligible to cast a ballot--either by receiving a telephone call from an election judge or upon examination of the voter's completed Consolidated Voters Affidavit, change-of-address form, or Authorization to Vote at Precinct form--the Board shall promptly change that voter's registration status from inactive to active.

XXIV. The parties agree that the provisions of this Order are consistent with the laws of the State of Missouri and the City of St. Louis. To the extent that any provision of this Order may conflict with the laws of the State of Missouri or the City of St. Louis, this Order shall control.

XXV. Defendant City of St. Louis shall ensure that the city's annual budget allocation to the Board of Elections is sufficient to meet the terms of this Order.

XXVI. Defendants are committed to taking each of the following actions:

- (a) The Board of Elections has committed to eliminating the "inactive list" as soon as possible after the November 5, 2002, federal general election, but no sooner than the City of St. Louis' next regular budget allocation in FY 2004.
- (b) The Board of Elections has committed to achieve its obligations under this Order by providing laptop computers and printers in every voting precinct, training election judges to be proficient in the use of this computer technology, and having this system fully integrated by the August 2004 federal primary election.
- (c) Defendant City of St. Louis, by and through the Mayor, commits to ensuring that, beginning with the City's next regular budget allocation in FY 2004, the City's annual budget allocation to the Board of Elections shall enable the Election Board to meet the Board's commitment described in subparagraph (b), supra.

The NVRA does not require these actions, and failure to achieve these voluntary commitments shall not render Defendants in noncompliance with Paragraphs I-XXV, supra.

XXVII. Nothing in this Order shall preclude the Board of Elections from taking additional steps consistent with this Order to ensure that eligible inactive voters are afforded a more meaningful opportunity to timely cast their ballots on election day.

XXVIII. Nothing in this Order shall preclude the Board of Elections from taking steps consistent with this Order, and consistent with the Board's anti-fraud program, to prevent ineligible voters from casting ballots on election day, nor shall it preclude the Board from referring instances of voter fraud to the proper authorities.

XXIX. The terms of this decree are intended by the parties to address the particular circumstances present in this case, and do not necessarily represent the procedures required by the NVRA in other cases.

XXX. The terms of this Order shall become effective upon entry of this Order and shall remain in effect until January 31, 2005.

XXXI. The United States' Complaint is dismissed.

XXXII. The parties shall bear their own costs.

XXXIII. The Court shall retain jurisdiction over this matter until January 31, 2005, in order to enforce the terms of this Order and to provide such other relief as is appropriate.


AGREED IN FORM AND CONTENT:

FOR THE PLAINTIFF UNITED STATES
OF AMERICA:

RAYMOND W. GRUENDER
United States Attorney

RALPH F. BOYD, JR.
Assistant Attorney General
Civil Rights Division


JOSEPH B. MOORE
Assistant United States
Attorney



JOSEPH D. RICH
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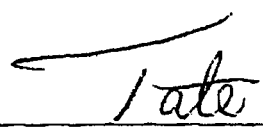
FOR DEFENDANT CITY OF ST. LOUIS:

PATRICIA A. HAGEMAN
CITY COUNSELOR



MARK LAWSON, # 20618
Associate City Counselor
City of St. Louis
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St. Louis, MO 63103
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FOR DEFENDANT BOARD OF ELECTION
COMMISSIONERS FOR THE CITY OF ST.
LOUIS, AND ITS INDIVIDUAL
MEMBERS:



RUFUS J. TATE, JR., # 56733
The Tate Law Firm, LLC
7751 Carondelet
Suite 803
St. Louis, MO 63105
(314) 726-6495

IT IS SO ORDERED.

DATED: August 14, 2002



THE HONORABLE
United States District Judge

AN ORDER, JUDGMENT OR ENDORSEMENT WAS SCANNED, FAXED AND/OR MAILED TO THE
FOLLOWING INDIVIDUALS ON 08/15/02 by lwilderm

4:02cv1235 USA vs Bd of Elec Com for

42:1973gg6 Requirement W/Resp To Admin Of Voter Registration

Robert Kengle -	Fax: 202-307-3961
Mark Lawson - 20618	Fax: 314-622-4956
Joseph Moore - 3889	Fax: 314-539-2777
Joseph Rich -	Fax: 202-307-3961
Rufus Tate - 56733	Fax: 314-726-0166
Michael Zwibelman -	Fax: 202-307-3961

SCANNED & FAXED BY:

AUG 15 2002

C. D. D.

EXHIBIT 4

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is entered into between the United States of America, through the Civil Rights Division of the U.S. Department of Justice, and the State of Connecticut, through the Office of the Connecticut Attorney General, the Office of the Connecticut Secretary of the State (Secretary of the State), and the Connecticut Department of Motor Vehicles (DMV).

I. Statement of the Parties

The United States and the State of Connecticut hereby recognize the following:

1. By letter dated April 15, 2016, the United States notified the State of Connecticut that the Principal Deputy Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice had authorized litigation against the State and appropriate State officials to enforce Section 5 of the National Voter Registration Act of 1993 (NVRA), 52 U.S.C. § 20504, which is also known as the Motor Voter provision of the NVRA.
2. The State of Connecticut subsequently informed the United States that the State was initiating efforts to bring about Motor Voter compliance through an electronic system to be implemented at motor vehicle offices in the State.
3. On May 16, 2016, the Secretary of the State and DMV entered into an agreement to implement, by August 1, 2016, a paper and/or electronic Motor Voter solution.
4. The State of Connecticut's current Motor Voter procedures do not comply fully with 52 U.S.C. § 20504.
5. The United States and the State of Connecticut share the goals of ensuring that the requirements of the Motor Voter provision of the NVRA are met and ensuring that Connecticut's citizens enjoy the benefits envisioned by that provision.
6. The United States and the State of Connecticut have negotiated in good faith and hereby agree to this MOU as an appropriate means to further their shared goals.

II. National Voter Registration Act of 1993

7. The National Voter Registration Act of 1993 (NVRA), 52 U.S.C. §§ 20501-11, includes certain requirements with respect to voter registration procedures for elections for Federal office for States covered by the NVRA. The State of Connecticut is covered by the NVRA and is obliged to ensure compliance with its requirements. 52 U.S.C. §§ 20502(4), 20503.
8. The NVRA requires that, "in addition to any other method of voter registration provided for under State law, each State shall establish procedures to register to vote in elections for Federal office . . . by application made simultaneously with an application for a motor

vehicle driver's license pursuant to section 20504" of Title 52 of the U.S. Code. 52 U.S.C. § 20503(a)(1).

9. The NVRA further requires that "[e]ach State motor vehicle driver's license application (including any renewal application) submitted to the appropriate State motor vehicle authority under State law shall serve as an application for voter registration with respect to elections for Federal office unless the applicant fails to sign the voter registration application." 52 U.S.C. § 20504(a)(1). This provision also requires that "[a]n application for voter registration submitted under [the provision] shall be considered as updating any previous voter registration by the applicant." 52 U.S.C. § 20504(a)(2).
10. The NVRA defines "motor vehicle driver's license" to include any personal identification document issued by a state motor vehicle authority. 52 U.S.C. § 20502(3). In Connecticut, the personal identification documents issued by DMV offices are commercial and non-commercial driver's licenses, including learner's permits, and non-driver ID cards. *See* Conn. Gen. Stat. §§ 1-1h; 14-36, 36d(c), 44c.
11. The NVRA requires that "[t]he voter registration application portion of an application for a State motor vehicle driver's license . . . may not require information that duplicates information required in the driver's license portion of the form (other than a second signature or other information necessary under [52 U.S.C. § 20504(c)(2)(C)])." 52 U.S.C. § 20504(c)(2)(A).
12. The NVRA requires that "[t]he voter registration application portion of an application for a State motor vehicle driver's license . . . shall include" a statement of the eligibility requirements for registration, an attestation that the applicant meets each such requirement, and a signature under penalty of perjury. 52 U.S.C. § 20504(c)(2)(C).
13. The NVRA requires that the voter registration application portion of an application for a State motor vehicle driver's license may require only the minimum amount of information necessary to prevent duplicate voter registrations and to enable State election officials both to assess the eligibility of the applicant and to administer voter registration and other parts of the election process. 52 U.S.C. § 20504(c)(2)(B).
14. The NVRA requires that any change of address form submitted in accordance with State law for purposes of a State motor vehicle driver's license must serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved, unless the registrant states on the form that the change of address is not for voter registration purposes. 52 U.S.C. § 20504(d).
15. The NVRA requires that a completed voter registration portion of an application for a State motor vehicle driver's license accepted at a State motor vehicle authority must be transmitted to the appropriate election official not later than ten days after acceptance, and not later than five days after acceptance if accepted within five days before the last day of registration to vote in a Federal election. 52 U.S.C. § 20504(e).

16. The Secretary of the State is the chief election officer of the State of Connecticut. Conn. Gen. Stat. §§ 9-3. The Secretary is responsible for coordinating Connecticut's responsibilities under the NVRA. 52 U.S.C. § 20509; Conn. Gen. Stat. §§ 9-3, 9-4.
17. The Commissioner of the DMV administers, coordinates, and controls the operations of the DMV and is responsible for the overall supervision and direction of all DMV facilities. Conn. Gen. Stat. § 14-3. The DMV is responsible for integrating voter registration into any Connecticut motor vehicle driver's license application, including any renewal application, and for ensuring that any change of address form related to a motor vehicle driver's license serves as notification of change of address for voter registration with respect to elections for Federal office, unless the registrant states on the form that the change of address is not for voter registration purposes. Conn. Gen. Stat. § 14-3; 52 U.S.C. 20504(a), (c), (d).
18. Connecticut also licenses privately-owned offices of the American Automobile Association Allied Group and the American Automobile Association Northeast (collectively "AAA offices") to perform services relating to Connecticut automobile owners or drivers. Conn. Gen. Stat. § 14-67. Pursuant to State law, the DMV Commissioner has authorized Connecticut AAA offices to perform, on the State's behalf, driver's licenses and ID card duplicate and renewal services using DMV-approved forms, procedures, and systems. Conn. Gen. Stat. § 14-41(b); *see also* www.ct.gov/dmv. Connecticut's AAA offices are agents of the State for DMV driver's license and ID card duplicate and renewal services. As such, those offices are "state motor vehicle authorities" under the NVRA for the limited purpose of conducting those NVRA-covered transactions.
19. The Secretary has the authority to require that all town registrars comply with the NVRA and the DMV has the authority to require that all DMV offices, including AAA offices, comply with NVRA requirements. Conn. Gen. Stat. §§ 9-3, 9-4, 14-3. The Secretary, Commissioner, and Office of the Attorney General are appropriate signatories to this Agreement for the State of Connecticut and have the legal and statutory authority to ensure compliance with the terms and conditions of this Agreement. *Id.*

III. Terms of Agreement

NOW, THEREFORE, for full and adequate consideration given and received, the United States, through the Civil Rights Division of the U.S. Department of Justice, and the State of Connecticut, through the Office of the Connecticut Secretary of the State, DMV, and the Connecticut Attorney General, agree as follows:

A. Compliance Plan

20. On or before August 8, 2016, the State shall implement a functioning electronic system designed to remedy Connecticut's NVRA insufficient compliance and to ensure the State's future compliance with Section 5 of the NVRA, including through each DMV and AAA office. The electronic system shall comply with the requirements of the

Compliance Plan, attached hereto as Exhibit A to this MOU, which is fully incorporated herein. In general, that Compliance Plan shall apply to any paper, electronic, or computerized system used for applications for a Connecticut driver's license or ID card, including any renewal application and any change of address submitted for such purposes and requires that:

- a. Each application for a Connecticut driver's license or ID card, including any renewal application, serves as an application for voter registration with respect to elections for Federal office unless the applicant declines to register to vote;
- b. The voter registration portion of each application for a Connecticut driver's license or ID card, including any renewal application, shall conform to the requirements of Sections 5(a) and 5(c) of the NVRA, with particular attention to the elimination of queries that duplicate information sought on the driver's license or ID card portion of the application;
- c. All completed voter registration portions of each application for a Connecticut driver's license or ID card, including any renewal application, are accepted through all Connecticut DMV and AAA offices providing licensing services, and transmitted by those offices to appropriate election officials not later than 10 days after acceptance, or, if accepted within five days of the close of registration for an election, no later than five days after they are accepted by the DMV or AAA office, as provided by Section 5(e) of NVRA, 52 U.S.C. § 20504(e);
- d. Any change of address submitted by a registered voter in accordance with state law for purposes of a Connecticut driver's license or ID card serves as a change of address for voter registration with respect to elections for federal office for the registrant involved, unless the registrant states on the form that the change of address is not for voter registration purposes. Connecticut's change of address forms, policies, and procedures shall ensure that change of address forms for a Connecticut driver's license or ID card submitted through the DMV or AAA office by a registered Connecticut voter shall result in the transmission of voter registration information to appropriate election officials for voter registration purposes under timelines established by Section 5(e) of the NVRA, including the transmission of a registrant's voter registration information to the appropriate election official in a new town when a voter submits a change of address indicating a move to another Connecticut town, unless the registrant states on the form that the change of address is not for voter registration purposes;
- e. All applications for a Connecticut driver's license or ID card, including any renewal application, comply with Section 5. The State shall also track the number of voter registration applications transmitted from DMV or AAA offices to local election officials and the number of days between the acceptance and transmittal of such applications to the appropriate local election official; and
- f. Any address changes to Connecticut driver's licenses and ID cards comply with Section 5. The State shall also track the number of address changes to voter

registration between two Connecticut towns transmitted from DMV or AAA offices to local election officials, the nature of the DMV transaction that triggered the address change, and the number of days between the acceptance and the transmittal of such voter registration applications to the appropriate local election official.

B. State Oversight of NVRA Compliance

21. On or before August 8, 2016, the Secretary shall issue, pursuant to Conn. Gen. Stat. §§ 9-3, 9-4, a regulation, declaratory ruling, instruction or opinion, directed at town registrars of voters to ensure that all town registrars of voters accept voter registration applications submitted pursuant to Section 5 of the NVRA and this MOU.
22. On or before August 8, 2016, the Commissioner shall establish uniform written policies and procedures designed to ensure statewide compliance with Section 5 of the NVRA and this MOU and shall develop uniform written materials to conduct the trainings required by Paragraphs 29, 35, and 37 of this MOU.
23. On or before September 30, 2016, the State shall, in consultation with counsel for the United States, develop and implement oversight procedures for determining whether employees and agents at DMV and AAA offices that provide driver's license and ID card services are complying with Section 5 of the NVRA, this MOU, and Exhibit A. Such procedures shall include, but are not limited to:
 - a. Incorporating compliance with NVRA-related procedures in the ongoing, continuous evaluation of DMV and AAA offices as well as DMV agents and employees;
 - b. Annual audits of offices' voter registration procedures, including audits of driver's license and ID card applications, to review the rates at which applicants declined to sign the voter registration portion of the form; and
 - c. Unscheduled and unannounced site visits to review procedures, policies, forms, and training materials related to voter registration at DMV and AAA offices.

C. NVRA Compliant DMV Written Materials

24. The State shall, in accordance with Exhibit A, and in consultation with counsel for the United States, revise all NVRA-related DMV forms and other written materials, including informational brochures and training materials, for use by DMV employees, agents, and contractors with NVRA-related responsibilities and any written material for use by DMV clients engaging in, or seeking information about, NVRA-related transactions at DMV or AAA offices. The State hereby agrees to notify counsel for the United States of all NVRA-related revisions to DMV forms and other written materials created under this paragraph, including training materials and informational brochures, and provide such materials, with each change identified, at least 14 days before such materials are used or distributed.

D. Annual Training

25. The State shall, in accordance with the deadlines in Exhibit A, and in consultation with counsel for the United States, create an annual NVRA education and training program designed to facilitate compliance with Section 5 to all DMV and AAA employees. The training shall be mandatory for DMV and AAA employees who provide services related to driver's licenses and ID cards. Thereafter, the State shall offer annual NVRA education and training programs for every DMV and AAA employee or agent responsible for providing services related to driver's licenses and ID cards to Connecticut residents.

E. State DMV NVRA Coordinator

26. On or before August 8, 2016, the State shall appoint an interim statewide "DMV NVRA Coordinator" and shall notify the United States as to the identity of, and contact information for, that individual within five days of that appointment. If the identity of, and contact information for, the interim DMV NVRA Coordinator changes before the appointment of a permanent DMV NVRA Coordinator in accordance with Paragraph 27, the State shall notify the United States within two days of any change.
27. Within 60 days of the appointment of the interim DMV NVRA Coordinator, the State shall appoint a permanent DMV NVRA Coordinator who shall continue in that position for at least one year beyond the termination date of this MOU. The State shall notify the United States as to the identity of, and contact information for, that individual within five days of that appointment.
28. The DMV NVRA Coordinator's responsibilities shall include, but not be limited to:
- a. Coordinating and overseeing statewide compliance with the requirements of Section 5 of the NVRA and this MOU at DMV and AAA offices, in consultation with the Secretary;
 - b. Reviewing data and implementation reports received from NVRA Site Coordinators, whose responsibilities are identified in Section F below, to evaluate whether the data reflect implementation problems;
 - c. Determining the necessity for a corrective action plan and, if necessary, directing the implementation of the corrective plan within 30 days of the date that any implementation problem is identified at any DMV or AAA office;
 - d. Providing a statewide report to the Secretary (with a copy to counsel for the United States) in April and October of each year during the time that this MOU is in effect that evaluates each DMV and AAA office's compliance with the NVRA during the preceding six months;
 - e. Coordinating with DMV officials to ensure that NVRA compliance is a factor in the evaluation of DMV offices, employees, and agents;

- f. Providing technical assistance to NVRA Site Coordinators, including periodic reminders, trainings, and procedural updates concerning their NVRA responsibilities; and
 - g. Ensuring that the website homepage maintained by the Connecticut DMV (currently www.ct.gov/dmv) provides prominent notice of the opportunity to register to vote or update voter registration information while applying for, renewing, or submitting an address change to a Connecticut driver's license or ID card.
29. On or before August 8, 2016, the interim DMV NVRA Coordinator shall become familiar with the requirements of the NVRA and the DMV NVRA Coordinators' responsibilities under this MOU and Exhibit A. The interim DMV NVRA Coordinator shall, in turn, ensure that NVRA Site Coordinators attend and provide the trainings described in Paragraphs 35 and 37 of this MOU. If the identity of the interim DMV NVRA Coordinator changes before a permanent DMV NVRA Coordinator is appointed, the new interim DMV NVRA coordinator shall comply with this Paragraph.
30. Within five days of the date of their appointment, the permanent DMV NVRA Coordinator shall attend a training provided by the DMV and/or Secretary that explains the requirements of the NVRA and the DMV NVRA Coordinators' responsibilities under this MOU and Exhibit A. The DMV NVRA Coordinator shall, in turn, ensure that permanent NVRA Site Coordinators attend and provide the trainings described in Paragraphs 36 and 38(b) and (e) of this MOU.
31. In the event of a vacancy in the interim DMV NVRA Coordinator position, the DMV shall fill that vacancy within five business days and shall within two days of the appointment notify counsel for the United States of the appointee's name and contact information.
32. In the event of a vacancy in the permanent DMV NVRA Coordinator position, the DMV shall fill that vacancy within 30 days and shall within 10 days of the appointment notify counsel for the United States of the appointee's name and contact information.

F. NVRA Site Coordinators

33. On or before August 8, 2016, the State shall appoint at each DMV or AAA office that provides driver's license services an interim "NVRA Site Coordinator" and shall notify the United States as to the identity and location of all NVRA Site Coordinators within five days of their appointment. The State may, in consultation with the United States, identify NVRA Site Coordinators who may be responsible for more than one DMV or AAA office.
34. Within 60 days of the appointment of the interim NVRA Site Coordinators, the State shall appoint permanent NVRA Site Coordinators. The position of NVRA Site Coordinator shall continue to exist until at least one year beyond termination of this MOU.

35. On or before August 8, 2016, the interim NVRA Site Coordinators shall attend a training or trainings provided by the State that explains the requirements of the NVRA and the NVRA Site Coordinators' responsibilities under this MOU and Exhibit A.
36. Within five days of the date of their appointment, permanent NVRA Site Coordinators shall attend a training or trainings provided by the State that explains the requirements of the NVRA and the NVRA Site Coordinators' responsibilities under this MOU and Exhibit A.
37. On or before August 8, 2016, the State shall provide a training or trainings for all employees at NVRA sites who participate in driver's license or ID card transactions that explains the requirements of the NVRA and the NVRA responsibilities of all DMV employees who participate in driver's license or ID card transactions.
38. The NVRA Site Coordinators' responsibilities shall include, but not be limited to:
 - a. Coordinating and overseeing compliance with the requirements of Section 5 of the NVRA and this MOU at their sites, in consultation with the DMV NVRA Coordinator;
 - b. Ensuring that the annual NVRA training described in Paragraph 25 of this MOU is provided to all employees at their site who participate in driver's license or ID card transactions annually;
 - c. Identifying and resolving NVRA implementation problems;
 - d. Preparing a quarterly report (due 15 days following the close of each calendar year quarter) that documents NVRA compliance. The quarterly report shall include the number of completed driver's license and ID card applications, renewals, and address changes, and the number of completed voter registration applications accepted as part of such applications and transmitted to appropriate local election officials. The report shall also include the maximum number of days between the acceptance of such voter registration applications at a DMV or AAA office and transmittal to the appropriate local election official and, for any voter registration applications accepted within 5 days before the registration deadline for an election, the maximum number of days between the acceptance and transmittal of such voter registration applications to the appropriate local election official. The NVRA Site Coordinator shall transmit the quarterly report to the DMV NVRA Coordinator. The quarterly report prepared in accordance with this Paragraph shall identify any implementation problems and report the resolutions to such problems, identify training needs, and record any local- or state-level recommendations for the improvement of NVRA compliance at DMV or AAA offices. The first quarterly report shall be submitted to the DMV NVRA Coordinator after the end of the third quarter of 2016 (September 30, 2016); and
 - e. Ensuring that any new DMV or AAA employee with responsibilities related to driver's licenses and ID cards at each DMV or AAA office receives information and training concerning the requirements of Section 5 of the NVRA, and this MOU within 14 business days of the new employee's start date.

39. In the event of a vacancy in the interim NVRA Site Coordinator position, the DMV shall fill the vacancy within five days and shall within two days of the appointment notify the United States of the appointee's name and contact information.
40. In the event of a vacancy of an NVRA Site Coordinator position, the DMV shall fill the vacancy within 30 days and shall within five days of the appointment notify the United States of the appointee's name and contact information.

G. Remedial Recapture Plan

41. On or before August 15, 2016, the State shall, in consultation with counsel for the United States, develop and implement a remedial recapture plan for offering voter registration opportunities to individuals who completed a Connecticut driver's license or ID card application, including any renewal application, but did not receive an opportunity to register to vote in accordance with Section 5 of the NVRA or who in accordance with state law notified the DMV of an address change, but whose voter registration records were not updated when those registrants moved between Connecticut towns.
42. The United States, Secretary, and DMV acknowledge and recognize that Connecticut is a member of the inter-state consortium called the Electronic Registration Information Center ("ERIC"). See www.ericstates.org.
43. As a member of ERIC, Connecticut has been required since before the effective date of this MOU to utilize data to identify those persons living within the state who are eligible to register to vote, have a DMV credential, but are not registered to vote at the address indicated in DMV records, and to offer those persons an opportunity to register to vote by way of a mailing during Federal election years.
44. Connecticut undertook an ERIC-required mailing for the 2014 Federal election.
45. In 2014, the State sent a postcard to persons identified as likely eligible voters but likely unregistered as described herein with a unique URL for online voter registration. Such persons necessarily included persons who reported a change of address to the DMV during the relevant time period.
46. As a member of ERIC, the State will undertake another ERIC-required mailing before the November 8, 2016 Federal election.
47. The 2016 ERIC-required mailing will reach persons who filed a change of address with DMV since the last mailing in 2014.
48. The State will modify and augment its 2016 ERIC-required mailing to provide appropriate information or materials to persons who may have limited access to online voter registration by virtue of demographic factors.
49. The State, utilizing census data and other relevant sources, shall, in consultation with counsel for the United States, prepare a plan for modified and enhanced ERIC outreach strategies to persons identified as likely eligible voters.

50. The State shall continue to conduct such outreach activities through the 2018 election cycle.
51. In consultation with the United States, the State shall make a reasonable effort to identify the number of individuals who are mailed voter registration materials and information, as described in Paragraphs 41-49, and submit a voter registration application between the date of such mailing or mailings and the close of registration-by-mail for the November 8, 2016 election. The State shall prepare a report describing its findings and submit such report to the United States by January 31, 2017.

H. Reporting and Monitoring

52. On April 31 and October 31 of each year this MOU is in effect, the State shall submit to the United States a report for the six-month period ending March 30 and September 30 respectively, which shall include the following components:
 - a. The number of applications for a Connecticut driver's license or ID card, including any renewal application, received at each DMV and AAA office that provides driver's license services and the number of completed voter registration forms received at each such DMV and AAA location;
 - b. The number of changes of address received by the DMV with regard to a Connecticut driver's license or ID card and the number of changes of address transmitted from the DMV to appropriate state election officials for voter registration purposes;
 - c. The maximum number of days between the acceptance of voter registration applications at a DMV or AAA office as part of an application for a driver's license, ID card, including any renewal application, or a change of address and transmittal of such voter registration applications to the appropriate local election official and, for any such voter registration applications accepted within 5 days before the registration deadline for an election, the maximum number of days between the acceptance and transmittal of such voter registration applications to the appropriate local election official.
 - d. A summary of efforts to implement each of the provisions and requirements of this MOU, including the results of the State's own internal tracking, audits, and site visits, as provided in the compliance plan and Paragraphs 23 (a)-(c);
 - e. A description of any corrective action plans devised and implemented pursuant to Paragraph 28(c); and
 - f. Updated copies of all new or revised NVRA policies, procedures, rules, declaratory rulings, regulations, publications, advertisements, training materials, and other written materials used in the preceding reporting period or to be used in the future reporting periods to ensure compliance with the NVRA.
53. The United States may object to any regulation, declaratory ruling, instruction or opinion, form, plan, report, procedure, or other document prepared by the State pursuant to this

MOU on the ground that it does not comply, or is not sufficient to ensure compliance with Section 5 of the NVRA and this MOU. The United States will do so by providing written notice to the State describing any objections. The parties shall make a good-faith effort to resolve any differences.

54. Each year this MOU is in effect, employees, agents, and investigators of the United States shall have the right to:
- a. Conduct audits, including review of documents and records related to voter registration, of any Connecticut DMV or AAA office without prior notice to the State;
 - b. Contact officials, employees, agents, and representatives of the State involved in NVRA-related activities without prior notice to the State;
 - c. Visit any office of any Connecticut DMV or AAA office without prior notice to the State for purposes of determining whether the office is complying with Section 5 of the NVRA and this MOU; and
 - d. Request, in writing, any data and implementation reports prepared by NVRA Site Coordinators or the DMV NVRA Coordinator, including but not limited to reports prepared pursuant to Paragraph 38(d) of this MOU. The Secretary shall provide those reports or data within 20 days of the United States' written request.

I. Deadlines

55. Any deadline in this MOU may be extended by the consent of the parties. The United States shall not unreasonably withhold consent following a showing of good cause by the Secretary of the State or DMV.
56. With respect to any time deadline imposed on the State in this MOU, if the State is unable, despite good faith efforts, to comply with a time deadline, the State shall notify the United States of such inability prior to the expiration of such deadline and may request a reasonable extension of the deadline.
57. The State agrees that if any request for an extension of any deadline in accordance with Paragraphs 55 or 56 of this MOU prevents the implementation of the full remedy to the NVRA violations as described in this MOU, including Exhibit A, the State shall include with its request an interim remedy that can be implemented immediately in accordance with the deadline and obligations required by the relevant Paragraph. If such interim remedy is acceptable to the United States consent to such a request shall not be unreasonably withheld.

J. Effective Date

58. This MOU shall take effect immediately upon signing by all signatories.

IV. Enforcement

59. If at any time the United States obtains information that the State of Connecticut is or is about to be in breach of any of the terms of this MOU, the United States shall advise the Secretary in writing by notice sent to the Secretary, through the Office of the Attorney General, by overnight mail and email. The notice shall identify the facts that form the basis of the alleged breach. The Secretary shall have five business days following receipt of such notice to respond in writing to the United States. The Parties shall thereafter immediately attempt to resolve any issue of potential noncompliance. If the Parties are unable to agree on a resolution of the issue, the United States may take appropriate action to enforce the terms of this MOU or to immediately terminate the MOU and enforce Section 5 of the NVRA, as provided in Section 11 of the Act, 52 U.S.C. § 20510.
60. Nothing in this MOU shall prevent the United States from taking any actions required to enforce any and all applicable provisions of the NVRA.
61. Any legal proceeding arising in connection with the MOU may be brought only in the United States District Court in the District of Connecticut, and all parties consent to venue in that court.
62. Any legal proceeding to enforce this MOU may seek specific performance of the terms therein.
63. This MOU creates no third-party rights and may not be enforced by any individual, organization, or entity not a party thereto.

V. Termination

64. This MOU shall remain in effect for four years from its effective date, unless terminated earlier by the parties.
65. Before this MOU may be terminated, the State shall implement formal uniform written policies and procedures consistent with this MOU to facilitate and ensure full statewide compliance with Section 5 of the NVRA. To ensure full statewide compliance with Section 5 of the NVRA, the State shall promulgate final rules or regulations necessary to ensure continued compliance with this MOU under state law. Any final rules or regulations shall be consistent with the Connecticut Uniform Administrative Procedure Act, Conn. Gen. Stat. § 4-166 *et seq.*, and subject to the review and approval of the Legislative Regulation Review Committee of the Connecticut General Assembly, and consistent with § 445 of Public Act 15-5 (June Special Session 2015).
66. To demonstrate that it has achieved substantial compliance with the MOU for purposes of termination, the State shall file a report, including appropriate documentation, with counsel for the United States that establishes that the State has substantially complied and that the State has the means and intent to continue compliance with Section 5 of the NVRA. This report shall include the formal written policies and procedures and any final rules and regulations adopted pursuant to Paragraph 65.

67. After conferring with the State, the United States in good faith will determine whether it believes the State has achieved substantial compliance with the MOU, including whether the formal written policies and procedures and any final rules and regulations adopted pursuant to Paragraph 65 are reasonably likely to ensure future compliance with Section 5 of the NVRA. A conclusion of substantial compliance by the State may not be unreasonably withheld by the United States. If the parties agree that substantial compliance has been achieved, they may terminate this MOU in writing.

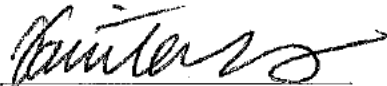
VI. Construction

68. The MOU shall be interpreted as if jointly written by all parties, and the rule of construction providing that any ambiguities are to be resolved against the drafting party shall not be used in interpreting this MOU.

69. Prior drafts of this MOU may not be used to construe this MOU.

The undersigned agree to entry of this MOU.

For the United States of America:

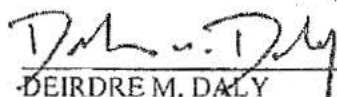


VANITA GUPTA
Principal Deputy Assistant Attorney General
Civil Rights Division

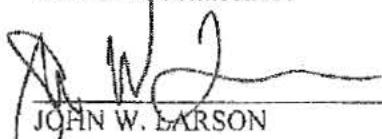


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8/5/16
Date



DEIRDRE M. DALY
United States Attorney
District of Connecticut



JOHN W. LARSON
Assistant United States Attorney
United States Attorney's Office
District of Connecticut
450 Main Street, Room 328
Hartford, CT 06103

August 4, 2016
Date

For the State of Connecticut:


CONNECTICUT SECRETARY OF THE STATE

A handwritten signature in cursive script, appearing to read "Denise W. Merrill", written over a horizontal line.

DENISE W. MERRILL
Secretary of the State
30 Trinity Street
Hartford, CT 06106

8-5-16
Date

CONNECTICUT DEPARTMENT OF MOTOR VEHICLES


MICHAEL BZDYRA
Commissioner
Department of Motor Vehicle
60 State Street
Wethersfield, CT 06161

8/4/2016
Date

CONNECTICUT OFFICE OF THE ATTORNEY GENERAL



MARK F. KOHLER

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Office of the Attorney General

55 Elm Street, P.O. Box 120

Hartford, CT 06121-0120

8-4-16
Date

Exhibit A

STATE OF CONNECTICUT

NATIONAL VOTER REGISTRATION ACT COMPLIANCE PLAN

August 5, 2016

I. Background, Purpose and Policy

- A. This National Voter Registration Act Compliance Plan (Compliance Plan) is issued pursuant to a Memorandum of Understanding (the "DOJ MOU") between the United States of America, through the Civil Rights Division of the U.S. Department of Justice, and the State of Connecticut, through the Office of the Connecticut Attorney General, the Office of the Connecticut Secretary of the State (SOTS), and the Connecticut Department of Motor Vehicles (DMV).
- B. This Compliance Plan is issued jointly by SOTS and the Commissioner of DMV (Commissioner) pursuant to the DOJ MOU and in furtherance of the goals and commitments stated in the Memorandum of Understanding between SOTS and the DMV Concerning the Execution of the National Voter Registration Act of 1993.
- C. The purpose of this Compliance Plan is to promulgate a plan, policies and procedures, and describe actions already taken, to comply with Section 5 of the National Voter Registration Act of 1993 (NVRA). This document shall represent the official policy of SOTS, as the official responsible for coordinating statewide compliance with the NVRA, and of the Commissioner, and shall be mandatory for all DMV employees, SOTS employees, and contractors or other third parties with responsibilities related to conducting, overseeing, or supporting transactions covered by the NVRA.
- D. It shall be the policy of the DMV that every potentially eligible customer shall be offered the opportunity to apply to register to vote, and/or update their voter information in conjunction with any licensing transaction; that providing such voter registration opportunity is a legal responsibility of the DMV; and that DMV employees shall take every opportunity to affirmatively inform customers of voter registration opportunities; and to provide assistance with such transactions if requested.
- E. Whenever an outside contractor or other third party (e.g. AAA) performs a function on behalf of DMV that involves an NVRA covered transaction, such

contractor or third party shall be required to take the corresponding actions required of DMV personnel by this Compliance Plan.

II. DMV Electronic Voter Registration System

A. To comply with Secs. 5 (a) and (c) of the NVRA, the DMV shall implement, not later than August 8, 2016, an electronic voter registration system that integrates voter registration into its existing licensing transaction system for DMV and AAA customers, so that every application for a driver's license or non-driver identification, including a renewal application, shall function as an application to register to vote, unless the customer chooses to opt out of voter registration. Should the DMV offer licensing services through any other third party in the future, such third party shall use the same system or any successor system and comply with its requirements and those of the NVRA.

- i. To comply with the requirement of NVRA Sec. 5(c) to avoid duplication of data queries, the system shall prepopulate the voter registration application with all available data from the driver licensing system during driver's license and non-driver identification card transactions.
- ii. The electronic voter registration system shall require a response from the DMV employee, before allowing the examiner to move on, for the following transactions (collectively, "licensing transactions"):
 1. New license issuance
 2. Issuance of license for drivers moving to Connecticut from other states
 3. License renewal
 4. License replacement
 5. Standalone requests for voter registration without a license transaction
 6. Non-driver identification and associated renewals
 7. In-person change of address, party affiliation, or other information at DMV or AAA.
- iii. No DMV employee or third-party agent may exit a licensing transaction without either conducting the voter registration transaction, confirming ineligibility, or confirming and recording a customer's decision not to register. Each customer who registers to vote or declines the opportunity to register is given a paper receipt with a date/time stamp confirming the voter's registration information or decision to decline. A customer shall be given an opportunity before leaving the service location to confirm vital details and party affiliation, and if necessary, correct such information

without initiating a new transaction or application. In addition to the paper receipt given to the voter, the DMV shall keep a paper record of the registrant's affirmation of qualifying information, which contains the registrant's party affiliation, if any, and signature, and an electronic record of the transaction. For compliance management and analysis purposes, the system records date, time, location, and employee data for each transaction.

- iv. In compliance with NVRA Sec. 5(e), as provided by Section 5(e) of the NVRA, 52 U.S.C. § 20504(e), the system will conduct daily electronic transmission of new voter registrations and any other required NVRA data (e.g. changes of name, address, or party affiliation) to local registrars through a daily automated upload to the state's Centralized Voter Registration System (CVRS). The system will provide electronic confirmation that data has been sent and that registration applications are either pending or have been processed by local registrars.

1. In the event of an information technology failure or fault that prevents or delays transmission of data to the CVRS or to local registrars, the DMV shall:

- a. Immediately inform the Elections Division of the Office of the Secretary of the State.
 - b. Engage appropriate resources and personnel to ensure transmission of pending voter registration transactions not later than 10 days after acceptance, or, if accepted within five days before the close of registration for an election, no later than five days after they are accepted by the DMV or AAA office, as provided by Section 5(e) of NVRA, 52 U.S.C. § 20504(e);
 - c. If the IT failure is anticipated to delay electronic transmission of voter registration applications and data beyond the statutory deadline, DMV shall:
 - i. Take steps to ensure delivery of voter registration data to registrars by alternative means.
 - ii. While the DOJ MOU is in effect, immediately inform the Department of Justice.

III. Paper Based Change of Address, License Renewal, and Legacy Voter Registration Forms

A. Upon implementation of the electronic voter registration system, in compliance with Sec. 5 (d) of the NVRA, DMV shall promulgate and begin accepting updated Change of Address and Mail-In License Renewal Forms that solicit all information necessary for DMV employees to complete NVRA-compliant voter registration transactions using the electronic system, unless the customer indicates that the form shall not be used for voter registration purposes.

i. Change of Address– the updated DMV Change of Address form includes an opt-out provision with a clear notice that if the customer does not opt out, the form will be used to:

1. update each existing voter's current voter file with the new address for people moving within a town; or
2. register the voter in the new town using the voter's existing voter information, party affiliation, and DMV verification information without further action by the voter.

a. Changes of address to a new town are processed in the CVRS as new voter applications that appear in the same application category as all other new voter applications from DMV or AAA. Only SOTS personnel, not registrars, can identify a new voter application as originating from a DMV change of address.

b. Pursuant to Paragraph 20 of the DOJ MOU, SOTS, not later than August 8, 2016, will issue written instructions to registrars pursuant to Conn. Gen. Stat. Secs 9-3 and 9-4 regarding requirements and procedures for processing voter registration applications and changes of address in compliance with Section 5 of the NVRA.

ii. Change of Address forms shall be processed upon receipt at DMV by entering all voter information into the electronic voter registration system and transmitting such information to the CVRS along with all other NVRA transactions for that day.

iii. The updated Change of Address form includes an additional section for new voter registration or change of party affiliation that complies with

NVRA by allowing existing DMV credential holders to register to vote or change affiliation without providing information already held by DMV.

- B. The updated Mail-In License Renewal form for military members and others temporarily out of state now includes a section for new voter registration, with corresponding instructions.
- C. Legacy Forms: All DMV and AAA employees are instructed to process legacy voter registration cards (including those in mailed license renewal notices) by completing the voter registration application in the electronic system, so long as the applicant consents to their electronic signature being used for voter registration purposes. If the applicant does not consent to the use of their electronic signature for voter registration purposes, the DMV will transfer legacy voter registration cards in accordance with the requirements of Section 5(e) of the NVRA.
 - i. A revised voter registration card included with every license and non-driver identification renewal reminder will include a signature line for voters with notice that the DMV may use their on-file DMV signatures for voter registration purposes.
- D. It shall be the policy of the DMV and SOTS that all change of address forms, voter registration applications using Mail-In License Renewal and legacy voter registration and change of address forms, must be entered into the electronic voter registration system and/or transmitted to local registrars by the previously mentioned statutory deadlines.

IV. Training

A. DMV Training

- i. Pursuant to Paragraph 25 of the DOJ MOU, the DMV shall conduct training on NVRA requirements and procedures for the interim and permanent Statewide DMV NVRA Coordinator, interim and permanent NVRA Site Coordinators, and each supervisor, support staff member, front line employee, and contractor or other third party with responsibility for conducting, supporting or supervising licensing transactions.
- ii. Training required by this section shall include instruction on:
 - 1. Requirements of the NVRA including what transactions are covered and the specific requirements for each.
 - 2. Intersection of the NVRA with Connecticut election law.
 - 3. Technical procedures for using the electronic voter registration system.
 - 4. Verification requirements for voter registration.

5. Processing and timely transmission of paper-based alternative forms.
 6. Troubleshooting procedures.
 7. Requirements to offer assistance in completing voter registration and other NVRA transactions.
 8. For the Statewide DMV Coordinator and NVRA Site Coordinators, the duties and responsibilities of their positions.
- iii. Such training shall be conducted on the following schedule:
1. Within 14 days of beginning employment for every new employee.
 2. Annually for all employees described in V.A.i of this Compliance Plan. Initial training was completed for all such employees by August 5, 2016; annual training shall be completed for each employee no later than July 30 of each year.
 3. Whenever a new Statewide NVRA Coordinator or NVRA Site Coordinator is appointed, such person shall complete or repeat, as applicable, the training required by this section within five days of appointment, unless such person has completed such training within 30 days before appointment.
- iv. Instructors: Training required by this section shall be conducted by the Statewide NVRA Coordinator, an NVRA Site Coordinator, supervisory personnel, or third-party experts, including but not limited to SOTS personnel, designated by the Commissioner or by the Statewide NVRA Coordinator and deemed by the Commissioner or Statewide NVRA Coordinator to have sufficient expertise in NVRA requirements and associated procedures.
- v. Training shall be documented using attendance sheets listing the date, time and topic of the training and the name and job responsibility of each attendee. Such documentation shall be retained in accordance with the statewide retention schedule, DMV policies and procedures, and any agreement with the Department of Justice.
- vi. In coordination with the DOJ and SOTS, DMV shall review and, if necessary, update NVRA training materials annually and after any change in state or federal election law that may affect NVRA covered transactions.

B. SOTS Training

- i. Not later than August 8, 2016, SOTS shall provide initial implementation training on NVRA requirements and integration of the DMV electronic

voter registration system into the CVRS for all local registrars and for all SOTS personnel with relevant oversight or support responsibilities.

- ii. SOTS shall incorporate such training into the standard training required of all registrars and SOTS personnel with oversight or support responsibilities.
- iii. When requested by the DMV Commissioner, SOTS shall provide supplementary training to DMV and AAA personnel on NVRA and related state law requirements relevant to NVRA covered transactions.
- iv. In coordination with DOJ and DMV, SOTS shall review and, if necessary, update, NVRA training materials annually and with any change in state or federal election law that may affect NVRA covered transactions.

V. Tracking and Data Analysis for Initial Implementation of Electronic System

- A. During the first five business days after implementation of the DMV electronic voter registration system, DMV and SOTS shall compile and compare statistics each day on the number of voter registration applications and other transactions transmitted by DMV and AAA service locations to confirm the receipt of all transactions by the CVRS and to detect any bugs in the system.
- B. During the first five business days after implementation, SOTS, with the assistance of selected local registrars if necessary, shall spot check voter records for each of five municipalities originating at DMV or AAA each day to confirm that all required data is visible to and able to be processed to the local registrar in the CVRS.
- C. Between 10 and 20 business days after implementation, SOTS and DMV shall perform whatever other statistical and technical evaluation may be necessary to confirm the proper operation of the system and the timely transmission of NVRA data to local registrars and the proper processing by registrars within the required time frames.

VI. Outreach and Customer Notification

- A. No later than September 15, 2016, DMV will post in prominent locations in each DMV and AAA location, using posters, electronic message boards or other means, notifications to customers of the opportunity to register to vote during any licensing transactions.

Written Materials: In accordance with the DOJ MOU, SOTS and DMV shall, not later than September 30, 2016, and in consultation with counsel for the Department, revise all NVRA-related DMV forms and other written materials, including informational brochures and training materials, for use by DMV employees, agents, and contractors with NVRA-related responsibilities and any written material for use by DMV clients engaging in, or seeking information about, NVRA-related transactions at DMV or AAA offices. DMV, through SOTS, shall notify counsel for the United States of all NVRA-related revisions to DMV forms and other written materials created under this paragraph, including training materials and informational brochures, and provide such materials, with each change identified, at least 14 days before such materials are used or distributed.

- B. Within available resources, SOTS and DMV will use public outreach tools, including but not limited to social media, public service announcements, and statewide and local media outreach, to inform voters of registration opportunities.
- C. DMV will post prominent notices on its web site of the availability of the opportunity to register to vote during licensing transactions, along with links to the SOTS Online Voter Registration system for people accessing the web site for information or non-licensing transactions.
- D. SOTS will integrate information about NVRA registration opportunities through DMV and AAA into existing and future voter education efforts.

EXHIBIT 5

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is entered into between the United States of America, through the Civil Rights Division of the U.S. Department of Justice, and the State of Alabama, the Alabama Secretary of State (Secretary of State), and the Alabama Law Enforcement Agency (ALEA).

I. Statement of the Parties

The United States and the State of Alabama hereby recognize the following:

1. By letter dated September 8, 2015, the United States notified the State of Alabama that the Principal Deputy Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice had authorized litigation against the State and appropriate State officials to enforce the Motor Voter provision of the National Voter Registration Act of 1993 (NVRA), 52 U.S.C. § 20504.
2. The Principal Deputy Assistant Attorney General authorized litigation following an investigation in which the United States gathered evidence that established noncompliance with the Motor Voter provision of the NVRA.
3. The United States and the State of Alabama share the goals of ensuring that the requirements of the Motor Voter provision of the NVRA are met and ensuring that Alabama's citizens enjoy the benefits envisioned by that provision.
4. The United States and the State of Alabama have negotiated in good faith and hereby agree to this MOU as an appropriate means to further their shared goals.

II. National Voter Registration Act of 1993

5. The National Voter Registration Act of 1993 (NVRA), 52 U.S.C. §§ 20501-11, includes certain requirements with respect to voter registration procedures for elections for Federal office for States covered by the NVRA. The State of Alabama is covered by the NVRA and is obliged to ensure compliance with its requirements. 52 U.S.C. §§ 20502(4), 20503.
6. The NVRA requires that, "in addition to any other method of voter registration provided for under State law, each State shall establish procedures to register to vote in elections for Federal office . . . by application made simultaneously with an application for a motor vehicle driver's license pursuant to section 20504" of Title 52 of the U.S. Code. 52 U.S.C. § 20503(a)(1).
7. The NVRA, in turn, further requires that "[e]ach State motor vehicle driver's license application (including any renewal application) submitted to the appropriate State motor vehicle authority under State law shall serve as an application for voter registration with respect to elections for Federal office unless the applicant fails to sign the voter

registration application.” 52 U.S.C. § 20504(a)(1). This provision also requires that “[a]n application for voter registration submitted under [the provision] shall be considered as updating any previous voter registration by the applicant.” 52 U.S.C. § 20504(a)(2).

8. The NVRA defines “motor vehicle driver’s license” to include “any personal identification document issued by a State motor vehicle authority.” 52 U.S.C. § 20502(3). In Alabama, such personal identification documents include motor vehicle driver’s licenses, motor vehicle learner’s licenses, non-driver identification cards, and vessel licenses. In Alabama, ALEA and some county judges of probate, license commissioners, and revenue commissioners conduct driver’s license transactions.
9. The NVRA requires that “[t]he voter registration application portion of an application for a State motor vehicle driver’s license . . . may not require information that duplicates information required in the driver’s license portion of the form (other than a second signature or other information necessary under [52 U.S.C. § 20504(c)(2)(C)]).” 52 U.S.C. § 20504(c)(2)(A).
10. The NVRA requires that “[t]he voter registration application portion of an application for a State motor vehicle driver’s license . . . shall include” a statement of the eligibility requirements for registration, an attestation that the applicant meets each such requirement, and a signature under penalty of perjury. 52 U.S.C. § 20504(c)(2)(C).
11. The NVRA requires that the voter registration application portion of an application for a State motor vehicle driver’s license may require only the minimum amount of information necessary to prevent duplicate voter registrations and to enable State election officials both to assess the eligibility of the applicant and to administer voter registration and other parts of the election process. 52 U.S.C. § 20504(c)(2)(B).
12. The NVRA requires that any change of address form submitted in accordance with State law for purposes of a State motor vehicle driver’s license must serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved, unless the registrant states on the form that the change of address is not for voter registration purposes. 52 U.S.C. § 20504(d).
13. The NVRA requires that a completed voter registration portion of an application for a State motor vehicle driver’s license accepted at a State motor vehicle authority must be transmitted to the appropriate election official not later than ten days after acceptance, and not later than five days after acceptance if accepted within five days before the last day of registration to vote in a Federal election. 52 U.S.C. § 20504(e).
14. The Secretary of State is the chief election officer of the State of Alabama. Ala. Code § 17-1-3(a). The Secretary is responsible for coordinating Alabama’s responsibilities under the NVRA. 52 U.S.C. § 20509; Ala. Code §§ 17-4-60(a), 17-4-63.

15. ALEA is responsible for integrating voter registration into any Alabama motor vehicle driver's license application, including any renewal application, and for ensuring that any change of address form related to a motor vehicle driver's license serves as notification of change of address for voter registration with respect to elections for Federal office, unless the registrant states on the form that the change of address is not for voter registration purposes. Ala. Code §§ 17-4-60(b), 41-27-2(a), 41-27-6(a)(3).

III. Terms of Agreement

NOW, THEREFORE, for full and adequate consideration given and received, the United States, through the Civil Rights Division of the U.S. Department of Justice, and the State of Alabama, the Alabama Secretary of State, and ALEA agree as follows:

A. General Provisions

16. The Secretary of State and ALEA shall develop and implement uniform forms, policies, and procedures to ensure that each application for a driver's license or other personal identification document, including any renewal application, serves as an application for voter registration with respect to elections for Federal office unless the applicant declines to register or is objectively ineligible, based on an automated process, in accordance with 52 U.S.C. § 20504.
17. The Secretary of State and ALEA shall develop and implement uniform forms, policies, and procedures to ensure that the voter registration portion of each application for a driver's license or other personal identification document, including any renewal application, conforms to the specific requirements of 52 U.S.C. § 20504(a) and (c).
18. The Secretary of State and ALEA shall develop and implement uniform forms, policies, and procedures to ensure that any change of address form shall serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes, in accordance with 52 U.S.C. § 20504(d).
19. The Secretary of State and ALEA shall develop and implement uniform forms, policies, and procedures to ensure that the submitted voter registration portion of an application for a driver's license or other personal identification document, or the data associated therewith, shall be transmitted to the appropriate State election official under the timelines established by 52 U.S.C. § 20504(e).
20. For purposes of this MOU, the terms "application" and "form" include any computerized data intake process or procedure.
21. For purposes of this MOU, the term "form" includes any process or procedure by which an Alabama resident may change the address associated with a driver's license or other personal identification document.

B. Interim Paper-Based Solution for In-Person Transactions

22. In consultation with the Secretary of State, ALEA shall integrate a paper voter registration application into the in-person applications for a driver's license or other personal identification document, including any renewal applications, and the in-person application for a duplicate issuance of a driver's license or other personal identification document that reflects a change of address but does not renew the affected document within 30 days of the effective date of this MOU.
23. At ALEA offices, this integration shall include the following process:
- a. When any ALEA employee first identifies a customer as an applicant for a driver's license or other personal identification document, a renewal applicant, or an applicant for a duplicate issuance of a driver's license or other personal identification document that reflects a change of address but does not renew the affected document, the ALEA employee shall ask if the applicant wishes to register to vote or update his or her voter registration as part of the application or change of address process;
 - b. If the applicant indicates a desire to register to vote or update his or her voter registration, the ALEA employee shall provide a blank voter registration application and shall inform the applicant that the form will be used both to initiate the application process and for voter registration purposes. For such applicants, ALEA shall use the information contained in the completed voter registration application as the basis for completing the application for a driver's license or other personal identification document, and shall not request information from the applicant that duplicates information already provided in the applicant's voter registration form;
 - c. ALEA employees shall treat the voter registration application as a component of the driver's license or other personal identification document application, renewal application, or application for a duplicate issuance of a driver's license or other personal identification document that reflects a change of address for purposes of assisting the applicant and ensuring that the applicant completes the process properly;
 - d. At the conclusion of the application process, ALEA shall accept the completed voter registration application; and
 - e. ALEA offices shall deliver submitted paper applications to the appropriate boards of registrars on a weekly basis and shall specifically deliver any applications received within five days before the last day for registration to vote in a Federal election by no later than 5 days after the date of acceptance.
24. The interim procedures identified in Paragraphs 22 and 23 will no longer apply upon full implementation of the electronic solution outlined in Paragraphs 38, 39, and 41, below.

25. The Secretary of State and ALEA will take all reasonable and practicable steps to inform relevant county judges of probate, license commissioners, and revenue commissioners of the interim, paper-based process outlined in Paragraphs 22 and 23 and that this process is vital and necessary to assure the State's full compliance with the Motor Voter provision of the NVRA. The Secretary of State and ALEA shall use all reasonable and practicable efforts to facilitate implementation of the interim, paper-based process at the offices of such county officials until full implementation of the electronic solution outlined in Paragraphs 38, 39, and 41. Such efforts shall include, but need not be limited to:
- a. Conducting at least five training sessions, in locations spread geographically throughout the State, within 90 days of the effective date of this MOU, and strongly encouraging county judges of probate, license commissioners, and revenue commissioners who perform licensing transactions to send employees to such trainings;
 - b. Providing necessary forms to county officials at no cost to those officials; and
 - c. Communicating with county officials concerning the interim, paper-based process at least once every other month beginning in January 2016 and including in such communications any updates on the electronic solution and the number of voters registered by county under the interim solution.
26. The Secretary of State and ALEA will share with the United States any policies and procedures developed to implement the interim paper-based solution identified in Paragraphs 22 and 23 prior to the execution of this MOU and will be receptive to suggestions for appropriate changes. In the event that the Secretary of State and ALEA develop and implement any additional policies and procedures to comply with Paragraphs 22 and 23 after execution of this MOU, the Secretary of State and ALEA shall develop those policies and procedures in consultation with the United States.

C. Online Driver License Renewal

27. In consultation with the Secretary of State, ALEA shall update the Alabama Online Driver License Issuance system to integrate an NVRA-compliant voter registration application into each online renewal of a driver's license or other personal identification document within 60 days of the effective date of this MOU.
28. The Secretary of State and ALEA shall develop and implement a mechanism to accept and transfer the voter registration component of an application to renew a driver's license or other personal identification document received through the Alabama Online Driver License Issuance system to appropriate State election officials within the timelines established in the Motor Voter provision of the NVRA, 52 U.S.C. § 20504(e), within 60 days of the effective date of this MOU.

29. In consultation with the United States, the Secretary of State and ALEA shall develop and implement uniform policies and procedures necessary to comply with Paragraphs 27 and 28 within 60 days of the effective date of this MOU.
30. At present, the Alabama Online Driver License Issuance system only permits current holders of driver's licenses or other personal identification documents to renew his or her driver's license or other personal identification document and only if the renewal does not include a change of address. In the event that ALEA seeks to expand the capability of this system to include initial applications or changes of address prior to the termination of this MOU, the Secretary of State and ALEA shall develop any such NVRA-compliant capability in consultation with the United States.

D. Application for a Renewal or Duplicate License for Alabama Drivers Temporarily Out of State

31. In consultation with the Secretary of State, ALEA shall update the Alabama Application for a Renewal or Duplicate License for Alabama Drivers Temporarily Out of State to integrate an NVRA-compliant voter registration application within 60 days of the effective date of this MOU.
32. The Secretary of State and ALEA shall develop and implement a mechanism to accept and transfer the voter registration component of an Application for a Renewal or Duplicate License for Alabama Drivers Temporarily Out of State to appropriate State election officials within the timelines established in the Motor Voter provision of the NVRA, 52 U.S.C. § 20504(e), within 60 days of the effective date of this MOU.
33. In consultation with the United States, the Secretary of State and ALEA shall develop and implement uniform policies and procedures necessary to comply with Paragraphs 31 and 32 within 60 days of the effective date of this MOU.

E. Change of Address without a New Identification Document

34. Within 60 days of the effective date of this MOU, in consultation with the Secretary of State, ALEA shall update the process by which an Alabama resident may change the address associated with a driver's license or other personal identification document without obtaining a new identification document. This updated change of address process shall serve as notification of change of address for voter registration unless the registrant states on the form that the change of address is not for voter registration purposes.
35. Once the State of Alabama has developed and promulgated an NVRA-compliant form that Alabama residents may use to change the address associated with a driver's license or other personal identification document without obtaining a new identification document, ALEA shall accept only this or another NVRA-compliant form for submission of a change of address associated with a driver's license or other personal identification document without obtaining a new identification document and shall provide this NVRA-

compliant form to any Alabama resident who sends ALEA a letter containing updated address information related to a driver's license or other personal identification document.

36. The Secretary of State and ALEA shall within 60 days of the effective date of this MOU develop and implement a mechanism to transfer change of address information submitted on the form described in Paragraph 34 to appropriate State election officials.
37. In consultation with the United States, the Secretary of State and ALEA shall within 60 days of the effective date of this MOU develop and implement uniform policies and procedures necessary to comply with Paragraphs 34 to 36.

F. Electronic System for In-Person Applicants

38. In consultation with the Secretary of State, ALEA shall integrate an electronic, NVRA-compliant voter registration application into each in-person application for an Alabama driver's license or other personal identification document, including any renewal application, within seven months of the effective date of this MOU.
39. In consultation with the Secretary of State, ALEA shall ensure that the integration of an electronic, NVRA-compliant voter registration application into each in-person application for a driver's license or other personal identification document applies to the submission of information to ALEA employees and the submission of information to an in-office kiosk.
40. In consultation with the Secretary of State, ALEA shall, on a schedule mutually agreeable to the parties, ensure an electronic, NVRA-compliant voter registration application for each in-person application for a driver's license or other personal identification document shall be integrated with any other in-person electronic method used to apply for a driver's license or other personal identification document that the State develops prior to the termination of this MOU.
41. The Secretary of State and ALEA shall develop and implement a mechanism to accept and transfer the voter registration component of an in-person application or renewal of a driver's license or other personal identification document to appropriate State election officials within the timelines established in the Motor Voter provision of the NVRA, 52 U.S.C. § 20504(e), within seven months of the effective date of this MOU.
42. In consultation with counsel for the United States, the Secretary of State and ALEA shall, within seven months of the effective date of this MOU, develop and implement uniform policies and procedures necessary to comply with Paragraphs 38, 39, and 41.
43. In the event that the State develops any other in-person electronic method used to apply for a driver's license or other personal identification document prior to the termination of this MOU, as contemplated by Paragraph 40, then, in consultation with counsel for the United States, the Secretary of State and ALEA shall, on a schedule mutually agreeable to

the parties, develop and implement uniform policies and procedures necessary to comply with Paragraph 40.

G. Change of Address with Duplicate Identification Document

44. Within seven months of the effective date of this MOU, and in consultation with the Secretary of State, ALEA shall update the in-person process by which an Alabama resident may request a duplicate driver's license or other personal identification document that reflects a change of address without renewing such document. This updated change of address process shall serve as notification of change of address for voter registration, including changes of address to other counties within the State, unless the registrant states on the form that the change of address is not for voter registration purposes. For persons not already registered to vote, the State shall include an opportunity to register to vote in connection with such transaction, and shall promptly forward the voter registration information to appropriate State election officials.
45. Within seven months of the effective date of this MOU, the Secretary of State and ALEA shall develop and implement a mechanism to transfer change of address information submitted through the procedure described in Paragraph 44 to appropriate State election officials.
46. In consultation with counsel for the United States, the Secretary of State and ALEA shall, within seven months of the effective date of this MOU, develop and implement uniform policies and procedures necessary to comply with Paragraphs 44 and 45.

H. Electronic Integration Status Reports

47. Beginning January 2016, the State of Alabama will provide the United States with monthly status reports concerning the technical process to implement the procedures set out in Paragraphs 38, 39, and 41. The State of Alabama will email these reports to counsel for the United States on the 20th of the month or—in the event that the 20th or a subsequent day falls on a weekend, State or Federal holiday, or other day on which the offices of the Alabama Attorney General, the Secretary of State, and/or ALEA are closed—on the next business day. The State of Alabama will continue to provide such monthly status reports until the State of Alabama has completed work to integrate an NVRA-compliant voter registration application into each in-person application for an Alabama driver's license or other personal identification document, including any updates and patches anticipated at the time of the initial integration.
48. In the event that the State of Alabama, Secretary of State, and/or ALEA conclude that unforeseen technological or economic factors have rendered impracticable integration of the procedures set out in Paragraphs 38, 39, and 41 into the computerized systems currently used by the State of Alabama for in-person transactions, the Alabama Attorney General's Office will notify the United States of the technological or economic impediments and the conclusion of impracticability. Following such notice, the parties shall consult in good faith and may consent to an effective alternative in-person solution

that complies with the Motor Voter provision of the NVRA. The United States shall not unreasonably withhold consent to an effective alternative in-person solution following a showing of good cause by the State, Secretary of State, and/or ALEA.

I. Training, Monitoring, and Public Education

49. In consultation with the United States and the Secretary of State, ALEA shall within 60 days of the effective date of this MOU develop, implement, and offer an NVRA education and training program designed to facilitate compliance with the NVRA and the procedures set out in Paragraphs 22 and 23, 27 and 28, 31 and 32, and 34 to 36.
50. In consultation with the United States, and with the cooperation of the Secretary of State, ALEA shall within seven months of the effective date of this MOU develop, implement, and offer annual NVRA education and training programs for every ALEA employee and every county employee or agent responsible for providing services related to driver's licenses and other personal identification documents to Alabama residents. The training shall be mandatory for ALEA employees who provide services related to driver's licenses and other personal identification documents.
51. In consultation with ALEA, the Secretary of State shall use all reasonable and practicable efforts to facilitate implementation of the provisions set out in Paragraphs 38, 39, 41, 44, and 45 at the offices of relevant county judges of probate, license commissioners, and revenue commissioners. Such efforts shall include, but need not be limited to:
 - a. Communicating with the relevant county officials and/or his or her employees and agents concerning the availability of annual NVRA education and training programs and strongly encouraging attendance at such programs;
 - b. Providing signs that relevant county officials may display in their offices to advertise the availability of voter registration as a component of an application for a driver's license or other personal identification document;
 - c. Encouraging county officials to provide information on any website that they maintain regarding the availability of voter registration opportunities as a component of applications for a driver's license or other personal identification card; and
 - d. Communicating with county officials on at least an annual basis concerning the requirements of the Motor Voter provision of the NVRA and including information regarding the impact of successful implementation of this MOU.
52. ALEA shall designate an ALEA NVRA Coordinator and shall notify the United States as to the identity of the ALEA NVRA Coordinator within 30 days of the effective date of this MOU. The position of ALEA NVRA Coordinator shall continue to exist for at least one year beyond the termination of this MOU.

53. In the event of a vacancy in the position of ALEA NVRA Coordinator, ALEA shall fill the vacancy within 45 days and shall within 10 days of the appointment notify the United States of the appointee's name and contact information. In the event that ALEA elects to hire a new employee to serve as NVRA Coordinator, it may appoint an interim NVRA Coordinator while it complies with the hiring requirements and regulations of the State Personnel System.

54. The duties of the ALEA NVRA Coordinator shall include, but need not be limited to:

- a. Coordinating Statewide compliance with the Motor Voter provision of the NVRA and the provisions of this MOU, in consultation with the Secretary of State;
- b. Ensuring that, once the electronic system is in place, each application for a driver's license application or other personal identification document accepted by ALEA or a county judge of probate, license commissioner, or revenue commissioner, including any renewal application, incorporates an application for voter registration with respect to elections for Federal office;
- c. Ensuring that, once the electronic system is in place, each completed voter registration application submitted in connection with applications for driver's licenses and other personal identification documents is accepted by ALEA or a county judge of probate, license commissioner, or revenue commissioner and is transmitted to the appropriate State election officials under the timelines established in the Motor Voter provision of the NVRA, 52 U.S.C. § 20504(e);
- d. Ensuring that changes of address associated with a driver's license or other personal identification document submitted when renewing such document serve as notification of a change of address for voter registration with respect to elections for Federal office unless the registrant states that the change of address is not for voter registration purposes;
- e. Gathering information from the newly-implemented electronic system indicative of the State's compliance with the Motor Voter provision of the NVRA on a monthly basis, by county, including:
 - i. The number of online and mail-based renewal applications for driver's licenses and other personal identification documents received;
 - ii. The number of completed voter registration applications accepted and transmitted to election officials as part of such remote applications;
 - iii. The number of in-person (non-kiosk) applications for driver's licenses and other personal identification documents received, including renewal applications;

- iv. The number of completed voter registration forms accepted and transmitted to election officials as part of such in-person (non-kiosk) applications;
 - v. The number of in-person kiosk-based applications for driver's licenses and other personal identification documents received, including renewal applications;
 - vi. The number of completed voter registration forms accepted and transmitted to election officials as part of such kiosk-based applications;
 - vii. The number of changes of address submitted regarding a driver's license or other identification document without obtaining a duplicate identification document or renewing the identification document;
 - viii. The number of changes of address transmitted to election officials for voter registration purposes derived from such changes of address without a request for a duplicate identification document;
 - ix. The number of changes of address submitted regarding a driver's license or other identification document along with a request for a duplicate identification document but without renewing the identification document; and
 - x. The number of changes of address transmitted to election officials for voter registration purposes derived from such changes of address along with a request for a duplicate identification document.
- f. Reviewing the data set out in Paragraphs 54(e) and 56(c) and evaluating whether the data reflect potential or actual implementation problems;
 - g. Sharing the data set out in Paragraphs 54(e) and 56(c) with the United States, subdivided by office, on a monthly basis until the termination of this MOU;
 - h. Determining the necessity for any Statewide or office-specific corrective action plan and directing the implementation of any such corrective plan; and,
 - i. Ensuring that ALEA websites and offices provide applicants for driver's licenses and other personal identification documents with prominent notice of opportunities to register to vote and update registration information as a component of an application, renewal application, or change of address.
55. Each ALEA Driver License Region Commander shall be responsible for ensuring ALEA offices within his or her Region remain in compliance with NVRA. This responsibility shall remain in place for at least one year following the termination of this MOU.

56. The duties of ALEA Driver License Region Commanders for the purposes of this agreement shall include but need not be limited to:

- a. Coordinating compliance with the Motor Voter provision of the NVRA and the provisions of this MOU in his or her ALEA Region;
- b. Identifying and resolving NVRA implementation problems;
- c. While the Interim Paper-Based Solution outlined in Paragraphs 22 and 23 remains in place, gathering and transmitting NVRA compliance data concerning each office in his or her Region to the ALEA NVRA Coordinator on a monthly basis, which shall include:
 - i. The number of applications for driver's licenses and other personal identification documents received, including renewal applications;
 - ii. The number of completed voter registration forms accepted and transmitted to election officials as part of such applications and renewals;
 - iii. The number of changes of address submitted in concert with any procedure for issuance of a duplicate of a driver's license or other personal identification document that reflects a change of address but does not constitute a renewal of that document;
 - iv. The number of completed voter registration forms accepted and transmitted to election officials as part of such a change of address procedure;
- d. Taking all reasonable steps to ensure that ALEA employees follow the NVRA-compliant procedures; and
- e. Ensuring that new ALEA employees with responsibilities related to driver's licenses or other personal identification documents within his or her Region receive information and training concerning the Motor Voter provisions of the NVRA and the requirements of this MOU within 14 days of the new employee's start date.

J. Remedial Recapture Plan

57. The Secretary of State shall, by no later than July 31, 2016, contact by mail and provide an application to register to vote by mail to every individual who:

- a. Holds an Alabama driver's license or other personal identification document and
- b. Does not appear to be registered to vote in the State of Alabama.

58. The State of Alabama is not required to send the mailing to anyone objectively ineligible to register to vote as of the date of the mailing.
59. The Secretary may work with the Electronic Registration Information Center to identify individuals who meet the criteria set out in Paragraph 57(a)-(b).
60. Should the Secretary of State adopt an online voter registration method for Alabama residents who have an active driver's license or other personal identification document prior to the mailing described in Paragraph 57, the mailing will also include notice of the availability of online voter registration and instructions to complete voter registration online. However, any notice of the availability of online voter registration cannot supplant the provision of mail-in voter registration applications under Paragraph 57.

K. Reporting and Monitoring

61. Beginning on July 15, 2016, on January 15 and July 15 of each year that this MOU remains effective, the Secretary of State and ALEA shall submit to the United States a report for the six-month period ending December 31 and June 30 respectively, which shall include the following components:
 - a. A summary of efforts to implement the requirements of this agreement;
 - b. A description of any corrective action plans devised and implemented pursuant to Paragraph 54(h) of this MOU or copies of any such corrective action plans; and
 - c. Copies of all new or revised NVRA policies or procedures, rules or regulations, advertisements, notices, and training materials used in the preceding reporting period and not previously disclosed or to be used in the future.

L. Deadlines and Tolling

62. Any deadline in this MOU may be extended by the consent of the parties. The United States shall not unreasonably withhold consent following a showing of good cause by the State, Secretary of State, or ALEA.
63. With regard to any provision of this MOU under which the parties are required to consult, any failure by any party to respond to a request for consultation within seven calendar days shall toll all related deadlines for the number of days beyond the initial seven days until the appropriate party provides its response.

IV. Enforcement

64. If at any time the United States obtains information that the State of Alabama is, or is about to be, in breach of any of the terms of this MOU, the United States shall advise the Governor, the Secretary of State, ALEA, and the Alabama Attorney General in writing by notice sent via overnight mail and email. The State shall have five business days

following transmittal of such notice to respond to the United States and shall reasonably endeavor to address the full scope of the potential breach. The parties shall thereafter attempt immediately to resolve any issue of potential noncompliance.

65. If the parties are unable to agree on a resolution of the issue under the procedures set out in Paragraph 64, the United States may take appropriate action to enforce the terms of this MOU.
66. Nothing in this MOU shall prevent the United States from taking any actions required to enforce any and all other applicable provisions of the NVRA.
67. This MOU creates no additional causes of action pursuant to the NVRA.
68. Any legal proceeding arising in connection with this MOU may be brought only in the United States District Court for the Middle District of Alabama, and all parties consent to venue in that court.
69. Any legal proceeding to enforce this MOU may seek specific performance of the terms therein.
70. In the event of litigation to enforce this MOU or the Motor Voter provision of the NVRA, the United States and the State of Alabama reserve the right to assert all appropriate claims, counterclaims, and defenses in that proceeding.
71. This MOU creates no third-party rights and may not be enforced by any individual, organization, or entity not a party thereto.

V. Effective Date

72. This MOU shall be effective immediately upon the execution of the last signatory.
73. In the event that the last signatory is for the United States, the United States shall notify the State of the final signature within two business days.

VI. Termination

74. This MOU shall terminate three years from its effective date, unless extended by consent of the parties.
75. Any legal proceeding to enforce the terms of this MOU brought before the MOU's termination date shall toll the termination of the specific provisions of the MOU at issue in the enforcement proceeding during the pendency of such proceeding.
76. In the event that the parties have attempted in good faith to resolve an issue of potential noncompliance under the procedures set out in Paragraph 64 and have failed to do so, the United States may, upon ten days' written notice to the Governor, the Secretary of State,

ALEA, and the Alabama Attorney General, terminate this MOU and enforce the Motor Voter provision of the NVRA, 52 U.S.C. § 20504, pursuant to Section 11 of the Act, 52 U.S.C. § 20510.

VII. Construction

77. This MOU shall be interpreted as if jointly written by all parties, and the rule of construction providing that any ambiguities are to be resolved against the drafting party shall not be used in interpreting this MOU.

78. Prior drafts of this MOU may not be used to construe this MOU.

The undersigned agree to the terms of this Memorandum of Understanding.

FOR THE UNITED STATES OF AMERICA:



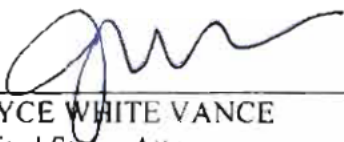
VANITA GUPTA
Principal Deputy Assistant Attorney General
Civil Rights Division



T. CHRISTIAN HERREN, JR.
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Civil Rights Division
U.S. Department of Justice
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Washington, D.C. 20530

11/12/15

Date



JOYCE WHITE VANCE
United States Attorney
Northern District of Alabama
1801 4th Avenue North
Birmingham, Alabama 35203

11.12.2015
Date



GEORGE L. BECK, JR.

United States Attorney
Middle District of Alabama
131 Clayton Street
Montgomery, Alabama 36104

11-12-15

Date

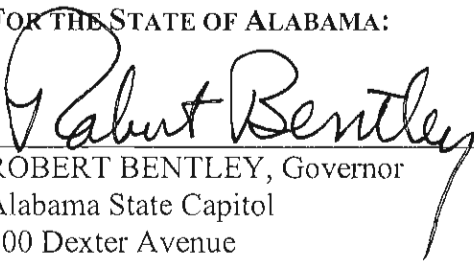


KENYON R. BROWN
United States Attorney
Southern District of Alabama
63 South Royal Street, Suite 600
Mobile, Alabama 36602



Date


FOR THE STATE OF ALABAMA:

A handwritten signature in black ink, reading "Robert Bentley", is written over a horizontal line.

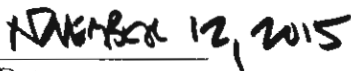
ROBERT BENTLEY, Governor
Alabama State Capitol
600 Dexter Avenue
Montgomery, Alabama 36130

Nov 13, 2015
Date

FOR THE ALABAMA SECRETARY OF STATE:



JOHN W. MERRILL, Secretary of State
Alabama State Capitol
600 Dexter Avenue
Montgomery, Alabama 36130



Date

FOR THE ALABAMA LAW ENFORCEMENT AGENCY:



SPENCER COLLIER, Secretary of ALEA
201 S. Union Street, Suite 300
Montgomery, Alabama 36104



Date