



## **The District of Columbia Voter File: Compliance with Law and Best Practices**

June 7, 2016

*Revised on July 26, 2016*

### **Report Team:**

Tia Clark, Program Analyst

Gregory Creighton, Supervisory Auditor

A Report by the Office of the District of Columbia Auditor  
Kathleen Patterson, District of Columbia Auditor

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July 26, 2016

The Hon. Phil Mendelson, Chairman  
The Hon. Kenyan McDuffie, Chair, Committee on the Judiciary  
Council of the District of Columbia  
1350 Pennsylvania Avenue NW  
Washington DC 20004

Dear Chairman Mendelson and Councilmember McDuffie,

We are issuing this update to our June 7, 2016, letter report, The District of Columbia Voter File: Compliance with Law and Best Practice, in order to include the written response by the Board of Elections. That response, and a cover letter from the new Board chair, D Michael Bennett, are included at the end of this report.

We greatly appreciate the detailed response from Mr. Bennett and the Board staff, and are pleased that the recommendations made in our report appear to be on their way to implementation. We look forward to continuing to work with the Board, as well as with the Council and its Committee on the Judiciary, on steps to improve the administration of elections in the District of Columbia.

Sincerely yours,



Kathleen Patterson  
District of Columbia Auditor

Enclosure



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Washington, D.C. 20004

**Letter Report:** The District of Columbia Voter File: Compliance with Law and Best Practices

Dear Chairman Mendelson and Councilmember McDuffie:

The Office of the District of Columbia Auditor (ODCA) performed an evaluation of the Board of Elections' (BOE) maintenance of the District's voter registration file as well as the voter registration practices of the BOE and eight District voter registration agencies (VRAs) that are required by law to register eligible voters. ODCA examined the voter registration policies and practices of the BOE and the VRAs to determine whether they comply with relevant federal and District voter registration requirements and whether they reflect best practices in election administration nationwide.

## **Background**

### **The District of Columbia Board of Elections**

The District of Columbia Board of Elections (BOE) was established under § 3 of the District of Columbia Election Act, approved August 12, 1955 (69 Stat. 699, DC Code § 1-1001.01 et seq.). The BOE is an independent agency<sup>1</sup>, comprised of a three-member board appointed by the Mayor with the advice and consent of the Council. The Board appoints an executive director and general counsel to guide the BOE's daily activities, supervise 38 other staff members, and administer an FY 2016 budget of \$7.4 million. The BOE's mission is to "enfranchise eligible residents, conduct elections, and assure the integrity of the electoral process as mandated by both federal and local laws."<sup>2</sup> The BOE's programs include voter registration and information services; maintenance of technologies needed to support voting and ballot tabulation; planning and implementation of District of Columbia elections; and rulemaking and adjudication functions.

### **Voter Registration Agencies**

The National Voter Registration Act (NVRA) of 1993<sup>3</sup> requires states to offer voter registration opportunities at motor vehicle offices,<sup>4</sup> offices that provide public assistance or services to people with disabilities, and other offices that the state must designate.<sup>5</sup> To comply with the NVRA, District law identifies specific agencies as VRAs:

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<sup>1</sup> District of Columbia Home Rule Act, Part F, § 491(3).

<sup>2</sup> Government of the District of Columbia, *FY 2017 Proposed Budget and Financial Plan: A Fair Shot*, Volume 2, Agency Budget Chapters – Part I, March 24, 2016, p. A-123.

<sup>3</sup> 52 U.S.C. § 20501 et seq.

<sup>4</sup> 52 U.S.C. § 20504.

<sup>5</sup> 52 U.S.C. § 20506.

1. The Department of Motor Vehicles (DMV);<sup>6</sup>
2. The Department of Corrections (DOC);
3. The Department of Youth Rehabilitation Services (DYRS);
4. The Office on Aging (DCOA); and
5. The Department of Parks and Recreation (DPR).<sup>7</sup>

In addition, the following D.C. government programs or agencies also qualify as VRAs because they fall under the category (established by the NVRA and reflected in D.C. law) of agencies that provide public assistance or operate programs primarily intended to serve people with disabilities:

6. The Department of Human Services' (DHS) Economic Security Administration (ESA) programs ;
7. The Department of Health (DOH)'s Special Supplemental Food Program for Women, Infants, and Children (WIC); and
8. The Department on Disability Services.<sup>8</sup>

## **Objectives, Scope and Methodology**

### **Objectives**

ODCA undertook this evaluation to determine whether (1) the BOE's policies and practices for maintaining the District's voter file comply with federal and District requirements, (2) the BOE's and VRA's voter registration policies and practices comply with federal and District requirements, and (3) the District's voter file maintenance and voter registration policies and practices are consistent with best practices nationwide.

### **Scope**

Our evaluation covered voter registration policies and procedures for both the BOE and the eight VRAs for FY 2014 through FY 2016.

### **Methodology**

To determine the BOE's and the VRAs' compliance with federal and District law, ODCA reviewed laws, policies, and procedures applicable to voter registration activities of the BOE and VRAs, and examined a range of data about the implementation of those activities. We specifically reviewed:

- The BOE's electronic voter file as of November 18, 2015;
- A sample of inactive voter notification postcards sent by the BOE;
- A sample of incarcerated felon records;
- A sample of deceased registered voters;

<sup>6</sup> See D.C. Code § 1-1001.07(c)(1)(A).

<sup>7</sup> See D.C. Code §1-1001.07(d)(1)(B).

<sup>8</sup> See D.C. Code §1-1001.07(d)(1)(A) and 52 U.S.C. § 20506(a)(2)(A) and (B).

- Absentee ballot requests for the 2015 special election;
- Voter registration policies and procedures, as well as documentation of voter registration activities, from the District's eight VRAs; and
- Best practices on voter registration prescribed by experts in election administration.

In addition, we interviewed the former Chairman of the Board of Elections, the Registrar of Voters, and other relevant BOE staff.

This letter report was drafted, reviewed and approved in accordance with procedures outlined in ODCA's Policy and Procedure Manual.

## Results of the Auditor's Examination

### Voter File

Overall, we found that the District's voter file contained inaccuracies that could have been prevented if the BOE had made additional efforts to comply with federal and local laws designed to ensure proper voter file maintenance. Specifically, we found that the BOE's compliance efforts lacked effective policies and procedures as well as monitoring and enforcement to ensure the removal of deceased voter records, duplicate voter records, and correct voter records with inaccurate birth years from the District's voter file, as required. The BOE also could improve its voter file list maintenance by using new information systems and improving its communication with the District's eight VRAs.

Figure 1 summarizes our findings of the BOE's compliance with federal and District voter file maintenance requirements.

**Figure 1: Compliance with Federal and District Voter File Maintenance**

Board of Elections	Requirement	Status
	Conduct Biennial Mail Canvass	Compliant
	Correct Inaccurate Birth Years	Non-Compliant
	Secure Monthly Reports of Incarcerated Felons from D.C. Superior Court	Non-Compliant
	Remove Incarcerated Felons from Voter File	Compliant
	Secure Monthly Reports of Decedents from Mayor	Non-Compliant
	Remove Decedents from Voter File	Non-Compliant
	Remove Duplicate Voter Registrations	Non-Compliant

## Testing and Findings

### Board of Elections

#### Biennial Mail Canvass

Federal law<sup>9</sup> requires that the state election system include provisions to ensure that voter registration records are accurate and updated regularly. District law addresses this through the Biennial Mail Canvass,<sup>10</sup> which requires that the BOE “shall develop a systematic program to maintain the voter roll and keep it current.”<sup>11</sup> This requires that the BOE take specific steps, in January of each odd-numbered year, to confirm the address of each registered voter who neither confirmed his or her address through the voting process nor filed a change of address at the polls. The BOE is to send out written notices through the U.S. Postal Service and then take follow-up steps and make the appropriate updates to its voter registration file based on whether a notice is returned by mail with a new address or as undeliverable.<sup>12</sup>

#### Inactive Voters

According to the information provided in the BOE’s FY 2015 Performance Accountability Report, the agency sent out postcards to approximately 260,000 inactive voters as part of the 2015 Biennial Mail Canvass and received the following results:

- 5,713 of the postcards were returned with a new address within the District;
- 5,542 were returned with out-of-state addresses;
- 38,179 postcards were returned as undeliverable; and
- 619 were returned confirming addresses within the District of Columbia.

To verify the BOE’s compliance with the District’s Biennial Mail Canvass requirement, we provided the agency with a testing sample of 24 inactive voters and requested that the BOE provide evidence that all members of the testing sample had been notified as required. The BOE provided copies of all 24 voter notification postcards – with a date and time stamp of each notification’s receipt by the BOE. Based upon this evidence, we verified the BOE’s compliance.

#### Inaccurate Birth Years

As stated above, federal law requires that the District’s computerized voter registration list is accurate and updated regularly.<sup>13</sup> Our review of the District’s Voter Registration File revealed that it contains 6,543 voter registration records with dates of birth listed between 1800 and 1899. Voter registration records that contain dates of birth between 1800 and 1899 must be inaccurate because there cannot be active voters who were born in that time period. The BOE explained that prior to 1976, the District’s

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<sup>9</sup> 52 U.S.C. § 21083(a)(4).

<sup>10</sup> The term “Biennial Mail Canvass” is used in the District of Columbia Municipal Regulations (DCMR) at 5 DCMR 3-518, which also provides the requirements for the District’s “Systematic Voter Roll Maintenance Program.” These requirements also are contained in D.C. Code § 1-1001.07(j)(1) and (2). Hereinafter in this report, we will cite to the D.C. Code section.

<sup>11</sup> D.C. Code § 1-1001.07(j)(1).

<sup>12</sup> D.C. Code § 1-1001.07(j)(1)(A) and (B).

<sup>13</sup> 52 U.S.C. § 21083(a)(4).

voter registration application did not require applicants to provide their date of birth. Subsequently, when the District began using its current computerized voter filing system, the computerized system automatically entered 1800 as the default birth year for every registered voter without a birth date. BOE officials further explained that they tried to contact all of the registered voters with birth years listed as 1800 once they became aware of the problem, but their requests for accurate birth dates largely were ignored. Since 2014, the BOE has had access to a new database<sup>14</sup> that contains Social Security numbers and, therefore, it should be able to update these records with accurate birth years. Notwithstanding the BOE's efforts to date, the presence of these inaccurate birth dates means that the agency is not in compliance with the requirement to ensure that voter registration records are accurate.

### **Incarcerated Felons**

Federal law requires states to coordinate their computerized voter files with state agency records on felony status.<sup>15</sup> District law requires that **incarcerated felons** (people with felony convictions **and** who are incarcerated) be removed from the District voter file.<sup>16</sup> We reviewed 55 records of incarcerated felons, who claimed residency in the District of Columbia, that the BOE had received from the United States Attorney's Offices of Arizona<sup>17</sup> and the Eastern District of Virginia, as well as the U.S. District Court for the District of Columbia. We compared these records with the District's voter file and observed that none of the incarcerated felons were listed on the District's voter file. The BOE indicated that it had removed the names of these 55 incarcerated felons from the District's voter file.

District law also requires that, "[t]he Board shall request at least monthly, and the Superior Court of the District of Columbia shall furnish, the name and address of each person incarcerated as a result of a felony conviction since the date of the previous report."<sup>18</sup> According to the BOE, when it requested information regarding incarcerated felons, District of Columbia Superior Court officials deferred to the U.S. Attorney's Office for the District of Columbia to provide such information. The BOE reasoned that the U.S. Attorney's Office could provide the same information the District of Columbia Superior Court could provide so it accepted the information monthly from the U.S. Attorney's Office. The statute is very specific in requiring that the information be obtained from the District of Columbia Superior Court. Therefore, because the BOE did not obtain the information regarding incarcerated felons from the District of Columbia Superior Court, we conclude that the BOE was not in compliance with this requirement.

### **Deceased Registered Voters**

District law requires that the BOE obtain monthly reports from the Mayor regarding decedents 18 years of age or older in the District of Columbia."<sup>19</sup> Federal law requires that local election officials regularly remove the names of voters who are ineligible because of death of the registrant.<sup>20</sup> The BOE provided

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<sup>14</sup> The new database, the State and Territorial Exchange of Vital Events (STEVE) system, is maintained by NAPHSIS, a national non-profit organization that provides technical assistance, training, educational programs, and access to resources to assist state vital records and health statistics offices around the country secure vital records and related information systems. STEVE compiles decedent information from its member states and allows members states access to that data for appropriate purposes. BOE has had access to the decedent information in STEVE since February 2014.

<sup>15</sup> 52 U.S.C. § 21083(a)(2)(A)(ii)(I).

<sup>16</sup> D.C. Code §1-1001.07(k)(1).

<sup>17</sup> The Federal Bureau of Prisons houses District of Columbia inmates in facilities in 34 states, including Arizona and Virginia.

<sup>18</sup> D.C. Code §1-1001.07(k)(3).

<sup>19</sup> D. C. Code §1-1001.07(k)(2).

<sup>20</sup> 52 U.S.C. §21083(a)(2)(A)(ii)(II).



the Auditor with the names of 243 decedents. We picked a sample of 33 decedents whose dates of death ranged from January 30, 2011, through December 6, 2014. We compared the list of 33 decedents against the District's November 4, 2015 voter list and found that the voter file contained the names of all 33 decedents. The BOE informed the Auditor that the names of the 33 decedents from our sample had not been removed from the voter file because the BOE needed further verification to do so. The BOE, however, was unable to provide evidence that this verification was requested from the Mayor, as required. Accordingly, we found that the BOE did not comply with the applicable federal and District laws regarding the removal of decedents from the voter list, as referenced above.

## **Duplicate Voter Files**

Federal law requires that "[t]he list maintenance ... shall be conducted in a manner that ensures that ... duplicate names are eliminated from the computerized list."<sup>21</sup> The Auditor found 468 sets of duplicate voter records in the District's voter file where the first name, last name, and date of birth of registered voters were identical. We provided the BOE with the list and requested an explanation for why there were 468 sets of duplicate voter records in the District's voter file. The BOE did not respond.

In 2014, the BOE joined the Election Registration Information Center (ERIC) project, an interstate program for states to share data and increase the accuracy of voter registration lists. ERIC was started in 2012 with assistance from the Pew Charitable Trusts (Pew) but is now owned, managed, and funded by participating states.<sup>22</sup> As the January 2014 report issued by the Presidential Commission on Election Administration (Commission) entitled, "The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration" (Commission Report) explains:

States that participate in ERIC are able to check their voter registration lists against data gathered from other states and several nationally available lists, such as those maintained by the U.S. Postal Service or the Social Security Administration. ERIC provides information to participating states as to which voters may have moved (either between states or within them), which voters may have died, which may have changed their names, and which eligible voters might not be registered. It protects the privacy of voter data by anonymizing each voter's data before that data leaves a state's control, so that no birthdates or like information gets revealed in the process.<sup>23</sup>

ERIC has access to voter file information such as first and last names, addresses, and dates of birth, as well as supplemental information such as Social Security numbers. With this membership,<sup>24</sup> the BOE now has the ability to access such information regularly, which should help the agency better identify and eliminate duplicate voter files. In its February 19, 2016 response to Council questions in preparation for the BOE's Performance Oversight Hearing, the BOE stated that on January 19, 2016, it sent a mailing to 13,651 voters whose names appeared on an ERIC report as being registered in both the District of Columbia and another jurisdiction. The recipients were asked to provide updated information. The BOE

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<sup>21</sup> 52 U.S.C. §21083(a)(2)(B)(iii).

<sup>22</sup> <http://www.pewtrusts.org/en/projects/election-initiatives/about/upgrading-voter-registration/eric>.

<sup>23</sup> Presidential Commission on Election Administration. The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration. January 2014. p. 29. Available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>

<sup>24</sup> The Auditor obtained a report on September 18, 2015, in which ERIC identified 1868 possible duplicates in the District's voter file. The total number was the only information provided, so the Auditor could not determine whether the 1868 included the 468 the Auditor had determined were duplicates or on what information ERIC concluded there were duplicates.

wrote that it updated its records after receiving responses from approximately 6,000 people who confirmed that they reside outside the District. In that same report, the BOE did not address what happened to the remaining people.

## Best Practices

In addition to reviewing relevant federal and District law, ODCA reviewed best practices in voter registration nationwide, as recommended by experts in election administration, to assess current policies and practices and identify ways to strengthen voter registration list maintenance and expand opportunities for voters.

We identified three best practices, summarized below in Figure 2, along with the District's status in relation to each recommended practice. The District has implemented one of the best practices (online voter registration), has begun implementing the second practice (interstate exchange of voter registration information), and has not implemented the third practice (seamlessly integrating voter registration data from motor vehicle offices to the central voter registration file).

**Figure 2: Best Practices in Voter Registration and the District of Columbia's Current Status**

Board of Elections	Practice	D.C.'s Current Status
	Adopt online voter registration	The District has implemented online voter registration.
	Expand interstate exchanges of voter registration information	The District joined the Electronic Registration Information Center (ERIC), which allows states to check their voter registration list against data gathered from other states and from national databases, in January 2014, but did not receive its first ERIC report until September 2015.
	Seamlessly integrate voter data from motor vehicle offices with statewide voter registration lists	The District lacks a seamless electronic exchange of voter registration data from the Department of Motor Vehicles (DMV) to the Board of Elections (BOE). Rather, DMV sends information in electronic and hard-copy form to the BOE on a daily basis, and the BOE compares both sources of data before uploading the electronic information to the voter registration file.

The Commission report is a comprehensive source of information on exemplary practices in election administration. It was based on six months of public hearings and consultations with state and local election officials, academic experts, and organizations involved with voting or election administration issues.<sup>25</sup>

According to the Commission Report:

The quality of the [voter registration] list can affect the ability of people to vote, of election offices to detect problems, and of courts and others monitoring elections to detect election fraud or irregularities. A list with many incorrect records can slow down the processing of voters at polling places resulting in longer lines.”<sup>26</sup>

To address these problems, the Commission made the following recommendations:

1. States should adopt online voter registration.<sup>27</sup>
2. Interstate exchanges of voter registration information should be expanded.<sup>28</sup>
3. States should seamlessly integrate voter data acquired through Departments of Motor Vehicles and their statewide voter registration lists.<sup>29</sup>

The improvements in voter registration described above and elsewhere in this report could have positive impacts throughout the election system and improve voters’ experience at polling places on Election Day. In 2014, Pew rated the quality of election administration in the District during the 2012 elections as below the national average, using an “Election Performance Index” (EPI) comprised of 17 indicators, which are tracked for all states during an election cycle.<sup>30</sup> The District had the highest rate of “provisional ballots” (ballots that are set aside for additional review before they can be counted) as well as one of the longest average waiting times to vote (34 minutes)<sup>31</sup> – problems that might be alleviated by more accurate voter lists that reduce the need for provisional ballots and allow election workers to process voters more efficiently and effectively.

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<sup>25</sup> Presidential Commission on Election Administration. The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration. January 2014. Cover letter to President Obama. Available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.

<sup>26</sup> Presidential Commission on Election Administration. The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration. January 2014, pp. 22-23. Available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.

<sup>27</sup> Presidential Commission on Election Administration. The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration. January 2014, p. 23. Available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.

<sup>28</sup> Presidential Commission on Election Administration. The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration. January 2014, p. 27. Available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.

<sup>29</sup> Presidential Commission on Election Administration. The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration. January 2014, p. 30. Available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.

<sup>30</sup> The seventeen indicators of election administration that Pew tracks are: (1) Data Completeness, (2) Disability or illness-related voting problems, (3) Mail Ballots Rejected, (4) Mail Ballots Unreturned, (5) Military and Overseas Ballots Rejected, (6) Military and Overseas Ballots Unreturned, (7) Online Registration Available, (8) Postelection Audit Required, (9) Provisional Ballots Cast, (10) Provisional Ballots Rejected, (11) Registration or Absentee Ballot Problems, (12) Registrations Rejected, (13) Turnout, (14) Voter Registration Rate, (15) Voter Information Lookup Tools Available, (16) Residual Vote Rate, and (17) Voting Wait time. To view the full report, see [http://www.pewtrusts.org/~media/assets/2014/04/07/epi\\_methodology.pdf](http://www.pewtrusts.org/~media/assets/2014/04/07/epi_methodology.pdf).

<sup>31</sup> Pew Charitable Trusts, fact sheet on “District of Columbia: Elections Performance Index,” April 2014.

The best practices in voter registration policy recommended by the Commission are discussed in more detail below, along with the District's current status with respect to each practice.

### **1. States should adopt online voter registration.**

The Commission recommended the use of online voter registration as a tool “for managing the accuracy of voter rolls and reducing the costs of list maintenance.” According to the Commission, online voter registration results in the following benefits:

- Reduces the high potential for error that exists with traditional paper-based systems;
- Saves jurisdictions a significant amount of money;
- Increases the accuracy and currency of the voter rolls, thereby reducing delays and congestion at polling places; and
- Improves voters' experiences because voters get immediate feedback when they are registered or when their information (e.g., address, party, etc.) has been updated.<sup>32</sup>

According to the Commission's report, as of August 2013, Washington, D.C. was not among the 24 states that had a complete or limited online voter registration system.<sup>33</sup> In the BOE's FY 2014 Performance Accountability Report, however, the agency announced that it had launched the mobile app, Vote 4DC, which can be used for online registration as well as other tasks. We downloaded this app and verified its use as an online voter registration tool. We note that the Board of Elections website also allows online voter registration.

### **2. The BOE should make more and better use of interstate exchanges of voter registration information.**

The Commission points out that the United States does not maintain a national list of registered voters. This means that when someone moves from one state to another, that person can be on more than one state's voter registration list. Therefore, the Commission recommended that states coordinate “in the development of accurate and up-to-date registration lists,” while noting that, “Protecting the privacy of voter data must also be a top priority.”<sup>34</sup>

To facilitate the coordination needed to maintain accurate voter lists in a highly decentralized national system of election administration, the Commission recommended that states join interstate programs to share data and increase the accuracy of voter registration lists, such as ERIC.<sup>35</sup> On January 1, 2014, the District of Columbia joined ERIC and shared its voter registration data with ERIC. Although the BOE paid \$71,000 in dues for the 19-month period of January 1, 2014 through August 31, 2015, it did not receive its first ERIC report until September 2015. Although we understand that when an agency obtains a new

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<sup>32</sup> Presidential Commission on Election Administration. The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration. January 2014. p.80 ( Endnote 78). Available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.

<sup>33</sup> Presidential Commission on Election Administration. The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration. January 2014, pp. 23-24. Available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.

<sup>34</sup> Presidential Commission on Election Administration. The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration. January 2014 p. 28. Available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>

<sup>35</sup> <http://www.pewtrusts.org/en/projects/election-initiatives/about/upgrading-voter-registration/eric>.

system it may need time for the BOE staff members to learn how to use it properly and accurately, a 19-month delay seems excessive.

Regular use of ERIC in the future will help the BOE plan and conduct elections more efficiently and effectively by accounting for changes in voters' names, addresses, and registration status. As a member of ERIC, the BOE also now has access to voter registration data for other member states and territories, which include Pennsylvania, Illinois, Alabama, Colorado, Connecticut, Delaware, Louisiana, Minnesota, Maryland, Nevada, Oregon, Rhode Island, Utah, Virginia, and Washington. The memberships of Virginia and Maryland are particularly helpful because people frequently move to and from nearby jurisdictions.

### **3. States should seamlessly integrate voter data acquired through the Departments of Motor Vehicles with their statewide voter registration lists.**

According to the Commission, in the District and seven other states, the motor vehicle departments accounted for more than 50 percent of total voter registrations during the 2011-2012 election cycle.<sup>36</sup> The Commission Report "strongly recommends" that states follow the example of Delaware by adopting procedures that lead to the seamless integration of data between DMVs and election offices."<sup>37</sup> Delaware has an interface between its DMV and Department of Elections that transmits DMV voter registrations "in real-time to the Department of Elections for the voter's county ... All information is now entered and transmitted electronically, saving time every day and especially on Election Days."<sup>38</sup> When Delaware residents go to the DMV, they are asked if they would like to register to vote. Residents can see their information on a computer screen, verify the information, and electronically sign the form before it is transmitted electronically to the county elections office.

Similarly, Pew has pointed out that:

A real-time connection between the motor vehicle agency's database and the voter registration system can help reduce problems by alerting applicants immediately during a registration transaction if a discrepancy exists between the information they are submitting and the information on file with the state. Fifteen states reported having a real-time connection with their motor vehicle database.<sup>39</sup>

Today, the District lacks a seamless exchange of data between the DMV and BOE. Currently, DMV's voter registration information is transferred to the BOE daily in both electronic and hard copy form. The BOE staff compares the DMV electronic file with the DMV hard copy file to ensure that the electronic version is accurate. The BOE then uploads the electronic file from DMV into the BOE voter registration file. This is a cumbersome and labor-intensive process, especially given that for the period of April 2014 through July 2015, DMV was responsible for 99 percent of VRA voter registrations in the District. The District should join at least 12 other states that have real-time connections between their motor vehicle

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<sup>36</sup> Presidential Commission on Election Administration. The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration. January 2014. p. 30. Available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.

<sup>37</sup> Presidential Commission on Election Administration. The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration. January 2014. p. 31. Available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.

<sup>38</sup> Presidential Commission on Election Administration. The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration. January 2014. pp. 30-31. Available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.

<sup>39</sup> <http://www.pewtrusts.org/en/research-and-analysis/analysis/2015/05/13/documenting-trends-in-online-voter-registration>.

departments and state elections boards, because this offers a cost-effective, secure, and accurate means of transmitting voter registration data to the BOE.<sup>40</sup>

## **VRA Agency Compliance**

### **District agencies' compliance with federal and local voter registration requirements is inconsistent and needs improvement**

Federal law<sup>41</sup> and District law<sup>42</sup> require VRAs to distribute voter registration applications, assist applicants in completing registration application forms, and accept completed voter registration application forms and transmit them to the appropriate state election official. Moreover, if a VRA provides services to persons with disabilities at their home, that VRA also is required to provide voter registration services to a person with a disability at the person's home.<sup>43</sup> A VRA is to distribute with each application for service or assistance -- and with each recertification, renewal or change of address form relating to the service or assistance -- a voter registration application, unless the applicant indicates in writing that he or she declines to register to vote.

Figure 3 (see next page) provides a summary of our findings for VRA compliance: Compliant, Non-Compliant, or Partially Compliant. For agencies that asserted compliance but did not document their compliance, we indicate in Figure 3 that the agency's compliance is "Unverified." For VRAs that provided information regarding efforts either to become compliant or to improve voter registration within its client population, we have included a brief summary of that information under the "Next Steps Identified by VRA" column.

To reach the conclusions regarding VRA compliance, as summarized in Figure 3, we requested that each VRA provide evidence of its compliance with federal and local voter registration requirements. The following (see p. 14) are summaries of the evidence provided and our determination regarding each VRA's compliance.

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<sup>40</sup> <http://www.pewtrusts.org/en/research-and-analysis/analysis/2016/04/20/online-voter-registration-new-interactive-map-shows-state-policies-benefits>.

<sup>41</sup> 52 USCS § 20506(a)(4)(A)(i) – (iii).

<sup>42</sup> D.C. Code §1-1001.07(d)(2).

<sup>43</sup> D.C. Code § 1-1001.07(d)(2)(C) and 52 U.S.C. § 20506(a)(4)(B).

**Figure 3: Summary of VRA Compliance**

VRA	Requirement	Status	Next Steps Identified by VRAs
<b>Department of Motor Vehicles (DMV)</b>	Duplicate Information Requests	Partially Compliant	None Specified
<b>Department of Corrections (DOC)</b>	Incarcerated Felons	Compliant	
<b>Department of Youth Rehabilitation Services (DYRS)</b>	Voter Registration and Related Services	Compliant	
<b>Office on Aging (DCOA)</b>	Voter Registration and Related Services	Unverified	In FY 2016, the agency plans to: amend the Aging and Disability Resource Center's (ADRC) Standard Operating Procedures to incorporate the voter registration process; increase data collection and tracking
<b>Department of Parks and Recreation (DPR)</b>	Voter Registration and Related Services	Non-Compliant	None Specified
<b>Department of Human Services (DHS) Economic Security Administration (ESA)</b>	Voter Registration and Related Services	Unverified	None Specified
<b>Department of Health (DOH) Women, Infants, and Children</b>	Voter Registration and Related Services	Unverified	Update policies and procedures; implement log sheets that list WIC participants who return a Voter Registration Application to a WIC employee; make voter registration monitoring a part of the biannual management review
<b>Department on Disability Services</b>	Voter Registration and Related Services	Unverified	Revising form to require counselor to indicate whether application completed or provided to applicant before proceeding and making those fields on the application searchable



## Testing and Findings

### Department of Motor Vehicles (DMV)

Federal law requires that each state motor vehicle driver's license application shall also be an application for voter registration for elections to federal office unless the applicant fails to sign the voter registration application.<sup>44</sup> Federal law prohibits VRAs from requesting, on the voter registration application form, any information that duplicates information required in the driver's license portion of the form.<sup>45</sup> During this evaluation, the Auditor observed that the DMV had two mechanisms for DMV clients to fill out a voter registration application. DMV clients could fill out hard copy DMV and voter registration forms, for which carbon paper was used so that the client only had to fill out the identifying information on the DMV form and that information came through on the voter registration application. Therefore, the client was not required to fill out duplicate information on both forms and we determined that the DMV complied with the federal requirement. The DMV on-line voter registration application, however, requests duplicate information on the DMV form and the voter registration application, including name, date of birth, address, citizenship, and gender. This violates the federal requirement. Therefore, we determined that overall, the DMV partially complied with federal requirements prohibiting VRAs from requesting on the voter registration application any information that duplicates information required in the driver's license portion of the form.

### Department of Corrections (DOC)

Individuals in the custody of the Department of Corrections who have not been convicted of a felony may vote in the District. In our review, DOC provided 74 voter registration certifications<sup>46</sup> processed by the agency. Of the 74 voter registration certifications provided, we found that 40 inmates indicated that they did not want to register to vote and 33 refused to apply because they were either currently registered to vote in the District or in Maryland. One inmate, however, indicated a willingness to register to vote. We verified with the BOE that the inmate had registered to vote in 2014. Because DOC appropriately processed 74 voter registration certifications, we determined that DOC was in compliance with applicable regulations.

### Department of Youth Rehabilitation Services (DYRS)

DYRS provided a copy of its policies and procedures governing voter registration as well as a list of eight youth who were certified and pre-registered<sup>47</sup> to vote in September and October of 2015. The BOE verified its receipt of the eight pre-registrations but credited the agency with only one pre-registration in its monthly report. Although it had received two applications during the period under review, only one of those applications was a pre-registration in the applicable reporting period. The other was a new registration but outside of the reporting period. The other six voter registrations either had been received and credited to DMV or were address changes. Accordingly, even though the BOE only

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<sup>44</sup> 52 U.S.C. § 20504(a)(1).

<sup>45</sup> 52 U.S.C. § 20504(c)(2)(A). There are a limited number of exceptions including a second signature and any information that is necessary to prevent duplicate voter registrations, 52 U.S.C. § 20504(c)(2)(B).

<sup>46</sup> Voter Registration Certification is a document that shows that DOC offered voter registration.

<sup>47</sup> D.C. Code § 1-1001.07 (a-2) states, "A person who is otherwise qualified may pre-register [to vote] on or after that person's 16<sup>th</sup> birthday and may vote in any election occurring on or after that person's 17<sup>th</sup> birthday; provided, that the person is at least 18 years of age on or before the next general election."



credited DYRS with one voter registration for this time period, we found the agency to be in compliance with the requirements.

### **Office on Aging (DCOA)**

D.C. law requires DCOA, as a VRA, to distribute with each application for service or assistance a voter registration application, provide assistance to applicants in completing these forms, and forward the forms to the BOE.<sup>48</sup> DCOA asserted that it asks all clients whether they have registered to vote. If the client indicates that he or she has not registered to vote, the client is asked if he or she is interested in completing a voter registration form. If the client is interested in registering, the client either is directed to the BOE or the voter registration form is mailed to the client. Also, a DCOA staff member offers to assist the client at DCOA or to schedule a social worker to go to the client's home to assist the client with the form. DCOA, however, acknowledged that the process it described is not included in DCOA's current policies and procedures and that it has not tracked voter registration data in the past. DCOA officials pledged that they will track this data in the future.

### **Department of Parks and Recreation (DPR)**

DPR, as a VRA, also is required to distribute voter registrations applications, assist clients in completing the forms, and forward the forms to the BOE. DPR, however, acknowledged that it does not currently provide a consistent means for voter registration, although it allows the BOE to use its recreation centers on election days to provide on-site voter registration services. For example, in 2012, DPR granted two permits for voter registration events at DPR locations. However, we did not find that these activities represent compliance with federal and local voter registration requirements, because DPR is charged with distributing voter registration applications, helping clients complete the forms, and sending them to the BOE.

### **Department of Human Services (DHS)**

As a VRA, DHS also is required to distribute voter registration applications, assist clients in completing the forms, and forward the forms to the BOE. The VRA requirements apply to DHS's Economic Security Administration (ESA), which provides services such as medical assistance, burial assistance, childcare assistance, and temporary cash assistance for needy families.

With respect to ESA, DHS asserted compliance with federal and local voter registration requirements and provided the Auditor with copies of three transmittal letters to the BOE for the months of November 2014, January 2015, and September 2015, to document its voter registration activities. DHS, however, did not provide the Auditor with copies of the actual voter registration applications or a list of names of DHS clients who had registered during the automated client application and recertification process. Therefore, the Auditor was unable to verify compliance. During a walk-through by ODCA staff, DHS demonstrated its Automated Client Eligibility Determination System (ACEDS) showing how the voter registration process is incorporated into the agency's automated client application and recertification process. DHS had a Voter Registration fact sheet, a Voter Registration Guidance sheet, and the Voter Registration Application available. In a memorandum to ESA Administrators and Deputy Administrators dated October 28, 2015, DHS reminded staff of the requirement to offer voter registration forms to customers.

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<sup>48</sup> D.C. Code §1-1001.07(d)(2)(A)(B)(C) and (D).

## Department of Health (DOH)

Similarly, for the Women, Infants, and Children (WIC) program, DOH stated that it was in compliance with both federal and District law. DOH stated that all WIC program participants are given an opportunity to register to vote at all clinics, if they are eligible to register, using a voter registration form that is available at the clinics. WIC program participants are offered assistance with the form and given the option of mailing in the registration form themselves. The Auditor asked DOH for documentation showing that WIC program participants are given an opportunity to register to vote, to obtain assistance, or to obtain a form for mailing for the period November 2, 2014 to November 1, 2015, but DOH was unable to provide any relevant documentation. DOH was able to provide the Auditor with a copy of its draft voter registration policies and procedures (the draft is waiting for final approval by the U.S. Department of Agriculture) and informed the Auditor that it had the BOE train its WIC staff. Nevertheless, the Auditor was unable to verify DOH's compliance with federal and District law regarding the WIC program.

## Department on Disability Services (DDS)

As a VRA, DDS is required to provide voter registration services to its clients and offer such assistance at home for clients with disabilities.<sup>49</sup> DDS provided the Auditor with a sample of 50 records:<sup>50</sup> 25 Voter Registration or Declination forms from the DDS Developmental Disabilities Administration (DDA), which are filled out when a DDS client applies for assistance from DDS; 5 Voter Registration or Declination forms filled out by DDA at intake; and 20 Voter Registration Agency Certification forms from the DDS Rehabilitation Services Administration (RSA), which are filled out when the client applies for services. A review of those records revealed that DDS offers clients and potential clients the opportunity to register to vote as part of its standard procedures. We observed that of the 50 records provided, a total of 42 DDS applicants indicated that they did not want to register to vote and 8 indicated that they did. For the eight DDS applicants who wanted to register to vote, two had forms indicating that they were completed at DDS and transmitted to the BOE. The remaining six forms were incomplete. Accordingly, the Auditor determined that DDS complied with its statutory requirements, with a qualification because the Auditor could not verify that **all** applicants were offered the voter registration services required by law.<sup>51</sup>

## Recommendations

### Board of Elections

1. The BOE should develop written policies and procedures to ensure the implementation and monitoring of the following practices to ensure the integrity of the voter roll, as required by both federal and District law:
  - Removal of incarcerated felons from the voter list;
  - Removal of decedents from the voter list;
  - Removal of duplicate voter records from the voter list; and

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<sup>49</sup> D.C. Code § 1-1001.07(d)(2)(A)-(C).

<sup>50</sup> D.C. Code § 7-1305.12 and D.C. Mun. Regs. tit. 29 § 29-118 restrict access to these records, therefore, DDS pulled the records for sampling and provided them in partially redacted form.

<sup>51</sup> D.C. Code § 1-1001.07(d)(2)(A)-(C).

- Removal of inaccurate birth dates from the voter list.
2. The Board should maximize its use of ERIC to improve accuracy of the voter role.
  3. The Board should work with the Mayor and VRAs to develop the capacity for electronic transmission of voter registration information from the DMV and other VRAs to the Board.

### **Voter Registration Agencies**

1. Until electronic transmission is possible, the DMV, working with the BOE, should create an online version of the DMV application that does not request duplicate information and complies with federal law.
2. DCOA, DPR, DHS, DOH, and DDS should:
  - Create and implement policies and procedures that ensure that their customers are provided with the voter registration services required by both federal and local law.
  - Ensure that there is internal monitoring and enforcement of the agency's compliance with federal and local voter registration requirements.
3. Train all relevant staff on proper voter registration and tracking activities to comply with federal and local law.

### **Agency Response**

The Office of the District of Columbia Auditor shared a draft of this report with The District of Columbia Board of Elections on May 23, 2016 and requested a written response to the findings and recommendations by June 6, 2016. The new Board Chair, D. Michael Bennett, requested an extension for comments until July 25, 2016 to enable the Board's staff to focus time on the upcoming June 14, 2016 election, and based on the short length of time he and other members of the Board have served. We appreciate the request for additional time to enable new leadership to provide a comprehensive response to this report. We also recognize the value of sharing our findings and recommendations with the public at a period of time when voting is a major topic of conversation. For that reason, we are going ahead with publication of the report now, prior to the District's primary election. We will re-issue the report in July when we have received the Board's response, so that the public can have the benefit of our findings and recommendations, and the Board's response, in a single publication for future reference. We are including Mr. Bennett's June 6, 2016, correspondence as an attachment.

Sincerely,

  
Kathleen Patterson  
District of Columbia Auditor

019:16:TC:GC:cm:LP:KP



DISTRICT OF COLUMBIA  
**BOARD OF ELECTIONS**  
WASHINGTON, D.C. 20001-2745



June 6, 2016

Kathleen Patterson  
District of Columbia Auditor  
Office of the District of Columbia Auditor  
717 14<sup>th</sup> Street, N.W.  
Suite 900  
Washington, D.C. 20005

Dear Ms. Patterson:

The Board of Elections (BOE) received the draft audit report titled, "District of Columbia Voter File: Compliance with Law and Best Practices" from the Office of the District of Columbia Auditor (ODCA) on May 23, 2016. A response was requested by June 6, 2016. The Board requested a 60-day extension in order to respond in a comprehensive way. The Board's request for extension was denied.

BOE sought an extension for the following reasons:

1. BOE is in the middle of the busiest time of the election cycle; early voting began on Tuesday, May 31, 2016, and the Primary Election is June 14, 2016. BOE staff members, particularly those key staff members who will be assisting with preparing the response to the draft audit report, are simply too heavily involved with administering the election at this juncture. We believe it would be ill-advised for us to ask them to take their eyes off the election process. Currently, our priority should be successful early voting and a smooth June 14, 2016 election day.
2. The audit took place under the leadership of a different BOE Chair and Executive Director. The current Board is new; I have only been Chair of BOE since April 6, 2016, Board Member Michael Gill took office on that same date, and Dionna Lewis took office on January 5, 2016. We take audits very seriously, and are anxious to learn as much as we can from this audit to make the organization better. We need a reasonable period of time to understand all of the findings, discuss such with the relevant staff, and respond in a comprehensive way. Anything less will diminish the value of the audit as well as the BOE's response.

We appreciate and support your desire to release the audit findings of the subject audit as soon as possible. We prefer that the release of the audit be delayed in order to give us sufficient time to provide a substantive response, one that would have the benefit of our undivided focus and attention. However, since the request for an extension was not granted, we will nonetheless prepare a response by no later than July 25, 2016. By that time, the primary election will be

behind us, and we will have the opportunity to give the draft audit report the consideration it merits. Please note that the BOE neither agrees nor disagrees with any of the findings noted in the report as we have no independent basis to do so at this time.

We respectfully request that this statement be included in the release of the draft audit report.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Michael Bennett", with a stylized flourish at the end.

D. Michael Bennett  
Chair



DISTRICT OF COLUMBIA  
**BOARD OF ELECTIONS**  
WASHINGTON, D.C. 20001-2745



July 22, 2016

BY EMAIL AND HAND-DELIVERY

Kathleen Patterson  
District of Columbia Auditor  
Office of the District of Columbia Auditor  
717 14<sup>th</sup> Street, N.W.  
Suite 900  
Washington, D.C. 20005

RE: Audit Report: "The District of Columbia Voter File: Compliance with  
Law and Best Practices"

Dear Ms. Patterson:

As I indicated in earlier communications, the Board of Elections (BOE) respectfully submits its response to the findings and recommendations set forth in the above-referenced Audit Report consistent with the committed timeline. We appreciate the opportunity to work with your audit team to continue improving the elections process for the citizens of the District of Columbia.

Best regards,

A handwritten signature in blue ink, reading "D. Michael Bennett", is written over a horizontal line.

D. Michael Bennett, Chair  
District of Columbia Board of Elections

# **The District of Columbia Board of Elections' Response to the Office of the District of Columbia Auditor's Report titled "The District of Columbia Voter File: Compliance with Law and Best Practices"**

## **I. Introduction**

An accurate voter list is essential to election planning and management. It prevents fraud in elections by ensuring that those who are ineligible to vote do not vote, and that those who have already voted in an election do not vote multiple times. It also introduces efficiencies into the voting process which allows voters to get in and out of the polling place expeditiously.

There are a myriad of challenges inherent in maintaining an accurate and up-to-date voter registry. These challenges are well-documented. The District of Columbia is a very transient jurisdiction; voters move within and outside of the District without notifying the BOE. Voters register multiple times with different information, which results in duplicate registrations. The voter registration system in the District of Columbia is, for the most part, paper-based, and thus susceptible to data entry errors. (For example, a clerk's inability to read the handwriting on a voter's application may impact the way the voter's name appears in the record). The BOE is constantly working to fine-tune the processes by which we legally rectify anomalies in the voter registry that are present as a result of challenges to list maintenance, and this work has proven fruitful. The District of Columbia has been recognized for being among the first jurisdictions to initiate a multi-state voter roll comparison with its contiguous jurisdictions, Maryland and Virginia. This comparison resulted in the removal of dual registrants and the referral of individuals who had voted in more than one jurisdiction during a presidential election to the U.S. Attorney's Office for prosecution.

The BOE's list maintenance efforts have been greatly improved by its online voter registration system, participation in the Electronic Registration Information Center (ERIC) and State and Territorial Exchange of Vital Events (STEVE) programs, and the stabilization of the environment in which the BOE voter registration database resides. As a result of these enhancements, the District of Columbia's voter registry today is as accurate as it has ever been.

The BOE is wholly committed to the accuracy of the voter registry. That said, as we strive to identify and remove ineligible voters from our rolls, we must concurrently exercise extreme care not to remove eligible voters from the voter registry. Accordingly, the BOE does not remove voters unless there is clear and confirmable information that removal is the only appropriate course of action. To do otherwise would not only be improper, but would also undermine confidence in the integrity of the electoral process. The enfranchisement of eligible District of Columbia residents is the primary pillar of the BOE's mission. Any list maintenance activity must be conducted in accordance with that overarching principle based on the mandate of the law and regulations we are required to follow.

Below are the BOE's responses to the recommendations that have been made in the Audit Report issued on June 7, 2016. We will continue to work with the Office of the D.C. Auditor as we aim to ensure that the voter roll for the District of Columbia is thoroughly maintained in a manner that is consistent with federal and District law, as well as the BOE's regulations.

## **II. BOE Responses to the Office of the District of Columbia Auditor (ODCA) Recommendations**

**ODCA Recommendation #1:** The BOE should develop written policies and procedures to ensure the implementation and monitoring of the following practices to ensure the integrity of the voter roll, as required by both federal and District law:

- Removal of incarcerated felons from the voter list;
- Removal of decedents from the voter list;
- Removal of duplicate voter records from the voter list; and
- Removal of inaccurate birth dates from the voter list.

**Response:** BOE disagrees.

**The BOE currently has in place written policies and procedures to ensure the implementation and monitoring of the removal of incarcerated felons, decedents, duplicate voter records, and inaccurate birth dates from its voter registry.** Moreover, the Board routinely reviews its list maintenance policies and procedures to ensure that we maintain compliance with our obligations under federal and District law, and we will continue to do so.

Below, the BOE addresses ODCA's specific findings concerning the removal of incarcerated felons, decedents, duplicate voter records, and inaccurate birth dates, and the actions the Board has taken or will take going forward with respect to each.

**Incarcerated Felons.** The BOE acknowledges that D.C. Official Code § 1-1001.07(k)(3) provides that "[t]he Board shall request at least monthly, and the Superior Court of the District of Columbia shall furnish, the name and address of each person incarcerated as a result of a felony conviction since the date of the previous report." While we have been receiving information regarding felony criminal convictions from the U.S. Attorney's Offices, we have now formally requested that the D.C. Superior Court also begin providing to the BOE, on a monthly basis, the name and address of each person incarcerated as a result of a felony so that the Board can ensure that all individuals who are ineligible to vote on this basis are removed from the voter registry.

**Deceased Voters.** Pursuant to D.C. Official Code § 1-1001.07(k)(2), "[t]he Board shall request at least monthly, and the Mayor shall furnish, the name, address, and date of birth, if known, of each District resident 18 years of age and over reported deceased within the District of Columbia, together with the name and address of each District resident who has been reported deceased by other jurisdictions since the date of the previous report." The BOE meets its obligations under D.C. Official Code § 1-1001.07(k)(2) by accessing vital records data housed at



the D.C. Department of Health through STEVE<sup>1</sup> and taking the appropriate action with respect to the information provided.

The Audit Report alleges that the BOE is not in compliance with D.C. Official Code § 1-1001.07(k)(2) and federal law because, as of November 4, 2015, the voter registry contained the names of 33 decedents whose dates of death ranged from January 30, 2011 through December 6, 2014. According to ODCA, the BOE failed to prove that it had requested verification of the deaths of these 33 individuals from the Mayor as required. This is simply not the case. BOE accessed STEVE on January 12, 2016 to retrieve a list of decedents in accordance with D.C. Official Code § 1-1001.07(k)(2). At that time, the BOE received a report containing a list of 242 decedents, including the 33 decedents identified by ODCA. The BOE removed 209 of these decedents from the voter registry upon finding an exact match between the data provided by STEVE and the data in the BOE voter registry for each of them. With respect to the remaining 33 individuals - those identified by ODCA - there was not an exact match between the data provided by STEVE and the data in the BOE voter registry. Consistent with established BOE practice, the BOE proceeded on the side of enfranchisement and did not remove these voters from the registry.<sup>2</sup>

**Duplicate Voter Records.** Duplicate registrations are due most often to voters registering multiple times with different information. More often than not, BOE staff is able to flag and resolve the duplications. However, despite best efforts, some duplicate registrations slip through the initial processing of records. In an effort to eradicate duplicates, we have adopted specific procedures to follow to assist with minimizing the duplicates that appear on the voter registry. In the past, BOE staff processed the Voter Merge Queue in Integrity, the Board's voter registration database, on a weekly basis. In an effort to identify and resolve duplicate records in a more efficient manner and to minimize the number of duplicate records that appear in the Voter Merge Queue, BOE staff has begun to review and meticulously work through potential duplicate files identified in Integrity's Voter Merge Queue on a daily basis.

The Audit Report correctly indicates that, through its participation in ERIC, the BOE is able to better identify and eliminate duplicate voter files. One of the list maintenance reports that ERIC provides is an In-state Duplicates Report.<sup>3</sup> On September 18, 2015, the BOE received one such

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<sup>1</sup> STEVE is a web-based application that allows for the secure exchange of vital records data between the D.C. Department of Health (DOH) and the BOE. DOH is the subordinate agency responsible for maintaining death records for the District of Columbia, and it performs this function through its Center for Policy, Planning and Evaluation's Vital Records Division (CPPE-VRD). In February 2014, and again in December 2015, the BOE entered into a Memorandum of Understanding (MOU) with CPPE-VRD under which CPPE-VRD established a mailbox through which the BOE could access pertinent death record data on a monthly basis through STEVE.<sup>1</sup>

<sup>2</sup> As of this writing, four of the 33 individuals have been deleted from the voter registry because the BOE received verification of the deaths of these individuals. The remaining 29 individuals have been placed on the inactive list.

<sup>3</sup> The other list maintenance reports are: 1) the In-state Movers Report (the Department of Motor Vehicles or other in-state record identifies newer contact information for the voter); 2) the Cross-state Movers Report (A newer in-state record has been found for the voter, indicating that the voter may no longer live in the state); and 3) the Deceased Report (the voter has a matching record on the Social Security Death Master list). The January 19, 2016

report which identified 1868 potential duplicate voter records. BOE staff reviewed each of these records and merged or otherwise resolved 1711 of the duplicate voter files identified. With respect to the remaining 157 records identified as potential duplicates, BOE staff could not determine with certainty that the multiple records in question were, in fact, associated with the same individual. Consequently, the Board did not merge or delete the records at issue.

**Inaccurate Birth Dates.** Prior to the enactment of the Voter Registration Act of 1975 (December 16, 1975, D.C. Law 1-37, § 2(3)-(5), 22 DCR 3426), there was no explicit requirement in District of Columbia law for a voter registration applicant to provide his or her date of birth. The Voter Registration Act contained a provision that required the Board of Elections to mail to qualified applicants a nonforwardable registration notification form that included, among other things, the applicant's birth date. Accordingly, the BOE's voter registration application was amended in 1976 to solicit birth dates. Because the BOE did not have birth dates for voters who registered prior to 1975, each of these voters was assigned a default birth date of 12/31/1800 in Integrity, the BOE's voter registration system, so as to indicate that that particular data was missing. The inaccurate birthdates are generally those individuals who registered prior to the requirement to provide a date of birth.

Despite the fact that the records with default birth dates predate the specific legal requirement that a date of birth is needed to register to vote, the BOE has taken active steps to reduce the number of default birth dates in Integrity. We have attempted to contact all voters with default birth dates, but most of them have been unwilling to provide the BOE with accurate birth dates. The BOE has instituted a program wherein Integrity data is regularly compared to data in the Department of Motor Vehicles (DMV) database. In instances where all data fields for a particular record match across both databases, except for the date of birth, we update the date of birth field in Integrity with the information from the DMV database. In addition, the BOE attempts to collect dates of birth from those voters with default birth dates who show up to vote.

**ODCA Recommendation #2:** The Board should maximize its use of ERIC to improve accuracy of the voter roll.

**Response:** BOE agrees.

**The BOE intends to fully maximize its use of ERIC to improve accuracy of the voter roll.** The Audit Report implies that the BOE is not maximizing its use of ERIC because it did not receive its first ERIC list maintenance reports until September 2015 despite joining ERIC in January 2014 and paying \$71,000 in dues between January 2014 and August 2015. BOE's "delay" in submitting its initial request for ERIC list maintenance reports was not due to mere inaction on the BOE's part. Rather, it was due to the fact that the BOE was engaged in extensive preparatory efforts with ERIC in advance of its first transmission of official data to ERIC, which occurred on July 28, 2014. ERIC members are not eligible to receive reports

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mailing to 13,651 voters was in response to the Cross-state Movers Report that the Board received in September 2015. Based upon the information yielded from this mailing, the BOE deleted 5,943 voters who confirmed that they had moved out of state, updated or preserved the records of 190 voters who indicated that they still lived in the District of Columbia, and made the remaining 5943 voters, who did not respond to the mailing, inactive.

from ERIC until after they have transmitted their initial collection of data. Therefore, the BOE was not able to receive any list maintenance reports from ERIC until late July 2014.

Within 90 days of receiving list maintenance reports, ERIC members must initiate contact with 95% of the voters whose records are deemed to be inaccurate for the purpose of conducting list maintenance. This requirement operates in parallel with the requirement that all voter registration list maintenance activity based on information provided by ERIC must be conducted under the strict guidelines of the National Voter Registration Act of 1993 (NVRA). The NVRA mandates that any list maintenance program undertaken to systematically remove ineligible voters from the official list of registered voters must be completed by the 90<sup>th</sup> day before a primary or general election for federal office. *See* 52 U.S.C.A. § 20507(c)(2)(A).<sup>4</sup> The BOE conducted a federal election on Tuesday, November 4, 2014. Accordingly, the Board would have had to complete any systematic list maintenance program, including an ERIC-based program, by Wednesday, August 6, 2014. Clearly, the BOE would not have had sufficient time to conduct and complete this activity prior to the November 2014 general election. In short, the BOE requested its inaugural list maintenance reports within approximately 10 months of the first real opportunity it had to do so.

The BOE has discussed herein (in the “Duplicate Voter Records” section and in footnote 3 regarding the Cross-state Movers Report) the actions it has taken with respect to the list maintenance reports it has received from ERIC, each of which has greatly increased the accuracy of the voter registry. The BOE looks forward to the improvements in its voter registry that will accrue from its participation in ERIC, and it considers the \$71,000 paid during the pertinent time period entirely reasonable. Moreover, as more states join, the BOE’s share of ERIC’s annual operating costs will decrease.

**ODCA Recommendation #3:** The Board should work with the Mayor and voter registration agencies (VRAs) to develop the capacity for electronic transmission of voter registration information from the DMV and other VRAs to the Board.

**Response:** BOE agrees.

**The BOE agrees that voter registration information should be electronically transmitted from all VRAs to the BOE.** In its April 2010 report titled “Study of the Feasibility of Implementing Automatic Voter Registration in the District of Columbia” that the BOE submitted to the Council pursuant to the Omnibus Election Reform Act of 2009 (the “AVR Report”), the BOE indicated its support for automatic voter registration, stating that it was “technologically feasible and could greatly improve the accuracy, efficiency, and cost-effectiveness of voter registration.” In the AVR Report, the BOE noted that the ability to electronically transmit voter registration data from VRAs to the BOE was integral to establishing automatic voter registration.

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<sup>4</sup> Although the NVRA 90-day provision applies only to federal elections, District law provides that any systematic list maintenance program shall be completed not less than the 90<sup>th</sup> day preceding *any* citywide election, including local elections.

Although the AVR Report discussed the electronic transmission of voter registration information from the DMV and other VRAs to the BOE in the specific context of establishing an automatic voter registration system, the BOE wholeheartedly supports the electronic transmission of voter registration data even in the absence of such a system, as it would greatly improve the accuracy of the information contained in the voter rolls. The BOE is ready and willing to partner with the Mayor and the Council to realize the goal of electronic transmission of voter registration information from the DMV, as well as the other VRAs, to the BOE.