

**Testimony of
Kaylan Phillips**

**Before the U.S. Committee on House Administration
Subcommittee on Elections**

On

**Voting in America: The Potential for Voter List ‘Purges’ to
Interfere with Free and Fair Access to the Ballot**

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Chairman Butterfield, Ranking Member Steil, members of the Committee, thank you for the invitation to testify today.

I am Litigation Counsel for the Public Interest Legal Foundation, a non-partisan charity devoted to promoting election integrity and best practices for election officials.

A significant problem facing America's electoral process is the chronic inaccuracy and lack of integrity in the voter rolls that list the individuals registered to vote in local, state, and federal elections.

Federal law requires states to “conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of—(A) the death of the registrant; or (B) a change in the residence of the registrant....” 52 U.S.C. § 20507(a)(4)(A).

Simply, list maintenance is good public policy. For example, we discovered one Pennsylvania resident that had seven active registrations because a third-party voter drive registered him seven times in the weeks before the 2016 Election. The failure to maintain a continuous program of reasonable list maintenance causes many problems, including inaccurate voter rolls and misallocation of election resources and funds by both election officials and candidates.

The Public Interest Legal Foundation has developed a robust data analysis program with particular emphasis on voter registration list maintenance audit functions. In essence, the Foundation can see how well of a job states are doing to identify and timely remove registrants who are deceased, relocated, exist in duplicate (or worse), and may be claiming improper addresses as residences.

Our data findings are deployed in a variety of means, ranging from direct leads to voter registrars for potential follow-up maintenance, litigation, or *amicus* briefs.

As an initial matter, I implore the Committee to reconsider the use of the term “purge” when referring to list maintenance. Historically speaking, purges are often violent, systematic acts of removing the political, racial, or ethnic groups from society.

That same rhetoric undergirds major concepts within H.R. 1, the For the People Act, and would hamper election officials' abilities to efficiently and accurately maintain voter rolls if it were to become law.

According to the Foundation's review of public information, **America's voter rolls shed a total of 62.5 million registrations from January 2010 to the end of 2018.** Reasons for removal nearly split between relocation (29%), death (21%), and two-cycle inactivity (30%). Felony removal and mental incapacity together consist of less than 3 percent. The remainder are locally designed measures for cancellation, such as duplicate and foreign national detections.¹

The Foundation recently settled a federal lawsuit against the Pennsylvania Department of State focused on the question of whether the Commonwealth was performing reasonable efforts to remove deceased registrants from the voter rolls per Section 8 of the National Voter Registration Act of 1993.

Foundation researchers found an excess of 21,000 registered voters positively matched against verifiable death records – some with dates of death dating as far back as the late 1990s.

During the 2020 Primary and General Elections, Clark County (Las Vegas), Nevada, agreed to automatically mail every registered voter a ballot in light of pending litigation. Post-election research efforts found that a total of 223,000 primary ballots and other 92,000 general election ballots were directed to outdated addresses and were returned undeliverable. For a sense of scale, Nevada's Electoral College votes were awarded on a margin of less than 33,000.²

In the aftermath of the 2020 Election, lawmakers must come to understand that the overall quality of an election experience relying heavily on mail balloting rests on the reliability of the voter registration lists. Vote-by-mail plus inaccurate registration lists equals problems.

We do not need H.R. 1 to generate improvements to our election systems. Instead, adjustments to existing federal laws would create positive downstream effects on voter registration list maintenance and election administration.

¹ U.S. Election Assistance Commission EAVS 2012-2018

² PILF; 92K Clark County Mail Ballots Went to Wrong Addresses in 2020 Presidential Election (March 10, 2021), <https://publicinterestlegal.org/reports/92k-clark-county-nv-mail-ballots-went-to-wrong-addresses-in-2020-presidential-election/>

For example, the federal voter registration list maintenance mandates found in the National Voter Registration Act should be expressly and unambiguously expanded to include eligibility checks and list hygiene programs.

In late April, Fresno County disclosed that it was considering a \$4 million investment to engage a data company capable of leveraging credit bureau information to identify duplicate and other registration records in need of maintenance attention.³ If Congress does not act to modernize the cleanup expectations to fit today's electorate, localities must continue to work unilaterally.

By expanding the removal categories, we reap the benefit of more detailed accounting practices and especially hedge the risk of a single person being automatically mailed two ballots with variations of their own names on them.

In closing, we have seen a marked improvement in voter roll quality over the past decade.⁴ Many states are showing noteworthy innovations in maintaining lists despite federal mandates based on practices and technologies from nearly 30 years ago. Congress can act to help identify and spread these best practices.

The time for measured action is now. Election integrity policies have sustained popularity for years and are showing renewed spikes in interest. Voter ID is in high demand.⁵ New polling from *The Hill*/HarrisX notes that a plurality of Americans demands more sophisticated voter integrity procedures in general.⁶

I look forward to any further questions. Thank you for the opportunity to appear.

Date: May 6, 2021
Respectfully submitted,
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³ *The Fresno Bee*; How much is voter confidence worth? Fresno County could spend \$4 million or more (April 27, 2021), <https://www.fresnobee.com/news/politics-government/article250984619.html>

⁴ PILF; *Critical Condition* (September 16, 2020), <https://publicinterestlegal.org/reports/critical-condition-american-voter-rolls-filled-with-errors-dead-voters-and-duplicate-registrations/>

⁵ Rasmussen Reports; 75% Support Voter ID Laws (March 17, 2021), https://www.rasmussenreports.com/public_content/lifestyle/general_lifestyle/march_2021/75_support_voter_id_laws

⁶ *The Hill*; Poll: Plurality of voters say stricter laws needed to prevent voter fraud (May 3, 2021), <https://www.msn.com/en-us/news/politics/poll-plurality-of-voters-say-stricter-laws-needed-to-prevent-voter-fraud/ar-BB1gjTTI?li=BBnbcA1>

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Kaylan L. Phillips joined Public Interest Legal Foundation in 2012. She has litigated election law and constitutional law cases across the nation, from Washington state to Maine. Kaylan has extensive experience at every level of litigation in state and federal court, including the Supreme Court. She also has experience representing clients before federal and state administrative agencies. Kaylan has also authored numerous *amicus curiae* briefs on state and federal election law issues. Kaylan received her B.A. (with honors, 2005) from the University of Oklahoma and J.D. (2008) from the University of Tulsa. She is admitted to practice law in the State of Oklahoma, State of Indiana, the District of Columbia, and in many federal district and appellate courts.