

Pennsylvania Election Integrity Task Force

February 14, 2021

**SURE System &
List Maintenance**



NOTICE

This Zoom meeting is off the record. No members of the press are invited, and no members of the press are permitted to attend. If you are a member of the press, we kindly ask that you leave the meeting



Agenda 2-14-2023

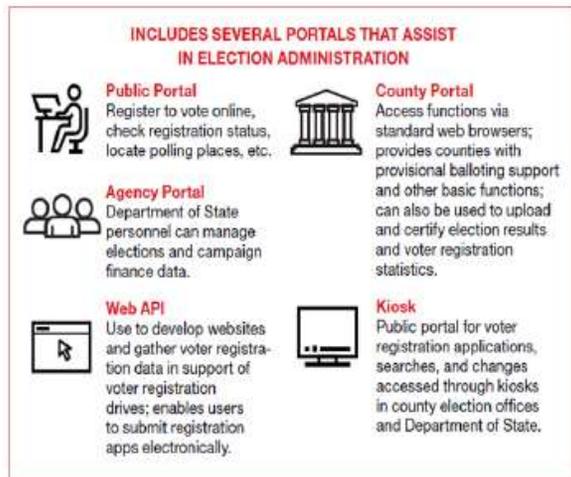
SURE System & List Maintenance

- **Linda Sheckler**
 - SURE System & Successful Challenge
- **Vico Bertogli**
 - Challenges & List Maintenance
- **Joe DiGuglielmo**
 - Victory in Commonwealth Court
- **Q & A**



What is SURE?

State Uniform Registry of Electors (SURE)



- SURE is PA's voter registration database and holds one record for every registered voter in Pennsylvania. If a ballot is casted in an election, there must be a *valid* voter registration record in SURE associated with the ballot casted, to be a legal vote.
- SURE is used to:
 - Maintain County and Precinct voter registration data
 - Determine Voter Eligibility
 - Generate Pollbooks for election day
- SURE can be accessed:
 - By the Department of State and County election personnel through direct agency portals.
 - By the public with a standard web browser via the online public portal or kiosks located in county election offices and DOS.
 - By third-party organizations, directly via the WebAPI, to develop applications and websites to collect registration data and submit voter registrations,
- The information contained in SURE includes voter ID number, name, sex, date of birth, date registered, status (i.e., active or inactive), date status last changed, party, residential address, mailing address, polling place, date last voted, congressional, legislative, school district, voter history for the past 20 elections
- A Full Voter Export (FVE) is a snapshot in time of SURE, taken weekly, and available to the public for \$20. ([PA Full Voter Export](#))

The Statewide Uniform Registry of Electors (SURE) system, implemented in Pennsylvania through Act 3 of 2002, is the bedrock of Pennsylvania's voter registration system.

Who Maintains SURE?

The Electronic Registration Information Center (ERIC)

- PA funds The Electronic Registration Information Center (ERIC) to perform SURE list maintenance.
 - ERIC is a non-profit organization stating its sole mission as assisting states to improve the accuracy of America's voter rolls and increase access to voter registration for all eligible citizens.
 - ERIC was formed in 2012 with assistance from The Pew Charitable Trusts, with David Becker as co-founder and includes 30 states and DC. David Becker is currently a non-voting ERIC Board Member.
 - Both The Pew Charitable Trusts and David Becker hold left-leaning, liberal political ideologies.
 - ERIC generates core list maintenance reports for DOS to identify voters who have moved within the state, moved from one ERIC state to another, or who have duplicate registrations.
 - In addition, for PA to adhere to the National Voter Registration Act (NVRA), ERIC generates a National Change of Address (NCOA) report, identifying voters that may have moved for election officials to send notices asking them to confirm their new residence address.
 - ERIC also generates contact information for all eligible but unregistered (EBU) constituents in the state.
 - The Privacy Use clause in ERIC's agreement with DOS does not allow any ERIC information sent to DOS to be released by member states without a court order.

The question several ERIC member states are currently asking is whether we can trust ERIC to maintain our Voter Registration rolls in SURE.

Summary of SURE Issues

- The ability of the SURE system to authenticate voter registration input has been given scathing reviews by multiple different organizations.
 - For example, the PA Auditor General, in a 2019 SURE audit, said modifying voter registration information requires no special privileges or access. It can be carried out over a long period of time or utilize automation, so it only needs one actor to be successful. Because it requires no special access and a low number of actors, the Auditor General rated it at the highest risk rate possible. [212431-file-10835.pdf \(pacourts.us\)](#)
- Couple the inadequate authentication process of the voters' registration with the fact that DOS provides direct access to SURE through the WebAPI portal, greatly increases the risk of manipulating the outcome of the election in the favor of one candidate over the other.
 - Web API portals give 3rd party organizations direct access to our SURE system. The organizations granted access to-date are mainly liberal progressive. [Partisan Entities Given Access to Backend of Pennsylvania Online Voter Registration System — Part I \(verityvote.us\)](#)
- In addition, the Department of State (DOS) is building a new SURE replacement. Are there any oversight by our General Assembly on the design, implementation or cybersecurity protocols are being adhered to by Knowink?

Recommend 1) legislation to improve authentication of voter registration information in SURE and 2) shutting down the WebAPI portal

VICO BERTOGLI - AUDIT THE VOTE PA

VOTER ROLL CHALLENGES

VOTER ROLL CHALLENGES

1. County Voter Roll Maintenance obligations
2. Voter Roll cleanup in conjunction with commissioners in friendly counties
3. Citizen lead Voter Roll cleanup options
4. What to expect from officials when pursuing cleanup of the rolls



COUNTY MAINTENANCE OBLIGATION

**TITLE 25 § 1901.
REMOVAL OF ELECTORS**

(A) REMOVAL OF ELECTOR'S REGISTRATION RECORD

- ▶ Commissions shall institute a program to protect the integrity of the electoral process and to **ensure the maintenance of accurate and current registration records**. The program shall be uniform, nondiscriminatory and in compliance with the Voting Rights Act of 1965 (Public Law 89-110, 42 U.S.C. § 1973 et seq.). **An elector's registration shall not be canceled except as follows:**
 - (1) At the request of the elector.
 - (2) Upon the death of the elector under section 1505 (relating to death of registrant).
 - (3) Upon confirmation that the elector has moved to a residence outside the county.
 - (4) Under a voter removal program as provided for under subsection (b), and in compliance with the National Voter Registration Act of 1993.

(B) VOTER REMOVAL PROGRAM (1)

- (1) Each commission shall establish a program to identify registered electors whose address may have changed by establishing one of the following programs:
- (i) **National change of address.** The secretary shall establish by regulation a program whereby information supplied by the **United States Postal Service** through its licensees is used on a periodic basis, **but not less than once every calendar year**, to identify registered electors who may have changed addresses. The information shall be incorporated in the SURE system and shall be forwarded to the commissions in a manner determined by the secretary by regulation.

(B) VOTER REMOVAL PROGRAM (1)(I)

- (A) If it appears from the information provided through the United States Postal Service that a **registered elector has moved to a different residence address within the same county** as the elector is currently registered, the commission **shall change the registration records to show the new address** and shall **send the elector, to the address recorded on the elector's registration**, a notice of the change of address by forwardable mail and a postage prepaid, preaddressed return form by which **the elector may verify or correct the address information**.
- (B) If it appears from the information provided through the United States Postal Service that a registered elector has **moved to a different residence address outside the county**, the commission shall **use the notice procedure described in clause (A)**.

(B) VOTER REMOVAL PROGRAM (1)(II)

(II) Confirmation mailing:

- (A) A commission may establish a program by sending a direct, nonforwardable first class "return if undeliverable - address correction requested" mailing to all registered electors in the county.
- (B) If this program is established, the commission shall use the notice procedure described in subparagraph (i)(A) for any registered elector whose mailing is returned undeliverable.

(B) VOTER REMOVAL PROGRAM (2)

(2) **In conjunction with and not as an alternative** to a program established under paragraph (1), a commission may use a canvass as follows:

- (i) The commission may, by commissioners or by inspectors of registration, verify the registration in an election district by visiting the building from which an elector is registered and other buildings as the commission deems necessary.
- (ii) The commission shall make a record of the name and address of each registered elector who is found not to reside at the registered address or who for any other reason appears to be not qualified to vote in the registered election district.
- (iii) The commission shall leave at the address of each registered elector referred to in subparagraph (ii) a notice requiring him to communicate with the commission on or before a date which the commission shall designate, and which shall be not less than seven days and not more than 15 days from the date of the notice and in any case not later than the 15th day preceding the election next ensuing, and satisfy the commission of his qualifications as an elector. The commission shall cause a confirmation of each such notice to be sent by mail promptly to the registered elector at the address from which he is registered. The envelope containing such information is to be plainly marked that it is not to be forwarded. **At the expiration of the time specified in the notice, the commission shall cancel the registration of the registered elector who has not communicated with the commission and proved his qualifications as a registered elector.**

- (2) **In conjunction with and not as an alternative** to a program established under paragraph (1), a commission may use a canvass as follows:
- (iv) To facilitate the canvass under this section, a commission may, when necessary, **appoint special inspectors of registration** in number not exceeding double the number of election districts being canvassed.
 - (v) Special inspectors must be registered electors of the county. They shall be appointed without reference to residence in election districts or to political affiliations or beliefs. The commission shall instruct special inspectors in their duties. **Special inspectors have the powers conferred by this part upon inspectors of registration.**

(B) VOTER REMOVAL PROGRAM (3)

(3) In conjunction with and not as an alternative to a program established under paragraph (1), a commission **shall send a notice** pursuant to subsection (d) to any registered elector **who has not voted nor appeared to vote during the period beginning five years before the date of the notice** and ending on the date of the notice and for whom the board of elections **did not during that period in any other way receive any information that the elector still resides in the election district.**

(B) VOTER REMOVAL PROGRAM (4)

- (4) A commission **shall complete**, not later than **90 days** before each municipal or general election, **at least once per year** the voter removal programs under this section and shall promptly update information contained in its registration records. This paragraph shall not be construed to preclude any of the following:
- (i) Cancellation of an elector's registration as provided for under subsection (a)(1) or (2).
 - (ii) Correction of registration records in accordance with this part.

(C) IDENTIFICATION OF INACTIVE ELECTORS

- ▶ A commission shall mark an "I" on the registration records of each registered elector who has been mailed a form under subsection (b)(1) or (3) and has failed to respond, which shall be included with all other registration records for that polling site and located at the elector's polling site on the day of the election. The commission shall promptly update the information contained in its registration records.

(D) CANCELLATION OF REGISTRATION (1)

- (1) A commission **shall not cancel the registration** of a registered elector on the ground that the registered elector has changed residence unless any of the following apply:
- (i) The registered elector **confirms in writing that the elector has changed residence to a location outside the county** in which the elector is registered.
 - (ii) The registered elector:
 - (A) has **failed to respond to a notice** described in paragraph (2); and
 - (B) has **not voted nor appeared to vote** and, if necessary, corrected the commission's record of the elector's address in an 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.

(D) CANCELLATION OF REGISTRATION (2)

(2) A notice as required in paragraph (1)(ii) is acceptable if it is a postage prepaid and preaddressed return card, sent by forwardable mail, on which the registered elector may state the elector's current address, if it contains a notice as follows:

(i) The notice must state all of the following:

(A) If the registered elector **did not change residence or changed residence but still resides in the county**, the elector must return the card not later than 30 days prior to the next election. If the card is not returned, affirmation or confirmation of the elector's address may be required before the elector is permitted to vote in an 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. **If the elector does not vote in an election during that period, the elector's registration shall be canceled.**

(B) If the registered elector has changed residence to a place outside the county in which the elector is registered, information shall be provided concerning how the elector can register in the new county of residence.

(B) The notice must state the date of the notice, the date of the next election and the date of the second general election for Federal office occurring after the date of the notice.

TITLE 25 § 1901 REMOVAL OF ELECTORS

- ▶ Counties should immediately cancel a registration upon elector request, death, or confirmed move
- ▶ Counties have an obligation to leverage NCOA at least once a year to detect moves
- ▶ Upon detecting a move, counties **must** send mailing to registrant to confirm their residency
 - ▶ Upon hearing back, immediate action can be taken, otherwise registration is set to "Inactive" and must wait two federal election cycles prior to cancelation
 - ▶ Inactive registrations *may* (up to the county) need to provide affirmation or confirmation of their address prior to voting
- ▶ Counties have the ability to optionally canvas registrations after performing the mailing, to allow immediate cancelations

LEGAL REFERENCES

- ▶ 1901 - <https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&t1=25&div=0&chpt=19&sctn=1&subsctn=0>



CANVASSING DELEGATION

TITLE 25 § 1507.

CANVASS OF REGISTERED ELECTORS

(A) VERIFICATION

- ▶ The commission may, by individual commissioners or by inspectors of registration, verify the registration in an election district by visiting each building from which an elector is registered and other buildings as the commission deems necessary. The commission shall make a record of the name and address of each person registered who is not found to reside at the address from which the person is registered or who for any other reason appears to be not qualified to vote in the election district from which the person is registered. The commission shall leave at the address of each such person the notice prescribed by section **1506(e)** (relating to checkup of registers).

(B) ACTION

- ▶ At the expiration of the time specified in the notice under section 1506(e), the commission shall cancel or suspend the registration of each such person who has not communicated with the commission and proved qualifications as an elector.

(C) SPECIAL INSPECTORS

- ▶ For the purpose of facilitating a canvass, the commission may, when necessary, **appoint special inspectors** of registration in number not exceeding double the number of election districts which the commission determines to canvass. **They must be qualified electors of the county.** They shall be appointed without reference to residence in election districts or to their political affiliations or beliefs. The commission shall instruct each special inspector in discharging duties.

TITLE 25 § 1506. CHECKUP OF REGISTERS (D) & (E)

- (d) **Failure to deliver notice.**— Upon the return by the postal service of any notice which it has been unable to deliver at the given address because the addressee cannot be found there or upon report by the postal service that any registered elector does not reside at the address given on the registration card, the commission shall do one of the following:
- (1) Direct an authorized employee to visit in person the address of the qualified elector and, if the employee finds that the qualified elector does not reside at the address, to leave at the address the notice prescribed by subsection (e).
 - (2) Mail to the registered elector at the address given on the registration card the notice prescribed by subsection (e). The notice shall be sent as first class mail and shall contain on the outside a request to the postmaster to forward it if the addressee does not reside at the address given thereon.
- (e) **Communication with commission.**— The notice stipulated by subsection (d) **shall require the registered elector to communicate with the commission** by a date designated by the commission, which shall be **not less than ten days nor more than 30 days from the service or mailing** of the notice and in any case not later than the 15th day preceding an election, and **satisfy the commission of qualifications as a qualified elector**. At the expiration of the time specified in the notice, **the commission shall cancel the registration of a person who has not communicated with the commission and proved qualifications as a qualified elector**, except that, if a registered elector who has been mailed the notice prescribed by this subsection communicates with the commission claiming the right to remain registered at the address to which the original notice was mailed, the commission shall investigate and, **if not satisfied of the right of the registered elector to remain registered at the address, shall cancel the registration of the elector**. Every elector whose registration is canceled under this section must register in the manner provided by this part in order to be eligible to vote at any election.

TITLE 25 § 1507 CANVASS OF REGISTERED ELECTORS

- ▶ Counties can canvass address of registered electors to identify registrations incorrectly associated with the address
- ▶ Counties can appoint "special inspectors", or citizens from the county, to perform this canvassing on their behalf
- ▶ If the inspectors find a registrant does not reside at the address in question, and is not a member of the military, they must leave a notice, either at the address or mailed to the elector, in accordance with Title 25 § 1506 (e)
 - ▶ The elector in question is given at least ten days and no longer than 30 days to respond (duration set by the county)
 - ▶ Upon not receiving a satisfactory response, the county can cancel the registration

LEGAL REFERENCES

- ▶ 1507 - <https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttr=25&div=0&chpt=15&sctn=7&subsctn=0>
- ▶ 1506 - <https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttr=25&div=0&chpt=15&sctn=6&subsctn=0>



CITIZEN ACTION

TITLE 25 § 1509.

PETITION TO STRIKE OFF NAMES

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- (a) **Initiation.**— At any time not later than the tenth day preceding an election, **a qualified elector**, including any watcher and any registrar or inspector of registration, **may petition the commission to cancel or suspend the registration of a registered elector**. The petition must set forth, under oath or affirmation, all of the following:
- (1) Sufficient grounds for the cancellation or suspension.
 - (2) That:
 - (i) notice of the time and place when the petition would be presented has been given personally to the registered elector at least 24 hours prior to the presentation of the petition; or
 - (ii) **the registered elector could not be found** at the place given in the district register as residence and **the person in charge of that place, whose name must be given in the petition**, has declared that the person was well acquainted with the names of all individuals residing at the place and that **the registered elector had never been or was no longer one of them or that no such individual is residing at the address**.
- (b) **Action.**— Upon receipt of a petition under subsection (a), **the commission shall cancel or suspend the registration of the registered elector** and amend accordingly the general and district registers and other records affected unless the registered elector so registered appears and shows cause why this action should not be taken.

TITLE 25 § 1509 PETITION TO STRIKE OFF NAMES

- ▶ Qualified electors of a county can petition their County Commissioners to cancel invalid registrations on the voter rolls.
- ▶ The petition must be submitted to the Commission no later than the 10th day preceding the election.
 - ▶ The petition will need to be submitted during the public portion of a Board of Election's (BOE's) meeting or as an agenda topic for the meeting. If you want it to be an agenda topic, you will need to contact the BOE in advance to get time on the agenda.
 - ▶ The BOE's meeting date for submission should be within the allotted timeframe of 10 days preceding the election.
 - ▶ One approach is to deliver the petition to the Election Director a few days before the BOE's meeting and have him/her timestamp a copy for you for your records. This in effect gives the BOE a heads up and time to review the petition before it gets formally submitted at the meeting.
- ▶ The petition must set forth under oath the grounds for cancelation and the petitioner must also prove they canvassed the address, spoke with the person in charge of the address (and provide their name), and they confirm the elector in question no longer, does not, or never did reside at the address. It doesn't have to be long, but it must include the required information.
- ▶ Upon receiving the petition, the county shall cancel or suspend the registration

LEGAL REFERENCES

- ▶ 1509 - <https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttr=25&div=0&chpt=15&sctn=9&subsctn=0>

CANVASS OVERVIEW

- ▶ Upon identifying a questionable registration, you or your team will send someone to physically canvass the registration address
- ▶ Upon arrival, you will need to speak to someone who is in charge of that place, such as the homeowner, renter, or building owner
- ▶ You will need them to identify whether the registrant in question currently resides at the address, or has ever resided there
- ▶ If they declare the registrant no longer lives there, never lived there, or that no such individual resides at the address, then you'll need to record the name of the person you're speaking with for the petition

PROCESS OVERVIEW

- ▶ Upon receiving information from the canvassing that the registrant does not reside at the address, you will need to create an exhibit with the findings and the name of the person who you spoke to
- ▶ In addition to any exhibits, prior to submitting, you will need to put the facts in a verification (sworn affidavit) which outlines the law and your findings
- ▶ The completed petition package should be submitted to the elections director and you should request at least one timestamped copy back
- ▶ You should then later serve the commissioners with the timestamped petition



NO

PITFALLS & PUSHBACK

WHAT TO EXPECT

POTENTIAL PUSHBACK

- ▶ The county may state they cannot perform list maintenance 90-days prior to an election
 - ▶ Some counties have previously hid behind federal law, 52 U.S. Code § 20507
 - ▶ The law does not prevent list maintenance 90-days prior to a federal election, but rather obligates the county to have completed their once yearly minimum maintenance
 - ▶ The law only applies to federal elections
 - ▶ <https://www.law.cornell.edu/uscode/text/52/20507>

POTENTIAL PUSHBACK

- ▶ A county, may, do nothing with the petition. The text of the statute is fairly clear that the county **shall** cancel the registration if all conditions are met. Depending on the county, you may need to force them to do their job via legal action
- ▶ A county may also slow walk or partially address the petitions, which would require the due-diligence of the petitioner to check regularly as to the status of their petitions and apply pressure on the Commissioners to fulfill their obligation under the law