



June 2019

VOTER REGISTRATION

Information on Federal Enforcement Efforts and State and Local List Management

Accessible Version

Why GAO Did This Study

The NVRA was intended to increase the number of eligible citizens who register to vote in federal elections, protect the integrity of the electoral process, and ensure that accurate and current voter registration rolls are maintained.

GAO was asked to examine issues related to the NVRA's voter registration and voter registration list maintenance requirements, as well as issues related to election fraud. This report addresses (1) DOJ's efforts to ensure states and localities comply with NVRA requirements to offer registration opportunities and administer voter registration list maintenance programs, and address potential instances of election fraud; and (2) how selected data sources are used at the state and local level to help maintain voter registration lists, and perspectives on how these data sources help ensure list accuracy and address potential voter eligibility and fraud issues.

GAO analyzed data on DOJ's efforts to ensure NVRA compliance and address election fraud—as measured by matters initiated and cases filed—for fiscal years 2001 through 2017 (the last full year of data available when requested from DOJ). This period covered eight federal elections. GAO also interviewed DOJ officials. GAO selected six commonly received data sources that may be used in list maintenance efforts. GAO reviewed literature and interviewed state and local election officials in five states for perspectives on how the data sources are used and any benefits and limitations. These states used at least five of the data sources and provided geographic diversity. The results from these five states are not generalizable, but provide insight into state and local perspectives on list maintenance.

View [GAO-19-485](#). For more information, contact Rebecca Gambler at (202) 512-8777 or gambler@gao.gov.

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What GAO Found

From fiscal years 2001 through 2017, the Department of Justice's (DOJ) Voting Section (which enforces the civil provisions of voting rights laws) initiated matters (e.g., investigations), filed cases against state or local governments in federal court, and engaged in other efforts to enforce provisions of the National Voter Registration Act of 1993 (NVRA). Specifically, the Voting Section:

- initiated 99 matters involving allegations of NVRA violations related to voter registration opportunities and list maintenance;
- filed 14 cases involving allegations of NVRA violations; eight included list maintenance allegations; four included registration opportunities allegations; and two included both types of allegations; and
- participated in eight NVRA cases as a “friend of the court” and entered into five out-of-court settlement agreements with states.

DOJ's Public Integrity Section (which supervises nationwide election law enforcement and prosecutes selected cases involving alleged corruption by government officials), and U.S. Attorneys' Offices (which enforce criminal laws within their districts) engaged in efforts to address election fraud from fiscal years 2001 through 2017, including filing cases against individuals in federal court. For example:

- The Section initiated 33 matters and filed 19 cases related to election fraud, accounting for about three percent of its overall caseload. Of these cases, 17 involved vote buying and false information charges.
- U.S. Attorneys' Offices initiated 525 matters and filed 185 cases related to election fraud, accounting for about .02 percent of their overall caseload. Of these cases, 52 involved charges such as vote buying and voting more than once, and 49 involved conspiracy.

GAO reviewed six data sources election officials may use to maintain voter registration lists and remove voters who become ineligible due to a move, death, or disqualifying criminal conviction: (1) the U.S. Postal Service's National Change of Address (NCOA), (2) the Interstate Voter Registration Crosscheck Program, (3) returned mail, (4) the public version of the Social Security Administration's Death Master File, (5) state vital records, and (6) U.S. Attorneys' records on felony convictions. Election officials GAO interviewed and literature reviewed reported benefits and limitations associated with each source. According to officials, each source helps improve list accuracy, despite some limitations, and list maintenance efforts in general help reduce opportunities for election fraud. For example, officials said that NCOA data helped them maintain accurate lists by identifying registrants who moved outside the election jurisdiction; however, they also noted that NCOA data may not capture all address changes because people do not always notify the U.S. Postal Service when they move.

GAO incorporated technical comments provided by federal agencies and state and local election officials as appropriate.

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Abbreviations

ACTS	Automated Case Tracking System
DHS	Department of Homeland Security
DMF	Death Master File
DOJ	Department of Justice
EAVS	Election Administration and Voting Survey
EOUSA	Executive Office for United States Attorneys
ERIC	Electronic Registration Information Center
HAVA	Help America Vote Act of 2002

ICM	Interactive Case Management System
LIONS	Legal Information Office Network System
NCOA	National Change of Address
NVRA	National Voter Registration Act of 1993
SAVE	Systematic Alien Verification for Entitlements Program

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June 27, 2019

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
The Honorable Amy Klobuchar
Ranking Member
Committee on Rules and Administration
United States Senate
The Honorable Tammy Duckworth
United States Senate

The National Voter Registration Act of 1993 (NVRA), also known as the “motor voter” law, was intended to increase the number of eligible citizens who register to vote in federal elections, protect the integrity of the electoral process, and ensure that accurate and current voter registration rolls are maintained.¹ Among its provisions, the law expanded the number of locations and opportunities for citizens to register to vote, including when conducting certain transactions at a motor vehicle agency or at a public assistance agency. The NVRA also outlined various requirements for the processing of registration forms and maintenance of voter registration lists for federal elections. List maintenance provisions require that states conduct a general program that makes a reasonable effort to remove the names of certain ineligible voters, but also contain safeguards against improper removal.²

In managing the voter registration process and maintaining voter registration lists, state and local election officials must balance two NVRA-related goals—(1) minimizing the burden on eligible people of registering to vote; and (2) ensuring that voter lists are accurate and

¹Pub. L. No. 103-31, 107 Stat. 77 (codified as amended at 52 U.S.C §§ 20501-20511) (formerly 42 U.S.C. §§ 1973gg–1973gg-10).

²Certain states are exempt from the NVRA, including North Dakota—which has no voter registration requirement—and Idaho, Minnesota, New Hampshire, Wisconsin, and Wyoming—which have Election Day registration. The NVRA does not apply to states where either (1) under law that has been in effect continuously on and after August 1, 1994, there is no voter registration requirement for any voter in the state for a federal election or (2) under law that has been in effect continuously on and after, or enacted prior to, August 1, 1994, all voters in the state may register to vote at the polling place at the time of voting in a general election for federal office.

current (limited to those eligible to vote), which includes ensuring that appropriately registered voters are not improperly removed from the voter registration lists. State and local election officials use data from a number of sources to maintain their voter registration lists and work toward these goals. Accurate voter registration lists may improve election-day efficiency and may also limit opportunities for potential election fraud. Over the years, news and other reports have highlighted concerns that voter registration list maintenance practices in certain states designed, in part, to deter potential election fraud may have hindered the ability of some eligible voters to cast their ballots. The Department of Justice (DOJ) is responsible for monitoring compliance, conducting investigations, and filing litigation in federal court to enforce the NVRA, and also plays a role in investigating and prosecuting potential instances of election fraud.

You asked us to examine federal, state, and local efforts to ensure compliance with the NVRA's voter registration and voter registration list maintenance requirements, including state and local procedures for checking the accuracy of voter registration lists. You also asked us to examine issues related to election fraud. This report addresses the following questions:

1. What efforts has DOJ taken to ensure states and localities are complying with NVRA requirements to offer registration opportunities and administer voter registration list maintenance programs, and to address potential instances of election fraud?
2. How are selected data sources used at the state and local level to help maintain voter registration lists, and what are perspectives on how these data sources help ensure list accuracy and address potential voter eligibility and fraud issues?

To address DOJ efforts to ensure NVRA compliance, we reviewed and analyzed case management data from the Civil Rights Division's Interactive Case Management System (ICM) for matters initiated and cases filed in federal court that involved NVRA provisions from fiscal years 2001 through 2017.³ We reviewed ICM data from the Civil Rights

³A matter is defined as an activity, such as an investigation, that has not yet resulted in the filing of a complaint, indictment, or information in court. A matter may eventually become a case, or be closed without further action. A case is an activity that has resulted in the filing of a complaint, indictment, or information in court. We selected this time period to capture information on NVRA enforcement across multiple presidential administrations. This time period includes eight federal elections, as well numerous state and local elections. Fiscal year 2017 was the last complete year of DOJ data available at the time of our request.

Division's Voting Section, which enforces the civil provisions of the NVRA, among other voting laws, as well as the Appellate Section, which represents the United States in civil rights cases in federal courts of appeal. We also reviewed aggregate data on all Voting Section matters and cases during this period.⁴

To assess the reliability of these data, we reviewed available system documentation, such as the ICM data dictionary, and interviewed officials from the Civil Rights Division to discuss the mechanisms in place to ensure data quality. We reviewed the data to assess the extent of any missing variables or inconsistencies and worked with agency officials to resolve any such inconsistencies and correct the data as appropriate. For cases filed, we also reviewed and analyzed court documents to assess the reliability of information recorded in ICM. We found the data sufficiently reliable to provide information on the nature and characteristics of DOJ's efforts to ensure NVRA compliance through initiating matters and filing cases. We also interviewed agency officials to obtain information on any additional efforts to ensure NVRA compliance outside of litigation, and to obtain perspectives on enforcement priorities during the period of our review.

To describe DOJ efforts to address potential instances of election fraud, we reviewed and analyzed case management data from the two DOJ components responsible for prosecuting election fraud: the Criminal Division's Public Integrity Section, and the U.S. Attorneys' Offices. The Public Integrity Section uses the Automated Case Tracking System (ACTS) maintained by the Criminal Division, and the U.S. Attorneys' Offices used the Legal Information Office Network System (LIONS) before transitioning to a new data system called CaseView, both of which were maintained by the Executive Office for United States Attorneys (EOUSA). We reviewed and analyzed data related to the components' election fraud matters initiated and cases filed in federal court from fiscal years 2001 through 2017.⁵ Specifically, we reviewed all matters and cases that were either categorized as "election fraud" or "election crime other" in ACTS and LIONS, based on the judgment of the DOJ attorney,

⁴Because this objective addressed efforts DOJ has taken—which is best measured by matters initiated and cases filed—and because DOJ cases may be ongoing or be subject to future appeals, we do not report on the status or outcomes of cases in this report.

⁵We selected this time period to capture information on election fraud efforts across multiple presidential administrations. Fiscal year 2017 was the last complete year of DOJ data available at the time of our request.

or included individual charges related to registering to vote or casting a ballot.⁶ To identify individual charges, we interviewed officials from both components and reviewed DOJ guidance on the federal prosecution of election offenses. We developed a list of charges that were related to elections only, and involved registering to vote or casting a ballot, and provided the list to DOJ to ensure the list was accurate and complete.

We assessed the reliability of these data by reviewing data system user manuals and data dictionaries, identifying any duplicate data, identifying missing data fields or inconsistencies, and working with agency officials to resolve issues or identify potential limitations. We found the data sufficiently reliable to provide information on the nature and characteristics of DOJ's efforts to address potential instances of election fraud. We also interviewed agency officials to obtain perspectives on data trends we identified. The databases we reviewed track federal matters and prosecutions only and do not include information on any state or local investigations or prosecutions.

To address how selected data sources are used at the state and local level to maintain voter registration lists, we identified and selected six data sources which are commonly received by state election offices and may be used to help maintain voter registration lists and identify ineligible voters. To identify data sources which officials receive and may use, we first sent a structured questionnaire to state election directors for each of the 49 states and the District of Columbia with voter registration requirements, and summarized their responses to identify commonly received data sources.⁷ We conducted pretests with 4 states to ensure that the questionnaire items were clear and answerable. Then, from the list of commonly received sources, we selected sources that can be used to address three of the five list maintenance categories outlined in the

⁶DOJ attorneys select a program category for each matter or case in ACTS and LIONS. The program category field helps define the type of criminal action (e.g. election fraud or health care fraud). To further understand how these program categories are used we requested and reviewed matters and cases with specific charges in addition to those categorized under the election fraud program category (and election crime other in ACTS).

⁷North Dakota does not have a voter registration requirement.

NVRA: change in residence (moves), deaths, and felony convictions.⁸ We also selected at least (1) one nationwide source that captures data from all states; (2) one state source that only includes data specific to the particular state that receives data from the source; and (3) one interstate data exchange that involves sharing data between multiple states.⁹ We selected sources from each of these categories in order to identify potential issues that may arise when election officials match their voter registration data with various other types of data sources.

The six data sources we selected are: (1) U.S. Postal Service National Change of Address (NCOA), (2) Interstate Voter Registration Crosscheck Program (Crosscheck), (3) returned mail, (4) the public version of the Social Security Administration Death Master File (DMF), (5) state vital records, and (6) U.S. Attorneys' Offices' records on federal felony convictions. We searched literature from scholarly and peer reviewed publications; government reports; dissertations; conference papers; books; articles; association, think tank, and other nonprofit organizations; and working papers published from 2001 through 2018 to identify publications that were potentially relevant to how the six selected data sources are used for voter registration list maintenance.¹⁰ From the publications relevant to the six selected data sources, we collected

⁸The NVRA specifies certain categories under which states and local jurisdictions may remove registrants from voter registration lists: (1) at the request of the registrant; (2) change of residence (moves); (3) death; (4) as provided by state law, by reason of criminal conviction; and (5) as provided by state law, by reason of mental incapacity. We excluded the first category (at the request of the registrant) from our review since election officials would not use a specific data source to obtain this information. We also excluded the mental incapacity category from our selection criteria as it accounted for the fewest number of removals. See appendix III for more information on the criteria we used to select data sources for review.

⁹In an interstate data exchange, participating states submit voter registration and other data to a managing entity which matches the data and shares the results with all participants.

¹⁰We searched literature from this time period to gain an understanding of our selected data sources and how they are used for list maintenance over a substantial period of time.

information regarding benefits or limitations associated with using these data sources for voter registration list maintenance.¹¹

Additionally, we visited and conducted interviews with state and local jurisdiction election officials from five selected states (Florida, Michigan, Nebraska, Oregon, and Virginia) to obtain information on policies and procedures for using the selected data sources.¹² We also obtained state and local election officials' perspectives on the benefits and limitations associated with using the selected data sources to address voter registration list accuracy and potential voter eligibility and fraud issues. We selected these five states by first identifying how many of the selected data sources states use, and creating a list of states that use at least five of the six selected sources. We then narrowed the list to five states by considering variation in states' population size, when possible, and geographic diversity in order to capture possible regional differences in election administration practices. We corroborated the information we gathered through these interviews by reviewing relevant state statutes and other documentation. While the perspectives of officials we spoke with cannot be generalized to other states and local election jurisdictions, they provided a range of perspectives on the topics within the scope of our review. We also interviewed officials from the agencies that administer the selected data sources, where applicable, including the U.S. Postal Service and the Social Security Administration, to obtain their perspectives on the use of these sources for voter registration list maintenance and identifying potential voter eligibility and fraud issues.

We conducted this performance audit from November 2017 to June 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that

¹¹The literature search produced about 250 publications related to our six selected data sources, or voter registration list maintenance in general. GAO analysts worked in pairs to review each publication's abstract and determine whether the publication was potentially relevant to one of our selected data sources. For those publications we determined to be relevant, we reviewed the full text to determine whether the publication provided perspectives on the benefits and limitations of using selected data sources for voter registration list maintenance. Each analyst reviewed the publication independently, then reached consensus with the pair.

¹²We visited two local election jurisdictions (counties or cities/towns) in each state, one with a larger population and one with a smaller population. See appendix III for additional information on our selection process and a list of the local election jurisdictions we visited.

the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

NVRA Overview

In passing the NVRA in 1993, Congress found that unfair registration laws and procedures can have a direct and damaging effect on voter participation in federal elections. The NVRA was intended, in part, to establish procedures to increase the number of eligible citizens who register to vote in federal elections, as well as to protect the integrity of the electoral process and ensure accurate and current voter registration rolls. As such, the NVRA includes provisions focusing on both increasing opportunities for voter registration and improving voter registration list maintenance. Table 1 below includes a summary of these provisions.

Table 1a: Summary of National Voter Registration Act of 1993 (NVRA) Provisions Related to Voter Registration Opportunities and Voter Registration List Maintenance

Registration Opportunities Sections	Summary
Section 5 52 U.S.C. § 20504 ^a	Requires that states provide individuals with the opportunity to register to vote at the same time they apply for or renew a driver's license. ^b
Section 6 52 U.S.C. § 20505 ^c	Requires that states offer voter registration opportunities by mail-in application using forms developed by each state and the Election Assistance Commission. ^d
Section 7 52 U.S.C. § 20506 ^e	Requires that states offer voter registration opportunities at all offices that provide public assistance and all offices that provide state-funded programs primarily engaged in providing services to persons with disabilities, in addition to other designated offices.
Section 8 52 U.S.C. § 20507 ^f	Contains requirements with respect to the administration of voter registration by states, including that states register voters whose applications are received at least 30 days before an election.

Table 1b: Summary of National Voter Registration Act of 1993 (NVRA) Provisions Related to Voter Registration Opportunities and Voter Registration List Maintenance

List Maintenance Sections	Summary
Section 8 52 U.S.C. § 20507 ^f	Further requires states to have a program to remove ineligible voters from voter rolls, but also requires that such list maintenance programs incorporate specific safeguards. For example, list maintenance programs must be uniform, non-discriminatory, in compliance with the Voting Rights Act, and not be undertaken within 90 days of a federal election.

Source: GAO summary of NVRA provisions. | GAO-19-485

^aFormerly 42 U.S.C. § 1973gg-3.

^bReference to driver's licenses also includes personal identification.

^cFormerly 42 U.S.C. § 1973gg-4.

^dThe Election Assistance Commission was established by the Help America Vote Act of 2002 (HAVA). In addition to maintaining the mail-in voter registration form developed in accordance with the NVRA, the Commission is charged with developing guidance to meet HAVA requirements, among other things.

^eFormerly 42 U.S.C. § 1973gg-5.

^fFormerly 42 U.S.C. § 1973gg-6.

The Help America Vote Act of 2002 (HAVA), which amended the NVRA, requires states to implement an interactive computerized statewide voter registration list and perform regular list maintenance.¹³ HAVA requires states to perform regular list maintenance by comparing their voter registration lists against state records on felons and deaths.¹⁴ HAVA also

¹³Pub. L. No. 107-252, 116 Stat. 1666 (codified as amended at 52 U.S.C. §§ 20901-21145).

¹⁴HAVA section 303, 52 U.S.C. § 21083 (formerly 42 U.S.C. § 15483).

established the Election Assistance Commission to assist the states regarding HAVA compliance and to serve as a national clearinghouse of election administration information, among other purposes.

DOJ Role in NVRA and Election Fraud Enforcement

In the United States, the authority to regulate elections is shared by federal, state, and local officials. DOJ is responsible for (1) civil investigations and enforcement under federal voting rights laws, such as the NVRA, and (2) criminal investigations and prosecutions under federal election crime statutes, such as those prohibiting double voting or voting by noncitizens.¹⁵

With regard to enforcement of NVRA provisions:

- the Civil Rights Division's Voting Section (Voting Section), within DOJ, enforces the civil provisions of federal laws that protect the right to vote, including provisions of the NVRA, as well as HAVA, the Voting Rights Act of 1965, and the Uniformed and Overseas Citizens Absentee Voting Act, among others. In addition to DOJ's role in enforcing the NVRA, the law also allows a private party (a person or organization) who is aggrieved by a violation of the NVRA to bring a civil action against the state or local agency responsible for voter registration.¹⁶

With regard to enforcement of federal election crime statutes:

- the Criminal Division's Public Integrity Section supervises DOJ's nationwide response to election crimes, such as voter fraud and campaign finance offenses, and reviews all major investigations and criminal charges proposed by U.S. Attorneys' Offices relating to

¹⁵The responsibility for addressing election fraud is shared among federal, state, and local authorities. State statutes regulate various aspects of elections, including activities associated with election fraud. Federal jurisdiction over election fraud is established in elections when a federal candidate is on the ballot. In the absence of a federal candidate on the ballot, federal jurisdiction may be obtained where facts exist to support the application of federal criminal laws that potentially apply to both federal and non-federal elections.

¹⁶Information on NVRA cases filed by private parties can be found in appendix I.

election crime.¹⁷ Public Integrity Section attorneys investigate and prosecute selected cases involving alleged corruption (including election crimes) by federal, state, or local government officials.¹⁸

- U.S. Attorneys' Offices investigate and prosecute a wide range of criminal activities, including federal election fraud, within their respective federal judicial districts.¹⁹ Each U.S. Attorney exercises wide discretion in the use of his or her resources to further the priorities of the local jurisdictions and needs of their communities.²⁰

DOJ's civil and criminal enforcement actions are recorded in case management systems which differentiate between matters and cases.

- A matter is defined as an activity, such as an investigation of an allegation, that has not yet resulted in the filing of a complaint, indictment, or information in court.²¹ A matter may eventually become a case, or may be closed without further action.
- A case is defined as an activity that has resulted in the filing of a complaint, indictment, or information in court. Cases typically start as matters.

¹⁷The Federal Bureau of Investigation also plays a role in investigating allegations of election crimes, including campaign finance crimes, voter and ballot fraud, and civil rights violations. Preliminary investigations that did not become a Public Integrity Section or U.S. Attorneys' Office matter or case from fiscal years 2001 through 2017 are not included in this report.

¹⁸While the majority of federal corruption prosecutions are handled by the local U.S. Attorney's Office where the crime occurred, the Public Integrity Section generally handles cases that fall into one of the following categories: (1) recusals by U.S. Attorneys, (2) sensitive and multi-district cases, (3) federal agency referrals of federal employees, and (4) requests for assistance from U.S. Attorneys.

¹⁹The 93 U.S. Attorneys are appointed to serve in the 94 federal judicial districts throughout the country. One U.S. Attorney is appointed to serve in both the Districts of Guam and the Northern Mariana Islands.

²⁰The Executive Office for United States Attorneys (EOUSA) represents the 93 U.S. Attorneys. Among other things, EOUSA provides guidance, management direction, and oversight to U.S. Attorneys' Offices.

²¹A complaint outlines the facts and legal claims (i.e., demands or assertions) for relief from damages caused, or wrongful conduct engaged in, by the defendant. An indictment or information is the formal charge made by a prosecutor to initiate a criminal proceeding against the accused.

The process for initiating matters and filing cases varies across the three DOJ components we reviewed. For example, within the Criminal Division, staff are to open a matter when they have worked on an investigation for a minimum of 30 minutes.

State and Local List Maintenance Roles and Responsibilities Under the NVRA

States are responsible for the administration of state and federal elections, and states regulate various aspects of elections including, for example, registration procedures, absentee and early voting requirements, and Election Day procedures. Within each state, responsibility for managing, planning, and conducting elections is largely a local process, residing with about 10,500 local election jurisdictions nationwide. Under the NVRA and HAVA, states are required to have a voter registration list maintenance program, and state and local election jurisdictions are responsible for ensuring that the registration lists are accurate, and that ineligible voters are lawfully removed.

The NVRA specifies certain categories under which jurisdictions may remove registrants from voter registration lists, including:

- if a registrant has moved outside of a jurisdiction and either (1) confirmed the move in writing or (2) failed to respond to address confirmation mailings and failed to vote in two consecutive federal general elections subsequent to the mailing;
- death of the registrant;
- criminal conviction of the registrant, as provided for in state law; and
- mental incapacity of the registrant, as provided for in state law.²²

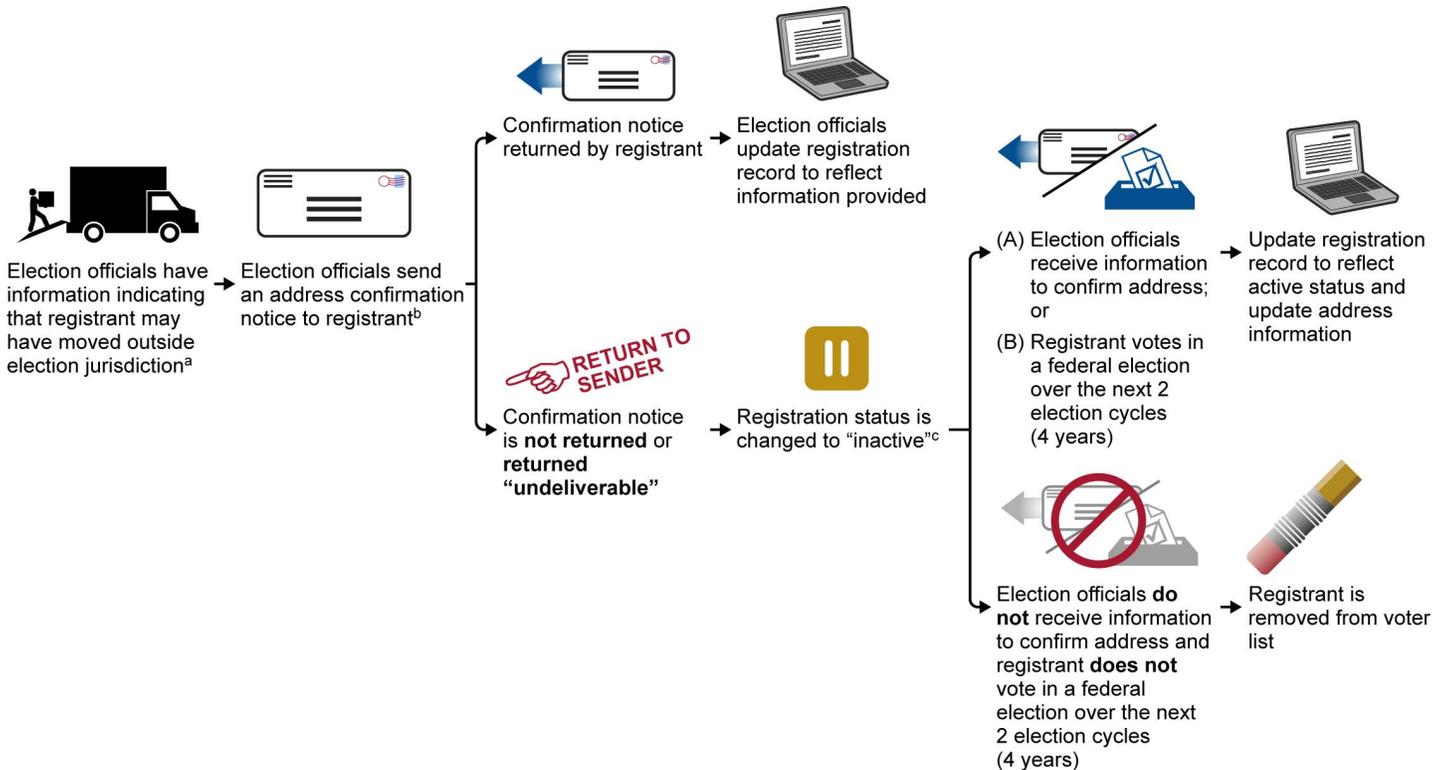
State and local election officials can only remove registrants from the voter registration list after meeting certain requirements outlined in the act. Specifically, the NVRA stipulates that list maintenance activities must be uniform, non-discriminatory, and in compliance with the Voting Rights Act; and that programs to systematically remove ineligible voters must not be undertaken within 90 days of a federal election, except under certain

²²States can also remove registrants from voter registration lists at the request of the registrant.

circumstances.²³ As noted above, election officials may remove a registrant from the voter registration list for change of residence if the registrant confirms the move in writing, or fails to respond to an address confirmation notice and fails to vote in two subsequent federal general elections following the mailing of the address confirmation notice. While state procedures differ, states generally designate registrants who are sent an address confirmation notice or fail to respond to the address confirmation notice in a timely manner as “inactive.” The “inactive” status generally indicates that the election officials may need to receive information from the registrant or other sources to confirm the registrant’s address. See figure 1 for an illustration of the NVRA confirmation and removal process for registrants who may have moved outside of the jurisdiction.

²³Under section 8(c) of the NVRA, states are prohibited from systematically removing the names of ineligible voters within 90 days of a primary or general election for federal office, except for removals at the request of the registrant, as provided by state law by reason of criminal conviction or mental incapacity, or upon death of the registrant.

Figure 1: National Voter Registration Act Voter of 1993 Registration Confirmation Notice and Removal Process Based on Change of Address Information



Source: GAO analysis of National Voter Registration Act provisions. | GAO-19-485

^aInformation indicating that a registrant may have moved can include returned undeliverable mail or U.S. Postal Service change of address information.

^bConfirmation notices must be sent by forwardable mail and include a prepaid pre-addressed return form by which the registrant may verify or correct the address information.

^cIn some election jurisdictions, registration status is changed to “inactive” at the same time the confirmation notice is sent.

States and local jurisdictions use different data sources and different processes and procedures to obtain information under the NVRA removal categories and to maintain accurate voter registration lists. For example, election offices in some states collaborate with their state’s motor vehicles agencies—such as a Department of Motor Vehicles—to acquire information on changes to registrants’ addresses or other identifying information. Some states also participate in interstate exchanges—such as the Electronic Registration Information Center (ERIC) and Crosscheck—to compare information from their voter registration lists and other state and local sources. States may also use national databases—such as the U.S. Postal Service’s NCOA database or the Social Security

Administration's public DMF—to identify registrants who have moved to another jurisdiction or state, or who have died. Multiple factors such as state laws, costs, the security of voter registration information, and related privacy considerations play a role in election officials' list maintenance activities and procedures. In some states, the state maintains the responsibility for matching some data sources (such as data on deaths and moves) against the voter registration list and removing certain ineligible voters; whereas in other states, local jurisdictions have a larger role in the list maintenance process.

DOJ Engaged in Various Efforts to Enforce the NVRA and Address Election Fraud from Fiscal Years 2001 through 2017

DOJ's Voting Section Initiated Matters, Participated in Cases, and Engaged in Other Efforts to Enforce the NVRA's Registration Opportunity and List Maintenance Requirements

Within DOJ, the Voting Section has the authority to initiate a matter or pursue a case under the NVRA, among the other voting laws for which it is responsible. According to Section officials, the Section identifies potential NVRA violations through several means, including reviewing publically available federal elections and other data,²⁴ reviewing publically available federal and third party reports, receiving complaints, and conducting compliance investigations that may include visits to state and local offices.²⁵ Officials stated that after initiating and conducting an investigation (or matter), the Section makes a recommendation to the head of the Civil Rights Division who then decides which action to take, such as pursuing litigation by filing a case against a state or local election jurisdiction.

The Voting Section categorizes its NVRA-related matters and cases as related to providing registration opportunities for voters (registration opportunities), or related to the rules regarding maintenance of voter registration lists under specified conditions, which includes both wrongful removals of eligible voters and failure to remove ineligible voters (list

²⁴Federal elections data include the U.S. Election Assistance Commission's biennial Election Administration and Voting Survey (EAVS). EAVS collects nationwide data on a variety of election administration topics, including voter registration, voter participation, and election technology, among other topics, on a biennial basis from local election jurisdictions across all 50 states, the District of Columbia and U.S. territories.

²⁵Section officials noted that in conducting compliance investigations, they may visit state and local election offices, as well as other offices where voter registration applications may be available, such as motor vehicle and public assistance offices.

maintenance).²⁶ In addition to enforcing the NVRA through initiating matters and filing cases, the Voting Section participated in NVRA cases as an amicus curiae or “friend of the court,” entered into settlement agreements with states to address issues related to NVRA provisions, and engaged in other efforts to assess compliance with NVRA requirements.

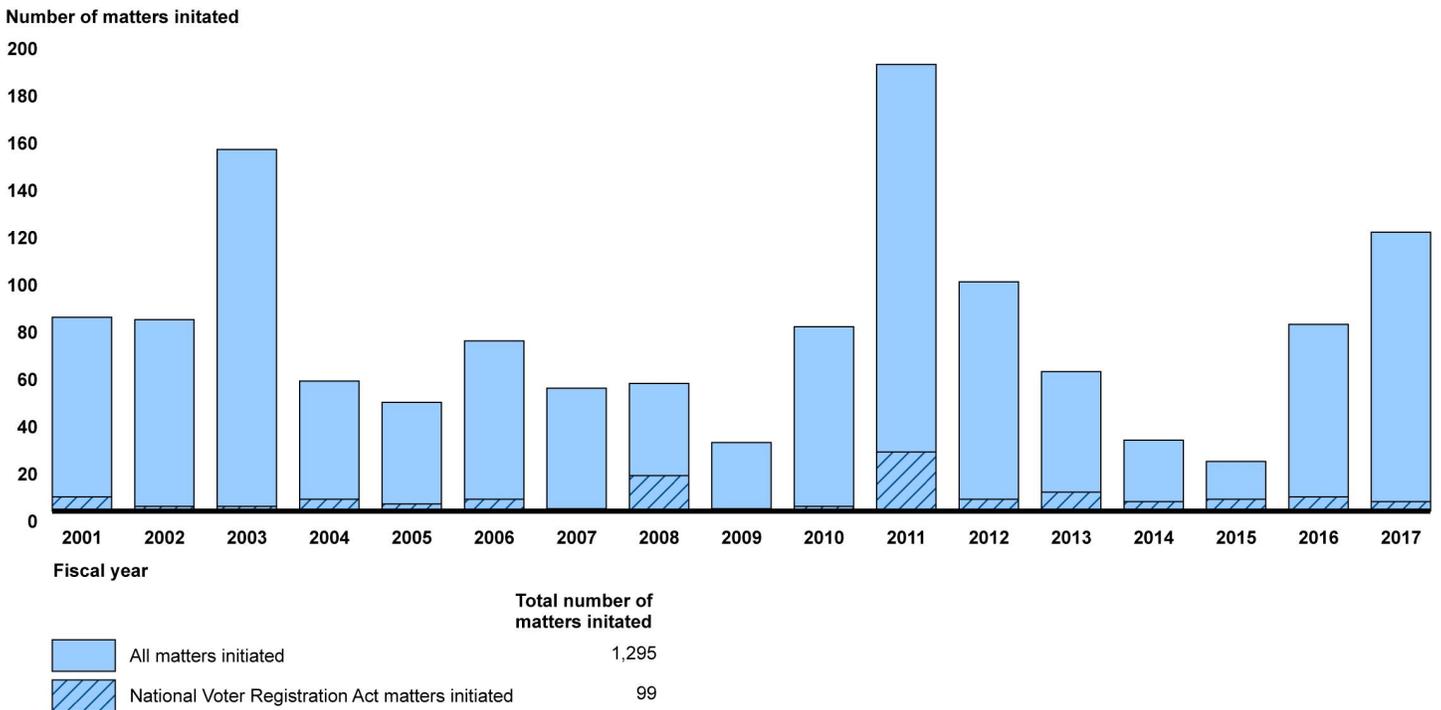
More NVRA Registration Opportunity Matters than List Maintenance Matters Initiated

According to Civil Rights Division data we analyzed, the Voting Section initiated 1,295 matters from fiscal years 2001 through 2017 to investigate issues related to provisions of statutes such as the NVRA, HAVA, and the Voting Rights Act. Of these 1,295 matters, 99 involved allegations under the NVRA.²⁷ As shown in figure 2, the Section initiated the largest number of NVRA matters during this period in fiscal years 2008 (15) and 2011 (25).

²⁶The Voting Section’s database uses the term “purge” to refer to matters and cases involving the rules for maintenance of voter registration lists under specified conditions. For purposes of this report, we refer to these matters and cases as “list maintenance.” According to Voting Section officials, Section attorneys also used “voter list” as a general term when it was initially unclear whether the investigation would involve a list maintenance or registration issue.

²⁷According to DOJ officials, of the 1,295 matters the Voting Section initiated from fiscal years 2001 through 2017, 1,065 remained matters and 230 became cases. For four cases in our review period, the matters were initiated prior to fiscal year 2001.

Figure 2: Matters Initiated by the Department of Justice, Voting Section, Fiscal Years 2001 through 2017

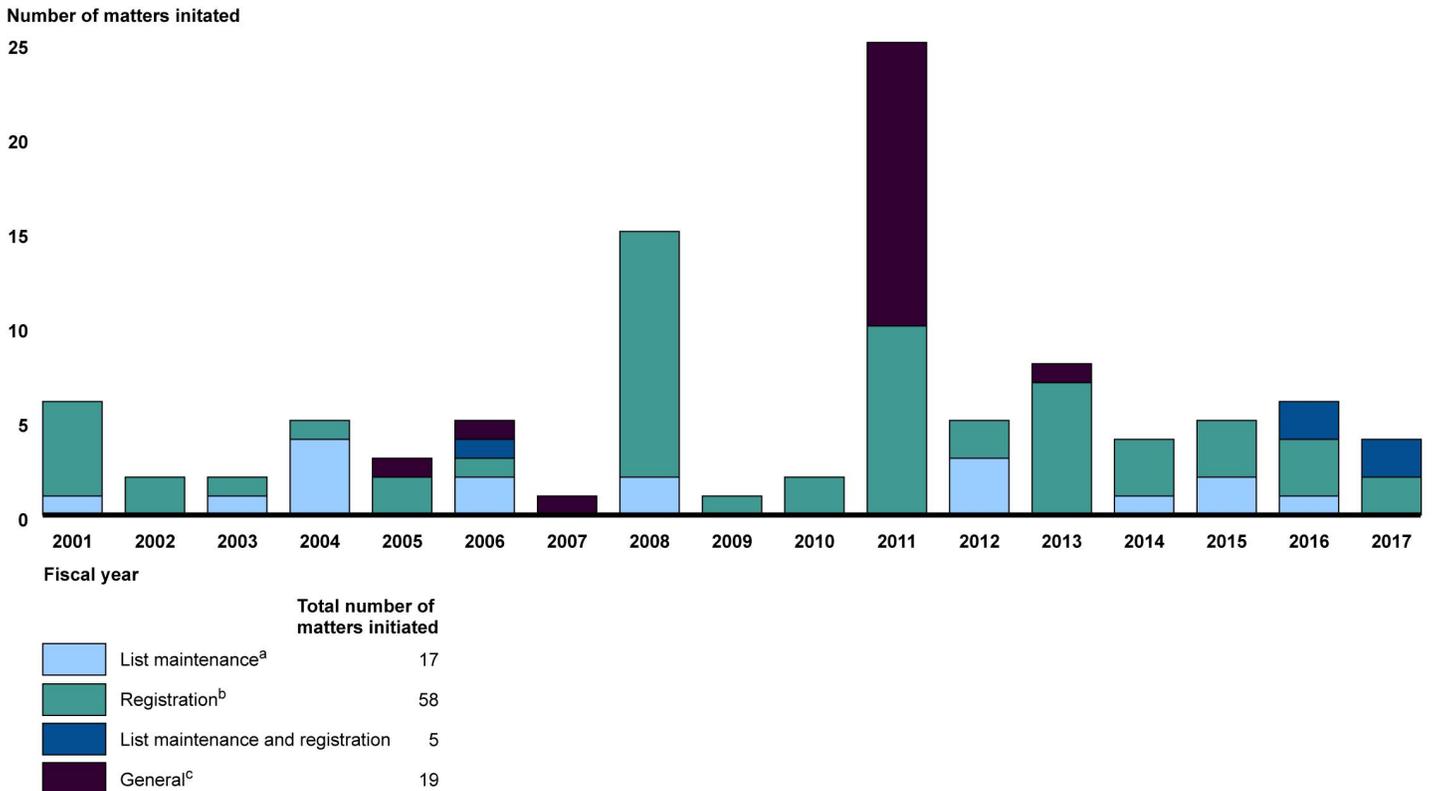


Source: GAO analysis of Department of Justice, Civil Rights Division case management data. | GAO-19-485

In initiating matters under the NVRA, the Voting Section investigated issues related to state and local jurisdiction efforts to provide registration opportunities for voters and issues related to list maintenance. Specifically, of the 99 NVRA matters the Voting Section initiated, 58 matters involved registration opportunity issues, 17 involved list maintenance issues, and 5 involved both registration opportunity and list maintenance issues.²⁸ As shown in figure 3, the Section initiated registration opportunity matters in each year except fiscal year 2007. The Section initiated the most registration opportunity matters in fiscal years 2008 (13), 2011 (10), and 2013 (7). The Section did not initiate any list maintenance matters in some years, and initiated between one and four in other years.

²⁸The remaining 19 matters included general NVRA issues that the Section did not clearly identify as either registration or list maintenance at the time the matter was initiated. Some matters initiated under the NVRA also involved other statutes, such as HAVA.

Figure 3: National Voter Registration Act of 1993 (NVRA) Matters Initiated by the Department of Justice, Voting Section, by Subject, Fiscal Years 2001 through 2017



Source: GAO analysis of Department of Justice, Civil Rights Division case management data. | GAO-19-485

Note: The Voting Section initiated 99 NVRA related matters.

^aList maintenance refers to provisions of NVRA section 8 which require states to conduct a general program to remove ineligible voters from registration lists, and to incorporate safeguards in carrying out their list maintenance programs or activities.

^bRegistration refers to NVRA provisions that address voter registration opportunities; specifically, sections 5, 6, and 7, which require states to offer voter registration opportunities at state motor vehicle agencies, by mail-in application using forms developed by each state and the Election Assistance Commission, and at public assistance, disability, and other government service offices, among other things. Registration may also refer to the NVRA section 8 requirement that states register voters whose applications are received at least 30 days before an election.

^cGeneral refers to NVRA related matters that the Voting Section did not clearly identify as either registration or list maintenance at the time the matter was initiated.

More NVRA List Maintenance Cases Than Registration Opportunity Cases Filed

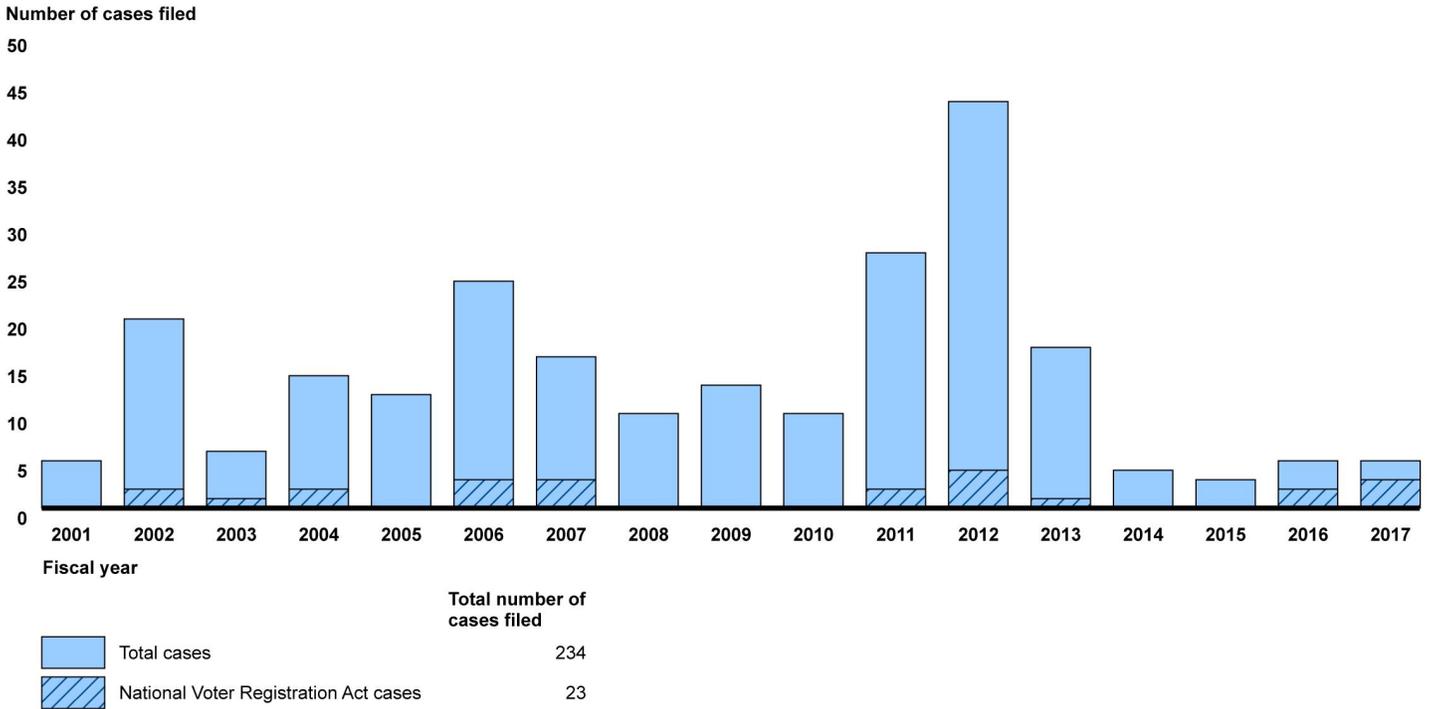
From fiscal years 2001 through 2017, the Voting Section participated in 234 cases, including those with claims brought under statutes such as the NVRA, HAVA, and the Voting Rights Act.²⁹ Of the 234 total cases, 23 involved claims brought under the NVRA.³⁰ Figure 4 shows the total number of cases, and the number of NVRA related cases, in which the Section participated, by fiscal year.³¹

²⁹The Voting Section may participate in a case as the plaintiff or defendant, or as an amicus curiae, or “friend of the court.” The Section may act as an amicus by filing a brief in an action in which the DOJ is not a party, because it has a strong interest in the subject matter. The Section may also intervene as a party in a case—either on the side of the plaintiff or defendant—because the constitutionality of a federal statute has been questioned or it has another interest in the outcome of the case.

³⁰This includes one case that the Voting Section originally initiated under the Voting Rights Act in 1993, and subsequently amended in 2007 to include claims under the NVRA.

³¹The Civil Rights Division’s Appellate Section, which represents the United States in civil rights cases in the federal courts of appeals, participated in 13 NVRA cases from fiscal years 2001 through 2017. Seven of the 13 cases were originally handled by the Voting Section and later involved the Appellate Section. In the remaining six cases, the Civil Rights Division’s participation was on appeal only. These six cases are not included in figure 4 above, which focuses on Voting Section cases.

Figure 4: Department of Justice Voting Section Cases, Fiscal Years 2001 through 2017



Source: GAO analysis of Department of Justice, Civil Rights Division case management data. | GAO-19-485

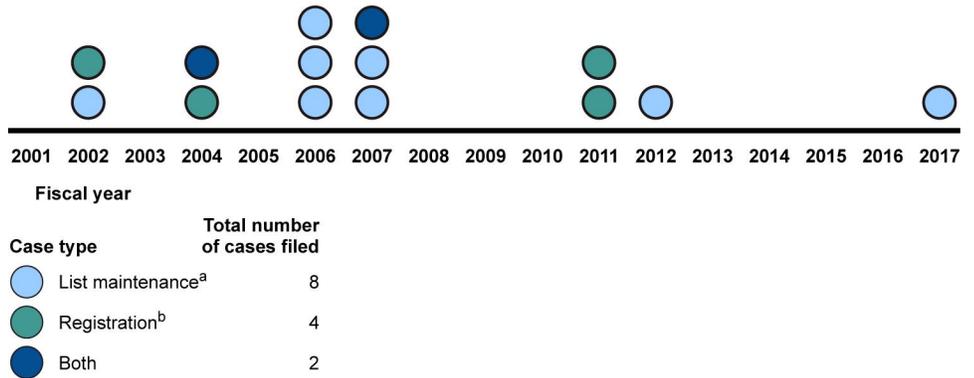
In contrast to matters, the Voting Section filed more cases related to list maintenance allegations under the NVRA than cases related to registration opportunities. Of the 23 cases where the Section took action to enforce the NVRA, the Section was the plaintiff or plaintiff intervenor in 14 cases.³² As shown in figure 5, eight of the 14 NVRA cases the Section filed as the plaintiff or plaintiff intervenor involved allegations under the law’s list maintenance provisions, and two involved allegations under both the list maintenance and registration opportunity provisions. The remaining four cases involved allegations under the law’s registration opportunity provisions.³³ Of the 10 total cases involving list maintenance allegations, eight were filed between fiscal years 2002 and 2007. See

³²Of the remaining nine cases, the Voting Section was an amicus in eight cases and a defendant in one case.

³³Cases with NVRA related allegations may also include allegations under other statutes for which the Voting Section is responsible for enforcing. Specifically, two of the 14 NVRA related cases also involved claims under HAVA, and two additional cases involved claims under NVRA, HAVA, and the Voting Rights Act.

appendix II for a summary of each NVRA related case the Section filed from fiscal years 2001 through 2017.

Figure 5: National Voter Registration Act of 1993 (NVRA) Cases Filed by the Department of Justice, Voting Section, Fiscal Years 2001 through 2017, by Subject



Source: GAO analysis of Department of Justice, Civil Rights Division case management data. | GAO-19-485

^aList maintenance refers to provisions of NVRA section 8 which require states to conduct a general program to remove ineligible voters from registration lists, and to incorporate safeguards in carrying out their list maintenance programs or activities.

^bRegistration refers to NVRA provisions that address voter registration opportunities; specifically, sections 5, 6, and 7, which require states to offer voter registration opportunities at state motor vehicle agencies, by mail-in application using forms developed by each state and the Election Assistance Commission, and at public assistance, disability, and other government service offices, among other things. Registration may also refer to the NVRA section 8 requirement that states register voters whose applications are received at least 30 days before an election.

With regard to list maintenance cases, as shown in figure 5, the Voting Section filed 10 such cases from fiscal years 2001 through 2017.³⁴ NVRA list maintenance cases may involve two types of allegations: (1) in conducting a required program to remove ineligible voters from the voter registration list, a state or local jurisdiction did not incorporate certain safeguards, thus unlawfully removing eligible voters; and (2) a state or local jurisdiction did not have an adequate program to remove ineligible

³⁴Two of these 10 NVRA cases involved both list maintenance and registration opportunity claims.

voters from the voter registration list. We reviewed the allegations in each of the 10 cases involving NVRA list maintenance claims and found that:³⁵

- Four of the 10 cases (filed in fiscal years 2002, 2007, 2012, and 2017) involved claims that the state or local jurisdiction unlawfully removed voters from registration lists. For example, in one case the Section alleged that the state systematically removed voters from its voter registration rolls within 90 days of a federal election, in violation of the NVRA, among other claims.³⁶
- Four of the 10 cases (filed in fiscal years 2006 and 2007) involved claims that the state or local jurisdiction did not have an adequate program to remove ineligible voters from registration lists. For example, in one case the Section alleged that a state failed to conduct a program that makes a reasonable effort to identify and remove ineligible voters from the state's registration list, and that, as a result, the state had counties with excessively high registration totals compared to the voting age population.
- Two of the 10 cases (filed in fiscal years 2004 and 2006) involved both types of claims. For example, in one case the Section alleged that a number of local jurisdictions in one state did not regularly remove persons who died from their voter registration lists, resulting in ineligible voters remaining on the lists. The Section further alleged that local jurisdictions in the state did not always follow NVRA notice and timing requirements with respect to voters who may have moved, resulting in the unlawful removal of voters from voter registration lists.

With regard to registration opportunities, the Voting Section filed six cases involving allegations under the NVRA's registration opportunities

³⁵Possible case outcomes may include: a settlement agreement signed by both parties; a consent decree, which is overseen by a court; a judgement issued by the court, which could be a remedial order; or a dismissal. A settlement agreement, consent decree or judgment could include remedial actions that a state or local jurisdiction must take. Because this objective addressed efforts DOJ has taken—which is best measured by matters initiated and cases filed—and because DOJ cases may be ongoing or be subject to future appeals, we do not report on the status or outcomes of cases in this report.

³⁶Under section 8(c) of the NVRA, states are prohibited from systematically removing the names of ineligible voters within 90 days of a primary or general election for federal office, except for removals at the request of the registrant, as provided by state law by reason of criminal conviction or mental incapacity, or upon death of the registrant.

provisions from fiscal years 2001 through 2017.³⁷ We reviewed the allegations in each of these six cases and found that:

- Three of the six cases involved claims that the state failed to offer voter registration opportunities in public assistance offices and offices that provide state-funded programs primarily serving persons with disabilities. For example, in one case the Section alleged that employees in state offices that provide public assistance, and employees in state-funded programs serving persons with disabilities, failed to distribute voter registration applications. The Section also alleged that such offices failed to train and monitor their employees to ensure that they distribute voter registration applications to clients and transmit completed applications to the state and local election offices.
- One of the six cases involved claims that the state failed to offer voter registration opportunities in both motor vehicle and public assistance offices. Specifically, the Section alleged that the state did not provide a voter registration form with the state's driver's license application form. The Section further alleged that employees in state offices that provide public assistance, and employees in state-funded programs serving persons with disabilities, failed to distribute voter registration applications, among other claims.
- Two of the six cases involved claims that local election jurisdictions failed to process and register voter registration applicants. For example, in one case the Section alleged that a local election office did not process voter registration applications submitted by applicants at least 30 days before an election in a timely manner, which resulted in eligible applicants not being able to vote in their appropriate precincts in that election.³⁸

DOJ officials have provided various perspectives on the department's NVRA enforcement efforts. For example, in October 2009, we reported that the Assistant Attorney General for the Civil Rights Division prioritized

³⁷Two of these six NVRA cases involved both registration opportunity and list maintenance claims.

³⁸Section 8(a)(1) of the NVRA requires states to register voters whose applications are received at least 30 days before an election, or the period provided by state law, whichever is less.

NVRA list maintenance cases from fiscal years 2001 through 2007.³⁹ Specifically, we reported that, according to Voting Section officials, the department focused during this period on both ensuring states had a list maintenance program and ensuring that such programs incorporated required safeguards. In a 2013 report, the DOJ Office of Inspector General reported that Civil Rights Division leadership initiated an effort to enforce the NVRA's list maintenance provisions in late 2004.⁴⁰ The report further noted that Civil Rights Division leadership placed a higher priority on the enforcement of the NVRA's ballot access, or registration, provisions between 2009 and 2012.⁴¹ Section officials we interviewed for this review did not identify any overall Section-wide priorities between fiscal year 2010 and fiscal year 2017 that focused specifically on either list maintenance or registration. These officials explained that the Section cycles through the various NVRA provisions over time, but provided limited details and did not directly attribute any increase in matters or cases over time to Section initiatives or priorities. Officials further noted that the Section pursued fewer NVRA related cases after 2010 in part due to resource limitations and other priorities within the Section. For example, officials stated that the Section handled a number of Voting Rights Act cases during this time, which required a significant amount of staff time and resources.⁴²

³⁹GAO, *U.S. Department of Justice: Information on Employment Litigation, Housing and Civil Enforcement, Voting, and Special Litigation Sections' Enforcement Efforts from Fiscal Years 2001 through 2007*, [GAO-10-75](#) (Washington, D.C.: October 2009).

⁴⁰Department of Justice, Office of Inspector General, *A Review of the Operations of the Voting Section of the Civil Rights Division*, March 2013. This report reviewed allegations that Civil Rights Division leadership pushed list maintenance cases at the expense of ballot-access, or registration, cases from 2001 through 2008. The Inspector General did not find sufficient evidence to support these allegations and noted that no improper motive could be inferred from the Division's decision to pursue list maintenance enforcement issues, as the Division approved both list maintenance and registration enforcement actions during this time.

⁴¹The Inspector General concluded that while the Division had a clear priority structure for NVRA enforcement, it was within the discretion of senior management to prioritize enforcement efforts and they did not do so in a discriminatory manner.

⁴²The Section noted in particular redistricting cases and cases defending the constitutionality of Section 5 of the Voting Rights Act. According to Voting Section data we reviewed, the Section participated in 86 cases related to the Voting Rights Act between fiscal years 2010 and 2017. DOJ was the defendant in 59 of these cases.

NVRA Amicus Participation Increased Since Fiscal Year 2012

In addition to initiating matters, and filing NVRA cases as a plaintiff, the Voting Section engaged in efforts to enforce the NVRA's registration opportunity and list maintenance provisions by participating as an amicus curiae or "friend of the court" in eight NVRA cases from fiscal year 2001 through fiscal year 2017.⁴³ The Section participated in seven of these eight cases between fiscal years 2012 and 2017.⁴⁴ Four of the eight cases involved registration opportunity complaints and four involved list maintenance complaints. According to Voting Section officials, amicus participation increased in these years in part because it was a way for the Section to participate in cases in a manner which did not require a significant amount of resources. Specifically, officials stated that filing an amicus brief takes considerably less time and fewer staff resources than litigating a case.

Out-of-Court Settlement Agreements with States Addressed NVRA Registration Opportunities

The Voting Section entered into five out-of-court settlement agreements with states (in lieu of filing a case) to address allegations of NVRA non-compliance between fiscal years 2008 and 2017. All five of the agreements were related to the law's registration opportunity provisions.⁴⁵ For example, in one settlement agreement, a state agreed to make modifications to its internet site and the forms, procedures, and electronic system used at its motor vehicle offices in order to meet the requirements of section 5 of the NVRA, which stipulates that states offer voter registration opportunities at state motor vehicle agencies. The state further agreed to produce a compliance plan to meet these goals and to develop and implement a mandatory NVRA training program, among other things. The agreement included monitoring procedures, such as requiring the state to provide DOJ with quarterly reports of the number of

⁴³The Section may act as an amicus by filing a brief in an action in which the DOJ is not a party, because it has a strong interest in the subject matter.

⁴⁴The Section became involved as an amicus in the remaining case in fiscal year 2003.

⁴⁵In addition, the Voting Section entered into two resolutions under the Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (codified as amended at 42 U.S.C. §§ 2000a et seq.), a settlement in litigation and an out-of-court settlement agreement, where two states agreed to provide DOJ with their voter registration lists so that DOJ could assess the state's compliance with federal voting laws, including the NVRA.

in-person driver's license applications received and completed voter registration forms accepted and transmitted to county boards of elections.

According to Voting Section officials, the determination of the appropriate type of enforcement action in a matter, such as a settlement agreement or court order, can depend on a range of factors. For example, officials stated that relevant factors can include the nature, scope, and length of the violation, the level of cooperation by relevant actors regarding remedies, and the authority of relevant officials under state law to take remedial actions. The NVRA settlement agreements we reviewed are all multi-year agreements and Section officials noted that they try to collaborate with the state or jurisdiction regarding the appropriate steps (e.g., generating monthly, quarterly or biannual reports) for measuring and monitoring compliance during the period of the agreement.⁴⁶ Section attorneys monitor settlement agreements by reviewing each required report and conferring with managers about progress towards compliance.

Efforts to Assess Compliance with NVRA Requirements

According to Voting Section officials, the Section engaged in various efforts to assess state and local jurisdiction compliance with NVRA registration opportunity and list maintenance requirements, including conducting reviews of federal election administration and other data, and compliance investigations. Specifically, Section officials said that they conduct periodic reviews of the U.S. Election Assistance Commission's biennial Election Administration and Voting Survey (EAVS) to assess compliance with different NVRA provisions. For example, officials noted they may review EAVS data summarizing states' motor vehicle agency driver license and voter registration transactions to help determine whether states are following NVRA section 5. In addition to using EAVS data, officials said they review publically available third party reports, which often include state specific registration data and other qualitative information about state processes.⁴⁷ Section officials said this information can help them identify states that are potentially not in compliance with the NVRA. Officials also said that Section investigators have conducted

⁴⁶The terms for the five NVRA settlement agreements we reviewed ranged from two to four years.

⁴⁷Third party reports include those produced by the U.S. Census Bureau, the National Conference of State Legislatures, and the National Association of Secretaries of State.

observations at motor vehicle agencies and social services agencies as part of their efforts to assess and enforce NVRA compliance.

Section officials noted that these efforts are not conducted on a regular schedule; rather, they are conducted periodically, on an intermittent, rolling basis. These officials said such efforts may lead them to request additional information from states, conduct compliance investigations, and initiate enforcement actions if necessary. For example:

- The DOJ Office of Inspector General reported that, in 2004, the Voting Section reviewed census and voter registration data for all 50 states to determine which states had more people registered to vote than the voting-age population.⁴⁸ The Inspector General further reported that, based on the results of the research, the Section sent letters to 12 states requesting information on their efforts to remove ineligible voters from their registration lists, and ultimately filed two cases as a result of this enforcement initiative.
- In June 2017, the Voting Section sent letters to the 44 states subject to the NVRA requesting information related to states' compliance with the law's list maintenance provisions.⁴⁹ Section officials stated that, as of March 2019, two actions have resulted from this effort: (1) the Section became a plaintiff-intervenor in a June 2018 case against Kentucky for having an inadequate list maintenance program;⁵⁰ and (2) the Section entered into a February 2019 memorandum of understanding with the state of Connecticut regarding its efforts to identify registered voters who have died.⁵¹ Officials noted that the effort begun in 2017 does not have any specific time frames, goals, or objectives but that the Section is reviewing the data states provided and focusing detailed reviews on states whose data suggest possible non-compliance.

⁴⁸Department of Justice, Office of Inspector General, *A Review of the Operations of the Voting Section of the Civil Rights Division*, March 2013.

⁴⁹As stated previously, certain states are exempt from NVRA, including North Dakota—which has no voter registration requirement—and Idaho, Minnesota, New Hampshire, Wisconsin, and Wyoming—which have Election Day registration.

⁵⁰This case is not included in our discussion of the 14 NVRA cases the Voting Section filed because it is outside of the date range included in our scope.

⁵¹Under this agreement, the state will coordinate its statewide voter registration database with the Connecticut Department of Public Health to identify registered voters who have died, as required by the NVRA and HAVA.

Section officials said that in general, assessing compliance with NVRA section 8 (list maintenance) is more challenging than for the other sections, such as section 5 (voter registration opportunities at motor vehicles agencies). For registration opportunity provisions, they can send an investigator to the agency to observe whether the agency is offering people the opportunity to register as part of their standard transactions. However, officials noted there is no observation they can conduct to determine if list maintenance is occurring as required. As such, officials stated that DOJ is uniquely dependent on information and data from the states and local jurisdictions to indicate whether list maintenance efforts are taking place and what type. Officials further noted that they may have reduced time to analyze data or otherwise pursue more general enforcement efforts in time periods where the Section is overseeing a high number of defensive cases (ones in which the U.S. government is the defendant).

DOJ's Public Integrity Section and U.S. Attorneys' Offices Initiated Matters and Filed Cases to Address Potential Election Fraud

Federal, state, and local authorities share responsibility for addressing allegations of election fraud. Within the federal government, DOJ has jurisdiction over election fraud investigations and prosecutions in elections where a federal candidate is on the ballot. In the absence of a federal candidate on the ballot, DOJ may have jurisdiction where facts exist to support the application of federal criminal laws that potentially apply to both federal and non-federal elections. According to DOJ officials, federal authorities would ordinarily defer to state and local authorities in deciding who would pursue an election fraud investigation or case because of states' primary authority over the election process.

DOJ's *Federal Prosecution of Election Offenses* states that election fraud usually involves the corruption of one of three processes: the obtaining and marking of ballots, the counting and certification of election results, or the registration of voters.⁵² Within DOJ, the Public Integrity Section and U.S. Attorneys' Offices maintain certain data on the election fraud matters

⁵²Department of Justice, Public Integrity Section, Elections Crime Branch, *Federal Prosecution of Election Offenses, Eight Edition*, December 2017. This handbook was developed to provide internal guidance to DOJ attorneys in prosecuting election crimes, including election fraud.

and cases they initiate and prosecute.⁵³ Within their respective databases, DOJ attorneys select a program category for each matter and case, which helps define the type of criminal act being investigated or prosecuted, for example, election fraud or health care fraud. U.S. Attorneys' Offices use the program category "election fraud" for all election related charges; attorneys in the Public Integrity Section use either "election fraud" or "election crime other." According to DOJ officials, categorization of matters and cases as election fraud (or any other category) is at the discretion of the investigating or prosecuting attorney based upon an examination of the facts. We refer to matters and cases that were either categorized as election fraud or election crime other, or included individual charges we identified as "election fraud related."⁵⁴ Election fraud related matters and cases in the DOJ databases we reviewed included charges brought under a wide variety of statutes, including those related to providing false information in registering or voting and vote buying (52 U.S.C. § 10307(c)) and voting by noncitizens (18 U.S.C. § 611), as well as more general charges such as the general federal conspiracy charge (18 U.S.C. § 371).⁵⁵

The Public Integrity Section Initiated 33 Matters and Filed 19 Cases Related to Election Fraud from Fiscal Years 2001 through 2017

From fiscal years 2001 through 2017, the Public Integrity Section initiated 1,408 matters, of which 33 were election fraud related, or about two

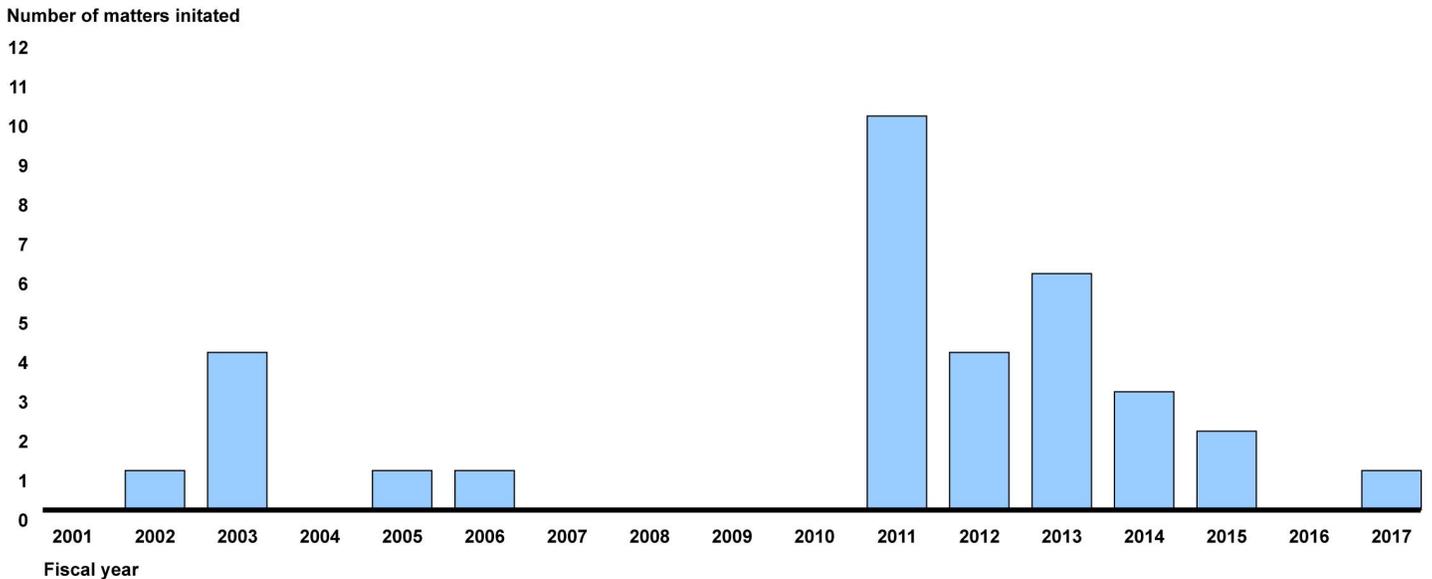
⁵³These databases help DOJ and its components with administrative tasks and reporting statistics, such as the number of open matters and cases, which can be used for making policy and budgetary decisions. The databases are intended to track federal investigations and prosecutions only and therefore would not include information on state or local investigations or prosecutions undertaken without federal participation.

⁵⁴As previously discussed, to identify charges, we interviewed officials from both DOJ components and reviewed DOJ guidance on the federal prosecution of election offenses. We developed a list of charges we identified as related only to elections, and where the offense could involve registering to vote or casting a ballot, and provided the list to DOJ to ensure the list was accurate and complete. DOJ officials confirmed our list of charges and provided additional ones they considered to be related to registering to vote or casting a ballot. We did not review all individual charges related to counting ballots; however we did review such charges that fell under the election fraud or election crime other program categories.

⁵⁵52 U.S.C. § 10307(c) was previously classified as 42 U.S.C. § 1973i(c). Matters and cases may involve multiple charges. For example, a matter or case recorded under the election fraud program category may also include other charges that are unrelated to election fraud, such as 26 U.S.C. § 7203 (Willful failure to file return, supply information, or pay tax) and 31 U.S.C. § 5324 (Structuring transactions to evade reporting requirements).

percent of its overall matters. As shown in figure 6, the Section initiated 10 of the 33 election fraud related matters in fiscal year 2011, six in fiscal year 2013, four in fiscal year 2003, and four in fiscal year 2012.

Figure 6: Election Fraud Related Matters Initiated by the Department of Justice’s Public Integrity Section, Fiscal Years 2001 through 2017



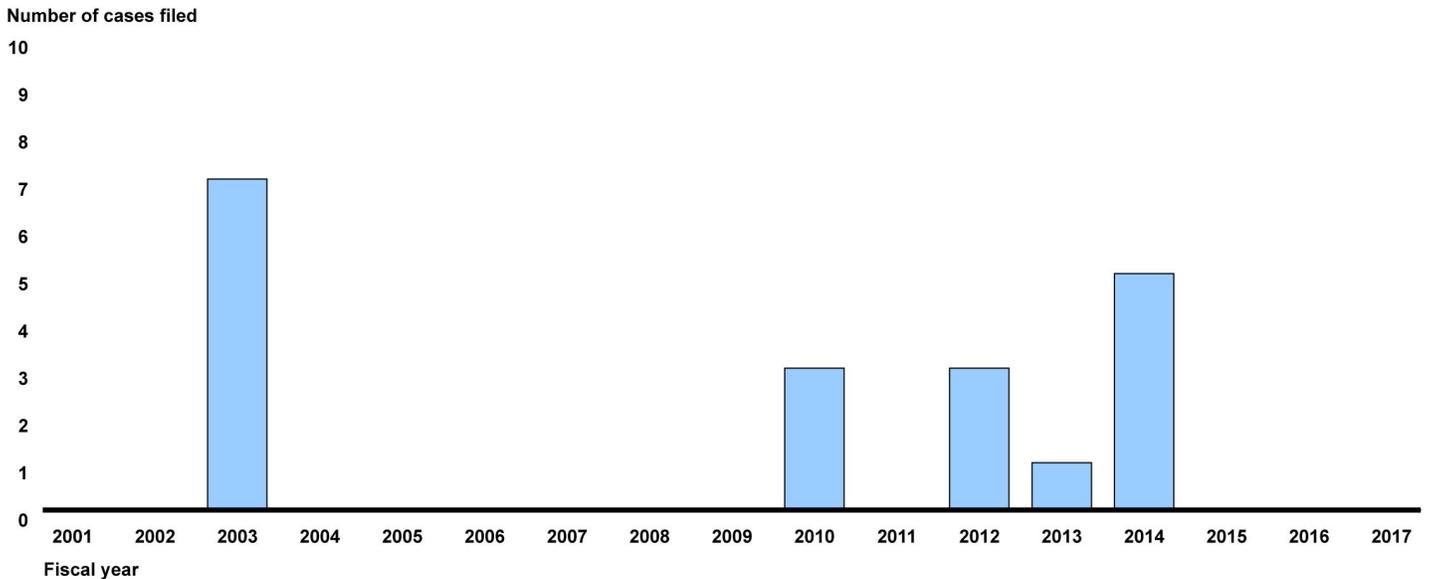
Source: GAO analysis of Department of Justice, Criminal Division case management data. | GAO-19-485

From fiscal years 2001 through 2017, the Public Integrity Section filed 695 cases; of which 19 were election fraud related, or about three percent of its overall caseload.⁵⁶ As shown in figure 7, the Section filed election fraud related cases in five of those fiscal years, with seven of the 19 cases filed in fiscal year 2003 and five filed in fiscal year 2014.⁵⁷

⁵⁶The 19 cases involved a total of 37 individual defendants. Fifteen of the 19 cases were also recorded in the U.S. Attorneys’ database, indicating they were a joint effort.

⁵⁷Possible case outcomes may include: guilty verdict, guilty plea, acquittal, or dismissal. Because this objective addressed efforts DOJ has taken—which is best measured by matters initiated and cases filed—and because DOJ cases may be ongoing or be subject to future appeals, we do not report on the status or outcomes of cases in this report.

Figure 7: Election Fraud Related Cases Filed by the Department of Justice’s Public Integrity Section, Fiscal Years 2001 through 2017



Source: GAO analysis of Department of Justice, Criminal Division case management data. | GAO-19-485

Public Integrity Section officials stated that the Section’s involvement in election fraud related matters and cases may vary over time depending on a variety of factors, including the number of complaints received and staffing levels within the Section. Officials stated that the Section allocates attorneys to work on election related matters and cases as needed, if resources allow. U.S. Attorneys’ Offices are required to consult with the Public Integrity Section with regard to all federal criminal matters that focus on corruption of the election process, in addition to federal patronage and campaign finance-related crimes. The Section reviews this information and consults with U.S. Attorneys’ Offices on their elections related work.⁵⁸ U.S. Attorneys’ Offices may also request assistance with a case if they lack sufficient resources to prosecute a complex case, or if the office needs to recuse itself.⁵⁹ If the Section does not have sufficient

⁵⁸According to Public Integrity Section officials, the Section does not systematically track or record information related to these consults, except those resulting in a concurrence to expand beyond a preliminary investigation, which the Section tracks for internal quarterly reports.

⁵⁹A recusal occurs where a U.S. Attorney’s Office cannot investigate or prosecute a case due to an actual conflict of interest or appearance of a conflict of interest regarding a defendant. For example, a case involving a federal judge usually requires recusal to avoid the appearance of bias if prosecuting attorneys needed to appear before the judge.

staff available, officials stated that they may not have the ability to offer assistance in investigating matters and prosecuting cases.⁶⁰ In these circumstances, officials said that the U.S. Attorney's Office would likely proceed with the case without the Section's assistance, except in recusal cases.⁶¹

The Public Integrity Section initiated at least one election fraud related matter in 11 of 12 regional federal circuits as shown in figure 8.⁶² The Section initiated the most matters in the Sixth Circuit (10 of 33) and the Fifth Circuit (seven of 33).⁶³

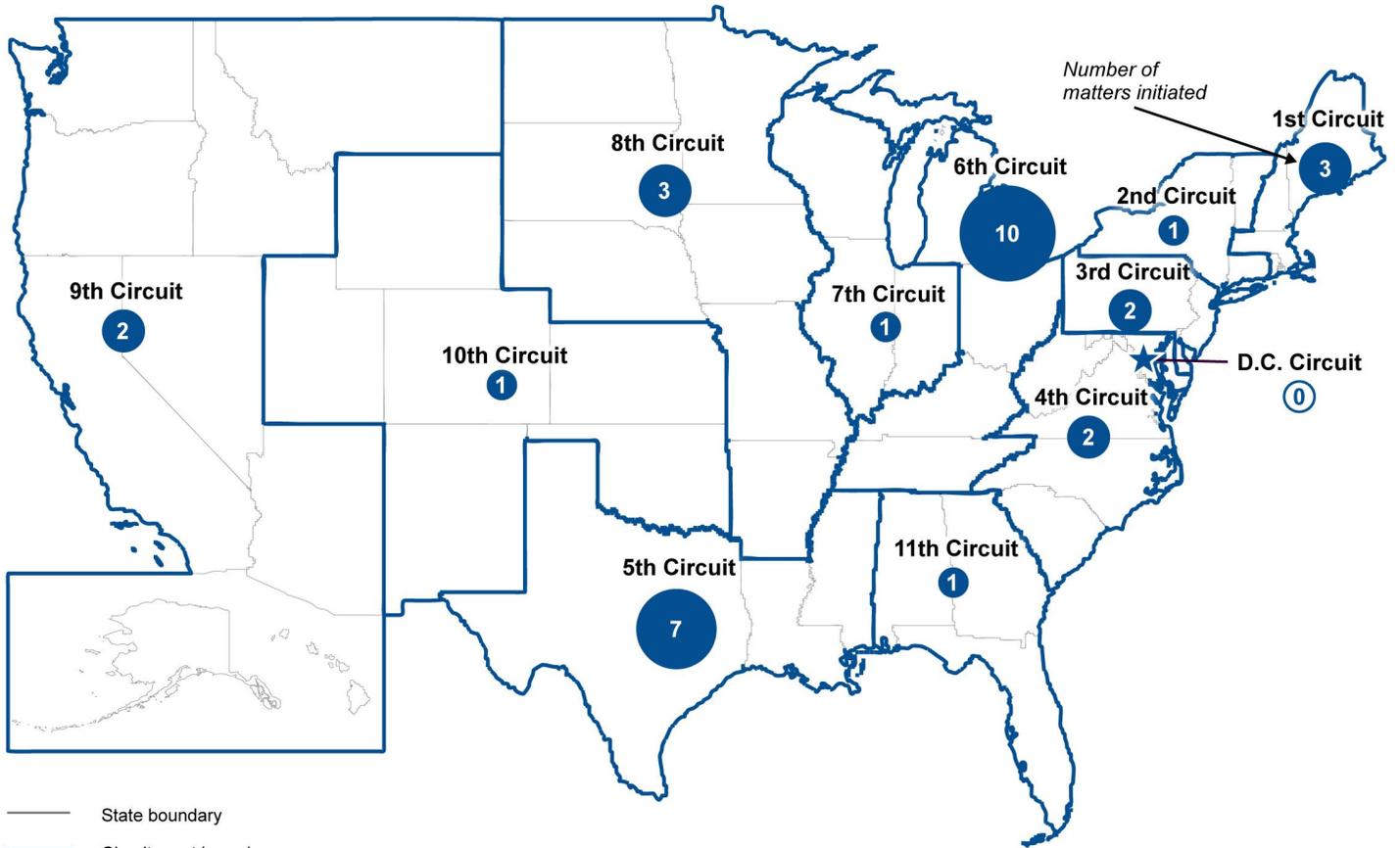
⁶⁰Of the 19 total election fraud related cases the Section filed, 15 were handled jointly with U.S. Attorneys' Offices. For joint prosecutions, the Section's role can vary from providing operational support, sharing prosecutorial responsibility, or providing supervisory responsibility.

⁶¹The Public Integrity Section also provides training for prosecutors responsible for overseeing complaints of election fraud and voting rights abuses within U.S. Attorneys' Offices, and for field office Federal Bureau of Investigation investigators tasked with receiving and responding to election fraud reports made by the public. For example, in June 2018, the Section held a training session for the Federal Bureau of Investigation investigators. The training covered common types of ballot fraud and campaign finance offenses, and reviewed consultation requirements for proceeding with field or grand jury investigations.

⁶²Geographic data on matters are presented by federal circuit rather than federal district due to concerns about personally-identifiable information in the limited number of matters investigated. In the federal system, the 94 district courts are organized into 12 circuits, or regions. Each circuit has its own Court of Appeals that reviews cases decided in U.S. District Courts within the circuit. (The U.S. Court of Appeals for the Federal Circuit brings the number of federal appellate courts to 13.)

⁶³The Sixth Circuit includes Kentucky, Michigan, Ohio, and Tennessee. The Fifth Circuit includes Louisiana, Mississippi, and Texas.

Figure 8: Number of Election Fraud Related Matters Initiated by the Department of Justice’s Public Integrity Section, by Federal Circuit, Fiscal Years 2001 through 2017



Source: GAO analysis of Department of Justice, Criminal Division case management data; MapInfo (map). | GAO-19-485

Note: The 1st Circuit includes Puerto Rico; the 3rd Circuit includes the U.S. Virgin Islands; and the 9th Circuit includes Guam and the Northern Mariana Islands. This figure excludes the U.S. Court of Appeals for the Federal Circuit.

The Public Integrity Section filed election fraud related cases in four of the 94 federal judicial districts nationwide. These four districts are located in three states: Kentucky, Texas, and Massachusetts. Specifically, the Section filed 11 of its 19 cases in the Eastern District of Kentucky; five cases in the Southern District of Texas; two cases in the Western District of Kentucky; and one case in the District of Massachusetts.

The Public Integrity Section prosecuted election fraud related cases with charges under six statutes.⁶⁴ As shown in table 2, the Section most frequently brought charges under 52 U.S.C. § 10307(c) which was charged in 17 of the 19 cases the Section filed. This statutory provision prohibits giving false information for purposes of registering or voting, vote buying, and conspiring to vote illegally.⁶⁵

Table 2: Statutes Charged Most Frequently in Election Fraud Related Cases Filed by the Department of Justice’s Public Integrity Section, Fiscal Years 2001 through 2017

Statute Charge	Number of Cases
52 U.S.C. § 10307(c): False information in registering or voting ^a	17
18 U.S.C. § 371: General conspiracy	7
18 U.S.C. § 1001: General false statements	3

Source: GAO analysis of Department of Justice, Criminal Division case management data. | GAO-19-485

Note: Multiple statutes may have been charged in any one case, including, at times, multiple instances of the same statute. Thus, the number of cases presented in each row represents the number of cases in which the Public Integrity Section charged a violation of the statute at least once.

^aThis statutory provision also prohibits vote buying and conspiring to vote illegally.

Public Integrity Section officials stated the Section did not focus its efforts on particular types of election fraud, but vote buying (generally charged under 52 U.S.C. § 10307(c)) was the most frequent type of election fraud related crime the Section prosecuted during the period of our review. Officials said vote buying is the most common type of election fraud related crime that has come to their attention in recent decades and noted that it tends to occur in communities that are more insular and isolated and have higher levels of poverty. For example, officials observed that in rural communities with high levels of poverty, some residents may be more vulnerable to vote-buying efforts due to their difficult circumstances

⁶⁴According to Public Integrity Section officials, the charge is not a required field in its database for matters. In the data we reviewed, three of the 33 matters the Section investigated included defendants without a listed charge. For those matters in which charge data were entered, the Section investigated matters under approximately 20 different statutes. Commonly used statutory provisions included 18 U.S.C. § 1001 (False statements or entries generally), 52 U.S.C. § 10307(c) (False information in registering or voting), and 18 U.S.C. § 371 (General conspiracy).

⁶⁵Charges brought under 52 U.S.C. § 10307(c) include those listed under 42 U.S.C. § 1973i(c). 42 U.S.C. § 1973i(c) was reclassified in 2014 as 52 U.S.C. § 10307(c). The case management system used by the Public Integrity Section contains values for some statutes at the section level (e.g., 18 U.S.C. § 371) and allows for entry at the subsection level for other statutory provisions (e.g., 42 U.S.C. § 1973i).

or the power of local officials who seek to buy votes to provide or cut off needed services. Officials stated that matters and cases tend to be geographically concentrated because, while the Section does not have any formal initiatives in particular circuits or districts, they are in close contact with U.S. Attorney's Offices nationwide and can offer additional assistance in those areas that may be more vulnerable to recurring or frequent election fraud.

Example of Public Integrity Section Election Fraud Prosecutions

Seven cases filed in the Eastern District of Kentucky in fiscal year 2003, in which 10 defendants were charged, concerned the 1998 primary election for multiple Knott County government positions and candidates, including county judge executive (the county executive) and county clerk.^a The Public Integrity Section brought charges including conspiracy to pay voters (18 U.S.C. § 371), knowing and willful false statements (18 U.S.C. § 1001), and vote buying (52 U.S.C. § 10307(c)). Witnesses in one of those cases, *U.S. v. Smith, et al*, testified defendants offered to pay voters amounts ranging from \$100 to \$10 and beer. Dispositions ranged from judgments of acquittal to convictions with sentences of up to 24 months imprisonment.

Source: GAO summary of court documents. | GAO-19-485

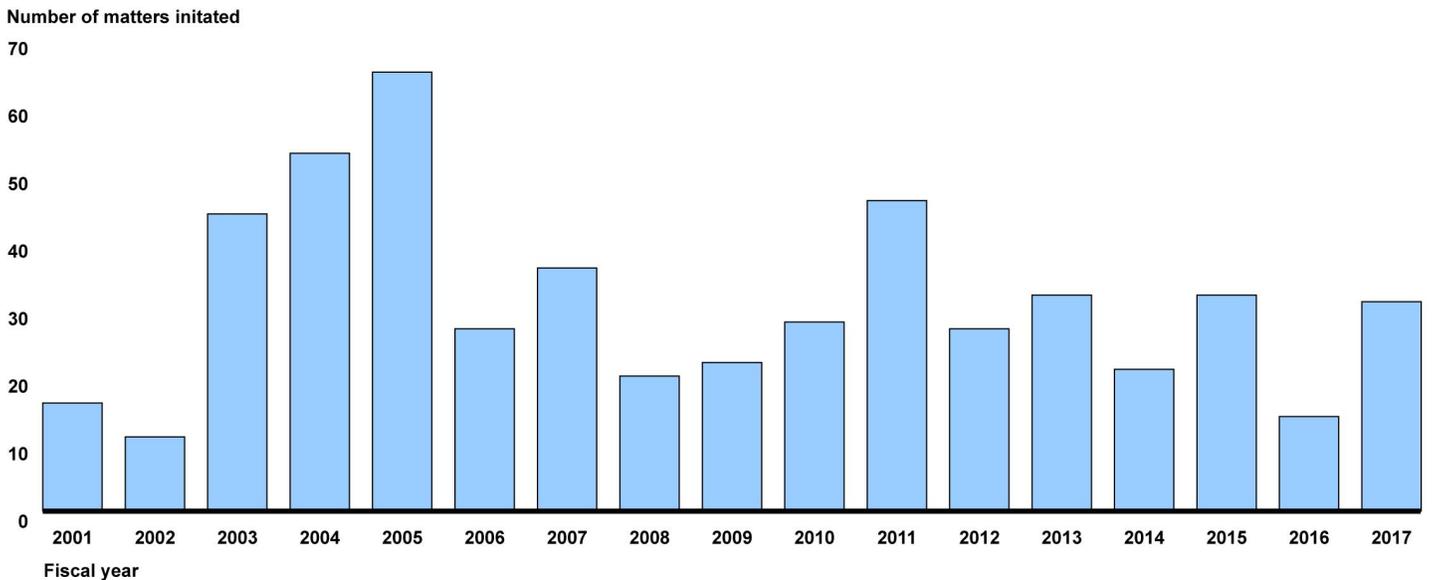
^aThe 1998 primary election also included a contest for federal office (U.S. Senator). The presence of a candidate for federal office on a ballot is sufficient to establish federal jurisdiction under most election fraud related statutes as the federal candidate's election could be, or could appear to be, tainted by the fraud.

U.S. Attorneys' Offices Initiated 525 Matters and Filed 185 Cases Related to Election Fraud from Fiscal Years 2001 through 2017

From fiscal years 2001 through 2017, U.S. Attorneys' Offices initiated more than 2.2 million criminal matters (i.e., investigations), of which 525 were election fraud related, or 0.02 percent of their overall matters.⁶⁶ As shown in figure 9, U.S. Attorney's Offices initiated between 11 and 65 election fraud related matters each year during this time period. U.S. Attorneys' Offices initiated the most election fraud related matters in fiscal years 2003 (44), 2004 (53), 2005 (65), and 2011 (46). The percentage of election fraud related matters of all matters initiated ranged from 0.01 percent to 0.06 percent.

⁶⁶The 525 election fraud related matters involved a total of 771 unique defendants.

Figure 9: Election Fraud Related Matters Initiated by U.S. Attorneys' Offices, Fiscal Years 2001 through 2017

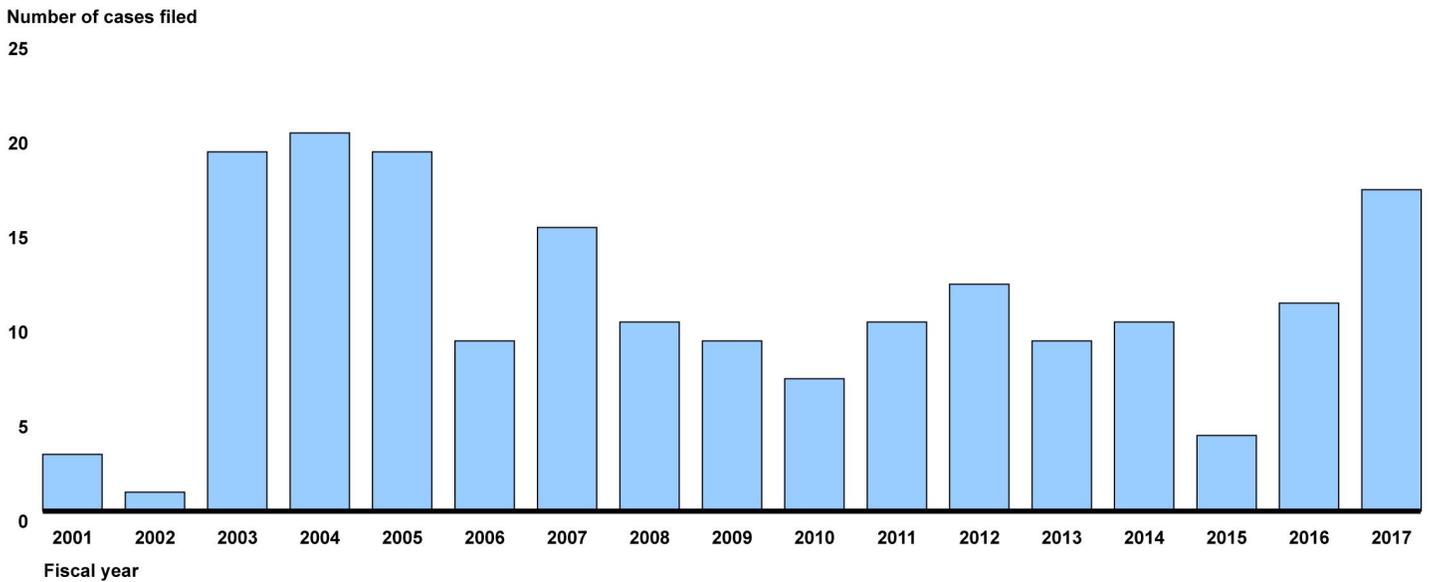


Source: GAO analysis of Department of Justice, Executive Office for U.S. Attorneys case management data. | GAO-19-485

From fiscal years 2001 through 2017, U.S. Attorneys' Offices filed just over 1 million criminal cases. Of these, 185 cases were election fraud related, or 0.02 percent of their overall caseload.⁶⁷ According to officials from EOUSA, which provides guidance, direction, and oversight to the U.S. Attorneys' Offices, election fraud was one of the least frequent crimes addressed by U.S. Attorneys' Offices. In fiscal year 2017, the most frequent felony cases filed by U.S. Attorneys' Offices were for immigration, drugs, and violent crime offenses. Officials further noted that election fraud related cases were taken seriously and thoroughly investigated when facts supporting such charges were uncovered. As shown in figure 10, U.S. Attorneys' Offices filed the most election fraud related cases in fiscal years 2003 through 2005, and in fiscal years 2007 and 2017, with 15 or more cases filed each fiscal year. U.S. Attorneys' Offices filed fewer than five election fraud related cases during fiscal years 2001, 2002, and 2015. The percentage of election fraud related cases of all cases filed ranged from less than 0.01 percent to 0.03 percent.

⁶⁷The 185 election fraud related cases involved a total of 309 unique defendants.

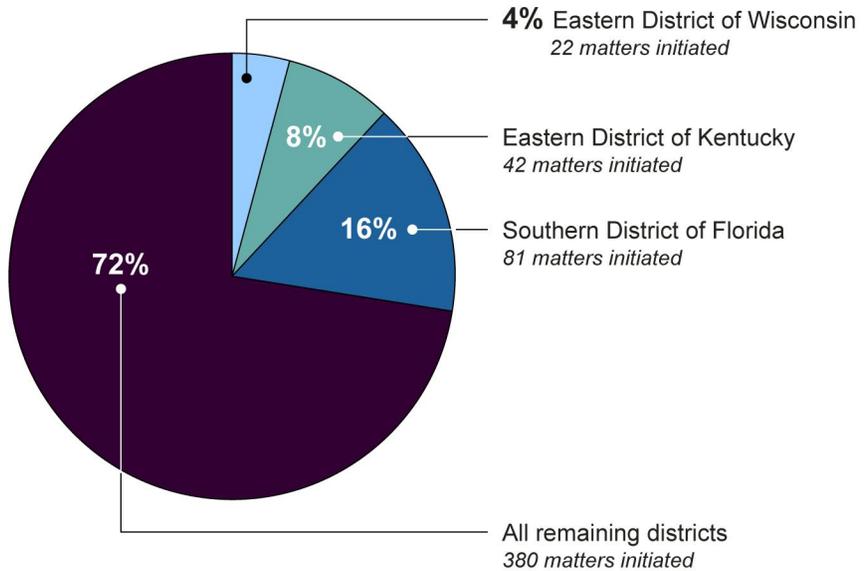
Figure 10: Election Fraud Related Cases Filed by U.S. Attorneys' Offices, Fiscal Years 2001 through 2017



Source: GAO analysis of Department of Justice, Executive Office for U.S. Attorneys case management data. | GAO-19-485

From fiscal years 2001 through 2017 U.S. Attorneys' Offices initiated at least one election fraud related matter in 85 of the 94 federal judicial districts. As shown in figure 11, three districts cumulatively accounted for 145 out of 525 matters, or approximately 28 percent of all election fraud related matters initiated. Of these three, two judicial districts, the Southern District of Florida and the Eastern District of Kentucky accounted for nearly one quarter of all election fraud related matters U.S. Attorneys' Offices initiated.

Figure 11: U.S. Attorneys' Offices' Election Fraud Related Matters Initiated by Federal Judicial District, Fiscal Years 2001 through 2017



Source: GAO analysis of Department of Justice, Executive Office for U.S. Attorneys case management data. | GAO-19-485

Note: There are 94 federal judicial districts. Nine of the 94 districts did not initiate any election fraud related matters. Percentages are approximate due to rounding.

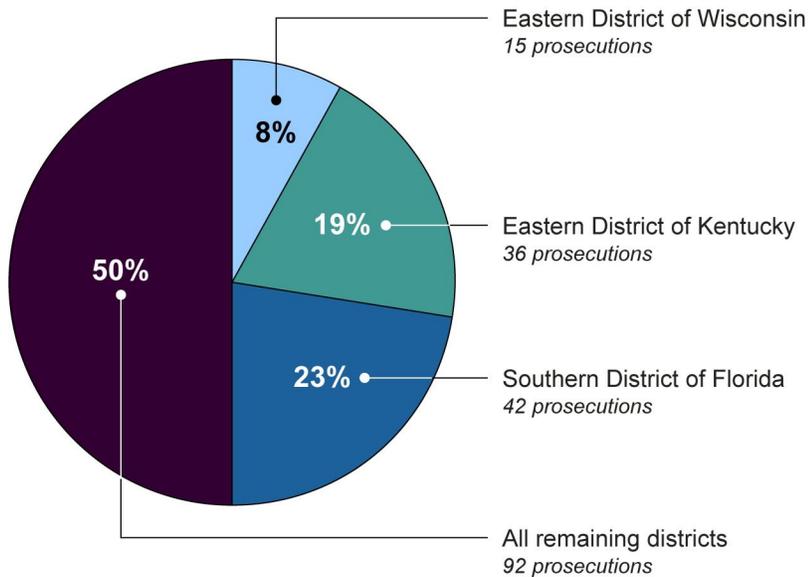
About half of the 185 election fraud related cases filed by U.S. Attorneys' Offices occurred in three of the 94 federal judicial districts. As shown in figure 12, the Southern District of Florida filed 42 cases (23 percent), the Eastern District of Kentucky filed 36 cases (19 percent), and the Eastern District of Wisconsin filed 15 cases (eight percent). U.S. Attorneys' Offices filed the remaining cases (92 cases, or 50 percent) in 42 federal judicial districts; of these, 20 districts had only one election fraud related case during the time period. EOUSA officials said that there could be a number of reasons why cases occurred more frequently in some districts than others. These officials noted that individual U.S. Attorneys utilizing their prosecutorial discretion may have taken an interest in election fraud or encountered evidence of a series of election fraud related crimes that generated a number of matters or cases. For example, according to the respective U.S. Attorneys' Offices:

- In the Southern District of Florida, a 2004 case involving allegations of noncitizen voting resulted in the U.S. Citizenship and Immigration

Services referring a series of additional similar investigations to the U.S. Attorney's Office;⁶⁸

- In the Eastern District of Kentucky, a drug investigation in 2003 revealed evidence of vote buying that led to a series of vote buying cases; and
- In the Eastern District of Wisconsin, 14 of the 15 cases filed were uncovered in a joint investigation regarding the results of the 2004 presidential election, which showed a discrepancy between the number of ballots counted and individuals voting in one Wisconsin county. That investigation ultimately determined the discrepancy was caused by clerical error, but also uncovered 10 individuals who voted despite being ineligible due to their felon status and four who voted more than once.⁶⁹

Figure 12: U.S. Attorneys' Offices' Election Fraud Related Cases Filed by Federal Judicial District, Fiscal Years 2001 through 2017



Source: GAO analysis of Department of Justice, Executive Office for U.S. Attorneys case management data. | GAO-19-485

⁶⁸U.S. Citizenship and Immigration Services was previously known as the Bureau of Citizen and Immigration Services.

⁶⁹In Wisconsin, individuals who are convicted of a felony and currently serving their sentence (including extended supervision, probation, or parole) are not eligible to vote. Voting rights are restored upon sentence completion.

Note: There are 94 federal judicial districts. Of the remaining 91 districts, 42 prosecuted the remaining 50 percent of cases. Forty-nine districts did not prosecute any election fraud related cases. Percentages are approximate due to rounding.

U.S. Attorneys' Offices utilized approximately 100 different statutes in bringing charges in election fraud related cases. Table 3 shows the statutes charged in 15 or more election fraud related cases filed by U.S. Attorneys' Offices. The most frequently charged statute was 52 U.S.C. § 10307 (prohibited voting acts), charged in 52 cases, with subsection (c) (false information in registering or voting and vote buying) charged in 38 of those cases. The next three statutes of 18 U.S.C. § 371 (conspiracy), 18 U.S.C. § 1001 (false statements), and 18 U.S.C. § 611 (voting by noncitizens) were each charged in 38 or more cases.⁷⁰ EOUSA officials explained that U.S. Attorneys' Offices select charges based on the specific facts and circumstances of a case. These officials noted that the offices may use some statutes, such as 18 U.S.C. § 371 and 18 U.S.C. § 1001, more frequently in cases due to their generality, which makes them widely applicable to different types of criminal conduct.⁷¹

⁷⁰The case management system used by the U.S. Attorneys' Offices contains values for some statutes at the section level (e.g., 18 U.S.C. § 371) and allows for entry at the subsection level for other statutory provisions (e.g., 52 U.S.C. § 10307). According to EOUSA officials, requests for new charge codes to be added to the system may be made by a U.S. Attorney's Office to EOUSA. Three of the top statutes charged by U.S. Attorneys' Offices were also charged most frequently in Public Integrity Section prosecutions (52 U.S.C. §10307(c), 18 U.S.C. § 371, and 18 U.S.C. § 1001).

⁷¹A charge is not a required field in the tracking database unless charges are filed, which means a charge may not be listed for matters. For those matters we reviewed in which charge data were entered, U.S. Attorneys' Offices pursued investigations under approximately 100 different statutes.

Table 3: Statutes Charged Most Frequently in Election Fraud Related Cases Filed by U.S. Attorneys’ Offices, Fiscal Years 2001 through 2017

Statute charged	Number of cases
52 U.S.C. § 10307: Prohibited Voting Acts^a	52 (total)
52 U.S.C. § 10307(a): Failure or refusal to permit casting or tabulation of vote	7
52 U.S.C. § 10307(c): False information in registering or voting ^b	38
52 U.S.C. § 10307(e): Voting more than once	7
18 U.S.C. § 371: General conspiracy	49
18 U.S.C. § 1001: General false statements	39
18 U.S.C. § 611: Voting by noncitizens	38
18 U.S.C. § 911: False claim of citizenship	21
18 U.S.C. § 1015(f): False claim of citizenship to register to vote	15
52 U.S.C. § 30122: Contributions in name of another^c	15

Source: GAO analysis of Department of Justice, Executive Office for U.S. Attorneys case management data. | GAO-19-485

Note: Multiple statutes may have been charged in any one case, including, at times, multiple instances of the same statute. Thus, the number of cases presented in each row represents the number of cases in which the U.S. Attorney’s Office charged the statute at least once.

^aTitle 52 U.S.C. § 10307 was previously classified as 42 U.S.C. § 1973i.

^bThis statutory provision also prohibits vote buying and conspiring to vote illegally.

^cTitle 52 U.S.C. § 30122 was previously classified as 2 U.S.C. § 441f.

Examples of U.S. Attorneys’ Offices’ Election Fraud Prosecutions

18 U.S.C. § 371: In *U.S. v. Hudson Hallum, et al.*, filed by the U.S. Attorney’s Office for the Eastern District of Arkansas in fiscal year 2012, defendants pled guilty to engaging in a conspiracy to help elect a candidate to a seat in the Arkansas House of Representatives. The defendants paid and coerced voters to cast absentee ballots for the candidate and mailed and monitored the ballots to ensure they were counted.

18 U.S.C. § 611: In *U.S. v. Hernandez-Cuarenta*, filed by the U.S. Attorney’s Office for the Eastern District of North Carolina in fiscal year 2017, the defendant pled guilty to voting in two presidential elections despite the fact that he was not a U.S. citizen.

Source: GAO summary of court documents. | GAO-19-485

Selected Data Sources on Moves, Deaths, and Convictions Used to Maintain Voter Registration Lists, and Their Reported Benefits and Limitations

Each of the selected data sources we reviewed is one tool election officials may use to maintain their voter registration lists. These selected

data sources are used to identify (1) registrants who move—U.S. Postal Service National Change of Address (NCOA), Interstate Voter Registration Crosscheck Program (Crosscheck), and returned mail; (2) deceased registrants—the public version of the Social Security Administration Death Master File (DMF) and state vital records; and (3) registrants with disqualifying felony convictions—U.S. Attorneys’ records on felony convictions. State and local election officials may use a variety of other databases or lists (data sources) to identify ineligible registrants who should be removed from voter registration lists, and state policies and procedures for using various data sources to identify and remove registrants from voter lists vary.⁷²

Despite variations, election officials with whom we spoke stated that list maintenance—including the use of the selected data sources—provides benefits such as cost savings, smoother Election Day processes, reductions in administrative burden, and fewer opportunities for election fraud. Moreover, election officials told us that each of the selected data sources helps improve voter registration list accuracy, despite some limitations. For example, officials identified benefits from using these data sources, such as helping reduce the number of address errors on voter registration lists and helping identify and remove registrants who have moved outside of the election jurisdiction, are deceased, or have a disqualifying criminal conviction from voter registration lists. Officials also identified limitations with using these selected sources. In particular, three of the six selected data sources consist of administrative records collected for purposes other than voter registration, which can present some challenges when election officials use these sources to maintain their voter registration lists.⁷³ For example, election officials noted that such data sources may inaccurately indicate that registrants moved unless election officials conduct additional work to verify the information. In addition, these data sources may not include the records for some

⁷²Section 8 of the NVRA and section 303(a)(2) of HAVA require states to conduct voter registration list maintenance on a regular basis, including conducting a general program that makes a reasonable effort to remove ineligible voters by reasons of death or change of residence. State list maintenance programs must have safeguards in place so that eligible registrants are not improperly removed from voter registration lists.

⁷³These selected sources are the NCOA, Social Security Administration DMF, and state vital records. According to an academic expert who conducts research related to voter registration list maintenance, election officials repurpose and use these administrative data sources that are not designed or intended for voter registration list maintenance purposes, in part because federal and state legislation provides for the use of these established administrative records.

registrants who are deceased and should be removed from the voter registration lists. Appendix III includes a description of a range of data sources states may use to maintain their voter registration lists.

With regard to possible election fraud, state officials from all five selected states we visited noted that list maintenance activities in general help to identify or prevent election fraud because accurate and complete voter registration lists make it more difficult for individuals to commit fraud. Specifically, duplicate registrations—more than one registration for the same person across election jurisdictions—and ineligible registrations, such as those for deceased individuals, if present in voter registration lists, may provide opportunities for a person to vote more than once or vote using someone else’s identity. Thus, registration lists that contain one registration for each eligible registrant with accurate and current identifying information help to prevent election fraud from occurring.⁷⁴ The majority of election officials we interviewed did not specify any one data source used to identify election fraud; however, state officials from Michigan and Oregon noted that the limited instances of election fraud in their states, in their view, is in part the result of their strong voter registration list maintenance efforts which have helped to reduce opportunities for fraud.

In using data sources as a tool for maintaining voter registration lists, state and local election offices utilize data-matching procedures by which attributes of one registration record are compared to attributes of another record from another database or list to identify registrants who should be removed from voter registration lists under the NVRA’s removal categories.⁷⁵ States are required to have computerized statewide voter registration lists, which allow election officials to conduct electronic data matching of their voter registration list to other databases or lists.⁷⁶ These other databases or lists may include federal or state administrative records, interstate databases, and local lists or other information.

⁷⁴National Academy of Sciences, *Improving State Voter Registration Databases*, The National Academies Press, 2010.

⁷⁵The NVRA provides for the removal of registrants from voter registration lists at the request of the registrant; as provided by state law, by reason of criminal conviction or mental incapacity; upon death; and upon change of residence.

⁷⁶HAVA requires states to perform regular maintenance by comparing their voter registration lists against state records on felons and deaths.

Information on Data Matching Procedures

Procedures for determining that a voter registration record is a “match” to another record may vary across states, local election offices, and interstate data matching programs. In general, a “match” should accurately identify the same individual across the two data sources being matched. However, data matching may result in improper indications of a match when a non-match should be indicated (false positives). False positive matches pose risks that election officials may improperly remove registrants from voter registration lists. Data matching can also result in improper indications of a non-match when a match should be indicated (false negatives), posing risks that election officials may fail to remove ineligible registrants from voter registration lists.

According to a National Academy of Sciences report, the quality of the underlying data (from either the voter registration list or other data sources used for matching) may contribute to false positive or false negative matches.^a For example, data entry errors such as address errors or typographical errors in the spelling of a registrant’s name, or missing voter registration forms can affect the accuracy and completeness of the registration lists or other data sources and the resulting precision of any data matching efforts. In addition, variations in data matching procedures, such as differences in the type and number of data fields used to determine whether a voter registration record is a match to a record from another data source—such as first name, last name, middle name, suffix, date of birth, Social Security number, driver’s license number, among other fields—will likely affect the precision of the match. Requiring matches on a limited number of fields, such as first name and last name only, is likely to lead to more false positives than requiring matches on first name, last name, and date of birth, for example.^b

Source: GAO analysis. | GAO-19-485

^aNational Academy of Sciences, *Improving State Voter Registration Databases*, The National Academies Press, 2010.

^bFurther, matching procedures may differ with regards to how data in specific data fields are compared across databases to determine a match. For example, some procedures may require that the name from the voter registration list exactly match the name from the other data source (e.g. each letter, hyphen, space, or apostrophe must match). An exact match requirement would not accept as a match the name entries “Mary Jones-Smith” and “Mary Jones Smith”, even if all other data fields match across data sources and the entries represent the same individual, thus resulting in a false negative match.

Below we discuss in detail the selected data sources and their benefits and challenges, as identified by literature we reviewed and election officials with whom we spoke.

Data Sources Used to Identify Registrants Who Move

According to reports we reviewed, registrants who move from one election jurisdiction to another jurisdiction within the state or to another state account for the majority of ineligible registrants and duplicate registrations on voter registration lists.⁷⁷ When individuals register to vote,

⁷⁷Pettigrew, Stephen and Stewart III, Charles, *Moved out, Moved On: Assessing the Effectiveness of Voter Registration List Maintenance* (July 21, 2017). MIT Political Science Department Research Paper No. 2018-1; Pérez, Myrna, *Voter Purges*, Brennan Center for Justice, September 2008.

their voter registrations are linked to their residential address. This connection between a voter's registration and residence is intended to ensure reliable and accurate voter registration lists, and to ensure that voters only vote for races and ballot questions that affect the communities in which they live.

According to the 2016 Election Administration and Voting Survey (EAVS), the most common reason for a registrant's removal from the rolls was cross-jurisdiction change of address (31.1 percent of removals), followed by registrants failing to respond to a confirmation notice sent as part of the NVRA process and subsequently not voting in the following two federal elections (26.1 percent of removals).⁷⁸ As previously discussed, under the NVRA, data that indicate a registrant's change of address and a potential move can be used to start the address confirmation notice process, but cannot, on their own, result in the automatic removal of registrants from voter registration lists.

U.S. Postal Service National Change of Address (NCOA)

The NCOA database comprises change-of-address records with the names and addresses of individuals, families, and businesses who filed a change of address with the U.S. Postal Service. Election officials can access the NCOA data by obtaining a license to directly receive the data from the U.S. Postal Service or having their voter registration list processed by a licensed third-party service provider.⁷⁹

Election officials in the five states we visited compare selected records or the entire voter registration list against the NCOA database at the state or

⁷⁸U.S. Election Assistance Commission, *The Election Administration and Voting Survey 2016 Comprehensive Report*, (Washington D.C.: June 2017). The Election Assistance Commission produces a bi-annual report with survey results—from all 50 states, the District of Columbia, and four U.S. territories—on voter turnout, absentee voting, voting before Election Day, as well as voter registration and reported results of list maintenance activities.

⁷⁹The U.S. Postal Service allows vendors/entities to use the NCOA database to obtain the most current and accurately formatted mailing address information to help reduce undeliverable mail. The U.S. Postal Service offers six different licensing categories by which entities can use and provide NCOA data to customers. State and local election officials can directly license or contract with a NCOA licensed vendor to acquire either 18 months of change of address data that is updated monthly or 48 months of change of address data that is updated weekly. Election officials may also use the NCOA data in mail processing to ensure that the mail is sent to the most recent address in the NCOA database, if available.

local level and at varying frequency to identify registrants who have potentially moved and to start the address confirmation and registrant removal process.⁸⁰ For example Nebraska, Oregon, and Virginia state election officials said that they compare their statewide voter registration lists to NCOA on a bi-annual, monthly, and annual basis, respectively, to identify registrants who have potentially moved. In contrast, Florida and Michigan officials said they do not use NCOA data at the state level, though state laws provide local election officials the option of comparing their local jurisdiction's voter registration list to NCOA when they conduct list maintenance activities related to changes in address.⁸¹ Although initial data comparisons of NCOA with the voter registration lists can be conducted at either the state or local level, in all of the states we visited when the results of the NCOA data-matching indicated a potential move, local election officials managed the results of the confirmation notices that were sent to registrants to confirm their address. Local election officials subsequently updated addresses on the voter registration lists with responses they received from the confirmation notices, or flagged registrants for potential removal if the registrants did not respond to the confirmation notice or the notice was returned undeliverable.

Benefits

State election officials from Nebraska, Oregon, and Virginia, and local officials from five of the jurisdictions we visited, reported that the primary benefit to using NCOA data is that it helps them to maintain accurate voter registration lists by (1) providing current and accurate addresses for their registrants, and (2) identifying registrants who have potentially moved and no longer reside in the voting jurisdiction. For example, local officials in one jurisdiction reported that they mailed approximately 60 percent fewer confirmation notices in 2017 compared to 2010 due to improvements in the accuracy of address information in their voter

⁸⁰NVRA prohibits election officials from removing a voter from the registration list based upon a change of address outside of the election jurisdiction (e.g. county or municipality) unless: (1) the voter confirms the move in writing; or (2) does not respond to a notice and does not vote or otherwise update the voter's registration through two general federal elections.

⁸¹Fla. Stat. § 98.065 provides that local election officials must conduct list maintenance activities related to changes in address. In addition to NCOA data, local election officials can use change of address information identified from returned undeliverable mail and address confirmation cards, but must use at least one of those sources. Mich. Comp. Laws § 168.509aa provides that local officials may use NCOA data or other reliable information that identifies registrants whose address may have changed.

registration lists after using NCOA data during this period. Local officials in another jurisdiction reported they used the NCOA data as part of a one-time list maintenance effort, which generated over 100,000 confirmation mailings and resulted in the removal of a number of ineligible voters who no longer resided in the jurisdiction. Election officials also noted that using NCOA data to update voter registration lists may result in administrative efficiencies such as a more efficient election administration process and cost savings. For example, state officials from Oregon, a vote-by-mail state, said that NCOA data help them to maintain clean voter registration lists by providing current and accurate addresses for their registrants, which reduces mailing costs incurred from sending ballots to individuals who have moved out of the state. Further, local officials from one jurisdiction said that using NCOA data helped to reduce the number of address errors in the poll books and, as a result, decrease the number of registrants voting by provisional ballots on Election Day.

Limitations

A report we reviewed and election officials we interviewed cited a number of limitations to using NCOA data for voter registration list maintenance purposes. Specifically, in 2015 the U.S. Postal Service Office of the Inspector General reported that the NCOA data do not capture all change of address information because people do not always notify the U.S. Postal Service when they move.⁸² As a result, election officials may not be able to identify registrants who do not report changes of address to the U.S. Postal Service. Another limitation election officials cited is that an indication of a change in address in NCOA data does not necessarily reflect a change in residence, which is what determines the eligibility of a registrant to vote in a given election jurisdiction. According to U.S. Postal Service officials, the main purpose of the NCOA database is to maintain current and updated addresses for mail delivery and a change of address form may reflect a change in mailing address rather than a permanent change in residence.

Nebraska, Oregon, and Virginia state officials and officials from three local jurisdictions reported that they have difficulty determining whether a registrant's change in address as indicated in the NCOA data is a permanent change in residence or a change in mailing address due to a

⁸²Office of the Inspector General, U.S. Postal Service, *Strategies for Reducing Undeliverable as Addressed Mail*, (Washington D.C.: May 1, 2015) Report No. MS-MA-15-006.

temporary move or other mailing needs. For example, military personnel may prefer to maintain their voter registration at their home of record. Upon assignment to another duty location they may file a change of address with postal authorities for mailing purposes, even if it is not a change of residence for voting purposes. Officials from two local jurisdictions reported similar issues for individuals who retain residency in the jurisdiction while attending college outside the jurisdiction. Further, registrants who had vacation homes outside the jurisdiction in the summer or winter months could be identified as registrants who potentially changed residences on a permanent basis using the NCOA data, according to Nebraska election officials. As a result of the potential difference between mailing and residential addresses, Virginia state election officials and election officials from two local jurisdictions reported that registrants may be inaccurately flagged for confirmation mailings. They told us that registrants would not be automatically removed after being flagged for confirmation mailings; however, they would be required to respond to the mailing or vote in one of the next two federal elections, as prescribed by the NVRA, to stay on the voter registration list.

Officials also told us that they may have to take additional steps to use NCOA data to identify registrants who potentially moved and to update voter registration lists. For example, officials from one local jurisdiction that matches its county voter registration list to NCOA data noted that it can take a significant amount of time and resources to standardize their voter registration data to the NCOA format and to calibrate their data matching procedures to avoid false positive matches. Such false positive matches would inaccurately indicate an address change. These local officials said that they take steps to ensure that they do not get an indication of a change in address based on the standardization of an address (e.g. a "Street" to "ST" difference in address between the two data sources). Oregon state election officials and officials from one local jurisdiction further noted that they may have to do additional work to determine the appropriate election jurisdiction to which the address in the NCOA data should be assigned. Officials explained that some street addresses or buildings, like apartment complexes, cross election jurisdiction boundaries, which makes it difficult to determine within which election jurisdiction an address or a specific unit of an apartment complex falls. Oregon state officials said that local tax assessor data may help election officials reconcile these jurisdictional boundary issues.

Interstate Voter Registration Crosscheck Program (Crosscheck)

Crosscheck is an interstate data sharing program that compares participating states' voter registration lists against one another to identify registrants who are registered in more than one state, which may indicate a move, and to identify individuals who may have voted in more than one state. The Crosscheck program began in 2005 with four participating states—Kansas, Iowa, Missouri, and Nebraska—and had grown to include 31 participating states by 2016.⁸³ To participate in the Crosscheck program, each state signs a memorandum of understanding upon joining the program. Then, in January of each year, member states provide information such as full name, date of birth, and address for registered voters, as well as turnout data for the previous calendar year to Crosscheck program administrators—the Kansas Secretary of State's office—in a prescribed format. Using the information provided by member states, Crosscheck program administrators return to each participating state a list of registrations in that state that share the same first name, last name, and date of birth, with a registration in another participating state. Crosscheck results also include other identifying information that varies depending on whether the member states provided the data. There are no membership or annual fees associated with joining or participating in Crosscheck.

Of the states we visited, Michigan, Nebraska, and Virginia participated in the Crosscheck program for multiple years, while Oregon and Florida each participated once in 2012 and 2013, respectively.⁸⁴ Oregon and Florida state officials explained that they did not use the Crosscheck data they received to conduct any voter registration list maintenance activities. Michigan, Nebraska, and Virginia state officials said that they received and processed Crosscheck data at the state level before sending a subset of results to the local jurisdictions to conduct additional verification and list maintenance activities.

⁸³Esau, Keith, Representative, *Interstate Voter Registration Crosscheck Program*, PowerPoint presentation to the National Conference of State Legislatures, Williamsburg, VA, June 15, 2017. According to news reports, the Crosscheck program was halted while the Department of Homeland Security conducts a security assessment following the unintended release of voters' private information. As a result, participating members of the Crosscheck program did not receive Crosscheck data in calendar year 2018.

⁸⁴Nebraska no longer participates in Crosscheck. Virginia and Michigan remain members but did not provide data in 2018 because of the program's suspension.

Benefits

According to some state and local election officials we interviewed, Crosscheck data can be beneficial as one of the data sources used to identify registrants who may have moved out of state or whose moves are not captured by other data sources. Specifically, officials from four local jurisdictions told us that using Crosscheck data in conjunction with other data sources, such as the NCOA, helps keep voter registration lists accurate. Further, state election officials from Virginia and election officials from one jurisdiction reported that the fact that neighboring states participate in the Crosscheck program is particularly beneficial to them because their residents are more likely to move to neighboring states and the Crosscheck data may capture the change in residence if these residents also registered to vote in the neighboring states.

Nebraska state officials also noted that Crosscheck data complement the NCOA change of address data. In particular, Crosscheck data can provide information on registrants who did not record change of address information under NCOA, who had not responded to a notice sent as a result of NCOA data and had moved a second time, or whose moves were not recent and may not be captured in the most recent change of address information provided by NCOA.⁸⁵ Nebraska state officials noted that the Crosscheck data were particularly helpful in this manner the first year that Nebraska participated in Crosscheck and whenever a new state joined the program. In addition, election officials from Nebraska and state officials from Michigan identified Crosscheck data on possible instances of double voting as a source which could potentially help determine whether an individual might have voted in two or more states. For example, officials from two local jurisdictions said that they identified a few potential instances of double voting using Crosscheck data. They

⁸⁵NCOA data includes either 18 months of change of address data that is updated monthly, or 48 months of change of address data that is updated weekly. According to the Nebraska election officials we spoke with, they use NCOA data that contain 48 months of change of address data.

referred these instances of potential double voting to their Secretary of State.⁸⁶

Limitations

According to reports we reviewed and state officials we interviewed in all five states we visited, Crosscheck data contain numerous matches when a non-match should be indicated (false-positive matches) because the program uses matching criteria that rely on data elements, such as names and birth dates, that may be shared by more than one person. Specifically, the Crosscheck program matches participating states' voter registration information by comparing registrants' first name, last name, and date of birth. However, according to reports we reviewed, the odds are sufficiently high that two registrants could have the same name and birth date in groups as large as statewide (or multistate) voter registration lists.⁸⁷ Nebraska state officials noted that when there were four participating Crosscheck states in 2005, a match indicating a duplicate registration was more likely to be a valid match (rather than a false positive); however as the number of participating states increased, the quality of the matched results has dropped substantially. Oregon state officials told us that they submitted data to the Crosscheck program in 2012 and that many of the resulting 20,000 potential duplicate registration matches were false-positive matches. Florida state officials also expressed concern about the reliability and quality of the matching criteria, in addition to the number of false positive matches in the data they received.

⁸⁶Oregon state officials also identified the Electronic Registration Information Center (ERIC) as another source of information which could potentially help them to detect potential fraud. The ERIC program is a multistate partnership that uses data-matching technology to compare member states' voter registration lists, motor vehicle agency records, and nationally available lists from the U.S. Postal Service and the Social Security Administration to identify registrants who have moved to another jurisdiction or state, or who have died. States pay to join the program and pay an annual membership fee, and member states receive reports which election officials use to update voter registration lists. Oregon participated in a feasibility study conducted by the ERIC program; the study compared voter records for the 2016 general election in five states to identify registrants who may have voted in more than one state or who may have voted twice within the same state. According to ERIC officials, following the feasibility study, ERIC now offers a voluntary report to its members that identifies possible cases of improper voting, including voting in more than one state in the same election. See [GAO-16-630](#) for a full description of the ERIC program.

⁸⁷National Academy of Sciences, *Improving State Voter Registration Databases*; Brater, Jonathan, Kevin Morris, Myrna Pérez, and Christopher Deluzio, *Purges: A Growing Threat to the Right to Vote*, Brennan Center for Justice, July 20, 2018.

In addition, a study on double voting found that Crosscheck data may not provide enough information for election officials to determine whether a match indicating potential duplicate registrations or double voting is valid.⁸⁸ As previously discussed, Crosscheck results for potential duplicate registrations are based on a match of the first name, last name, and date of birth. Crosscheck results provided to participating states may also include additional information—such as registrants’ middle name, suffixes, registration address, and the last four digits of a registrant’s Social Security number, if available—which election officials can use to help determine whether a match is a valid indication of a duplicate registration.⁸⁹ In particular, the last four digits of the Social Security number can help distinguish between two distinct individuals who happen to share the same first name, last name, and date of birth. Using Crosscheck data returned to Iowa in 2012 and 2014, the study found that two-thirds of potential duplicate registrations identified by Crosscheck data did not include the last four digits of the Social Security number associated with at least one of the registration records in the match.⁹⁰ Thus, the study concluded that more often than not, an election administrator would not have enough information to distinguish which matches are valid indications of duplicate registrations.

Further, Nebraska state officials noted that the reliability of the data provided by participating states can affect the reliability of Crosscheck information on double voting. For example, Nebraska state officials reported that one state incorrectly sent Crosscheck its 2014 voting history data the year participating states were to provide their 2016 data to the Crosscheck program. These officials noted that the incorrect voter history data made it appear as though many people had double voted. Nebraska officials said that once they identified this issue, they omitted any matched results involving the state that had provided the 2014 data from their review of registrants who potentially double voted.

⁸⁸Goel, Sharad, Marc Meredith, Michael Morse, David Rothschild, and Houshmand Shirani-Mehr, *One Person, One Vote: Estimating the Prevalence of Double Voting in U.S. Presidential Elections*, Working Paper, Stanford University, January, 2019.

⁸⁹According to Nebraska state officials, the 2017 Crosscheck results they received no longer included the last four digits of the Social Security number. The 2017 Crosscheck results masked the last four digits of the Social Security number and instead noted whether the last four digits of the Social Security number for potentially duplicate registrations matched.

⁹⁰Sharad, Meredith, Morse, Rothschild, and Shirani-Mehr, *One Person, One Vote: Estimating the Prevalence of Double Voting in U.S. Presidential Elections*.

According to the Crosscheck 2014 Participation Guide, processing the duplicate registrations and researching possible double votes require a commitment of time from state and local officials. State election officials from Michigan, Nebraska, Oregon, and Virginia and officials from two local jurisdictions told us that they have spent a significant amount of time and staff resources to review the Crosscheck data and determine which matched records represent valid matches. State officials from the three states that participated in Crosscheck for multiple years (Michigan, Nebraska, and Virginia) said they implemented additional criteria to refine the Crosscheck data they received in order to identify valid matches of potentially duplicate registrations and send confirmation notices, according to the NVRA requirements. For example, Michigan state officials said that they further filter the Crosscheck results they receive to determine valid potential matches of duplicate registrations. Specifically, they filter Crosscheck results to include duplicate registrations where the registrants' first names, middle initials, last names, dates of birth, and last four digits of Social Security numbers are an exact match. In addition, state election officials review the registration dates provided in the Crosscheck results to confirm that the registrant's most recent voter registration activity occurred outside of Michigan before providing a refined list of valid potential matches to responsible local officials who conduct the address confirmation process. In its June 2017 Annual List Maintenance Report, Virginia state officials reported that they also review whether the last four digits of the Social Security number on Crosscheck results they receive match, to determine valid potential matches of duplicate registrations.⁹¹

While election officials from two jurisdictions we visited identified Crosscheck as a source which helped them identify potential instances of election fraud, such as instances of double voting, Nebraska state officials also noted the data were not generally reliable for these purposes without additional investigation. According to one study we reviewed, Crosscheck data on both double voting and duplicate registrations yield a high number of false-positive matches.⁹² Additionally, in another report,

⁹¹Virginia Department of Elections, *Annual List Maintenance Report July 1, 2016- June 30, 2017*. While this report does not comment on the number of missing Social Security numbers, it notes that, after conducting additional analyses, included matching the last 4 digits of the Social Security numbers, only a small percentage of the 2017 data were usable for list maintenance purposes.

⁹²Goel, Sharad, Meredith, Morse, Rothschild, and Shirani-Mehr, *One Person, One Vote: Estimating the Prevalence of Double Voting in U.S. Presidential Elections*.

the New Hampshire Department of State found that of approximately 90,000 match records of duplicate registrations New Hampshire received from Crosscheck in 2017, only a small portion of the records were considered potential instances of double voting.⁹³

Returned Mail

Election officials can use the returned mail from targeted list maintenance mailing efforts and returned “undeliverable” mail from other mailings to registrants to send address confirmation notices to registrants who have potentially moved outside the election jurisdiction.⁹⁴ These confirmation notices are subsequently used to update addresses on the voter registration lists with results of the confirmation mailing or flag registrants for potential removal.⁹⁵ Specifically, targeted list maintenance mailing efforts may include sending a notice to all or a group of registrants in order to determine whether the registrant may have moved from the address on record. For example, Florida law states that local election officials can send notices to registrants who have not voted in the last 2 years and who have not made a written request that their registration be updated during the two year period.⁹⁶ Targeted list maintenance mailing efforts may result in either a response from the registrants or returned undeliverable mail. Returned undeliverable mail occurs when the U.S. Postal Service cannot deliver mail to the address specified on the label, indicating a potential change in the registrant’s address and therefore residence. In addition to targeted list maintenance mailings, election offices may send other notices—such as sample ballots, or information about changes in polling locations—which may also generate returned undeliverable mail.⁹⁷ See figure 13 for an example of other voter

⁹³New Hampshire Department of State, *Report to the Ballot Law Commission on the Review of Data Resulting From the Interstate Voter Registration Data Crosscheck*, May 2018.

⁹⁴Returned undeliverable mail is also known as “Undeliverable-as-Addressed” mail.

⁹⁵The NVRA provides that states may remove the registrant from the voter registration list if the registrant confirms the move in writing, or fails to respond to an address confirmation notice and fails to vote in two subsequent federal general elections following the mailing of the address confirmation notice.

⁹⁶Fla. Stat. § 98.065. According to Florida state officials, registrants can also directly call the local election office for the county in which they reside and request a change or update to their registration information, including a change of address.

⁹⁷Returned undeliverable mail may also include address confirmation cards sent as part of the NVRA confirmation process.

registration notices (not part of a targeted list maintenance effort) that may be returned to election officials as undeliverable and therefore indicate a potential move.

Figure 13: Example of Other Notices Sent by an Election Office to Registrants in Florida

✓

Your Current Party Affiliation: NO PARTY AFFILIATION
Su Afiliación Política Actual es:

→ IMPORTANT REMINDER

FLORIDA IS A CLOSED PRIMARY STATE
 If you wish to vote in a partisan primary, you must be registered with that particular party affiliation.

PARTY CHANGE REQUESTS must be received or postmarked 29 days before the primary election.

→ RECORDATORIO IMPORTANTE

LA FLORIDA ES UN ESTADO DE PRIMARIAS CERRADAS:
 Si usted desea votar en una primaria partidista, usted debe estar inscrito con tal afiliación política.

SOLICITUDES DE CAMBIO DE PARTIDO deben ser recibidas o marcadas con matasello 29 días antes de la elección primaria.

→ Your Vote-by-Mail request(s) status:
Su estatus de Voto-por-Correo:

██████████

██████████

██████████

RETURN SERVICE REQUESTED

NO VOTE-BY-MAIL REQUESTS CURRENTLY ON FILE.
 ACTUALMENTE NO TIENE UNA SOLICITUD VIGENTE PARA VOTAR-POR-CORREO.

2018 CW-NOE 000034

124085433

██████████

██████████

PRESORTED
FIRST CLASS MAIL
U.S. POSTAGE
PAID
PERMIT NO. 1413

RETURN SERVICE REQUESTED

2018 CW-NOE 000034

124085433

██████████

██████████

██████████

PRESORTED
FIRST CLASS MAIL
U.S. POSTAGE
PAID
PERMIT NO. 1413

VOTE

IMPORTANT VOTER INFORMATION INSIDE INFORMACIÓN IMPORTANTE DEL VOTANTE ADETRRO

2018 ELECTION DATES:

August 28 Primary Election
November 6 General Election

Our office is here to make your voting experience an easy one.

3 CONVENIENT WAYS TO VOTE:

VOTING-BY-MAIL
VOTAR-POR-CORREO

VOTING EARLY
VOTAR TEMPRANO

VOTING AT THE POLLS
ON ELECTION DAY
VOTAR EN EL CENTRO DE
VOTACIÓN EL DÍA DE ELECCIÓN

Visit www.ocfelections.com or call us at (407) 836-VOTE (8683) for additional information.

FECHAS DE ELECCIONES DEL 2018:

28 de agosto Elección Primaria
6 de noviembre Elección General

Nuestra oficina está aquí para hacer que su experiencia de votación sea fácil.

3 MANERAS CONVENIENTES PARA VOTAR:

VOTING-BY-MAIL
VOTAR-POR-CORREO

VOTING EARLY
VOTAR TEMPRANO

VOTING AT THE POLLS
ON ELECTION DAY
VOTAR EN EL CENTRO DE
VOTACIÓN EL DÍA DE ELECCIÓN

Visite www.ocfelections.com o llámenos al (407) 836-VOTE (8683) para más información.

VOTE VOTAR VOTE VOTAR VOTE VOTAR VOTE VOTAR VOTE

Source: A Florida local election office. | GAO-19-485

Note: A notice to registrants informing them of the need to register with a political party in order to participate in Florida's 2018 primary elections.

Election officials from all five states we visited use returned mail from targeted list maintenance mailing efforts, or from other mailings to voters, to update registrants' addresses or to send a notice to the registrants to confirm their address.

Benefits

According to Nebraska state election officials, returned undeliverable mail is a valuable tool for identifying registrants who may have moved. Local election officials we spoke with also said that returned undeliverable mail can provide them with a timely indication that a registrant has potentially moved. Furthermore, election officials told us that because mailings can be conducted on a periodic basis, processing returned mail at the time of receipt can help election officials distribute the list maintenance workload throughout the year. Specifically, election officials from four local jurisdictions said that returned undeliverable mail from voter notices sent to registrants periodically throughout the year is usually a more recent indicator of registrants' changes in address compared to largescale list maintenance activities such as an annual mailing based on NCOA data. Further, officials from one local jurisdiction also noted that staying on top of returned undeliverable mail throughout the year helps reduce the workload during the state's annual NCOA confirmation mailing, which would otherwise be too big to manage if the jurisdiction only processed address changes once a year.

Limitations

According to reports we reviewed as well as officials we interviewed, returned undeliverable mail may not be a reliable indicator that a person has moved, which can result in an inflation of the number of registrants who are flagged as inactive.⁹⁸ For example, in 2015, the U.S. Postal Service Office of the Inspector General reported that approximately 60 percent of returned undeliverable mail is a result of the mail not getting delivered by postal service employees or insufficient address information on the mail, as opposed to the registrant having moved without notifying

⁹⁸States and local jurisdictions may maintain a list of inactive voters, whom they have reason to believe moved out of the jurisdiction. Inactive voters are still eligible to vote if they confirm their address at the polls. Inactive voters will be returned to the active registration list if they vote, update their registration, request an absentee ballot, sign a petition, or complete a certificate of candidacy, before two general federal elections occur.

the U.S. Postal Service.⁹⁹ Further, according to one report we reviewed, a registrant may not have received the mailing, or the mailing may be returned undeliverable for a number of reasons, including that the registrant may be temporarily away from his/her permanent residence; may not be listed on the mailbox of the residential address such as when the registrant shares an address with roommates or family members; or may live in a non-traditional residence such as homeless shelter or government building that will not accept mail for residents.¹⁰⁰

In addition, Virginia state officials noted that using returned undeliverable mail can inflate the number of registrants who are flagged as inactive and can also result in additional costs. Specifically, these state election officials told us that they usually have a low response rate from registrants for mailings, including targeted mailings for list maintenance purposes or confirmation mailings. Registrants who are sent a confirmation notice or do not respond to confirmation mailings are then generally flagged as inactive. Nebraska state officials said that having inactive registrants on the registration lists has resulted in costs to local jurisdictions in the past because local officials were formerly required to mail a ballot to all registered voters, including those that were on the inactive list, when a special election was conducted by mail.¹⁰¹ Further, local election officials in one state said that inflated numbers of inactive registrants on voter registrations lists may result in fewer than needed voting precincts, to the extent that election officials determine the number of precincts based only on the number of active registrants on the lists.

Data Sources Used to Identify Deceased Registrants

The NVRA provides for states to remove deceased registrants from registration lists by reason of death. This may be carried out by the state's department of elections, local election jurisdictions, or a combination of the two, as provided by state law. According to the 2016 EAVS, states

⁹⁹Office of the Inspector General, U.S. Postal Service, *Strategies for Reducing Undeliverable as Addressed Mail*.

¹⁰⁰Pérez, Myrna, *Voter Purges*.

¹⁰¹Neb. Rev. Stat. § 32-953(2) provides that the election commissioner or county clerk may choose not to mail a ballot to all registered voters who have been sent and failed to respond to a confirmation notice. If the election commissioner or county clerk chooses not to mail a ballot to such voters, he or she shall mail a notice to all such registered voters explaining how to obtain a ballot and stating the applicable deadlines.

removed over 4 million registrants due to death from November 2014 through November 2016, which accounted for 24.6 percent of the total number of registrants removed from voter registration lists.¹⁰² According to a National Association of Secretaries of State 2017 report, in most states, information on deceased registrants is provided by a state office of vital statistics, the state department of health, or a similar state-level entity. Additionally, the report notes that a number of states permit election officials to remove a deceased registrant using information from sources such as obituary notices, copies of death certificates, and notification from close relatives.¹⁰³

Social Security Administration's Public Death Master File (DMF)

The public version of the DMF contains nearly 101 million records of deaths reported to the Social Security Administration from 1936 through March 1, 2019. It is a subset of the Social Security Administration's full death file; it does not include state-reported death data, but includes other death data reported by family members, funeral directors, post offices, financial institutions, and other federal agencies such as the Department of Veterans Affairs and Centers for Medicare & Medicaid Services. The public DMF accounts for about 19 percent fewer death records than the full death file. The Social Security Act limits the sharing of the full death file to federal benefit-paying agencies, and other specifically enumerated purposes.¹⁰⁴

Generally, DMF records include the Social Security number, full name, date of birth, and date of death of deceased individuals.¹⁰⁵ Agencies or other entities, including election administrators, having a legitimate business purpose for the information can purchase the DMF from the National Technical Information Service of the U.S. Department of Commerce, which is authorized to distribute the DMF. Subscribers to the

¹⁰²U.S. Election Assistance Commission, *The Election Administration and Voting Survey 2016 Comprehensive Report*.

¹⁰³National Association of Secretaries of State, *Maintenance of State Voter Registration Lists: A Review of Relevant Policies and Procedures*, December 2017.

¹⁰⁴Section 205(r). The Act further prohibits the Social Security Administration from using death information it obtains from the states for purposes other than those described in section 205(r) of the Act, and exempts that information from disclosure under the Freedom of Information Act and the requirements of the Privacy Act. 42 U.S.C. § 405(r)(6).

¹⁰⁵References to the DMF throughout this report refer to the public DMF.

DMF are required to purchase monthly or weekly updates to the DMF to ensure that the records are up-to-date.

Of the five states we visited, Florida, Michigan, Oregon, and Virginia compare their statewide voter registration list against DMF data on a regular basis, and Nebraska used the data once in 2014, to identify and remove registrants who had died. Specifically, Florida and Michigan directly receive the DMF data and conduct data-matching with their state's voter registration list to identify deceased registrants on a weekly basis. Oregon and Virginia use DMF data through their participation in the Electronic Registration Information Center (ERIC) program.¹⁰⁶ On a monthly basis, ERIC provides Oregon and Virginia state election officials a report on their deceased registrants based on matches of DMF data with these states' voter registration lists.

States' procedures for removing deceased registrants from the voter registration list vary, depending on requirements outlined in state law.¹⁰⁷ For example, Virginia state law provides that local election officials have the authority to determine the qualification of an applicant for registration.¹⁰⁸ Further, the Virginia law requires election officials to send a cancellation notice once a voter registration record is cancelled due to death.¹⁰⁹ As a result, Virginia state officials forward all valid matches of potentially deceased registrants to the responsible local official who reviews the match, marks the registrant as deceased in the voter registration database, cancels the registration, and sends a cancellation notice. In contrast, Michigan law allows either state or local officials to cancel a voter registration upon receipt of reliable information that the registrant is deceased. In addition, according to Michigan state election officials we met with, there is no legal requirement for officials to send

¹⁰⁶The ERIC program compares member states' voter registration lists to DMF data and provides each member state with a report on its registrants who have died. According to ERIC officials, each member state can specify how frequently state officials receive the report on deceased registrants.

¹⁰⁷The NVRA requires states to conduct a general program that makes a reasonable effort to remove the names of registrants who are deceased from its voter registration list. NVRA §8(a)(4).

¹⁰⁸Va. Code. Ann. § 24.2-114(6).

¹⁰⁹Va. Code. Ann. § 24.2-427(B).

notices of cancellation due to death.¹¹⁰ Michigan state election officials told us that they cancel voter registrations based on data-matching with DMF data at the state level.

Benefits

State election officials from all five selected states and officials from one local jurisdiction reported that they have found DMF data to be useful for identifying registrants who have died. Further, state election officials from four selected states stated that the DMF data are accurate and reliable. For example, officials said that they have experienced very few instances where they have had to reverse cancelled registrations because a registrant was incorrectly identified as deceased based on DMF data. Nebraska and Oregon state officials also noted that DMF data are particularly useful for identifying registrants who died out of state. Officials said that out-of-state death information would not be captured by other data sources they use, such as state vital records data. In addition, Michigan state officials noted that historically they would receive notification of a person's death closer to the date of death when using DMF data than when using death data from the state vital records office.¹¹¹

Limitations

We previously reported that state-reported deaths, which the DMF does not include, are expected to account for a larger proportion of all Social Security Administration death records over time.¹¹² As a result, we reported that agencies that purchase the DMF, including election offices, will likely continue to access fewer records over time as compared with those government agencies that obtain the Social Security

¹¹⁰Mich. Comp. Laws § 168.509o states that the Secretary of State shall use death information from the DMF to update the state voter registration list and to cancel the voter registration of any registrant determined to be deceased. Michigan Comp. Laws § 168.510 states that local election officials shall use county records on deceased persons to cancel the registration of deceased registrants.

¹¹¹Michigan's state vital records office—the Michigan Department of Health and Human Services—has been implementing an electronic system to collect and maintain death records. According to Michigan state election officials, the timeliness of state vital records data has improved in recent years.

¹¹²GAO, *Social Security Death Data: Additional Action Needed to Address Data Errors and Federal Agency Access*, [GAO-14-46](#) (Washington D.C.: Nov. 27, 2013).

Administration's full death file.¹¹³ We also reported that because the deaths reported by states are generally more accurate than other death information reported to the Social Security Administration by post offices, financial institutions, and other government agencies, it is likely that agencies using the DMF could encounter more errors than agencies using the Social Security Administration's full death file.¹¹⁴ According to Social Security Administration officials, Social Security death data are accurate when used to administer the Social Security Administration benefit programs, which includes removing deceased individuals from the beneficiary rolls and informing surviving spouses and children of their eligibility for benefits. Virginia state officials further noted that DMF death information can be less timely in identifying an individual as deceased when compared to state death records because state records are collected during the death certification process while the Social Security Administration relies on the transmission of information after the death certification from other entities, such as other government agencies, to identify an individual as deceased.

State Vital Records

Election officials can also use state vital records to identify and remove registrants who are deceased from their voter registration lists. Due to the federal requirement for state election officials to coordinate with the designated state agency responsible for compiling records of deaths, most states receive state level information on deceased registrants from their state office of vital statistics.¹¹⁵ State death records are collected electronically by most states, and maintained in each state's Electronic Death Registration System.¹¹⁶ As of December 2018, 46 states, the

¹¹³While the DMF does not include state-reported death information, each state can obtain death data for individuals who died within their state using their state vital records data. See the subsequent discussion of state vital records for more information.

¹¹⁴[GAO-14-46](#). We recommended that the Social Security Administration conduct a risk assessment of its death information processing systems and policies, including an assessment of the scope and extent of errors and the feasibility and cost effectiveness of addressing various types of errors, given the risk they pose. In response to our recommendation, the Social Security Administration completed a risk assessment and a data quality assessment, which identified potential efforts that could improve the quality of the Administration's death data. We closed the recommendation as implemented.

¹¹⁵Section 303 of HAVA requires states to coordinate their computerized statewide voter registration list with state agency records on deaths. 52 U.S.C. § 21083.

¹¹⁶An Electronic Death Registration System is a death registration system used to collect, record, and store specific information on an individual's death.

District of Columbia, and Puerto Rico used an Electronic Death Registration System to collect and maintain death data within their jurisdiction.

All five states we visited receive data on deceased individuals at varying intervals from their state vital records office and match these records to the statewide voter registration list to identify and remove deceased registrants. For example, on a daily basis, Florida state election officials receive state death data electronically from the Florida Bureau of Vital Statistics. They use the information to identify potentially deceased registrants and provide a list of these individuals to local election officials.¹¹⁷ Nebraska state election officials receive state death data from their state department of health on a weekly basis, Oregon and Virginia receive death information from their respective state departments of health on a monthly basis, and Michigan officials said they receive the information periodically, on either a weekly or bi-weekly basis.

Benefits

According to state election officials from Florida, Nebraska, Oregon, and Virginia and local election officials from four of the jurisdictions we visited, state vital records on deceased individuals are generally accurate and reliable, in part because state vital records data are reviewed and validated. Specifically, state vital records data on deceased individuals are linked to information on the death certificate which is validated by authorized persons, such as physicians and funeral directors, during the death certification process. Virginia state officials said that in comparison, other sources such as the Social Security DMF data may include reported deaths that are not directly linked to the death certification, from entities such as post offices and financial institutions.

Additionally, officials from one jurisdiction told us that state death records are helpful in identifying people who died in another jurisdiction in the state. Further, officials from this jurisdiction noted that in the past they reviewed obituaries to identify deceased registrants, but that they have seen a decline in the use of obituaries to announce deaths and state death records help fill the information gap previously provided by

¹¹⁷In addition, state laws may provide for the use of county records on deceased individuals to identify and remove deceased registrants from voter registration lists. For example, four of the local jurisdictions we visited received and used information on deceased individuals from their county health department to remove registrants.

obituaries. Nebraska state officials also noted that state death records can help prevent fraudulent registrations because state officials are able to check new registrations against death records received from the state health department.

Limitations

Nebraska state officials and officials from two local jurisdictions said that one limitation of state death records is that they generally only include information on deaths that have occurred in the state, and as a result election officials lack death records for residents who died out of state. From our interviews with the state vital records officials in the states we visited and information we reviewed on national death sources, we learned that, in some states, state death records may include information on deaths that occurred out of state, through the state's participation in interstate data exchanges.¹¹⁸

Additionally, while some state officials found state death records timely for updating voter registration lists, Michigan state officials said their state death records were not as timely as DMF data. Specifically, Michigan state election officials said they used to receive notification approximately six months after a person's death when using state death records, compared to within two weeks of death using DMF data. Officials explained that the lag in the death notification when using the state death records was due to low participation rates in the state's Electronic Death Registration System when the system was first implemented.¹¹⁹ Michigan state election officials noted that state death records have improved and are timelier as the participation rate in the state Electronic Death

¹¹⁸State and territory vital record offices have reciprocal agreements with the National Association for Public Health Statistics and Information Systems to receive other states' vital records data, including death data, from the State and Territorial Exchange of Vital Events. State and territory vital record offices are allowed to use and share death information from other states according to the terms and for the purposes set by each state in the Interjurisdictional Exchange Agreement for Vital Records. As of June 2019, all 50 states, the District of Columbia, and Puerto Rico participated in the State and Territorial Exchange of Vital Events. State and territory vital record offices may also access death information through the Electronic Verification of Vital Events Fact of Death system for a fee. As of November 2017, 42 states and jurisdictions participated in the Electronic Verification of Vital Events Fact of Death system.

¹¹⁹According to Michigan state vital records officials, county clerks and funeral directors were allowed to voluntarily participate in Michigan's Electronic Death Registration System, which resulted in limited participation in the early years of implementation.

Registration System has increased in recent years.¹²⁰ Oregon state officials also noted that state death records may be less timely than the data counties receive from their local health departments, and thus local election officials may have received notice of an individual's death from the county health department prior to receiving the state vital records data.

Data Source Used to Identify Registrants with Disqualifying Felony Convictions

State laws regarding the voting eligibility of individuals with a felony conviction vary. In some states, individuals who were previously convicted of a felony are not permitted to vote unless they are pardoned, or their voting rights are specifically restored by the government; in other states, the right to vote is reinstated automatically at the end of the individual's sentence or after a designated period of time following the end of the sentence. Additionally, in some states, individuals with felony convictions may vote if they are on probation or have been granted parole; and, in two states, felons are allowed to vote even while incarcerated.¹²¹ Election officials are generally required to remove registrants with a felony conviction from voter registration lists, in accordance with state law.

U.S. Attorneys' Records on Felony Convictions

U.S. Attorneys are required by law to notify the states' chief election officials of felony convictions in federal court.¹²² The notices must contain a person's name, age, residence address, date of entry of the judgment, a description of the offenses of which the individual was convicted, and the sentence imposed by the court.

Election officials from all five states we visited said that they receive records from U.S. Attorneys on residents who are convicted of a federal felony. Florida, Nebraska, and Virginia use this information to remove

¹²⁰Michigan state vital records officials we spoke with said that they currently have 96 percent participation by authorized reporting entities in their Electronic Death Registration System.

¹²¹In Maine and Vermont individuals convicted of a felony do not lose their right to vote.

¹²²52 U.S.C. § 20507(g) (formerly 42 U.S.C. § 1973gg-6(g)).

registrants from their voter registration lists given the nature of their state laws, which restrict voting eligibility after a felony conviction until rights are restored or for a period after completion of the sentence.¹²³ Michigan and Oregon prohibit individuals from voting while serving their sentences after conviction, but voting rights are automatically reinstated once a person is released from prison.¹²⁴ As such, state officials from Michigan told us that they do not use U.S. Attorneys' records to remove voters from their voter registration lists. Oregon officials noted they use U.S. Attorneys' records on federal felony convictions to change a registrant's status to "inactive."

Benefits and Limitations

Election officials from three states in our review that use U.S. Attorneys' felony conviction records to remove registrants from voter registration lists said that this information was valuable, as they would not be able to acquire information about federal convictions from state sources.¹²⁵ While federal conviction information can be helpful to election officials, an official from one local jurisdiction said that it can be difficult to determine whether the individual identified by a U.S. Attorney's Office as having a federal conviction is the same person as the registrant. This is because criminals may have used aliases or provided incorrect Social Security numbers when registering to vote, which results in a less confident match. In addition, the information state and local officials receive on federal convictions is not required to include an individual's projected date of release or date of sentence completion, which state and local officials from Florida and Nebraska said could help them determine whether the registrant is ineligible to vote and thus should be removed from voter registration lists. This makes it difficult for election officials to determine if

¹²³At the time of this review, Florida, Nebraska, and Virginia used U.S. Attorneys' records on federal convictions for list maintenance purposes because laws in these states restricted voting for individuals who were previously convicted of a felony for a specified period of time, or until voting rights were restored. In 2018, Florida passed a citizen-initiated constitutional amendment to automatically restore the right to vote for felons (excluding those convicted of murder or a sexual offense) once their sentences are completed. Individuals with a felony conviction of murder or sexual offenses are still required to obtain clemency in order to restore their right to vote.

¹²⁴Michigan and Oregon laws only restrict voting eligibility during incarceration following a felony conviction.

¹²⁵Election officials from Oregon, one of the four states that use the U.S. Attorneys' records on convictions, did not comment on the benefits or limitations of using this information for voter registration list maintenance.

the registrant's sentence was already completed by the time they receive the information. In Nebraska, where voting rights are reinstated two years after a sentence is completed, election officials said it is initially difficult to know whether the individual's voter registration is valid without the date of release or sentence completion.

To mitigate limitations related to the lack of a projected release date or sentence completion date, Florida election officials said that they review case judgments which provide the details of the case, including date of sentence completion, to determine if the registrant's sentence was completed and then check if the registrant's rights were restored. Nebraska state election officials said they review court records and also noted that they would contact the local U.S. Attorney's Office to obtain the federal release date for a particular registrant.

Agency and Third Party Comments

We provided a draft of this report to DOJ, the U.S. Postal Service, the Social Security Administration, the Election Assistance Commission, the Crosscheck program, and election offices in the five states and ten local jurisdictions we visited. DOJ, the U.S. Postal Service, the Election Assistance Commission, and the Crosscheck program did not provide written comments. The Social Security Administration submitted a letter noting that it did not have any substantive comments, which is reproduced in appendix IV. We incorporated technical comments from DOJ, the U.S. Postal Service, the Social Security Administration, Crosscheck, and state and local officials as appropriate.

We are sending copies of this report to the Attorney General, the Postmaster General, the Social Security Administration, the Election Assistance Commission, election offices in the five selected states and ten local jurisdictions that participated in our research, appropriate congressional committees and members, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8777 or gablerr@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made significant contributions to this report are listed in appendix V.

A handwritten signature in black ink that reads "Rebecca Gambler". The signature is written in a cursive style with a large, prominent 'R' and 'G'.

Rebecca Gambler
Director, Homeland Security and Justice

Appendix I: National Voter Registration Act of 1993 Cases Filed by Private Parties

In addition to the Department of Justice's (DOJ) role in enforcing the National Voter Registration Act of 1993 (NVRA), the law allows a private party (a person or organization) who is aggrieved by a violation of NVRA provisions to bring a civil action against a state or local agency responsible for voter registration.¹ In some cases, DOJ may participate in these private party cases by intervening on behalf of the plaintiff (as a plaintiff intervenor) or defendant, or by filing an amicus brief.² The NVRA includes provisions that focus on both increasing opportunities for voter registration and improving voter registration list maintenance.³ Table 4 includes a summary of these provisions.

¹Unless the violation occurred within 30 days before a federal election, the party must first provide written notice of the violation to the chief election official in the jurisdiction. After submitting written notice a party can bring suit if the violation is not corrected in 90 days after the notice is received, or within 20 days if the violation is within 120 days before the date of an election.

²DOJ may act as an *amicus curiae*, or "friend of the court," by filing a brief in an action in which it is not a party, because it has a strong interest in the subject matter. DOJ may also intervene as a party in a case – either on the side of the plaintiff or defendant – because the constitutionality of a federal statute has been questioned or it has another interest in the outcome of the case.

³Certain states are exempt from the NVRA, including North Dakota—which has no voter registration requirement—and Idaho, Minnesota, New Hampshire, Wisconsin, and Wyoming—which have Election Day registration. The NVRA does not apply to states where either (1) under law that has been in effect continuously on and after August 1, 1994, there is no voter registration requirement for any voter in the state for a federal election, or (2) under law that has been in effect continuously on and after, or enacted prior to, August 1, 1994, all voters in the state may register to vote at the polling place at the time of voting in a general election for federal office.

Table 4a: Summary of National Voter Registration Act of 1993 (NVRA) Provisions Related to Voter Registration Opportunities and Voter Registration List Maintenance

Registration opportunities sections	Summary
Section 5 52 U.S.C. § 20504 ^a	Requires that states provide individuals with the opportunity to register to vote at the same time they apply for or renew a driver's license. ^b
Section 6 52 U.S.C. § 20505 ^c	Requires that states offer voter registration opportunities by mail-in application using forms developed by each state and the Election Assistance Commission. ^d
Section 7 52 U.S.C. § 20506 ^e	Requires that states offer voter registration opportunities at all offices that provide public assistance and all offices that provide state-funded programs primarily engaged in providing services to persons with disabilities, in addition to other designated offices.
Section 8 52 U.S.C. § 20507 ^f	Contains requirements with respect to the administration of voter registration by states, including that states register voters whose applications are received at least 30 days before an election.

Table 4b: Summary of National Voter Registration Act of 1993 (NVRA) Provisions Related to Voter Registration Opportunities and Voter Registration List Maintenance

List maintenance sections	Summary
Section 8 52 U.S.C. § 20507 ^f	Further requires states to have a program to remove ineligible voters from voter rolls, but also requires that such list maintenance programs incorporate specific safeguards. For example, list maintenance programs must be uniform, non-discriminatory, in compliance with the Voting Rights Act, and not be undertaken within 90 days of a federal election.

Source: GAO summary of NVRA provisions. | GAO-19-485

^aFormerly 42 U.S.C. § 1973gg-3.

^bReference to driver's licenses also includes personal identification

^cFormerly 42 U.S.C. § 1973gg-4.

^dThe Election Assistance Commission was established by the Help America Vote Act of 2002 (HAVA). In addition to maintaining the mail-in voter registration form developed in accordance with the NVRA, the Commission is charged with developing guidance to meet HAVA requirements, among other things.

^eFormerly 42 U.S.C. § 1973gg-5.

^fFormerly 42 U.S.C. § 1973gg-6.

Methodology

To identify cases filed by private parties that included a claim under the NVRA, we searched an online legal database (Lexis Advance) for U.S. Circuit Courts of Appeals decisions from fiscal years 2008 through 2018

that contained the term “National Voter Registration Act.”⁴ We reviewed the decisions and also obtained and reviewed related case documents, including district court decisions, dockets, and complaints, to determine whether a claim had been filed under the NVRA and the nature of the claim, among other case information. We focused on cases that reached the federal appellate level because decisions issued by the U.S. Circuit Courts of Appeals create binding precedent for all of the districts in that circuit, among other considerations.

Summary of NVRA Cases Filed by Private Parties that Reached the U.S. Circuit Courts of Appeals from Fiscal Year 2008 through Fiscal Year 2018

We identified 19 cases that were filed by private parties with claims under the NVRA that reached the U.S. Circuit Courts of Appeals (federal appellate level) from fiscal years 2008 through 2018.⁵ Eleven of the 19 cases included claims that were related to NVRA provisions that require states to provide registration opportunities. Six cases included claims related to the NVRA requirement to remove voters from registration lists under specified conditions (list maintenance).⁶

⁴We searched for appellate decisions issued over the past 11 years to gain an understanding of the types of issues litigated at the federal appellate level over a substantial period of time.

⁵A broad range of organizations represented plaintiffs in the 19 cases we identified. These organizations included the Public Interest Legal Foundation, American Civil Liberties Union and various affiliates, Lawyers Committee for Civil Rights Under Law, National Immigration Law Center, Project Vote, NAACP Legal Defense & Educational Fund, Inc., and the AARP Foundation. In 12 of the 19 cases, two or more organizations represented the plaintiffs.

⁶Of the two remaining cases, one was related to the public disclosure of records concerning the implementation of programs and activities conducted for list maintenance purposes. The other case involved a claim that a state’s simultaneous registration and receipt of absentee ballots violated section 8 because the state could not verify that applicants were not convicted felons under this process.

Registration Opportunity Cases

Private parties filed 11 cases involving claims under the NVRA's registration opportunity provisions that reached the U.S. Circuit Courts of Appeals. We reviewed the claims in each of the 11 cases and found that:

- five of the 11 cases involved a claim under section 5 related to voter registration opportunities at motor vehicle offices;
- four of the 11 cases involved a claim under section 7 related to registration opportunities at public assistance offices;⁷
- two of the 11 cases involved a claim under section 6 related to mail-in registration application forms; and
- one of the 11 cases involved claims under section 8 related to the requirement that states register voters whose applications are received at least 30 days before an election.

List Maintenance Cases

Private parties filed six cases involving list maintenance claims under the NVRA that reached the U.S. Circuit Courts of Appeals. NVRA list maintenance cases may involve two types of allegations under section 8: (1) in conducting a required program to remove ineligible voters from the voter registration list, a state or local jurisdiction did not incorporate certain safeguards, with the potential effect of unlawfully removing eligible voters; and (2) a state or local jurisdiction did not have an adequate program to remove ineligible voters from the voter registration list. Five of the six cases included a claim under section 8 related to the potential unlawful removal of voters from voter registration lists. The sixth case included a claim under section 8 related to the inadequate removal of ineligible voters from voter registration lists.

DOJ Participated in Nearly Half of All NVRA Private Party Cases that Reached the U.S. Circuit Courts of Appeals from Fiscal Years 2008 through 2018

DOJ submitted an amicus brief or statement of interest in nine of the 19 NVRA cases filed by private parties that reached the U.S. Circuit Courts

⁷One of the 11 cases included claims under both section 5 and section 7.

of Appeals between fiscal years 2008 through 2018. Five of the nine cases in which DOJ participated involved issues related to registration opportunities:

- DOJ participated in all four of the cases that included a claim under section 7 related to registration issues involving public assistance offices.⁸ For example, in one case, plaintiffs alleged that the state of New Mexico failed to provide voter registration forms to applicants for public assistance who did not decline, in writing, to register to vote.⁹ DOJ submitted a brief in support of the plaintiffs.
- DOJ participated in one case that included a claim under section 6 related to mail-in voter registration application forms.

DOJ also participated in one case under section 8 that related to the public disclosure of records concerning voter registration list maintenance activities.

The remaining three cases involved issues related to list maintenance, specifically allegations that an election jurisdiction's list maintenance program did not have appropriate safeguards to protect against the unlawful removal of eligible voters. For example, in one case, plaintiffs alleged that the state of Ohio violated the NVRA by using failure to vote as the sole trigger to start the confirmation process for removing voters from registration rolls based on a change of residence. In 2016, DOJ filed an amicus brief in support of the plaintiffs. In 2017, the case was appealed to the U.S. Supreme Court and the department reversed its original position and filed a brief supporting the state's list maintenance practices. In June 2018, the Supreme Court upheld Ohio's process for removing voters on change-of-residence grounds and ruled that failure to vote could serve as evidence that a registrant had moved.¹⁰

⁸One of the four cases also included a claim under Section 5 related to registration opportunities at motor vehicle offices.

⁹Section 7 of the NVRA requires state public assistance offices to distribute voter application forms unless the applicant declines to register to vote in writing.

¹⁰*Husted v. A. Phillip Randolph Institute*, 138 S. Ct. 1833 (2018).

Appendix II: Cases with National Voter Registration Act of 1993 Claims Filed by the Department of Justice, Voting Section

Within the Department of Justice (DOJ), the Civil Rights Division's Voting Section enforces the civil provisions of federal laws that protect the right to vote, including the National Voter Registration Act of 1993 (NVRA), the Help America Vote Act, the Voting Rights Act of 1965, and the Uniformed and Overseas Citizens Absentee Voting Act, among others. From fiscal years 2001 through 2017, the Voting Section participated in 234 cases, including 14 cases involving NVRA claims in which the Section was the plaintiff or the plaintiff intervenor.¹ Cases with NVRA claims included allegations related to providing registration opportunities for voters,² and allegations related to the requirement to remove voters from registration lists under specified conditions (list maintenance).³ Table 5 below provides a brief summary of the allegations in each case.

¹The Voting Section may participate in a case as the plaintiff or plaintiff intervenor, defendant, or as an amicus curiae, or "friend of the court." The Section may intervene as a party in a case—either on the side of the plaintiff or defendant—because the constitutionality of a federal statute has been questioned or it has another interest in the outcome of the case. The Section may act as an amicus by filing a brief in an action in which the DOJ is not a party, because it has a strong interest in the subject matter.

²NVRA provisions that address voter registration opportunities include sections 5, 6, and 7, which require states to offer voter registration opportunities at state motor vehicle agencies, by mail-in application using forms developed by each state and the Election Assistance Commission, and at public assistance, disability, and other government service offices, among other things. Registration may also refer to the NVRA section 8 requirement that states register voters whose applications are received at least 30 days before an election.

³NVRA section 8 contains provisions that require states to conduct a general program to remove ineligible voters from registration lists, and to incorporate safeguards in carrying out their list maintenance programs or activities.

**Appendix II: Cases with National Voter
Registration Act of 1993 Claims Filed by the
Department of Justice, Voting Section**

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Table 5: Summary of Cases with National Voter Registration Act of 1993 (NVRA) Claims Filed by the Department of Justice, Voting Section, Fiscal Years 2001 through 2017

Fiscal year	Case name	Registration claims^a	List maintenance claims^b (Unlawful removal)	List maintenance claims^b (Inadequate removal program)	Summary of allegations in complaints
2002	United States v. City of St. Louis	claims not included	claims included	claims not included	The city placed so high a burden upon certain eligible inactive voters that it effectively removed registrants from its voter registration list in a manner prohibited by section 8 of the NVRA.
2002	United States v. State of Tennessee	claims included	claims not included	claims not included	The state failed to fully implement voter registration opportunities at its motor vehicle offices, and at state public assistance and disability offices in violation of NVRA sections 5 and 7.
2004	United States v. State of New York	claims included	claims not included	claims not included	The state and its public colleges and universities failed to provide voter registration opportunities at offices serving disabled students in violation of NVRA section 7.
2004	United States v. Pulaski County	claims included	claims included	claims included	The county violated several NVRA section 8 provisions as it failed to process voter registration applications within 30 days; failed to develop and implement an adequate program to remove ineligible voters; and failed to ensure that list maintenance activities were conducted in a uniform manner.
2006	United States v. State of Missouri, et al.	claims not included	claims included	claims included	The state failed to conduct an adequate program of general list maintenance (NVRA section 8). As a result, some counties made no effort to remove ineligible voters, and registrants were removed without proper notice in other counties.
2006	United States v. State of Indiana, et al.	claims not included	claims not included	claims included	The state failed to conduct a program to identify and remove ineligible voters in violation of NVRA section 8.
2006	United States v. State of Maine, et al.	claims not included	claims not included	claims included	The state failed to conduct a program to identify and remove ineligible voters in violation of NVRA section 8. ^c
2007	United States v. State of New Jersey	claims not included	claims not included	claims included	The state failed to conduct a general program to remove deceased registrants; or to identify and remove residents who have a change of residence, as required by NVRA section 8. ^c

**Appendix II: Cases with National Voter
Registration Act of 1993 Claims Filed by the
Department of Justice, Voting Section**

Fiscal year	Case name	Registration claims^a	List maintenance claims^b (Unlawful removal)	List maintenance claims^b (Inadequate removal program)	Summary of allegations in complaints
2007	United States v. City of Philadelphia, PA	claims not included	claims not included	claims included	The city failed to conduct a general program that made a reasonable effort to remove ineligible voters in violation of NVRA section 8. ^d
2007	United States v. Cibola County	claims included	claims included	claims not included	The county failed to register applicants who submitted valid, timely applications for voter registration; and removed voters from its voter registration list without following procedures established in NVRA section 8. ^e
2011	United States v. State of Rhode Island	claims included	claims not included	claims not included	The state failed to provide voter registration opportunities at state offices that provide public assistance and offices that primarily serve persons with disabilities, as required by NVRA section 7.
2011	United States v. State of Louisiana	claims included	claims not included	claims not included	The state failed to provide voter registration opportunities at state offices that provide public assistance and offices that primarily serve persons with disabilities, as required by NVRA section 7.
2012	United States v. State of Florida	claims not included	claims included	claims not included	The state's voter verification procedures were inaccurate and unreliable and erroneously identified eligible voters as noncitizens. In addition, the state systematically removed voters from its voter registration rolls within 90 days of an election for federal office, which is prohibited by NVRA section 8.
2017	Common Cause New York and United States v. Board of Elections in the City of New York	claims not included	claims included	claims not included	The jurisdiction's list maintenance program was not uniform and nondiscriminatory as required by NVRA section 8, and resulted in voters being unlawfully removed from its voter registration list.

Legend:

X = Case included claims under this category

— = Case did not include claims under this category

Source: GAO analysis of Department of Justice case filings. | GAO-19-485

^aRegistration refers to NVRA provisions that address voter registration opportunities. Specifically, sections 5, 6, and 7, which require states to offer voter registration opportunities at state motor vehicle agencies, by mail-in application using forms developed by each state and the Election Assistance Commission, and at public assistance, disability, and other government service offices, among other things. Registration may also refer to the NVRA section 8 requirement that states register voters whose applications are received at least 30 days before an election.

**Appendix II: Cases with National Voter
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^bList maintenance refers to provisions of NVRA section 8, which require states to conduct a general program to remove ineligible voters from registration lists, and to incorporate safeguards in carrying out their list maintenance programs or activities.

^cThe complaint also included allegations that the state violated provisions of the Help America Vote Act, including failure to establish a required statewide voter registration list.

^dThe complaint also included allegations that the state violated provisions of the Voting Rights Act and the Help America Vote Act, such as failing to provide Spanish language election materials, information, and assistance, and failing to provide an audio function for voters with disabilities, among other allegations.

^eThe complaint also included allegations that the state violated provisions of the Voting Rights Act and the Help America Vote Act by failing to provide a sufficient number of translators for Pueblo and Navajo voters needing assistance on election day, and failing to require proof of identification for certain voters and failing to properly train poll workers, among other allegations. The original complaint was filed in 1993 and amended in 2007.

Appendix III: Data Sources and Site Selection Methods

To address how selected data sources are used at the state and local level and to obtain perspectives on how these sources help maintain voter registration lists, we selected and reviewed six commonly received data sources that may be used to remove ineligible voters who have moved, died, or committed a disqualifying criminal conviction. We also selected state and local election offices in five states and conducted interviews with election officials to obtain information on policies and procedures for using selected data sources, and perspectives on their benefits and limitations. This appendix describes our data source and site selection methodologies, and additional information on the data sources and sites we selected.

Data Source Selection

To determine which data sources to include in our review, in June 2018 we sent a structured questionnaire to state election directors for each of the 49 states and the District of Columbia with voter registration requirements to identify commonly received data sources which states can potentially use to conduct voter registration list maintenance.¹ The National Voter Registration Act of 1993 (NVRA)² specifies certain categories under which election officials may remove registrants from voter registration lists including:

1. if a registrant has moved outside of a jurisdiction and either (a) confirmed the move in writing or (b) failed to respond to an address

¹Certain states are exempt from the NVRA, including North Dakota—which has no voter registration requirement—and Idaho, Minnesota, New Hampshire, Wisconsin, and Wyoming—which have Election Day registration. The NVRA does not apply to states where either (1) under law that has been in effect continuously on and after August 1, 1994, there is no voter registration requirement for any voter in the state for a federal election or (2) under law that has been in effect continuously on and after, or enacted prior to, August 1, 1994, all voters in the state may register to vote at the polling place at the time of voting in a general election for federal office.

²Pub. L. No. 103-31, 107 Stat. 77 (codified as amended at 52 U.S.C. §§ 20501-20511) (formerly 42 U.S.C. §§ 1973gg – 1973gg-10).

confirmation mailing and failed to vote in two consecutive federal general elections subsequent to the mailing;

2. death of the registrant;
3. criminal conviction of the registrant, as provided for in state law; and
4. mental incapacity of the registrant, as provided for in state law.³

We asked state election directors to identify the sources from which data were received at either the state or local level at any point between January 2017 and May 2018.⁴ We summarized responses from election directors in 35 states and the District of Columbia to identify commonly received data sources. Table 6 provides a summary of responses to the structured questionnaire, with the data sources organized according to the NVRA categories that may be used to remove registrants from voter lists.

³The NVRA also includes a provision that allows for the removal of a registrant from a voter registration list at the request of the registrant; however we did not include this reason as a category in our review since election officials would not use a specific data source to obtain this information.

⁴We developed the list of data sources for the questionnaire by reviewing prior GAO and other reports, and through interviews with election experts at organizations such as the National Association of Secretaries of State and the National Association of State Election Directors. The questionnaire also included blank fields to allow respondents to indicate additional data sources that the predetermined list did not capture. The questionnaire asked respondents to identify when each data source was received from January 2017 through May 2018 to reflect list maintenance activities conducted after the 2016 general election.

Table 6a: Number of States That Received Data from Data Sources Organized by National Voter Registration Act of 1993 Categories for Removing Registrants from Voter Lists

Data sources used to identify registrants who move	Description	Number of states in which either state or local election officials received data from the source (between January 2017 and May 2018)^a
Returned mail	Election officials can use returned mail from targeted list maintenance mailing efforts and returned “undeliverable” mail from other mailings—such as sample ballots, or information about changes in polling locations—to identify registrants who have potentially moved.	30
State motor vehicle agency records	Election offices acquire data, such as addresses and identifying information, from their state’s motor vehicle agency to update and maintain voter registration lists. For example, election officials can then process the data received from the motor vehicle agency to add a new registration record for an eligible individual who applied to register to vote while obtaining a driver’s license, or update an existing registrant’s address if the individual moved to a new residence and provided the motor vehicle agency with an updated address.	29
U.S. Postal Service National Change of Address (NCOA)	NCOA data is comprised of change-of-address records consisting of the names and addresses of individuals, families, and businesses who filed a change of address with the U.S. Postal Service. Election officials can use this information to identify registrants who have potentially moved.	22
Electronic Registration Information Center (ERIC) program ^b	ERIC is a multistate partnership that uses data-matching technology to compare member states’ voter registration lists, motor vehicle agency records, and nationally available lists from the U.S. Postal Service and the Social Security Administration to identify registrants who have moved to another jurisdiction or state, or who have died.	16
Interstate Voter Registration Crosscheck (Crosscheck) program	Crosscheck is an interstate data sharing program that compares participating states’ voter registration lists against one another to identify registrants who are potentially registered in more than one state, which may indicate a move, and to identify individuals who may have voted in more than one state.	13
State or local court jury notices or juror information	Jury administrators may provide election officials with information from returned undeliverable state or local jury selection notices, which indicates a possible change in address, or from individuals who said they should be excused from jury duty because they are noncitizens. This information can help election officials identify registrants who have potentially moved or are noncitizens.	11

**Appendix III: Data Sources and Site Selection
Methods**

Data sources used to identify registrants who move	Description	Number of states in which either state or local election officials received data from the source (between January 2017 and May 2018)^a
State or local tax records	Election officials may use state or local tax records to verify address information and identify registrants who may have moved.	4
U.S. District Court jury notices or juror information	Jury administrators may provide election officials with information from returned undeliverable federal jury selection notices, which indicates a possible change in address, or from individuals who said they should be excused from jury duty because they are noncitizens. This information can help election officials identify registrants who have potentially moved or are noncitizens.	3

Table 6b: Number of States That Received Data from Data Sources Organized by National Voter Registration Act of 1993 Categories for Removing Registrants from Voter Lists

Data sources used to identify deceased registrants	Description	Number of states in which either state or local election officials received data from the source (between January 2017 and May 2018)^a
State or county or local vital records	State, county, or local vital records consist of the completed paper or electronic forms that document vital events, such as birth certificates and death certificates. In particular, death records can be used to help identify registrants who may have died. ^c	36
Social Security Administration Death Master File (DMF) public version	The public version of the DMF contains nearly 101 million records of deaths reported to the Social Security Administration from 1936 through March 1, 2019. DMF records include the Social Security number, full name, date of birth, and date of death of deceased individuals.	12
State and Territorial Exchange of Vital Events	The State and Territorial Exchange of Vital Events system collects data on participating states' and territories' vital records, including birth and death. This system provides state vital records offices with information on residents of participating states and territories who have died in another state or territory. These data can help election officials identify registrants who may have died out of state.	4
Electronic Verification of Vital Events Fact of Death	The Electronic Verification of Vital Events Fact of Death system allows authorized users to query the system to determine whether individuals are listed as deceased in any of the other participating states or territories. This system can help election officials identify registrants who may have died out of state.	1

Table 6c: Number of States That Received Data from Data Sources Organized by National Voter Registration Act of 1993 Categories for Removing Registrants from Voter Lists

Data sources used to identify registrants with disqualifying criminal convictions	Description	Number of states in which either state or local election officials received data from the source (between January 2017 and May 2018) ^a
U.S. Attorneys' records on federal felony convictions	U.S. Attorneys are required by federal law (52 U.S.C. § 20507 (g)) to notify the states' chief election officials of felony convictions in federal court. The notices must contain a person's name, age, residence address, date of entry of the judgment, a description of the offenses of which the individual was convicted, and the sentence imposed by the court.	34
State or local records on disqualifying crimes for voting	Election offices can collaborate with their state or local law enforcement agencies and courts to acquire information on individuals with a state felony conviction. Election officials then process the data received to identify registrants with a disqualifying felony conviction and to remove registrants from voter registration lists.	31

Table 6d: Number of States That Received Data from Data Sources Organized by National Voter Registration Act of 1993 Categories for Removing Registrants from Voter Lists

Data sources used to identify registrants with disqualifying mental incapacity	Description	Number of states in which either state or local election officials received data from the source (between January 2017 and May 2018) ^a
State or local records of persons who are adjudged mentally incapacitated	State or local clerks of court may provide election officials with information on individuals who have been adjudicated as mentally incapacitated. Election officials process this information to determine if individuals should be removed from voter registration lists, according to state law.	12

Table 6e: Number of States That Received Data from Data Sources Organized by National Voter Registration Act of 1993 Categories for Removing Registrants from Voter Lists

Other data sources ^d	Description	Number of states in which either state or local election officials received data from the source (between January 2017 and May 2018) ^a
Lexis Nexis search results	Election officials can use Lexis Nexis to verify information received from other sources, such as a registrant's change in address, to determine whether a registrant is or is not eligible. Officials may also use Lexis Nexis to confirm if a registrant is deceased.	5

**Appendix III: Data Sources and Site Selection
Methods**

Other data sources ^d	Description	Number of states in which either state or local election officials received data from the source (between January 2017 and May 2018) ^a
U.S. Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements Program (SAVE)	SAVE is a DHS program which can be used to determine a registrant's immigration or naturalized or derived citizenship status when matched with an identification number from an immigration document, such as an alien identification number. ^e Election officials can establish a memorandum of agreement with DHS and obtain training to use the SAVE system.	2

Source: GAO analysis of questionnaire results. | GAO-19-485

Note: Pub. L. No. 103-31, 107 Stat. 77 (codified as amended at 52 U.S.C §§ 20501-20511) (formerly 42 U.S.C. §§ 1973gg-1973gg-10).

^aWe administered the questionnaire to state election officials and inquired about the data sources received at either the state or local levels, or both. State officials who completed the questionnaire may not have been aware of all the sources received at the local level in their state.

^bThe ERIC program also provides information on deceased registrants to its participating members.

^cIn the report, we focus primarily on state vital records as election officials we interviewed provided limited information on county or local vital records.

^dThis category includes sources that addressed other voter eligibility requirements such as citizenship status. Some election officials also responded to an open-ended question regarding any other sources they might receive that were not specifically mentioned in our questionnaire. For example, one state listed obituaries as a source of death information. Two states noted that they reviewed state records on clemency or restoration of voting rights to determine whether previously convicted felons were eligible to vote.

^eSAVE does not verify the citizenship status of native born U.S. citizens. For additional information on SAVE, see GAO, *Immigration Status Verification for Benefits: Actions Needed to Improve Effectiveness and Oversight*, GAO-17-204 (Washington, D.C: Mar. 23, 2017).

From the list of commonly received sources above, we then selected six data sources that can be used to address the following NVRA categories for removing registrants—move outside election jurisdiction, death, and, disqualifying criminal conviction. These categories each account for more than 1 percent of total removals from voter registration lists nationwide, based on the most recent data reported to the U.S. Election Assistance Commission.⁵ We did not select any data source that addresses the “disqualifying mental incapacity” NVRA removal category since it accounted for less than 1 percent of total removals nationwide for this time period. Specifically, we selected three sources that address moves,

⁵The U.S. Election Assistance Commission administers the Election Administration and Voting Survey, which collects information from all 50 states, the District of Columbia, and four U.S. territories—American Samoa, Guam, Puerto Rico and the Virgin Islands—to provide data about voter turnout, voter registration, NVRA and other election related data after each Federal election. The most recent survey (2016) contains information about voter registration list maintenance activities, among other things, for the time period between the close of voter registration for the 2014 election and the close of voter registration for the 2016 election.

two sources that address deceased registrants, and one source that addresses disqualifying criminal convictions, to generally reflect recent data reported on the distribution of registrant removals, by removal category, from voter registration lists nationwide.⁶

We also selected (a) at least one nationwide source that captures data from all states; (b) at least one source that only includes data specific to the particular state or local jurisdiction that receives data from the source; and (c) one interstate data exchange that involves the sharing of data between multiple states. We selected sources from each of these categories in order to identify potential issues that may arise when election officials match their voter registration data with various other types of data sources. Table 7 presents the data sources we selected for further review.

Table 7a: Data Sources Selected for Review, Organized by National Voter Registration Act of 1993 Categories for Removing Registrants from Voter Lists and Type of Source

Selected data sources used to identify registrants who move	Type of source
Returned mail	State or local
U.S. Postal Service National Change of Address (NCOA)	Nationwide
Interstate Voter Registration Crosscheck (Crosscheck) Program	Interstate exchange

Table 7b: Data Sources Selected for Review, Organized by National Voter Registration Act of 1993 Categories for Removing Registrants from Voter Lists and Type of Source

Selected data sources used to identify deceased registrants	Type of source
State or county or local vital records ^a	State or local

⁶According to the 2016 Election Administration and Voting Survey, 57.2 percent of removals from voter registration lists nationwide between the close of voter registration for the 2014 election and the close of voter registration for the 2016 election were due to an indication of a move; 24.6 percent were due to death; 2 percent were due to a disqualifying felony conviction; and 0.06 percent were due to adjudication of mental incapacity. The Survey distributes removals due to a move across two categories: cross-jurisdiction change in address and the NVRA process of failing to respond to a confirmation notice. According to the NVRA, an indication of a move can be registrant's written confirmation that his or her address has changed to a location outside the registrar's jurisdiction; or a registrant's failure to respond to an address confirmation mailing along with failure to vote in two consecutive federal general elections subsequent to the mailing. Other reasons for removal identified by the report include at the request of the registrant. The report also includes an "other" and "not categorized" category. U.S. Election Assistance Commission, *The Election Administration and Voting Survey 2016 Comprehensive Report* (Washington, D.C.: June 2017).

Selected data sources used to identify deceased registrants	Type of source
Social Security Administration Death Master File (DMF) public version	Nationwide

Table 7c: Data Sources Selected for Review, Organized by National Voter Registration Act of 1993 Categories for Removing Registrants from Voter Lists and Type of Source

Selected data source used to identify registrants with disqualifying criminal convictions	Type of source
U.S. Attorneys' records on federal felony convictions ^b	State or local

Source: GAO analysis. | GAO-19-485

^aIn this report, we focus primarily on state vital records as election officials we interviewed provided limited information on county or local vital records.

^bWe considered U.S. Attorneys' records on federal felony conviction to be a state or local source because the information provided is specific to the each state.

State and Local Jurisdiction Selection

To obtain information on policies and procedures for using selected data sources for voter registration list maintenance, and election officials' perceptions on the benefits and limitations of using them, we selected five states that indicated in their responses to our questionnaire that they have received data from at least five of the six selected data sources between January 2017 and May 2018. We also considered variation in states' population size, when possible, and geographic diversity in order to capture possible regional differences in election administration practices. See table 8 for a list of the states we selected and a summary of the selected data sources received by each state.

**Appendix III: Data Sources and Site Selection
Methods**

Table 8: Selected Data Sources Received by Selected States between January 2017 and May 2018

Number of the selected data sources received	State	U.S. Postal Service National Change of Address (NCOA)	Interstate Voter Registration Crosscheck (Crosscheck) program	Returned mail	Social Security Administration Death Master File (DMF) public version	State or county or local vital records^a	U.S. Attorneys' records on federal felony convictions
6	Virginia	Yes	Yes	Yes	Yes	Yes	Yes
5	Michigan	Yes	Yes	No	Yes	Yes	Yes
5	Nebraska	Yes	Yes	Yes	No	Yes	Yes
5	Oregon	Yes	No	Yes	Yes	Yes	Yes
5	Florida	Yes	No	Yes	Yes	Yes	Yes

Source: GAO analysis of questionnaire responses. | GAO-19-485

Note: Yes = Questionnaire responses indicate that state or local officials received data from the source; No = Questionnaire responses indicate that state or local officials did not receive data from the source. We administered the questionnaire to state election officials and inquired about the data sources received at either the state or local levels, or both. State officials who completed the questionnaire may not have been aware of all the sources received at the local level in their state

^aIn this report, we focus primarily on state vital records as election officials we visited provided limited information on county or local vital records.

For each of the five selected states, we selected two local election jurisdictions (counties or cities/towns)—one with a larger population and one with a smaller population—based on the recommendation of the state election officials, population size, and other factors. See table 9 for demographic information on the states and local jurisdictions we visited.

**Appendix III: Data Sources and Site Selection
Methods**

Table 9: Selected States and Local Election Jurisdictions

State	State population estimate	Large or urban jurisdiction	Small or medium/rural jurisdiction
Florida	20,984,400	Orange County Population: 1,348,975 Population Density: 1,268.5 per sq. mi.	Wakulla County Population: 32,120 Population Density: 50.8 per sq. mi.
Michigan	9,962,311	City of Detroit Population: 673,104 Population Density: 5,144.3 per sq. mi.	City of Williamston ^a Population: 3,916 Population Density: 1579.5 per sq. mi.
Nebraska	1,920,076	Douglas County Population: 561,620 Population Density: 1,574.4 per sq. mi.	Saunders County Population: 21,057 Population Density: 27.7 per sq. mi.
Oregon	4,142,776	Marion County Population: 341,286 Population Density: 266.7 per sq. mi.	Polk County Population: 83,696 Population Density: 101.8 per sq. mi.
Virginia	8,470,020	City of Richmond Population: 227,032 Population Density: 3,414.7 per sq. mi.	York County Population: 67,739 Population Density: 624.8 per sq. mi.

Source: GAO analysis of U.S. Census data. | GAO-19-485

Note: Except where indicated, state population estimates are from the U.S. Census Bureau 2017 National and State Population Estimates. Local jurisdiction population estimates are from the U.S. Census Bureau Quick Facts for states and counties, and for cities and towns with a population of 5,000 or more. States and local jurisdiction population estimates are as of July 2017; population density estimates are as of 2010.

^aCity of Williamston, Michigan population estimates are from U.S. Census Bureau Community Facts, as of July 2017. Population density is calculated using data from the U.S. Census Bureau 2010 Summary File for Michigan (Population/Total land area sq. miles).

Appendix IV: Comments from the Social Security Administration



SOCIAL SECURITY
Office of the Commissioner

June 6, 2019

Ms. Rebecca Gambler
Director, Homeland Security and Justice
United States Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Gambler:

Thank you for the opportunity to review the draft report, "VOTER REGISTRATION: Information on Federal Enforcement Efforts and State and Local List Management" (GAO-19-485). We have no substantive comments. We submitted technical comments at the staff level for your consideration.

If you have any questions, please contact me at (410) 965-9704. Your staff may contact Trae Sommer, Acting Director of the Audit Liaison Staff, at (410) 965-9102.

Sincerely,

A handwritten signature in blue ink that reads "Stephanie Hall".

Stephanie Hall
Acting Deputy Chief of Staff

SOCIAL SECURITY ADMINISTRATION BALTIMORE, MD 21235-0001

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

Rebecca Gambler, (202) 512-8777 or gablerr@gao.gov

Staff Acknowledgments

In addition to the contact named above, Tom Jessor (Assistant Director), David Alexander, Justine Augeri, Colleen Candrl, Jamarla Edwards, Jonathan Ferguson, Alana Finley, Eric Hauswirth, Richard Hung, Amanda Miller, Heidi Nielson, Kevin Reeves, Christine San, Janet Temko-Blinder, Jeff Tessin, and Sarah Turpin made key contributions to this report.

Appendix VI: Accessible Data

Data Tables

Accessible Data for Figure 2: Matters Initiated by the Department of Justice, Voting Section, Fiscal Years 2001 through 2017

Fiscal year	All matters initiated	National Voter Registration Act Matters Initiated
2001	82	6
2002	81	2
2003	153	2
2004	55	5
2005	46	3
2006	72	5
2007	52	1
2008	54	15
2009	29	1
2010	78	2
2011	189	25
2012	97	5
2013	59	8
2014	30	4
2015	21	5
2016	79	6
2017	118	4
Total	1295	99

Accessible Data for Figure 3: National Voter Registration Act of 1993 (NVRA) Matters Initiated by the Department of Justice, Voting Section, by Subject, Fiscal Years 2001 through 2017

Fiscal year	List maintenance ^a	Registration ^b	List maintenance and registration	General ^c
2001	1	5	0	0
2002	0	2	0	0
2003	1	1	0	0
2004	4	1	0	0

Appendix VI: Accessible Data

Fiscal year	List maintenance ^a	Registration ^b	List maintenance and registration	General ^c
2005	0	2		1
2006	2	1	1	1
2007	0	0	0	1
2008	2	13	0	0
2009	0	1	0	0
2010	0	2	0	0
2011	0	10	0	15
2012	3	2	0	0
2013	0	7	0	1
2014	1	3	0	0
2015	2	3	0	0
2016	1	3	2	0
2017	0	2	2	0
Total	17	58	5	19

Accessible Data for Figure 4: Department of Justice Voting Section Cases, Fiscal Years 2001 through 2017

Fiscal year	Total cases	National Voter Registration Act cases
2001	5	0
2002	20	2
2003	6	1
2004	14	2
2005	12	0
2006	24	3
2007	16	3
2008	10	0
2009	13	0
2010	10	0
2011	27	2
2012	43	4
2013	17	1
2014	4	0
2015	3	0
2016	5	2
2017	5	3

Fiscal year	Total cases	National Voter Registration Act cases
Total	234	23

Accessible Data for Figure 5: National Voter Registration Act of 1993 (NVRA) Cases Filed by the Department of Justice, Voting Section, Fiscal Years 2001 through 2017, by Subject

Fiscal year	List maintenance ^a	Registration ^b	Both
2001	0	0	0
2002	1	1	0
2003	0	0	0
2004	0	1	1
2005	0	0	0
2006	3	0	0
2007	2	0	1
2008	0	0	0
2009	0	0	0
2010	0	0	0
2011	0	2	0
2012	1	0	0
2013	0	0	0
2014	0	0	0
2015	0	0	0
2016	0	0	0
2017	1	0	0
Total	8	4	2

Accessible Data for Figure 6: Election Fraud Related Matters Initiated by the Department of Justice's Public Integrity Section, Fiscal Years 2001 through 2017

Fiscal year	Matters initiated
2001	0
2002	1
2003	4
2004	0
2005	1
2006	1
2007	0

Fiscal year	Matters initiated
2008	0
2009	0
2010	0
2011	10
2012	4
2013	6
2014	3
2015	2
2016	0
2017	1

Accessible Data for Figure 7: Election Fraud Related Cases Filed by the Department of Justice's Public Integrity Section, Fiscal Years 2001 through 2017

Fiscal year	Cases filed
2001	0
2002	0
2003	7
2004	0
2005	0
2006	0
2007	0
2008	0
2009	0
2010	3
2011	0
2012	3
2013	1
2014	5
2015	0
2016	0
2017	0

Accessible Data for Figure 9: Election Fraud Related Matters Initiated by U.S. Attorneys' Offices, Fiscal Years 2001 through 2017

Fiscal year	Matters initiated
-------------	-------------------

Fiscal year	Matters initiated
2001	16
2002	11
2003	44
2004	53
2005	65
2006	27
2007	36
2008	20
2009	22
2010	28
2011	46
2012	27
2013	32
2014	21
2015	32
2016	14
2017	31

Accessible Data for Figure 10: Election Fraud Related Cases Filed by U.S. Attorneys' Offices, Fiscal Years 2001 through 2017

Fiscal year	Cases filed
2001	3
2002	1
2003	19
2004	20
2005	19
2006	9
2007	15
2008	10
2009	9
2010	7
2011	10
2012	12
2013	9
2014	10
2015	4

Fiscal year	Cases filed
2016	11
2017	17

Accessible Data for Figure 11: U.S. Attorneys' Offices' Election Fraud Related Matters Initiated by Federal Judicial District, Fiscal Years 2001 through 2017

District	Matters initiated	Percentage
Eastern District of Wisconsin	22	4%
Eastern District of Kentucky	42	8%
Southern District of Florida	81	16%
All remaining districts	380	72%

Accessible Data for Figure 12: U.S. Attorneys' Offices' Election Fraud Related Cases Filed by Federal Judicial District, Fiscal Years 2001 through 2017

District	Prosecutions	Percentage
Eastern District of Wisconsin	15	8%
Eastern District of Kentucky	36	19%
Southern District of Florida	42	23%
All remaining districts	92	50%

Agency Comment Letter

Accessible Text for Appendix IV Comments from the Social Security Administration

June 6, 2019

Ms. Rebecca Gambler

Director, Homeland Security and Justice

United States Government Accountability Office

441 G Street, NW

Washington, DC 20548

Dear Ms. Gambler:

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If you have any questions, please contact me at (410) 965-9704. Your staff may contact Trae Sommer, Acting Director of the Audit Liaison Staff, at (410) 965-9102.

Sincerely,

Stephanie Hall

Acting Deputy Chief of Staff

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