STATE DEFENDANTS' ANSWERS TO DEMOCRATS' FIRST SET OF INTERROGATORIES TO DEFENDANTS J. BRADLEY KING AND KRISTI ROBERTSON

Defendants, J. Bradley King and Kristi Robertson, in their official capacities as Co-directors of the Indiana Election Division, by Indiana Attorney General, Steve Carter, and Deputy Attorney General, Doug Webber, submit their Answers to Democrats' First Set of Interrogatories to Defendant J. Bradley King and Kristi Robertson as follows:

EXHIBIT: 2.6
INTERROGATORY NO. 1: Has the State of Indiana conducted any voter list maintenance program within the past ten (10) years. If so, for each voter list maintenance program please state:

a. the year(s) such programs were conducted;

b. whether the program was conducted in all 92 counties of Indiana, and if it was not conducted in all 92 counties, please identify the counties in which such program was conducted;

c. whether the program was designed to remove inactive registrations as to each of the following categories:
   i. Deceased voters;
   ii. registered voters with duplicate registrations within the same Indiana county;
   iii. registered voters with registrations in more than one Indiana county;
   iv. registered voters who may have changed their residence but have not registered at their new residence.

ANSWER:

Defendants do not recall state participation in the voter maintenance list program initially adopted in 1995 (Indiana Code § 3-7-38) to implement the National Voter Registration Act (NVRA). Ind. Code § 3-7-38.1, was enacted as Public Law 4-1996, effective March 21, 1996 to replace Ind. Code § 3-7-38, and was more narrowly focused than the definition of "voter maintenance list" program definition supplied by Democrat Plaintiffs. This program was strictly aimed at the removal of voters with
duplicate registrations. Under this statute, the state contracted with a vendor to identify voters with duplicate registrations. From the registration lists annually submitted by the counties to the Indiana Election Division as required by statute, the vendor would run an analysis to identify voters with duplicate registrations. The vendor would then send post cards to any voter who was identified as having a potential duplicate registration at each of the addresses listed for these registrations. Each post card requested that the voter confirm their current residence at that address, confirm that they are the same voter who is also registered at a previous residence address, or indicate that the voter had never been registered at one of these addresses (and hence that there was no “duplicate registration” since two different individuals with similar names or other registration record data may be registered at different addresses). The mailing requested that the voter return the postcard with this information to the Indiana Election Division. A space for updating the voter’s registration address was also provided on the post card. The Indiana Election Division would then forward a report and sometimes the post cards themselves with the report to county voter registration officials. The county officials were then required by statute to make the changes to their voter registration lists.

a. The program mandated by Ind. Code § 3-7-38.1 was conducted in 1997, 1998, 1999, 2000, 2002, and 2004 (in 1997 Ind. Code § 3-7-38.1 was amended to make implementation of this program optional in the odd-numbered years).

b. The Indiana Election Division sought information from all of Indiana’s 92 counties, and the Co-directors believe that the vendor identified at least some voters with potential duplicate registrations in every county. The Indiana Election Division cannot confirm whether a county voter registration office subsequently altered the voter
registration record of any voter after receiving the duplicate voter registration reports described above.

c. Objection. The term “inactive registration” has become a term with a specialized legal meaning under the NVRA. Without a definition being supplied, the question becomes vague and calls for the Co-directors to speculate on the intended meaning of the term. Without waiving the foregoing objection, the Indiana Election Division's instructions to its vendor was not limited by “active” or “inactive” status as set forth on the counties’ voter registration lists.

i. No, the program was not designed to remove deceased voters but as stated earlier focused on voters with duplicate registrations. In 2004, however, the Indiana Election Division authorized the purchase of the Social Security Death Master List for the vendor to use to identify deceased voters on the list in addition to its analysis of voters with duplicate registrations.

ii. Yes.

iii. Yes.

iv. No.

INTERROGATORY NO. 2: Does the State of Indiana have plans to conduct any voter list maintenance programs prior to the general election to be held in November of 2006? If so, please state with specificity the type of program that the State of Indiana plans to conduct and identify the officials that will be responsible for conduction the program.
ANSWER:

Yes. Ind. Code § 3-7-38.1 expires on January 1, 2006. Ind. Code § 3-7-38.1-11. It is replaced by Ind. Code § 3-7-26.3, effective January 1, 2006, that establishes a Statewide Voter Registration System (SVRS) and by Indiana Code 3-7-38.2 which was originally enacted in 1997 to permit additional optional voter list maintenance programs to be conducted. The Indiana Election Division will be responsible for purchasing and maintaining the technological infrastructure that supports the SVRS. In addition, the Indiana Election Division will have access to information lists from the Social Security Commissioner, the Bureau of Motor Vehicles, the Department of Health and the Department of Correction for the SVRS.

Under Ind. Code § 3-7-38.2-7, the Indiana Election Division shall be responsible for obtaining change of address information from the U.S. Postal Service and notifying county officials via the SVRS of that information.

Under Ind. Code § 3-7-45-6.1, the Indiana Election Division shall be responsible for obtaining Social Security Death Master Lists and providing via SVRS a report to county voter registration offices of deceased individuals who are shown as residing in their county.

Under Ind. Code § 3-7-38.2-16, the Indiana Election Division may conduct an outreach program confirming residency by sending notice to every voter in the State by U.S. mail.

The officials responsible for conducting the above programs are Indiana Co-directors King and Robertson.
INTERROGATORY NO. 3: Does the State of Indiana play any role in or otherwise monitor the efforts of the County governments to conduct voter lists maintenance programs? If so, please state with specificity what role the State of Indiana plays and identify the state officials who have that responsibility?

ANSWER:

No. Under the current system, the Indiana Election Division plays an educational role only.

Under the incoming SVRS, the Indiana Election Division will have the ability to track and report all voter list maintenance transactions performed, but the authorizing statute does not give the Indiana Election Division enforcement authority regarding county official’s compliance with voter list maintenance. Ind. Code § 3-7-26.3-29.

Secretary of State Rokita and Indiana Election Co-directors King and Robertson are the designated owners of the SVRS under Ind. Code 3-7-26.3-4

INTERROGATORY NO. 4: Identify any Indiana county that has conducted a voter list maintenance program within the last ten (10) years. For each such county, please state:

a. the year(s) such programs were conducted;

b. whether the program was designed to remove inactive registrations as to each of the following categories:
   i. Deceased voters;
   ii. registered voters with duplicate registrations within the same Indiana county;
iii. registered voters with registrations in more than one Indiana county;

iv. registered voters who may have changed their residence but have not registered at their new residence.

ANSWER:

Under Ind. Code § 3-7-38.2-2(b), effective March 16, 2004, counties were authorized to conduct their own voter list maintenance programs. The Indiana Election Division does not receive official notice or maintain official results of such programs and is therefore without sufficient knowledge to answer this interrogatory and its subparts.

I hereby swear or affirm under the penalties of perjury that the foregoing representations are true and correct to the best of my knowledge and beliefs.

J. Bradley King, Co-director
Indiana Election Division

Kristi Robertson, Co-director
Indiana Election Division

12/13/05
Date

12/13/05
Date
CERTIFICATE OF SERVICE

I hereby certify that on December 13, 2005, a copy of the foregoing State Defendants' Answers to Democrat Plaintiffs' First Set of Interrogatories was filed electronically upon the following counsel of record:

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