EXHIBIT 18
Part 2
Service’s National Change of Address database, the filing sometimes has the incorrect effect of changing the address of all members of that household.\textsuperscript{118} Lists may also fail to contain sufficiently specific identifying information, for example, only names and ages.\textsuperscript{119}

Indeed, Florida’s infamous purge of people presumed to have felony convictions in 2000 is a prime example of a bad purge based on unreliable underlying lists. The purge list wrongly included some, such as Reverend Willie Dixon, because the list contained inaccurate information — Reverend Dixon had been pardoned of a crime he committed in his youth and had his voting rights restored.\textsuperscript{120} In other cases, the list reflected a misunderstanding of what types of crimes resulted in permanent disenfranchisement. Floridian Wallace McDonald was purged from the voter rolls for committing a misdemeanor, even though misdemeanors do not affect one’s voting rights.\textsuperscript{121} Additionally, the purge wrongly included more than 300 individuals who had conviction dates in the future.\textsuperscript{122} Other problems with this purge are addressed below.

\textbf{B. PURGES ARE CONDUCTED IN SECRET, WITHOUT NOTICE TO VOTERS}

Approximately one week before the Mississippi’s March 2008 presidential primary election, the circuit clerk of Madison County, Mississippi discovered that a local election commissioner had purged more than 10,000 residents from the voter registration rolls. County Election Commissioner Sue Sautermeister reportedly accessed the voter registration list from her home computer and purged the voters, including a Republican congressional candidate, his wife and daughter, and some people who had voted as recently as the November 2007 elections.\textsuperscript{123} Fortunately, the Secretary of State’s office and others recognized that Sautermeister’s actions violated the NVRA, and worked to restore the purged voters in time for the March election.\textsuperscript{124}

The public — voters, advocates, and others — rarely, if ever, receive meaningful notice of systematic purges. In fact, none of the states we studied have statutes requiring election officials to notify the public in advance of systematic purges. The statutes themselves generally do not provide notice by specifying when systematic purges will or should occur — a typical indication would be that such a purge must take place at least 90 days before an election,\textsuperscript{125} but offering no further specificity. Adequate advance notice is essential to prevent erroneous purges. When registrants are properly informed of pending purges, they can act to correct or clarify a situation. Conversely, registrants may be denied due process of law if they are disenfranchised without notice and without a meaningful opportunity to challenge the purge. An Election Day discovery that a purge has taken place is generally too late for the affected voter to cast a ballot that is counted.

Except for registrants believed to have changed addresses, many states do not notify individual registrants believed to be candidates for purges either. When states do give individual notice, they rarely do so for all types of purges. For example, states rarely require notice when a voter is believed to have died. Florida and New York, for instance, statutorily require the provision of notice prior to removal in other circumstances, but appear to omit the notice requirement when the person is believed to be dead.\textsuperscript{126} Without such notice, it is far harder to correct errors when the voter has been confused with an unfortunate decedent, or is, in any case, very much alive.
In certain circumstances in some states, officials are statutorily required to notify registrants after they are removed.\textsuperscript{127} While that is better than no notice at all, notice after the fact could preclude an erroneously purged voter from being reinstated in time for an upcoming election.

Some state laws require officials to tell registrants with disqualifying convictions before they are purged; indeed, in some states these voters may have more protections than those affected by other types of purges. In Florida and Washington, election officials must give advance warning to voters with disqualifying convictions, and give them an opportunity to respond prior to removal.\textsuperscript{128} Indiana law requires election officials to send a notice to the last known address of all people who are disenfranchised because they are imprisoned no later than the day after the registration has been canceled from the rolls.\textsuperscript{129}

With notice provided neither to the public nor to the affected voter, election officials can conduct purges with little outside scrutiny or oversight. The lack of transparency makes voters vulnerable to manipulated or haphazard purges.

C. BAD “MATCHING” CRITERIA LEAVES VOTERS VULNERABLE TO PURGES

In 2008, the Elections Director for Muscogee County, Georgia, sent out 700 letters to local residents informing them that they were ineligible to vote because they were convicted felons. More than one-third of the voters called to report that there had been a mistake. The purged voters included an octogenarian who insisted she had never even received a parking ticket. According to media reports, the list that went to Muscogee County was generated by a new computer program, and included voters whose names, but not necessarily other information, corresponded or “matched” the names of those with felony convictions.\textsuperscript{130}

Largely because of HAVA, states now have computerized statewide voter registration databases. These digital lists have improved the registration process substantially. But they can also boost the danger of wrongful purging since large numbers of people can now be purged at one time. The inadequacies of existing purge protections are apparent in the use of bad “matching” criteria.

Computerized database “interoperability” allows for election officials to purge registrants because of an apparent “match” of identifying information in a voter registration record to records found in lists of people ineligible to vote for various reasons. However, far too often what appears to be a “match” will actually be the records of two distinct registrants with similar identifying information. States have failed to implement protections to ensure that eligible voters are not erroneously purged.

There are many reasons states have trouble with matching requirements. Often, state statutes do not often specify what information — what fields and how many — must match to warrant removal of a registrant from the voter registration list.\textsuperscript{131} This means that local purging officials use their own, often varied and insufficient, matching standards. For example, two Nevada county election officials reported different match standards for the removal of deceased registrants. One reported that if a person’s name and address or age on the report provided by the Department of Vital Statistics matches
the record of a registrant, the official would remove that registrant from the rolls. Another reported that she removed registrants when the date of birth, social security number, and first and last names of deceased people provided by the state’s Department of Vital Statistics matched a registrant’s record.

States that do set forth requirements for the kind of identifying information elections officials should use frequently require too little information — for example name and date of birth — to be confident that a particular registered voter is the same person listed on a list subject to purging. 132

Elementary statistics preclude reaching such a conclusion on such little information. In a group of 23 people, it is more likely than not that two will share the same day and month of birth; in a group of 180, it is more likely than not that two will share the same birth date, including year of birth.

Also, in any group of significant size, statistics teaches us that there will be many with the same first and last names — and it is likely that at least two such individuals will be born on the same day. 133 Certain names are more popular in certain years. For example, it would be unsurprising to find two Jessica Smiths born on the same day in 1985, or Lisa Smiths in 1965, or Mildred Smiths in 1925. Likewise, the prevalence of surnames will fluctuate with the immigration patterns of particular ethnicities, which vary from decade to decade.

Purging officials who ignore prefixes or suffixes can increase the likelihood of erroneous matches. A 2005 attempt to identify double voters and duplicate registrations on the New Jersey voter rolls was flawed in this respect: in seeking duplicates, it ignored middle names and suffixes, alleging that the voter records of distinct registrants J.T. Kearns Jr. and J.T. Kearns Sr. belonged to the same individual. 134

Another problem arises when states do not specify how exacting purging officials must be when comparing fields. For example, in Missouri, where exact matches are not required, one election official reportedly deemed an approximate date of birth (e.g., a difference by one month or one day) as sufficient to establish a match.

In Florida, lists of ineligible people provided to election officials must contain certain identifying information, but the Florida statutes does not establish how or to what extent the information must exactly match that of a registrant before the registrant can be removed. 135 The Florida purge of 2000 discussed above — conservative estimates place the number of wrongfully purged voters close to 12,000 — was generated in part by bad matching criteria. Florida registrants were purged from the rolls if, in part, 80 percent of the letters of their last names were the same as those of known felons. 136
Those wrongly purged included Reverend Willie D. Whiting Jr., who under the matching criteria, was considered to be the same person as Willie J. Whiting. These purges were wildly inaccurate. In Miami-Dade County, for example, over half of the African American registrants who appealed their placement on the felon exclusion list were found to be eligible voters.

The matching criteria some states use, however, may not differ greatly from the criteria responsible for the erroneous purge in Florida. To identify possible duplicates, New York requires only that the first three letters of the first name, the first five letters of the last name, and date of birth match, although it will consider other information if it is available.

D. PURGES ARE CONDUCTED WITH INSUFFICIENT OVERSIGHT

Insufficient oversight permeates the purge process beyond just the issue of matching. For example, state statutes often rely on the discretion of election officials to identify registrants for removal and to initiate removal procedures. Since these statutes rarely tend to specify limitations on the authority of election officials to purge registrants, eligible registrants may be unnecessarily made vulnerable to poor, lax, or irresponsible decision-making.
Insufficient oversight also leaves room for election officials to deviate from what the state law provides. In Washington, the failure to deliver a number of delineated mailings, including precinct reassignment notices, ballot applications, and registration acknowledgment notices, triggers the mailing of address confirmation notices, which then sets in motion the process for removal on account of change of address. Two Washington counties and the Secretary of State, however, reported that address confirmation notices were sent when any mail was returned as undeliverable, not just those delineated in state statute. Although Ohio’s election law expressly provides that information regarding the deaths of persons over age 18 must come directly from government health agencies, one local official reported using obituaries as a source to identify deceased registrants, and another official reported a practice of sending inquiries to local funeral homes, a practice also not condoned by statute. An election official in Missouri reported relying on both personal knowledge and obituaries, even though the state election code does not provide for the use of those sources.

The state statutes examined are generally more specific with respect to the amount of discretion election officials have to remove registrants for mental incapacitation than they are with respect to other grounds for removal. In a number of states we examined, a determination to purge someone because of mental incapacitation occurs only if individuals meet certain legal criteria, for example, if they are declared mentally incapacitated with respect to voting. However, elections officials interviewed for this report indicated that in spite of these statutory strictures, they sometimes make their own determinations that particular residents are incapable of voting and deny ballots according to that determination.

IV. POLICY RECOMMENDATIONS

While much of election administration is governed by state law, the NVRA and HAVA provide guidance, and in some cases, explicit requirements, for how voters’ rights to register and participate in the political process should be protected. Through the NVRA, Congress minimized the states’ historical ability to function as a gatekeeper for registration in many ways by requiring states to use and accept the Federal Mail Voter Registration Application. It also made it easier to get on the voter rolls by requiring states to: distribute the Federal Mail Voter Registration Application to public and private entities and voter registration organizations; permit a person to register to vote at the same time as applying for or renewing a driver’s license; and provide voter registration services at designated public agencies.

HAVA facilitates voter registration by requiring states to create and maintain a single statewide computerized database of its registered voters, and to coordinate that database with other state databases, including state agency records on felony status and state agency records on death.

The text of these two laws clearly prioritizes the inclusion of all eligible registrants over the removal of each and every ineligible registrant when there is a question. The relevant section in the NVRA begins with “each State shall ensure that any eligible applicant is registered to vote in an election.” While the NVRA also requires states to
undertake a program to conduct list maintenance, they must only conduct a “reasonable” effort to purge the names of registrants who are ineligible because they have died or, in certain circumstances, have changed their addresses.153 The NVRA permits, but does not require, a state to remove a registrant from the official list of eligible voters when a registrant has requested removal or when the law of the state disenfranchises persons on account of criminal conviction or mental incapacity.154

HAVA requires that states perform regular “list maintenance” and make “reasonable effort[s]” to ensure that ineligible voters and duplicate records are removed from the voter rolls.155 Before addressing purges, HAVA expressly requires states to “ensure that each registered voter appears in the computerized list” and that “only voters who are not registered or who are not eligible to vote are removed from the computerized list.”156

The existing federal requirements and voter protections do not go far enough, however, to protect voters. Indeed, the NVRA and HAVA do not specifically address most aspects of purge practices. Given the problems identified in our review of state purge practices and statutes, we recommend that states take action to reduce the occurrence of erroneous purges. Below are some recommendations of best practices based on our research.

A. TRANSPARENCY AND ACCOUNTABILITY FOR PURGES

Purges of voter registration lists should be conducted in a transparent and uniform manner. Any rules or procedures developed with respect to purges should establish accountability at all stages of a purge.

1. Develop and publish uniform, non-discriminatory rules for purges.

State election officials should publicly post consistent and fair rules that describe when, why, how, and by whom a voter registration record can be purged from the voter rolls. States should clearly identify appropriate sources of information on ineligible people and ensure that all localities are conforming to the same standards when relevant. State election officials should work with local election officials to ensure that state protocols are understood and being followed.

While the state of Ohio is not without its troubles in election administration, it can be commended for publicly posting all directives, advisories, and memoranda related to elections on the Secretary of State’s website. Not only does this practice allow local election officials easy access to the documents, it also gives members of the public the opportunity to be informed and educated as to election-related policies. Armed with this knowledge, watchdogs and individuals can help encourage compliance and hold localities accountable for any lapses. Irrespective of the nature of the rules, their transparency is necessary to ensure that they are fair and effective protocols.

2. Provide public notice of an impending purge.

States should provide public notification of any organized county-wide or state-wide purge at least two weeks prior to the purge, and provide a detailed explanation of how that purge is to be conducted.
Before a voter is removed from the voter registration list for any reason, she should be individually notified and given the opportunity to correct any errors or omissions, or demonstrate eligibility.

For most types of purge candidates, New York notifies registrants at risk of being purged 14 days in advance of the purge.\textsuperscript{157} Best practices would extend this protection to all individuals who are candidates for purges and give each 30 days to respond before purging them from the voter rolls.

3. Develop and publish rules to remedy erroneous inclusion in an impending purge.

The rules and procedures for curing erroneous inclusion in an impending purge should be publicly posted and widely available. Additionally, for registrants who have been purged from the voter registration list, states should explicitly set out means by which they may be restored easily to the voter registration list, without regard to the voter registration deadline.

Pennsylvania, by statute, provides certain registrants both notice of an impending purge and a process for responding to any erroneous purge. Pennsylvania is required to send written notice to each individual whose registration is canceled.\textsuperscript{158} Pennsylvania law also offer an additional protection: its statutes specifically contemplate the possibility that a registrant can be incorrectly reported as dead or incorrectly removed on the grounds of death and sets forth a process for addressing these instances.\textsuperscript{159} States could and should apply this protection to all classes of purges.

4. Do not use failure to vote as a trigger for a purge.

States should ensure that registrants are sent address confirmation notices only in response to an indication that the registrant has moved — not when a registrant has not voted for some time. All voters who have been inactive should be allowed to vote by regular ballot up until they are purged. If an inactive registrant votes during any of the two federal election cycles, they should remain on the voter registration list.

5. Develop directives and criteria with respect to who has the authority to purge voters.

No one person, acting alone, should be able to remove names from the list. The removal of any record should require authorization by at least two officials. Good directives for purge authorization minimize opportunities for mischief in the process.

Although majority support from the local election commission is required in Mississippi prior to the removal of any voter from the voter registration list, Madison County election commissioner Sue Sautermeister managed to purge more than 10,000 names from the list, alone, reportedly from her home computer.\textsuperscript{160} This example highlights the importance of purge protocols which preclude non-compliance, for example, by designing the database so two people must enter an authorization code before voters can be removed.
6. **Preserve purged voter registration records.**

Statewide voter registration databases should have the design capacity to keep the records of names removed from the voter registration list, including who authorized the removal and on what grounds. Maintenance of this information ensures that the removal of any registrants is properly documented, allows for easier restoration to the list, and assigns accountability for the purge.

All media reports suggest that the Mississippi Secretary of State was successfully able to reinstate the voters purged by the Madison County commissioner.\(^{165}\) Officials from the Secretary of State's office indicated that the database is designed such that voting records are retained, even when the voter status changes.\(^{162}\) This design feature of the database makes for easier restoration than when the record is erased.

7. **Make purge lists publicly available.**

The records of voters purged from the list and the reason for removal should be made available for public inspection and copy. If any code is used to identify the reason for removal, a key defining each code symbol shall be made accessible to the public. These lists should also be brought to the polls on Election Day. This allows the public to verify that purged records were removed for fair reasons.

For example, Washington requires the Secretary of State and each county auditor to compile lists of everyone who is removed from the voting rolls and the reason for their removal; these lists must be preserved and kept available for public inspection for at least two years.\(^{163}\) Additionally, some states allow voters to check their registration status electronically via voter portal functions on their websites that allow voters to check the status of their registration by entering their name and/or other personal information.\(^{164}\)

While these portals are a useful resource, there are some limits to their helpfulness. For example, not all interfaces inform the voter when the system was last updated. This is problematic because a voter unable to find her registration record might, instead of waiting for the system to be updated, send in an additional form out of desire to ensure that her name make it onto the rolls. Additional registration forms for the same individual increase administrative burdens for the registrar and the likelihood that there are errors in the registration. This problem can be ameliorated simply by noting when the interface was last updated. Another problem with portals is that not everyone will search for their record using the information as exactly listed on their registration application, or an inputting error will prevent a voter from being able to find her registration record. This problem can be corrected by designing the interface such that when a registration record is not found, more information is solicited and then the interface displays to the seeker similar names affiliated with the information provided. Individuals who suspect that they have found their record, but that the record contains misspellings or other errors, can then call the registrar’s office and correct the problem.
Notwithstanding the usefulness of portals, they are an inferior substitute to purge lists because portals confine the information provided to a unique voter and do not allow voters and their advocates to observe trends.

8. **Make purge lists available at polling places.**

The records of voters purged from the list over the past two federal election cycles should be made available at the polls so that individuals erroneously purged can be identified and allowed to vote by regular ballot.

**B. STRICT CRITERIA FOR THE DEVELOPMENT OF PURGE LISTS**

To ensure a high degree of accuracy, states should use strict criteria for the development of purge lists. States should establish measures to protect eligible people from erroneous removal from the voter registration list.

1. **Ensure a high degree of certainty that names on a purge list belong there.**

Before purging any name from the voter registration list, authorized officials should have a high degree of certainty that a name belongs to an ineligible person or a duplicate record. Purge lists should be reviewed multiple times to ensure that only ineligible people are included.

2. **Establish strict criteria for matching.**

If purge lists are developed by matching names on the voter registration list to names from other sources, states should specify the information sufficient for attaining a high degree of certainty, including, at a minimum, last name, first name, middle name, prefix, suffix, date of birth, and address or driver’s license number. Exact matches of a large number of fields substantially reduce the risk that such purges will erroneously remove eligible people.

As discussed throughout the report, the Florida purge in 2000 underscores the need for strict matching criteria. When records were deemed a match because 80% of the last name was the same, approximately 12,000 people were misidentified as disenfranchised felons.

3. **Audit purge source lists.**

If purge lists are developed by matching names on the voter registration list to names from other sources (for example, criminal conviction lists) the quality and accuracy of the information in these lists should be routinely “audited” or checked. Errors in source lists may lead to the erroneous removal of eligible people. Accordingly, election officials should calibrate reliance based on the known accuracy of the source list.

States should implement uniform rules and procedures for eliminating duplicate registrations in accordance with HAVA. States should provide clear guidance to election officials with respect to when to flag a possible duplicate registration, how to verify that the registration is in fact duplicative, and when to remove that registration from the voter registration list.

C. “FAIL-SAFE” PROVISIONS TO PROTECT VOTERS

While inaccurate purges will be mitigated with the implementation of the previously mentioned recommendations, there must still be mechanisms in place to protect voters in the event that a person is incorrectly removed from the voter registration list.

1. No voter should be turned away from the polls because her name is not found on the voter registration list.

Instead, she should be provided a provisional ballot which will be counted upon determination by election officials that she is eligible to vote. In many states, however, voters have not been given the provisional ballots to which they are entitled.165

2. Election workers should be given clear instructions and adequate training as to HAVA’s provisional balloting requirements.

HAVA sets forth a number of requirements with respect to the use of provisional ballots as a fail-safe in the event that a voter’s name does not appear on the registration list. Election workers should clearly understand that: no voter should be denied a provisional ballot; all voters must be given the opportunity to substantiate their eligibility to vote; all voters must be informed as to how they can substantiate their eligibility and how they can determine whether a ballot was counted; and the ballots must be counted when a voter confirms that she is eligible and registered to vote.

D. UNIVERSAL VOTER REGISTRATION

The purge systems currently in place are rife with error and vulnerable to manipulation. Even the best processes for culling the voter rolls will inevitably be imperfect and will erroneously lead to purges of at least some eligible voters. No eligible citizen should be deprived of the right to vote or put through an obstacle course because of these system malfunctions. Currently, eight states have a backup system in place that will protect the votes of those American caught up in a faulty purge — a system of Election Day registration which enables eligible citizens to register and vote on Election Day (or other days on which voting takes place). Some fear that Election Day registration may overwhelm election officials with a swarm of new and unexpected voters. Although those fears are baseless, they can be completely eliminated if Election Day registration is embedded within a system of universal voter registration in which the government takes the