



December 19, 2019

Secretary of State Paul D. Pate
First Floor, Lucas Building
321 E. 12th St.
Des Moines, Iowa 50319

Dear Secretary Pate,

We write to commend you for your pledge to address Iowa's error-ridden list of ineligible voters and to recommend ways to make sure that process is successful and that impacted Iowans are aware of their verified status. First, we ask that your office ensure that individuals whose rights were restored automatically by Governor Vilsack's executive order in 2005 or by Governor Vilsack's restoration process between July 4, 2005 and January 14, 2011 not be improperly included on the list of ineligible voters. Second, we ask that you provide notice to eligible voters with past convictions informing them of their voting rights prior to the upcoming 2020 elections.

Restore Your Vote is a project of Campaign Legal Center, a non-partisan, non-profit that advances democracy through law at the federal, state, and local levels, so that every American has an equitable opportunity to participate in and affect our democratic process. Our Restore Your Vote campaign works to ensure that the over 23 million Americans with felony convictions understand their voting rights by providing direct rights restoration services, training community leaders, and conducting public education. We have assisted thousands of Americans with felony convictions restore their right to vote and where necessary worked with all levels of administrators to ensure that local policies comply with state and federal law.

We currently have three organizers assisting individuals with felony convictions in Iowa. In a few weeks, we have worked with nearly 250 justice-involved individuals who want to vote. While many of these individuals will need to go through the Governor's application process to have their rights restored, nearly a third of them are eligible to register to vote

but did not understand their status. This means that misinformation remains a major barrier to the franchise for many Iowans who have had some contact with the criminal justice system, a population that is much larger than the estimated 52,000 Iowans who are legally not eligible to vote.¹

We believe that this confusion is driven at least in part by inaccuracies on the list of ineligible voters ("the disenfranchised list") disseminated by your office to local election officials. As you know, it is well documented that the list of approximately 90,000 ineligible citizens kept by the Secretary of State's office includes substantial errors.² It is also clear that these errors have prevented eligible Iowans from voting in many elections.³ We have seen these reports to be true in our work. Some of the citizens that we have verified are eligible under law had their voter registrations denied or were purged from the rolls. Others received notices that they were ineligible yet puzzlingly are still on the voter rolls. The population of people on the ineligible list is particularly susceptible to misinformation because most have had some level of contact with the criminal justice system and fear prosecution for illegal voting. These individuals are unlikely to challenge an official telling them that they cannot vote, even if they correctly believe themselves to be eligible. In our experience across the country, we have seen how misinformation about disenfranchisement spreads through and persists in communities.

We understand that you are currently working on a multi-tiered solution to clean up the list.⁴ We are heartened to see your office to take meaningful steps towards correcting those inaccuracies and ensuring a more accurate system going forward. Any such solution must account for people with convictions whose rights have been restored via executive order or other act of clemency by the Governor. To do so, your office should ensure the following:

- In your review of the current disenfranchised list, your office must ensure that those who completed their sentences before July 4, 2005 are removed. Those individuals had their rights restored automatically by Governor Vilsack's executive order. We have encountered several individuals who completed their sentences prior to July 4, 2005 who are incorrectly on the current disenfranchised list. We would be happy

¹ "Six Million Lost Voters: State Level Estimates of Felony Disenfranchisement" The Sentencing Project (2016) <https://www.sentencingproject.org/publications/6-million-lost-voters-state-level-estimates-felony-disenfranchisement-2016/>.

² The Associated Press, "Iowa's Felon List Includes Police Force, Omits Drug Dealer," The New York Times (Dec. 5, 2019) <https://www.nytimes.com/aponline/2019/12/05/us/ap-us-felon-voting-iowa.html>.

³ Jason Clayworth, "Iowa Warned: Practice that Misidentifies Felons and Rejects Votes May Be Illegal," Des Moines Register (Aug. 7, 2019) <https://www.desmoinesregister.com/story/news/investigations/2019/08/07/iowa-warning-felon-voter-practice-illegal-reject-ballot-paul-pate-brennan-center-league-women-voters/1924557001/>

⁴ "Media Release: Secretary Pate Announces Multi-Tiered Solutions for Felon Database," Office of Iowa Sec'y of State (Nov. 20, 2019) https://sos.iowa.gov/news/2019_11_20.html.

to discuss these individual circumstances with you further to elucidate the problem.

- In your review of the current disenfranchised list, your office also must ensure that those who received rights restoration from Governor Vilsack and Governor Culver between July 4, 2005 and January 14, 2011 are not included. We are in possession of a "re-enfranchised voters list" from the Governor's office for this group of individuals. To the best of our knowledge, it is an accurate list. In our fieldwork, we encountered at least two individuals who are on both the disenfranchised list and the re-enfranchised voters list. Moreover, a brief data comparison of the two lists found 9,973 possible matches.⁵ Granted, some individuals may have had their rights restored by Governor Vilsack only to later be convicted of another felony. In fact, this is the case for one of the people we encountered. However, it was not for the other and is unlikely to be true for each of nearly 10,000 Iowans that appear to be on both lists.
- In your review of the current disenfranchised list, your office must also ensure that any individuals who received clemency since January 14, 2011 are not included. As you know, Governor Reynolds has already issued more than 100 rights restorations during her tenure as Governor.⁶ It would undermine Governor Reynolds' efforts if the individuals whom she restores to the right to vote are nonetheless stymied by an inaccurate list.
- Finally, in addition to correcting the current disenfranchised list, your office must ensure that the disenfranchised list will be continually updated as Governor Reynolds or others grant clemency going forward. In addition to receiving list of felony convictions to update the disenfranchised list, your office should collect lists of rights restorations and update the list accordingly. It is at least as important to remove eligible voters from the disenfranchised list as it is to update the list with newly ineligible voters.

Finally, your office should take affirmative steps to correct the misinformation created by the inaccurate disenfranchised list. Potentially thousands of Iowans have been incorrectly informed that they are ineligible to vote. Without notice, they will not know that was in error. In order to ensure all eligible Iowans are informed of their rights, we recommend the

⁵ A comparison of combined first and last names on both lists found 20,775 matches. The de-duplicated list finds 9,973 matches. Plainly, this is not an accurate estimate of the actual number of matches (your office must compare more fields than simply first and last names) but this offers a window into the number of possible matches.

⁶ Press Release: "Gov. Reynolds announces new voting rights application for felons," Office of Gov. Reynolds (Mar. 12, 2019) <https://governor.iowa.gov/2019/03/gov-reynolds-announces-new-voting-rights-application-for-felons>.

following:

- Notify individuals who are removed from the disenfranchised list due to systemic errors of their eligibility to vote. In particular, your office send individualized notice of voting rights through the best available means of contact – mail, phone, or email.
- Create an online portal where Iowans can check their voting rights status. The portal can also provide vital information about the criteria for rights restoration. If a person believes they are wrongly listed as disenfranchised due to conviction, the portal can provide a direct way to contest their inclusion on the disenfranchised list. And by working in conjunction with the Governor’s office, this portal could also provide a means to apply for rights restoration if necessary and check the status of their application. A website like this would significantly curb confusion in Iowa around voting rights restoration. Virginia, which has a similar felony disenfranchisement and re-enfranchisement legal structure to Iowa, has a website at Restore.Virginia.Gov that provides an excellent template for such a portal.

Felony disenfranchisement affects tens of thousands of Iowans. These are fathers, mothers, daughters, and sons who live and work in their communities. They deserve a voice in our democracy and a say in the future of the state. We commend you for the steps you have announced and look forward to your continued leadership in creating a more participative and inclusive democracy.

Regards,

Blair Bowie
Legal Counsel & Restore Your Vote Manager
Campaign Legal Center
1101 14th St., Washington, DC 20005
BBowie@campaignlegal.org
(202)736-2201

Danielle Lang
Co-Director, Voting Rights & Redistricting
Campaign Legal Center
1101 14th St., Washington, DC 20005
DLang@campaignlegal.org