# Exhibit 1



February 14, 2018

The Honorable Jeff Sessions Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW Washington, DC 20530-0001

The Honorable Kirstjen Nielsen Secretary U.S. Department of Homeland Security (Attn: Office of Infrastructure Protection) 801 Nebraska Ave NW Washington, DC 20016

John M. Gore
Acting Assistant Attorney General
Civil Rights Division (Attn: Voting Section)
U.S. Department of Justice
Room 7254 - NWB
950 Pennsylvania Ave., N. W.
Washington, DC 20530

### COMPLAINT: CALIFORNIA'S FAILURE TO MAINTAIN ACCURATE VOTER ROLLS

Dear Attorney General Sessions, Secretary Nielsen, and Mr. Gore:

Landmark submits that the State of California is engaging in a systematic policy of willful blindness in failing to ensure ineligible, noncitizens are kept off voter rolls. Its inaction is in direct contravention to its duties under the National Voter Registration Act ("NVRA").

As the U.S. Supreme Court has stated:

Confidence in the integrity of our electoral process is essential to the functioning of our participatory democracy. Voter fraud drives honest citizens out of the democratic

<sup>&</sup>lt;sup>1</sup> 52 U.S.C. § 20507(a)(4).

process and breeds distrust of our government. Voters who fear their legitimate votes will be outweighed by fraudulent ones will feel disenfranchised.<sup>2</sup>

Voter eligibility under federal law requires U.S. citizenship.<sup>3</sup> The California Constitution and Elections Code, likewise, require U.S. citizenship to be eligible to vote.<sup>4</sup> California ignores each of these federal and state requirements. In fact, California facilitates, if not openly encourages, noncitizen voter registration and, through its malfeasance, undermines confidence in the election process. It requires public assistance agencies to register anyone to vote, but prohibits those agencies from taking steps to ensure voter eligibility. State employees face legal repercussions if they inquire as to the citizenship status of applicants. State employees also send voter registration applications to the Secretary of State even when ineligibility is known or suspected. The Secretary of State accepts these registrations and does nothing to ensure eligibility. State law also prohibits the Secretary from using available information as a cross-check for voter eligibility.

Landmark Legal Foundation ("Landmark") requests that your offices investigate immediately the State of California's failure to take reasonable steps to ensure its voter rolls are accurate. Evidence obtained by Landmark and presented in this complaint suggests there are potentially thousands of noncitizens on voter rolls with little to no action taken by the state to solve the issue.

States are obligated under the NVRA to "conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters." California fails to engage in any "reasonable efforts" to ensure ineligible voters, specifically noncitizens, are not placed on voter rolls. Once placed on the voter rolls, California does nothing to identify and then remove noncitizens. As California has abrogated its duty to ensure its voter rolls are accurate, it is incumbent upon the federal government to investigate the allegations set forth in this complaint. The U.S. Department of Justice and the U.S. Department of Homeland Security should then bring a civil action to prohibit this illegal activity and to compel California to develop and implement necessary protocols to ensure its voter rolls are free from noncitizens.

The evidence presented in this complaint indicates that noncitizens, when registering for social services, complete and file voter registration applications. These applications are sent to relevant registrars and individuals are placed on voter rolls. California fails in three crucial respects:

- 1. It does nothing to prevent noncitizens from completing voter registration applications.
- 2. It fails to institute necessary controls to identify and remove these individuals.

<sup>&</sup>lt;sup>2</sup> Purcell v. Gonzalez, 549 U.S. 1 at 4 (2006).

<sup>&</sup>lt;sup>3</sup> 18 U.S.C. § 611.

<sup>&</sup>lt;sup>4</sup> Cal. Const. Art. II, § 2; Cal. Elec. Code § 2000(a).

<sup>&</sup>lt;sup>5</sup> 52 U.S.C. § 20507(a)(4).

3. It refuses to use data it has collected through issuing driver's licenses to noncitizens as cross-check data for voter eligibility confirmation.

The state's voter rolls most likely contain the names of thousands of noncitizens and California refuses to take even the most rudimentary of steps to remedy the situation. The structure of California's registration system makes it impossible to determine the exact number of noncitizens on the voter rolls. Thousands of individuals are placed on voter rolls every year and the state has no controls to identify and remove those individuals who may be ineligible because of their status as noncitizens.

#### Social Services Agencies Register Thousands of Individuals to Vote Annually

The State of California administers a massive network of social services that provide health and welfare benefits to millions of people. Under the National Voter Registration Act, California offers voter registration services at these social service agencies as well as at motor vehicle offices. The state directs its workers at these offices <u>not</u> to screen applicant's citizenship status.

Federal law requires states to adopt measures "to ensure that accurate and current voter registration rolls are maintained." California must therefore remove the names of ineligible voters from the voter rolls. California's Constitution requires that to be eligible to vote an individual must be a United States citizen, 18 years of age, and a California resident. Therefore, noncitizens registering to vote violate both federal law and the California Constitution.

When enrolling for social services, individuals can also register to vote and are not required to provide any proof of citizenship. California law specifies that an individual "may prove that he or she is a citizen by his or her certification under penalty of perjury on the affidavit of registration." Such a certification is sufficient evidence of citizenship for voting. Thus, the state relies <u>only</u> on the word of the individual to certify citizenship for voting purposes. There is no verification of citizenship status and the state does nothing to determine whether it has abetted the registration of noncitizens.

Millions of noncitizens are enrolled in social services programs. The potential for improper voter registration by noncitizens is massive. In April 2017, for example, 4,527 voter registration applications were completed and submitted from public assistance agencies. Other than an attestation from the applicant, California has no controls in place to ensure noncitizens are not completing these applications and being placed on the voter rolls.

<sup>6 52</sup> U.S.C. § 20501(b)(4).

<sup>&</sup>lt;sup>7</sup> Cal. Const, Art. II § 2.

<sup>&</sup>lt;sup>8</sup> Cal Elec Code § 2111.

<sup>9</sup> Cal Elec Code § 2112.

<sup>&</sup>lt;sup>10</sup> Exhibit 1, April 2017 Secretary of State NVRA Reports by County and Category, Non-DMV Voter Registration Agencies: Monthly Totals by County and Category.

In 2014, Medi-Cal, California's Medicaid health system, classified nearly 2 million individuals as noncitizens. <sup>11</sup> This represented 17.4% of Medi-Cal. <sup>12</sup> Any of the individuals who have enrolled in Medi-Cal (and are over 18 years of age) or any other social service program could be on the voter rolls.

#### California Fails to Use Any Safeguards to Ensure Noncitizens Are Excluded from Voter Rolls.

Landmark submitted a public records act request to the California Secretary of State seeking records relating to practices and procedures used by California's Department of Elections to identify and purge voter registrations submitted by noncitizens. Landmark requested copies of any written policies or procedures adopted and followed by the Secretary of State's Elections Division to confirm citizenship status. The request also sought copies of internal policies reflecting internal controls used by California to ensure noncitizens are not improperly placed on the voter rolls. Finally, Landmark's request sought any records reflecting audits or reviews scheduled by the Elections Division of voter registration.

The Secretary of State produced no records in response to Landmark's request. In response, it stated that voter rolls and voter registration maintenance "is handled by each individual county through the VoteCal system" and thus it neither possessed nor used any policies or procedures to confirm that names appearing on California voter rolls were citizens. The Secretary also stated that it possessed no records documenting internal controls or audits used by California to ensure noncitizens are not placed on voter rolls. 18

California has at its disposal an instrument it can use to identify and purge the names of noncitizens on its voter rolls – the data it has collected through issuing "AB 60" driver's licenses. Assembly Bill ("AB") 60 requires the California DMV to issue drivers licenses to any applicant who cannot provide proof of legal presence in the United States. The DMV has issued close to one million driver's licenses to noncitizens and has collected the names and addresses of these individuals. The Secretary should use this data as a cross-check to voter registrations. If a name and address of an individual who has been issued an AB 60 license appear on his/her respective jurisdiction's voter roll, responsible parties can act to remove the non-citizen from the rolls.

<sup>&</sup>lt;sup>11</sup> Exhibit 2, Medi-Cal Statistical Brief, "Medi-Cal's Non-Citizen Population." October 2015. Available at http://www.dhcs.ca.gov.

<sup>12</sup> Id.

<sup>&</sup>lt;sup>13</sup> Exhibit 3, Landmark Legal Foundation Public Records Act Request, June 14, 2017.

<sup>&</sup>lt;sup>14</sup> Id.

<sup>&</sup>lt;sup>15</sup> Id.

<sup>16</sup> Id

<sup>&</sup>lt;sup>17</sup> Exhibit 4, California Secretary of State Response to Landmark Public Records Act Request, July 13, 2017.

<sup>&</sup>quot; Id.

<sup>&</sup>lt;sup>19</sup> CA Veh. Code Sec. 12801.9

<sup>&</sup>lt;sup>20</sup> Exhibit 5, "Undocumented immigrant driver's licenses near milestone in California." Alexei Koseff, Sacramento Bee, July 26, 2017. Available at http://sacebee.com.

Secretary of State Alex Padilla, however, refuses to release this information to county registrars and refuses to direct his Department of Elections to take any steps to cross-check the AB 60 data with current registration lists. California has at its disposal a tool for ensuring its voter lists are accurate and up-to-date. It refuses to use this tool and appears to be indifferent to the probability that state agencies are engaging in activities that place noncitizens on voter rolls.

#### California's Secretary of State Directs State Employees Not to Screen for Citizenship.

Beyond taking any measures to ensure that noncitizens are kept off the voter rolls, the state may facilitate their placement on registration lists. The California Secretary of State's ("SOS") office is responsible for training the various social service agencies that also conduct voter registration. These agencies include public assistance agencies and state-funded agencies that serve persons with disabilities. Training materials used by the SOS specify that public officials who register individuals to vote at National Voting Registration Act (NVRA) agencies are <u>not</u> to screen for voter registration eligibility.<sup>21</sup> Any individual, for example who enrolls in social services such as Medicaid, is encouraged to complete a voter registration application. These agencies do not require officials to determine whether the individual is a citizen, whether the individual is a felon or whether the individual is over 18 years of age, before encouraging individuals to complete voter registration applications.<sup>22</sup> Training materials distributed by the Secretary of State suggest that officials working at these agencies are directed not to screen for voter registration eligibility.<sup>23</sup> These training materials specify that it is the responsibility of county election officials to screen and reject applications from ineligible individuals not the officials at state social service agencies.<sup>24</sup>

Failure to conduct any screening raises the significant probability that noncitizens enrolling in state sponsored benefit programs are also completing and submitting voter registration forms.

#### Recent Instances of Noncitizens Voting Establish the Immediacy of This Issue.

This problem is not speculative. A Mexican national, living in Sacramento and using a deceased individual's identity, reportedly illegally voted in five elections. In October, a federal grand jury indicted Gustavo Araujo Lerma for identify theft, conspiracy to commit unlawful procurement of citizenship and illegal voting.<sup>25</sup>

In Philadelphia during the 2016 general election, a "glitch" in the voter registration system allowed noncitizens to register "at kiosks when they applied or renewed for driver's

<sup>&</sup>lt;sup>21</sup> Exhibit 6, National Voter Registration Act and Senate Bill 35, Training for County Election Officials, p. 43. Available at www.sos.ca.gov. <sup>22</sup> Id.

<sup>&</sup>lt;sup>23</sup> Id.

<sup>24</sup> Id.

<sup>&</sup>lt;sup>25</sup> Exhibit 7, Stephen Frank, "Mexican man charged with using fake ID, voting in elections for 25 years!" October 30, 2017, available at http://www.capoliticalreview.com/capoliticalnewsandviews/mexican-man-charged-withusing-fake-id-voting-in-elections-for-25-years/.

licenses or registrations."<sup>26</sup> Pennsylvania has been unable to determine how many noncitizens might have registered to vote.<sup>27</sup> It is highly probable that similar violations are occurring in California.

While there are many instances of willfully fraudulent non-citizen registration and voting, e.g. *Kimani v. Holder*, <sup>28</sup> even accidental or inadvertent voter registration is also commonplace. <sup>29</sup> In such cases, noncitizens allege that they have received improper or unhelpful advice from state workers during registration. In *Keathley v. Holder*, improperly trained state workers led to a corruption of the voter rolls:

[W]hen registering to drive and vote, Keathley contends that she represented herself to be a citizen of the Philippines, presenting both her Philippine passport and her K-3 visa. Neither the IJ nor the BIA determined whether Keathley is telling the truth about this. ...[W]hile Kimani checked a box on the driver's-license form claiming U.S. citizenship, Keathley contends that she left that box unchecked until the state official who superintended the process—an official knowing that she is not a citizen—asked her if she would like to vote. Keathley says that she answered "yes". The box asserting U.S. citizenship ended up checked; Keathley says that she does not remember whether she checked the box or the state employee did so.<sup>30</sup>

These are just several examples of the pitfalls that arise when a state has failed to take steps to ensure noncitizens are not placed on the voter rolls.

At the state level, California takes no action to ensure the millions of noncitizens who are enrolled in state social services programs are not placed on the voter rolls. It makes no effort to perform audits or checks to develop procedures to either identify or purge noncitizens that are on voter rolls. It fails to share data it has gathered from issuing AB 60 licenses with election officials to ensure accurate voter rolls.

California's refusal to take simple steps to ensure the accuracy of the voter rolls conflicts with its legal obligations under the NVRA. The Justice Department and the Department of Homeland Security should begin immediate investigations into the extent of California's NVRA violations, using the full investigatory and remedial authority available to each department.

Thank you for your attention to this important matter.

Respectfully submitted,

<sup>&</sup>lt;sup>26</sup> Exhibit 8, Chris Breenan, "Glitch let ineligible immigrants vote in Philly elections, officials say." September 20, 2017, available at http://www.philly.com/philly/news/politics/city/philly-voter-fraud-trump-immigrants-registration-commissioners-penndot-20170920.html.

<sup>&</sup>lt;sup>28</sup> 695 F.3d 666 (6th Cir. 2012)

<sup>&</sup>lt;sup>29</sup> See Fitzpatrick v. Sessions, 847 F.3d 913 (7th Cir. 2017); Keathley v. Holder, 696 F.3d 644 (6th Cir. 2012).

<sup>&</sup>lt;sup>30</sup>Exhibit 9, "Immigrant Who Voted Illegally on Road to Becoming a U.S. Citizen." August 26, 2010, available at http://www.foxnews.com/us/2010/08/26/immigrant-voted-illegally-seeks-citizen-dhss-help.html.

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CC:

Election Assistance Commission California Secretary of State Alex Padilla

# Exhibit 2



September 12, 2018

The Honorable Jeff Sessions Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW Washington, DC 20530-0001

The Honorable Kirstjen Nielsen Secretary U.S. Department of Homeland Security (Attn: Office of Infrastructure Protection) 801 Nebraska Ave NW Washington, DC 20016

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COMPLAINT: CALIFORNIA DEPARTMENT OF MOTOR VEHICLES, FAILURE TO MAINTAIN ACCURATE VOTER ROLLS

Dear Attorney General Sessions, Secretary Nielsen, and Mr. Gore:

I am writing to you to inform you of a major error in California's new automatic voter registration process recently discovered, affecting tens of thousands of registrants. This error further discredits a voter registration system that is inherently prone to ineligible voter registration and requires your offices to take corrective action.

On April 1, 2018, California implemented automatic voter registration for individuals who renew or apply for driver's licenses. Individuals who register to vote at California Department of Motor Vehicle (DMV) offices began to have their registrations electronically transmitted to the California Secretary of State. Last week, the DMV admitted that, soon after the automatic registration program began, thousands of individuals who registered to vote at

Headquarters: 3100 Broadway • Suite 1210 • Kansas City, Missouri 64111 • (816) 931-5559 • FAX (816) 931-1115 Virginia Office: 19415 Deerfield Avenue • Suite 312 • Leesburg, Virginia 20176 • (703) 554-6100 • FAX (703) 554-6119 DMV locations failed to complete the necessary affidavit attesting to eligibility. This incident, along with evidence presented below, shows that the California DMVs' new registration process will result in ineligible individuals, including noncitizens, completing and filing voter registration applications.

In February of 2018, Landmark Legal Foundation (Landmark) submitted to your offices an extensive complaint documenting California's failure to maintain accurate and up to date voter rolls. In the February complaint, Landmark documented how officials fail to ensure ineligible noncitizens are kept off the voter rolls. This complaint supplements the evidence previously presented.

### California's new DMV registration scheme failed to ensure registrants attest to their eligibility.

California law specifies that an individual "may prove that he or she is a citizen by his or her certification under penalty of perjury on the affidavit of registration." Such a certification is sufficient evidence of citizenship for voting. The new DMV registration process automatically places individuals on voter rolls when those individuals obtain or renew their driver's license. The only method to establish citizenship during the DMV registration process is by the registrant's own certification- no other documents like birth certificates or passports are required. The DMV, however, does not ensure only eligible voters register at DMV locations before they are transmitted to the Secretary of State.

The recent incident is illustrative. In a letter to Secretary of State Alex Padilla, the DMV states that an audit of voter registrations transmitted to Secretary Padilla's office revealed that approximately 23,000 individuals "did not complete an affidavit of registration to vote." This means that at least 23,000 individuals completed a voter registration without attesting to their status as citizens of the United States, their proper age, and that they had not been convicted of a felony. California has a very high noncitizen population. The DMV's malfeasance means that thousands of ineligible individuals could reside on the voter rolls. It will also make future prosecutions for voter fraud more difficult. The affidavit conveys that the registrant is certifying the information he or she has provided is accurate and true and acknowledges that lying will expose the individual to criminal charges.

This evidence alone suggests that California has failed to institute the necessary controls to ensure that it complies with the federal obligation to ensure that its voter rolls are accurate and up-to-date. Yet California's voter registration system has other serious problems.

California's new DMV registration scheme contains loopholes that permit ineligible noncitizens to complete voter registration applications.

<sup>&</sup>lt;sup>1</sup> Exhibit 1, September 5, 2018 letter from Jean Shiomoto to Alex Padilla.

<sup>&</sup>lt;sup>2</sup> Cal Elec Code § 2111.

<sup>&</sup>lt;sup>3</sup> Cal Elec Code § 2122.

<sup>&</sup>lt;sup>4</sup> Exhibit 1.

<sup>&</sup>lt;sup>5</sup> Exhibit 2, Grace Wyler, "More undocumented immigrants live in Southern California than anywhere else in U.S." Orange County Register, Aug. 28, 2017.

California's own documents and training materials establish that it has failed to take necessary precautions and institute effective protocols to ensure noncitizens are prevented from registering to vote while renewing or applying for driver's licenses. Under the new registration scheme, DMV directs its officials to permit ineligible noncitizens to complete and file voter registration applications – even when those officials have actual knowledge of ineligibility. If an individual conveys that he or she is not a citizen but insists on completing a voter registration application, DMV officials must allow the noncitizen to complete the registration. DMV then appears to take no action to purge the individual from the voting rolls. Nor does the DMV communicate to either the Secretary of State or the county registrars that an ineligible individual has completed a registration.

Training materials distributed by the California DMV specifically direct employees to allow noncitizens to complete voter registration applications when those noncitizens have suggested they wish to register to vote. California DMV memo "DL 2016-06" discusses "TouchScreen Terminal Voter Registration" at DMV locations. Touch screen terminal registration allows registrants to complete voter applications by electronic touch screen. The completed registrations, in turn, are submitted to county registrars who place names on the voter rolls. The DL 2016-06 memo outlines new process and procedures DMV officials are to follow when implementing the touch screen registration technology. Among other things, this memo outlines new voter registration procedures to be followed by individuals who apply for or renew their driver's licenses. Rather than completing the traditional paper voter registration application, the new procedures specify that applicants can either update their voter registration or register by a touch screen terminal. When applicants have revealed they are not citizens or eligible to vote, but those noncitizens have revealed they wish to register. In these situations, the DMV directs its employees to use the following script:

In reviewing your application, I see that you have completed the Voter Registration section by marking that you wish to register to vote. As U.S. citizenship is a requirement to vote, would you like to review this section again?<sup>7</sup>

The DMV then directs employees:

If the applicant chooses to continue with voter registration, do not deny the applicant the opportunity to register to vote. (Emphasis added.)<sup>8</sup>

As stated above, California law requires only an affirmation of citizenship for purposes of determining voter eligibility. Individuals can therefore register to vote provided they are willing to affirm their citizenship status – California requires no actual documentation. This system is inherently susceptible to fraud. The DMV exacerbates this vulnerability by directing employees to ignore times when an individual has revealed he/she is ineligible and permitting those individuals to register.

<sup>&</sup>lt;sup>6</sup> Exhibit 3, State of California DMV, DL 2016-16 "TouchScreen Terminal Voter Registration".

<sup>&</sup>lt;sup>7</sup> Exhibit 3 at p. 4.

<sup>&</sup>lt;sup>8</sup> Exhibit 3 at p. 4.

<sup>9</sup> Cal. Elec Code § 2112.

#### Ineligible voter registration violates both California and federal law.

Noncitizen voter registration has multiple harmful legal consequences. First, noncitizens may unwittingly jeopardize their residency status and face deportation and criminal prosecution should they inadvertently vote. Second, noncitizens appearing on voter rolls undermine the integrity of the voting process. Legitimate votes are illegally diluted when ineligible voters cast ballots. Third, failing to institute reasonable procedures to prevent noncitizens from registering violates the National Voter Registration Act's (NVRA) requirements that a state maintain accurate and up to date voter rolls.<sup>10</sup>

Voter eligibility under federal law requires U.S. citizenship. 11 Both the California Constitution and California Elections Code require U.S. citizenship to be eligible to vote. <sup>12</sup> The DMV potentially violates these laws when it uses inadequate practices and procedures to screen ineligible individuals who complete and file voter registration applications. DMV officials are prohibited, even when an individual has revealed he/she is not a citizen, from taking steps to prevent noncitizens from completing voter registration applications. Once completed, these registrations are transmitted electronically to the Secretary of State who, in turn, forwards registrations to county registrars.

States are obligated under the NVRA to "conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters." While California DMV uses some protocols to screen noncitizens out of the registration process, a glaring loophole exists through which any noncitizen can register to vote. These "protocols" are a toothless sham. California's "reasonable efforts" to ensure noncitizens who obtain or renew their driver's licenses are not placed on the voter rolls fail in that those efforts fails to prevent determined or even ignorant noncitizens from registering. Once placed on the voter rolls, California compounds its failures by doing nothing to identify and remove noncitizens.

Individuals who register also retain the option of voting by mail. <sup>14</sup> Vote by mail systems are particularly vulnerable to fraud. Ballots are mailed to an address on record and no controls exist to ensure the identified individual casts his/her ballot. Any individual with access to the ballots can, fraudulently, cast a vote in another person's name. The existence of vote by mail in California requires extra diligence at all levels of voter registration. Should ineligible individuals enter into the system few protocols exist to prevent these individuals from casting illegal votes. A vulnerable registration system thus jeopardizes the entire election system and exposes California to large-scale voter fraud.

<sup>&</sup>lt;sup>10</sup> 52 U.S.C. § 20501(b)(4). <sup>11</sup> 18 U.S.C. § 611.

<sup>12</sup> Cal. Const. Art. II § 2; Cal. Elec. Code § 2000(a).

<sup>&</sup>lt;sup>13</sup> 52 U.S.C. § 20507(a)(4).

<sup>14</sup> Exhibit 3 at p. 7.

According to California, eligibility should not be a consideration when determining whether an individual should have the "opportunity" to register. This lax process endangers noncitizens who may not appreciate the consequences that arise if they engage in voter activity. These consequences include deportation and federal criminal conviction. In addition to compromising the integrity of the voter rolls (and, by extension, undermining the voting process) California endangers noncitizens by subjecting these individuals to deportation and criminal prosecution.

California is failing – by design and by incompetence – to use effective protocols to ensure noncitizens that either renew or apply for driver's licenses are prevented from completing voter registration applications. These applications are sent to relevant registrars, who in turn, place these individuals on voter rolls. California fails in its duty to ensure noncitizens are kept off the voter rolls even when officials have actual knowledge of ineligibility – it directs employees at DMV offices to process voter registrations from individuals who acknowledge they are not citizens of the United States. Allowing known ineligible voter registrations undermines the accuracy of the voter rolls because these individuals are not eligible to vote. By voting, noncitizens dilute the legitimate vote of eligible citizens. Such actions undermine the integrity of elections.

Landmark Legal Foundation Requests that your offices investigate California's failure to take reasonable steps to ensure ineligible individuals, including noncitizens who register to vote while applying for or renewing their driver's licenses, are adequately screened and removed before placement on voter rolls. If appropriate, your offices should seek a judicial order under 52 U.S.C. § 20510(a) directing the California Secretary of State or the California DMV to: (1) take necessary steps to ensure all individuals who register to vote through DMV processes attest to their eligibility to vote; and (2) close loopholes identified in this complaint that allow noncitizens to complete voter registration applications.

Thank you for your attention to this important matter.

Respectfully submitted,

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<sup>15</sup> Exhibit 3 at p. 4.

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# Exhibit 3

# 118,000 left off voter rosters; State, L.A. County leaders call for answers after blunder on election day.

Los Angeles Times

June 7, 2018 Thursday, Home Edition

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Section: CALIFORNIA; Metro Desk; Part B; Pg. 1

Length: 1213 words

Byline: Emily Alpert Reyes, <u>Dakota Smith</u>

#### **Body**

State and county leaders demanded answers on Wednesday from the L.A. County elections chief after more than 118,000 people were left off voter rosters on election day, a major blunder that fueled anger and confusion at the polls.

California Secretary of State Alex Padilla said he was "gravely concerned" and asked the county registrar to provide him with a detailed report on the cause of the debacle. The county Board of Supervisors also called for an investigation Wednesday at a hastily called hearing.

"We fell short in meeting the more than reasonable expectations of the voters and poll workers," Registrar-Recorder/County Clerk Dean C. Logan said at the board meeting. "It's an issue that I take seriously, I understand the gravity of it, especially in an environment where there is so much discussion about the security and integrity of our voting process."

The faulty rosters, which election officials attributed Tuesday to a printing error, affected roughly 2.3% of the registered voters across the county and 35% of voting locations, according to county figures. Logan said Wednesday that the foul-up involved the names printed on the rosters for polling places and had nothing to do with voter eligibility.

"It was a data issue and it is a system issue that absolutely needs to be resolved," Logan told the county board, without elaborating on exactly what went wrong.

In a letter to Logan, Padilla sought more details on what happened, including which precincts were affected. He urged Logan to inform any voters who had been affected that they were, in fact, registered to vote in California and tell them whether their provisional ballots are counted. He also suggested that the county office seek help from an independent expert to prevent the same sort of problems in the future.

Supervisor Hilda Solis, whose district stretches from downtown Los Angeles to South Gate and east to Pomona, said that she was concerned that some voters in her district left their polling places "very upset" after learning their names weren't listed. In a written statement, she added that "many of those left off rosters were individuals of color."

Supervisor Sheila Kuehl said that at her polling station, a worker told her that voters on the 2400 block of several streets in Santa Monica were missing from the roster.

"The bottom line is that we are requesting a real investigation and as soon as possible," Kuehl said.

Glendale resident Bernadette DeMesme- Anders said she went Tuesday to the same fire station where she had voted for decades, only to discover that her name was not on the rolls.

"We were told it must have been our fault, we must have sent them a mail-in ballot request," DeMesme- Anders said. "I assured them it wasn't the case."

118,000 left off voter rosters; State, L.A. County leaders call for answers after blunder on election day.

The retired school psychologist ultimately turned in a provisional ballot, but the process left her unnerved. "Why, all of a sudden, after all of these decades, would this glitch suddenly appear?" she said. "It made me very frightened for our democracy."

Logan said he had gotten reports Tuesday morning that some people were not listed on rosters, which "isn't unusual." But by noon, the scope of the problem became clearer, he said.

Poll workers were instructed to give out provisional ballots to people whose names did not appear on rosters, according to his office. Such ballots are counted after they are verified as being from registered voters. Historically, 85% to 90% of provisional ballots have been deemed valid and ultimately counted, according to county officials.

Logan told the Board of Supervisors he was confident that poll workers handed out provisional ballots to those who weren't listed on the rosters.

"We have a mantra that voting never stops and nobody leaves without voting," he said. "Now, if there were voters who were frustrated by being offered a provisional ballot and chose not to do that, I'm not saying that that didn't happen."

Jessica Levinson, a professor at Loyola Law School in Los Angeles, said that "having over 100,000 people left off the roster is not something you just shrug your shoulders over." Election officials need to address whether the errors disproportionately affected any group of voters, such as Democrats or Republicans, or people living in particular areas, Levinson said.

Even if people were offered the chance to vote with a provisional ballot, she said, some may have decided not to bother.

"It's a herculean effort to get anybody in L.A. to the polls," she said. "To get them to the polls, and then get them through a conversation about why they're not on the rolls, even though they should be, and then talk through provisional voting -- it's less than ideal."

Patricia Sanders, 34, said that poll workers seemed unsure what to do when her name was missing from rosters at her polling place on Mulholland Drive.

"It took them a while to decide to give me the provisional ballot," she said.

The whole experience was "just an awkward interaction. My concern was, 'Was this done correctly? Did it go where it's supposed to go?' I didn't leave feeling very confident that my vote was handled correctly," Sanders said.

Kuehl recounted that one of her aides tried to vote in Sylmar but was told that her name wasn't on the list. Poll workers told the woman to try voting at another precinct, but the aide insisted on getting a provisional ballot. The woman had to ask five times for a provisional ballot before one was given to her, Kuehl said.

L.A. County Democratic Party Chairman Mark Gonzalez said "it is an inevitability that many will have seen their names not on the voter roll and be turned off from voting entirely."

Logan told supervisors that his office is speeding up the process of counting the provisional ballots that were cast by people who weren't listed on the rosters. His office tentatively plans to certify the election results June 29.

The missing names also troubled politicians who were vying for votes this week. Antonio Villaraigosa, who conceded in the race for governor Tuesday night, had called on election officials to extend voting until Friday because of the errors and urged Padilla to investigate.

"You would expect that in the United States of America, in the county of Los Angeles, they would be able to conduct an election without there being problems of this magnitude," Villaraigosa told reporters at his election night party in downtown Los Angeles.

Eric Jaye, a senior advisor to the Villaraigosa campaign, said the snafu "would not affect the results in this race, but it affects all of us."

118,000 left off voter rosters; State, L.A. County leaders call for answers after blunder on election day.

Congressional candidate John Briscoe, a Republican who is campaigning against U.S. Rep. Alan Lowenthal to represent a district centered in Long Beach, said he wasn't worried about the problem affecting the results in his race. Briscoe came in second to Lowenthal according to preliminary results, and another Republican candidate who finished behind him, David Clifford, had not conceded as of Wednesday afternoon.

But Briscoe said he was "deeply concerned about the reduction of faith in the voting system."

"This isn't about Russian hacking," Briscoe said. "This is just very poor administration."

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#### Graphic

PHOTO: ELECTION officials attributed the foul-up to a printing error and said it had nothing to do with voter eligibility. Above, Paul Fraser votes in City Terrace. PHOTOGRAPHER:Al Seib Los Angeles Times

Load-Date: June 7, 2018

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### Failures in California's 2018 Midterm Election Demand Serious Investigation

- Thousands of vote-by-mail voters did not receive their ballots
- Voters found their registrations altered without consent
- Unprecedented numbers of provisional ballots were cast
- Unlawful conditional voting
- Dysfunctional system was overwhelmed

#### **Report Summary**

For the November 6, 2018 midterm election in California, Election Integrity Project, California (EIPCa) deployed poll observers to watch and document the election process in precincts throughout the state. This report summarizes serious election irregularities documented by EIPCa observers in eight counties, primarily in southern California. These irregularities expose serious flaws in California's election system, namely:

- a) Thousands of vote-by-mail (VBM) voters did not receive their VBM ballots in the mail. These voters came to the polls because they did not receive their VBM ballots, but had none to surrender and were forced to vote provisionally.
- b) Hundreds of voters who normally vote at the polls found that their voter registrations had been changed to vote-by-mail without their knowledge or consent. They, too, did not receive VBM ballots and were forced to vote provisionally. Automatic voter registration through the Department of Motor Vehicles (DMV) was the primary cause of the unconsented voter registration changes. Media reports confirm that the DMV program has created over 100,000 inaccurate voter registrations since the program's inception. It appears, however, that many affected voters were not informed of unauthorized changes to their registrations nor were these mistakes corrected prior to Election Day.
- c) The Election Day rosters listed some voters as VBM voters, even though their voter registrations still list them as poll voters. Without a VBM ballot to surrender, they, too, were forced to vote provisionally. This is the third serious roster error EIPCa has documented since 2014.

- d) There was an unprecedented surge in provisional voting due to undelivered VBM ballots. For example, Los Angeles County voters cast about 100,000 provisional ballots in the 2014 midterm. In the 2018 midterm, they cast about 400,000 provisional ballots. The Los Angeles County registrar's office blamed this significant increase on voters who did not have a VBM ballot to surrender. Excessive provisional voting created long lines and voters were seen leaving without voting.
- e) Voters were angry and worried that their provisional ballots would not be counted. Due to unprecedented numbers of upset voters observed, EIPCa had to create a new incident category called "Angry/frustrated/worried voter". EIPCa poll observers gathered statements from witnesses who had been negatively impacted by the VBM ballot fiasco. Their stories are included in Appendix B of this report.
- f) There have been few mentions from the media and elections officials concerning the VBM ballots not delivered to voters. This is unusual, since EIPCa observers, poll workers and even Registrar clerks were alarmed by the magnitude of the problem. Only one county of the eight summarized in the report admitted that their vendor failed to mail 1,129 late-requested VBM ballots.
- g) Some voters may have been disenfranchised due to VBM ballot problems. VBM voters who did not receive a ballot were possibly disenfranchised because they did not have the time or means to visit a polling place. In the county that admitted to a problem with VBM ballot mailing, 646 of the voters who did not receive their VBM ballot did not vote.
  - EIPCa tracked the voting results of 57 provisional voters who signed witness statements. While most had their provisional ballots counted, nine did <u>not</u> have their provisional ballots counted, though they appear to be properly registered. An additional three witnesses were shown to have voted early or by mail, though they claimed in writing that they had not voted and were observed voting provisionally. For eleven witnesses whose provisional ballots were counted, their county's look-up tool showed that VBM ballots were "received and verified" in their names.
- h) The undelivered VBM ballots may have been caused by technical errors, like the DMV-caused registration errors and Election Day roster errors that have recently plagued the state's election system.
- i) Other Election Day observations appeared suspicious. These included excessive VBM ballots dropped off at the polls, unlawful conditional (same day) voting, what appeared to be "intentional" provisional voting, suspicious poll worker behavior and unprovoked disruptions by voters.

#### Introduction

In recent years, much effort has been made by California legislators and election officials to provide increased voter registration and ballot "access," with few restrictions, the emphasis being "voter experience" not voter eligibility.

In pursuit of the ultimate voter experience—and in doing so, undermining the integrity of California's election system—legislation has been adopted to include pre-registering children to vote, allowing non-citizens to vote in city elections, allowing mail ballots to arrive after Election Day, rejecting voter ID, removing restrictions on who can handle and return mail ballots, automatic DMV voter registration, same-day registration and voting and, in future, providing all registrants with VBM ballots.

The state's focus on unconstrained registration and ballot "access" to provide "voter experience" has, unfortunately, come at the expense of the reliability of the election system. This report will show that eligible voters were harmed by significant system failings and this casts serious doubt on the integrity of California's elections.

#### **Background**

EIPCa is a citizen-funded nonpartisan election oversight group formed in 2010, deployed trained poll observers to precincts across California on November 6, 2018. This report summarizes key findings in the eight counties with the most documented observations: Los Angeles, San Diego, Orange, Riverside, San Bernardino, Ventura, Monterey, and Calaveras.

In these counties, 194 EIPCa volunteers observed a small sample of precincts-- representing 2-10% of the eight counties' total number of precincts-- and documented their observations via written Incident Reports (declarations signed under penalty of perjury). [Of note is that EIPCa cannot find evidence that the Secretary of State deployed any observers in the 2018 Midterm election.]

In addition to Incident Reports, the observers also gathered Witness Statements from voters who had complaints. EIPCa analysts then reviewed the witnesses' publicly-available voter registration data (using VoteCal, the state's voter registration database) to help understand these complaints. EIPCa Incident Reports, as well as its Witness Statements, are evidentiary documents signed under penalty of perjury.

Each documented incident was coded, databased, and quantified by EIPCa analysts. These incidents represent the main source of evidence for this report. Reports sent to EIPCa's website via electronic means were also databased, though these reports are not signed under penalty of perjury.

As a result of EIPCa's observation of the polls since 2012, it has developed a normative database of California election incidents. Statements in this report such as "unprecedented" or "unusual" mean that the number of incidents cited greatly exceed levels documented by EIPCa in past elections (2012- 2016).

#### **Key Findings**

Finding #1: Vote-by-Mail Ballots Not Delivered to Voters

Thousands of VBM voters did not receive their VBM ballots and were forced to vote provisionally. EIPCa observers documented 1,304 VBM voters<sup>1</sup> in 165 precincts in eight counties who did not receive their ballots in the mail and had to travel to the polls to vote. Since none of these voters received a VBM ballot, they could not surrender it to vote normally, and all were forced to vote provisionally. EIPCa estimates that the actual number of impacted voters may be as many as hundreds of thousands, given the related six figure increase in provisional voting<sup>1</sup>. Observers only watched a small portion (2-10%) of each county's precincts and not every impacted voter showed up at the polls or audibly complained, so the actual numbers likely well exceed the counts in this report. Of note is that a count of 1,304 impacted voters is unprecedented in EIPCa's eight years observing California polls; incident counts in the 300's have previously been considered significant.

<sup>&</sup>lt;sup>1</sup> All counts quoted in this report should be considered "conservative" numbers. EIPCa observers are trained to tally actual numbers of incidents. If an observer does not provide a count but instead says there were "many" or "lots of" incidents, the frequency recorded by EIPCa analysts is conservatively capped at three.

Observers collected 23 signed Witness Statements plus four complaints to the EIPCa website from established VBM voters who did not receive their ballots. Though Republicans do not skew to voting by mail in the counties observed, the witnesses skew Republican.

Not known are how many of the impacted VBM voters did not vote because they a) didn't get their "reminder" in the mail; b) could not travel to a polling place; c) were mishandled by inadequately trained poll workers; or d) did not want to wait in long lines caused by excess provisional voting. EIPCa has documentation of one voter who did not receive her VBM ballot, did not know about provisional voting or where to vote and therefore did not vote. In addition, EIPCa has documentation of eight voters threatening or actually leaving their precincts and not voting due to long provisional voting lines.

It's highly suspicious that so many VBM ballots went undelivered to voters in Los Angeles, San Diego, San Bernardino, Ventura, Orange, Monterey, Riverside and Calaveras counties. One possibility is that the missing ballots were never sent due to technical, vendor or post office errors. The San Bernardino County Registrar office admits that its vendor failed to mail ballots to 1,129 voters who requested VBM ballots on October 30. Of these, 482 voted at the polls but 646 (57%) failed to vote, likely due to not receiving their VBM ballots, since they had just requested the ballots on October 30. One voter was unaccounted for. In Orange County, EIPCa has an Incident Report which states that the Registrar of Voters had informed a Precinct Inspector that a "glitch in their software" resulted in mail ballots not being generated. The Assistant Registrar of Ventura County told an EIPCa observer that "20-25% of ballots mailed were returned as undeliverable."

Another possibility is that some VBM ballots were stolen. Supporting this theory, an observer in Orange County noted that all precincts she observed had complaints of missing VBM ballots—"except the one precinct in a gated community". Another Orange County observer wrote of hearing that, in two separate San Clemente neighborhoods, thieves stole mail from everyone on their blocks that included VBM ballots.

# <u>Finding #2: Poll Voters Changed to VBM Voters Without Consent/ VBM Ballots Not Delivered</u> Hundreds of poll voters were changed to VBM voters without consent, primarily by the DMV. Most did not receive VBM ballots and were forced to vote provisionally.

Observers documented 496 voters in 112 precincts in eight counties who attempted to vote at their polling places and discovered that they had been changed to "vote-by-mail" status without their knowledge or consent. EIPCa estimates the true number to be much higher, perhaps in the thousands or more, given the number of counties and precincts it observed, as well as media reports.

In addition to being changed to VBM voters, most did not receive VBM ballots, though each was listed on the roster as having been sent one. Since these voters did not have VBM ballots to surrender, they, too, were forced to vote provisionally. EIPCa observers gathered 26 signed Witness Statements from affected voters plus five voter complaints on its website. Most of the witnesses are long-time poll voters and claim that they would never vote by mail. A media report<sup>ii</sup> documented examples of related voter frustration. The witnesses represent a range of parties, but skew Republican.

EIPCa analysts researched the witnesses' publicly-available voter registration records and found that more than two-thirds of the witnesses were changed to "permanent vote by mail" (PVBM) via a registration method called "DL44" or "RBM", which are codes for the DMV's driver license application in person and by mail. The DMV is integrated with the state's voter registration system via California's New Motor Voter Program.

This program has come under fire<sup>iii</sup> for causing over one hundred thousand voter registration errors and duplications. According to a media report<sup>iv</sup>, these irregularities occurred between April 23 and August 5, 2018 and voters were urged to check their registrations on line.

It appears that most voters were not informed, nor were the errors corrected, as possibly thousands of midterm poll voters were surprised to find on Election Day that their registrations had been changed. Five witnesses had their registrations altered by the DMV after August 5, 2018, when the problem had been discovered and supposedly rectified. Of interest is that some witnesses who were changed by the DMV to PVBM voters without consent received mail ballots, but most did not. The head of the DMV has since resigned.

On April 9, The *Los Angeles Times* reported<sup>v</sup> that it had conducted a months-long review of the failures by California election officials to implement a functioning DMV voter registration system. The *Times* reviewed thousands of emails between California officials that "present a picture of a project bogged down by personnel clashes, technological hurdles and a persistent belief among those involved that top officials were demanding they make the 'New Motor Voter' program operational before the June 5, 2018 primary so that it could boost the number of ballots cast."

The *Times* article shows what occurred behind the scenes with the troubled roll-out of the DMV automatic registration system. Three months of testing were condensed to six weeks. Hours before the system went live, serious errors were discovered, including "selections flipping from what the customer had chosen", and this may have been a source of unauthorized changes to voters' registrations.

The *Times* is rightly concerned about the voter registration system's vulnerability to foreign hackers. It neglects, however, to discuss in detail the experiences of individuals who tried to vote on Election Day only to be informed that their voting status had been changed or that their names did not even appear on the voting rolls.

#### Finding #3: Roster Mistakes Listed Poll Voters as VBM Voters /VBM Ballots Not Delivered

Some poll voters were mistakenly listed as VBM voters on the check-in roster though they were concurrently listed as poll voters on the voter list. Most did not receive VBM ballots and were forced to vote provisionally.

Eight witnesses who were listed on the roster as having been sent VBM ballots did <u>not</u> actually have their voting preferences changed and are still registered as poll voters, per EIPCa analysts who reviewed their publicly-available voter registration information. It is unclear why they were designated on the roster as VBM voters when the rosters are generated from the voter registration information, which designates them as poll voters. The witnesses represent a range of parties, but skew Republican.

This is not California's first serious check-in roster error. Los Angeles County "mistakenly" omitted all the Vote by Mail designators from its rosters in the November 2014 election and, in June 2018, omitted more than 118,500 voters from its rosters due to a "printing error" i.

#### Finding #4: Mail Ballot Irregularities Caused Excessive Provisional Voting

Unusually high levels of provisional voting created long lines and drove some voters away.

EIPCa observers documented 248 precincts with excessive numbers of provisional ballots cast. *In these precincts, provisionals ranged between 13% and 75% of all ballots cast (vs. California's 2014 Midterm average of 5%*<sup>vii</sup>). Each provisional ballot took time for the voter to fill out information on the envelope and

insert his ballot. This added to chaos and long lines (some as long as a 1 hour and 45-minute wait to vote) in 82 precincts, frustrating voters and poll workers alike.

There were 196 documented incidents of angry voters, a number so above previous norms that EIPCa had to create a new incident report category called "Angry/frustrated/worried voter". One worried voter asked why she was required to write her political party on the Los Angeles County provisional ballot envelope. The chaos took poll workers away from serving voters and resolving other polling place problems. In an Orange County precinct, the police were called by the poll workers to oversee a long line of disgruntled voters. [See Appendix C for descriptive comments.]

A shocking 35 observed precincts ran out of provisional ballots, envelopes or related supplies. There was a Ventura County report of 16 provisional voters actually turned away due to no provisional supplies. The long lines resulted in eight voters observed walking away or threatening to give up and not vote. EIPCa does not have statistics on how many eligible voters were disenfranchised in this manner.

Los Angeles County voters cast 389,229 provisional ballots, more than triple the 120,928 provisionals cast in the 2014 Midterm election. According to a media report<sup>viii</sup>, Los Angeles County election officials believe the spike in the county's provisional ballots was due to VBM voters who had no VBM ballots to surrender. In the same article, Secretary of State Alex Padilla's spokesperson Sam Mahood said that the increase in provisional ballots is "consistent with a high turn-out election". Though the state's overall 2018 turnout did increase 68% over the 2014 midterm, provisional voting was up 153%, which indicates a systemic problem, not just high turnout. Comparable figures<sup>ix</sup> for four counties in this report, comparing 2014 and 2018 midterms, show that provisional voting increased well more than did the overall turnout:

County	Increase in all ballots cast	Increase in provisional ballots cast
Los Angeles	+99%	+222%
Orange	+72%	+193%
Riverside	+72%	+183%
San Bernardino	+84%	+264%
Total State	+68%	+153%

California counties had a deadline of December 6 to process all ballots and report results. Excessive numbers of provisional ballots may have reduced the amount of time available to research and validate each ballot. Adding to the problem is that the state de-funded the processing of provisional ballots in 2014, meaning it no longer reimburses counties for this expense.

If counties lack the funds and time to process extraordinary numbers of provisionals, the counting of illegitimate ballots is within the realm of possibility. In fact, several candidates that were declared winners on election night had their leads overturned days later<sup>x</sup>, when the provisional ballots were counted.

#### Finding #5: Some Voters May Have Been Disenfranchised due to VBM Problems

EIPCa analysts looked up the witnesses' final voting results in publicly-available voting history data. Though it appears that most of their provisional ballots were counted, some results suggest voters may have been disenfranchised. The details are highlighted in Appendix B; EIPCa plans to research these findings further:

Of the 57 signed witnesses who did not receive a VBM ballot and had to vote provisionally...

- Six did not have their provisional ballots counted because they "voted by mail", though they stated in
  writing under penalty of perjury that they had not received vote by mail ballots and were observed
  voting provisionally.
- One did not have her provisional ballot counted because she "voted early", though she came to the polls and voted provisionally on Election Day.
- Nine did not have their provisional ballots (or any type of ballot) counted, though they appear to have been properly registered.
- Eleven had their provisional ballots counted, but their county's on-line look-up tool shows that their VBM ballots were "received and verified".
- The remaining 30 witnesses appear to have had their provisional ballots counted.

It is especially concerning that 17 witnesses who claim not to have received or voted a VBM ballot are shown to have mailed one in.

Finding #6: Election Officials and Media Have Been Mostly Silent About the Undelivered VBM Ballots While there have been media reports about DMV-caused problems with voters' registrations, there have been no public statements from election officials and few media mentions of the undelivered mail ballots. What happened to thousands of missing VBM ballots? Much has been written about the ballot 'harvesting' scheme, but EIPCa's repeated internet searches have turned up no official statements about the unprecedented numbers of voters who did not receive VBM ballots. EIPCa found only three media articles, one about three people not receiving their ballots<sup>xi</sup>, one about post office problems in El Dorado county<sup>xii</sup>, and one about frustrated voters changed to VBM voters by the DMV but not receiving their ballots<sup>xiii</sup>. An additional article<sup>xiv</sup> discussing Los Angeles County's surge in provisional voting, said: "County election officials said the highest volume of provisional ballots came from voters... listed as vote-by-mail voters [who] didn't have mail ballots with them to surrender." There is no mention in the article of why so many did not have VBM ballots to surrender. Why has the media been relatively silent on the missing ballots?

Because potentially hundreds of thousands of mail ballots went undelivered across several counties, it appears it was caused by a widespread system error. If so, one could reasonably expect an alert and apology from county Registrars' offices, but EIPCa is not aware of any mentions from the counties or the Secretary of State. A technical error would not be surprising, as such errors in the voting system have become the "new normal" in California<sup>xv</sup>.

EIPCa has asked the eight counties' elections departments for comment. Thus far, San Diego, Orange and Los Angeles counties deny having any problems with mailing ballots to voters. The Orange County Registrar's office has not admitted to the "software glitch" they had previously reported to one of its Precinct Inspectors. There has been no response from Ventura County, whose registrar office told a voter that she was "one of many in Ventura that never received their mail in ballot." As mentioned earlier, San Bernardino County admits that its vendor failed to send late-requested ballots to 1,129 voters. This failure was county-wide and not concentrated in any one community. Though 482 voted at the polls instead, 646 who did not receive their VBM ballots did not vote at all. These figures illustrate the negative impact on voting when those expecting to receive a VBM ballot do not receive theirs—57% did not vote.

#### Finding #7: Suspicious Incidents- Possibly Related

EIPCa observers documented several areas of suspicious behavior that may be related to missing ballots, ballot harvesting or nefarious campaign tactics.

#### Excessive mail ballots dropped off at the polls

- EIPCa observers documented 22 precincts where the numbers of completed mail ballots dropped off on Election Day far exceeded normal. Tiny Calaveras County accounted for eight of these precincts.
- This happened in a steady stream of persons dropping off 2-5 ballots at a time.

#### Unlawful conditional voting

- California has a new Conditional Voter Registration law, whereby persons can register and vote on the same day. It is currently in effect <u>only</u> at county registrar offices, designated satellite locations and voting centers in five test counties.
- Despite the law, 185 incidents of conditional voting were documented at 39 non-test-county, non-satellite precincts on Election Day. Persons not registered to vote were simultaneously given registration forms and provisional ballots under what appeared to be the practice of same-day registration and voting.
- The largest documented violation was at Pomona College in Los Angeles County. Though the college was not listed as a satellite location for conditional voting on the county's website, it issued at least 120 conditional ballots to students on Election Day. Students there were reported to be using a phone app that encouraged them to vote conditionally. The "Spadra" precinct at Pomona college had only 164 registered voters but 639 ballots cast.
- The Los Angeles Registrar's website was reported by some voters to be encouraging this practice in the county, though the information on the website today is consistent with the law. It says that conditional voter registration was "only available" at the Los Angeles County registrar office in Norwalk and early voting locations (original emphasis).
- A poll worker told an observer that the San Bernardino County Registrar was encouraging this unlawful
  practice, though the Poll Inspector denied to the observer that it was even happening. San Bernardino
  County had five satellite precincts, but conditional voting was observed at ten non-satellite precincts.
  One issued at least 15 conditional ballots.
- Unlawful conditional voting is suspicious and added to the high levels of provisional voting observed on Election Day.

"Purposeful" provisional voting. It appeared to observers in some precincts that much provisional voting was intentional ...

- EIPCa observers documented 169 incidents of what they suspected was "purposeful" provisional voting, primarily in San Diego, San Bernardino and Orange counties.
- One entire precinct in San Diego county was filled with "many dozens" of voters that refused to travel to their home precincts and voted provisionally en masse.
- An additional report described voters asking for provisional ballots before they checked in.
- There were unusually high numbers of voters that "forgot" their VBM ballots at home and had to vote provisionally. A suspicious voter in Riverside County reported witnessing 4-6 people come to the poll where she was voting, each saying he "forgot" his mail ballot, lost it, or made a mistake on it and wanted to cast a provisional ballot.

- The claim of "forgetting" a mail ballot may reflect an organized campaign tactic to "flood the zone" with provisional ballots in battleground counties.
- There was a Twitter meme encouraging voters to demand provisional voting<sup>xvi</sup>.

#### Ballots found in the bushes.

A man in Orange County found eight signed VBM ballots in a bundle under a bush on his morning jog. The witness photographed the envelopes for EIPCa, then turned them in to the Registrar office. The affected voters represent a range of political parties, per publicly-available registration data.

#### Suspicious poll worker behavior.

- A Poll Inspector in San Diego County told an EIPCa observer that "hundreds of poll workers had cancelled at the last minute...". This may have been a political tactic to create chaos at the polls.
- Calaveras County had two precincts in which the poll workers used their own hand written or computerized "tally sheets" of who had voted and then appeared to be communicating the information by cell phone to unknown recipients. The poll workers refused to turn in their tally sheets with the election materials.
- This behavior, which had also occurred in Calaveras County's June 2018 primary election, gave the appearance of poll workers assisting a political campaign.
- A progressive group has openly advocated for placing its activists into the polls as workers.

#### Appearance of "manufactured chaos".

In addition to what appeared to be 'purposeful" provisional voting that added to long lines and chaos at the polls, and "no-show" poll workers in several counties, observers in Calaveras County reported eight incidents in this small county of disruptive voters who appeared to be purposefully yelling and otherwise disrupting the polling places.

#### **Conclusions and Recommendations**

It is clear from EIPCa poll observer reports and witness statements from a sample of just 2-10% of precincts in eight counties that California's November 6, 2018 midterm election was dysfunctional in many ways. Likely thousands or possibly hundreds of thousands of eligible voters were harmed by the actions (or inactions) of the state. The following list of "harms" exceed the normative levels EIPCa has observed in the past elections of 2012-2016:

- ✓ VBM ballot delivery failures
- ✓ possible VBM ballot security failures (stolen or re-routed VBM ballots)
- ✓ changes to voter registration without consent, resulting in poll voters denied access to secret ballots
- ✓ disruption at the polls due to excessive provisional ballots cast-- resulting in angry voters
- ✓ non-voting due to not receiving VBM ballots (57% did not vote in the San Bernardino Co. example)
- ✓ non-voting due to long lines
- ✓ disenfranchisement if provisional ballots were not counted
- ✓ disenfranchisement if falsified mail ballots were counted
- ✓ possible dilution of votes due to mass provisional voting with limited processing time
- ✓ unlawful conditional voting.
- ✓ damaged confidence in elections

Thousands not receiving their VBM ballots, registrations altered without consent, suspicious behavior at the polls, angry voters and a provisional ballot surge well exceeding the increase in overall voter turnout in several counties are symptoms of a serious, statewide breakdown in California's voting system that must be investigated. EIPCa seeks answers to why this happened and what remedy is available to correct the problems.

EIPCa continues to seek evidence of a significant technical problem that impacted the delivery of mail ballots. It will also seek evidence related to "purposeful" provisional voting and other suspicious Election Day incidents.

The state must stop involving the DMV in voter registration<sup>xvii</sup>. The New Motor Voter Program is demonstrably a chronic source of voter registration errors.

The state must outlaw the harvesting of VBM ballots, which, combined with the Voter's Choice Act's plan to provide every registered voter with a mail ballot, would be a disaster for California election integrity. *The Los Angeles Times* has opined that harvesting should be discontinued or at least have added safeguards. xviii

The state's VoteCal voter registration database has and has had serious inadequacies. This is especially true in the area of generating the state's check-in rosters and possibly the VBM ballots. Because VoteCal has been shown by EIPCa as unable to perform simple functions such as identifying duplicate registrations, this database should not be used to assure that "conditional" voters are not already registered in the state. Other legislation that relies on a valid statewide voter registration database should be sidelined at least until VoteCal is proven reliable.

#### **Appendix A: Incident Frequencies**

Below are the number of occurrences of each incident documented by EIPCa poll observers and described in this report. EIPCa observers are trained to tally actual numbers of incidents. If a busy observer does not provide a count but instead says there were "many" or even "alarming amounts" of an incident, the frequency recorded by EIPCa analysts is capped at three. *Therefore, all counts quoted in this report should be considered "conservative" numbers*.

Incident	Incident Description	Number of	Notes
Code	•	Occurrences	
G4	VBM voter did not receive	1,304 voters	
	VBM ballot and forced to		
	vote provisionally		
G3	Poll voter changed to VBM	496 voters	
	voter without consent and		
	forced to vote provisionally		
G10	VBM ballot received without	63 voters	
	consent		
G2	Registered voter not on roster	317 voters	
	and forced to vote		
	provisionally		
G1	Roster inaccurate/ out of date	67 voters	
G13	Long-time voter changed	84 voters	
	without consent		
G7	Voter transacted with DMV	87 voters	
	and had registration errors		
C1	Excessive numbers of	248 precincts	Provisional ballots were 13%-75% of all
	provisional ballots cast		ballots cast vs. a midterm norm of 5%
C10	Ran out of provisional	35 precincts	
~100	envelopes, supplies		
C100	Provisional ballots	17 precincts	
	overflowing/ not fit in		
D10	container	106	_
B18	Voter angry/frustrated/	196 voters	
D100	worried	0 4	
B100	Voter did not vote/ left/	9 voters	
B3	almost left without voting	92	20 to 105-minute waits
	Chaos/long lines at polls	82 precincts	20 to 105-minute waits
K1	Excessive numbers of VBM	22 precincts	
K3	ballots dropped off at polls Unlawful conditional voting	185 voters	39 non-designated precincts
K1	Unlawful conditional voting "Purposeful" provisional	169 voters	
KI	voting	107 101618	Primarily San Bernardino, San Diego and Orange counties
K1	Suspicious poll worker	213 poll workers	Primarily San Diego Co. no-shows
KI	behavior	213 poil workers	1 Tilliarity Sail Diego Co. 110-silows
K1	Appearance of "manufactured	9 incidents	Primarily Calaveras Co.
17.1	chaos"	/ melucitis	Timany Calaveras Co.
Total	All related incidents	3,603	
10111	Till Toluton Illolucillo	3,003	

#### Appendix B: Summary of Witness Statements<sup>2</sup>

There are three groups of witnesses shown below. *Each submitted a written statement signed under penalty of perjury unless otherwise noted*. EIPCa analysts researched witnesses' voter registrations in publicly-available VoteCal data of February 7, 2018, October 17, 2018, and February 8, 2019 and checked the ballot status for many on county websites. Results are described below.

## Group 1: VBM voter but did not receive a VBM ballot. Listed as VBM voter on roster but had no ballot to surrender and was forced to vote provisionally.

#### 1. C. R.- Orange Co- Republican (EIPCa doc #OC55)

PVBM voter since December 2017 but did not receive VBM ballot.

"...I received all other sample ballots and voter guides etc....The actual voting absentee ballot is the only piece of important mail I did not receive..."

Update: VoteCal data shows she voted EARLY, though she claimed did not receive VBM ballot, came to poll on Election Day and voted provisionally.

#### 2. S. G.- Orange Co- Republican (OC33)

PVBM voter since 1987 but did not receive mail ballot, though he had pre-confirmed it was sent. Update: VoteCal data shows he VOTED BY MAIL, though he claimed he did not receive VBM ballot, came to poll on Election Day and voted provisionally.

#### 3. D. G.- Orange Co- Republican (OC34)

PVBM voter since 1986 but did not receive VBM ballot, though he had pre-confirmed it was sent. Update: VoteCal data shows she VOTED BY MAIL, though she claimed she did not receive vote-by-mail ballot, came to poll on Election Day and voted provisionally.

#### 4. T. M.- Orange Co- NPP (OC50)

PVBM voter since 2012 but did not receive VBM ballot.

Update: VoteCal data shows he voted at poll, which indicates that his provisional ballot was counted.

#### 5. I. C.- Orange Co- American Independent (OC51)

PVBM voter newly registered and on list in October 2018 but did not receive VBM ballot.

Update: VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

#### 6. G. T. – Orange Co- Democrat (OC59)

PVBM voter since 2000 but did not receive VBM ballot.

Update: VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

#### 7. S. S.- Orange Co- NPP (OC57)

PVBM voter since 2008 but did not receive VBM ballot.

Update: VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

#### 8. N. G.- Orange Co- Republican (OC28)

Registered as PVBM voter in September 2018 but did not receive VBM ballot.

<sup>&</sup>lt;sup>2</sup> NPP= No Party Preference, PVBM= registered as permanent vote by mail voter, NCOA= National Change of Address, DL44= DMV driver license application form, RBM= DMV DL/ID renewal by mail. Red highlighted text means witness's voting history look-up resulted in suspicious findings.

Update: VoteCal data shows he voted at poll, which indicates that his provisional ballot was counted.

#### 9. M. S.- Los Angeles Co- Republican (LA17)

PVBM voter since 2014. Updated registration via "DL44" in July 2018. Still registered PVBM but did not receive VBM ballot.

"...all three family members did not receive."

Update: VoteCal data indicates his provisional ballot was counted. However, county registrar website says his VBM ballot was issued Oct.9 and was "received and verified".

#### 10. C. S.- Los Angeles Co- NPP (LA17)

PVBM voter since 2016 but did not receive VBM ballot.

Update: VoteCal data indicates her provisional ballot was counted. However, county registrar website says her VBM ballot was issued Oct.9 and was "received and verified".

#### 11. I. S.- Los Angeles Co- NPP (LA17)

Newly registered as PVBM via "DL44" in May 2018 but did not receive VBM ballot.

Update: VoteCal data indicates her provisional ballot was counted. However, county registrar website says her VBM ballot was issued Oct.9 and was "received and verified".

#### 12. G. R.- Los Angeles Co- Republican (LA20)

PVBM voter since 2004 but did not receive VBM ballots in June 2018 and Nov. 2018. June provisional ballot was counted, per SOS website.

"Second time I did not receive a vote by mail ballot..."

Update: VoteCal data indicates her provisional ballot was counted. However, county registrar website says her VBM ballot was issued Oct.9 and was "received and verified".

#### 13. E.M.- Los Angeles Co- Democrat (LA119)- unsigned survey response

Updated registration in October 2017 to PVBM but did not receive VBM ballot or sample ballot.

#### 14. D. W.- Los Angeles Co- Democrat (LA120)- unsigned survey response

Poll voter who requested one-time VBM ballot sent to Maine. Confirmed it had been sent but did not receive.

#### 15. J. K.- Los Angeles Co- Democrat (LA120)- unsigned survey response

Poll voter who requested one-time VBM ballot sent to Maine. Confirmed it had been sent but did not receive.

#### 16. E. C.-Riverside Co- (R20)- unsigned complaint via email

Registered to vote by mail in October 2018 via on-line system. Did not receive VBM ballot, did not know about provisional voting or where to vote, so she did not vote.

#### 17. C. R.- San Diego Co- NPP (SD2)

PVBM voter since 2011 but did not receive VBM ballot.

"I did not receive my mail ballot...neither did my family members in the same address."

Update: VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

#### 18. E. I.- San Diego Co- NPP (SD3)

PVBM voter since 2010 but did not receive VBM ballot.

"Election material was received but no ballots were received."

Update: VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

#### 19. L. B.- San Diego Co- NPP (SD9)

PVBM voter since 2016 but did not receive VBM ballot.

"Did not receive my mail ballot so had to go to polling place."

Update: VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

#### 20. C. M.- San Diego Co- Republican (SD10)

Poll voter who updated to PVBM via mail in May 2018 but did not receive VBM ballot.

Update: VoteCal data indicates that her vote was NOT COUNTED, though she was registered to vote on time and voted provisionally on Election Day.

#### 21. A. M.1- San Diego Co- Democrat (SD11)

PVBM voter since 2012. Changed address on Oct. 10, 2018, address on list is correct, but did not receive VBM ballot.

Update: VoteCal data shows he voted at poll, which indicates that his provisional ballot was counted.

#### 22. A. M.2- San Diego Co- Democrat (SD36)

PVBM voter since 2014. Updated registration to change apartment number in June 2018. October 2018 list has correct apartment number but did not receive VBM ballot.

"For first time, did not receive absentee ballot..."

Update: VoteCal data shows he voted at poll, which indicates that his provisional ballot was counted.

#### 23. M. J.- San Diego Co- Democrat (SD53)

PVBM voter since 2016 but did not receive VBM ballot.

Update: VoteCal data shows he voted at poll, which indicates that his provisional ballot was counted.

#### 24. M. R.- San Diego Co- Republican (SD74)

PVBM voter since 2012 but did not receive VBM ballot two times.

Update: VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

#### 25. S. N. S.- San Diego Co- NPP (SD75)

PVBM voter since 2012 but did not receive VBM ballot.

Update: VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

#### 26. E. S.- Tehama Co- American Independent (changed to NPP) (T1)

PVBM voter since 2006. Requested change to NPP via "DL44" in September 2018. Did not receive VBM ballot and called Registrar, who told him that he asked to be removed, per the DMV. But he is still on the list as a PVBM voter but did not receive a VBM ballot.

"...The application for [driver license] renewal asked the question would you like to register to vote (yes) or (no). My answer was marked no as I had been registered to vote by mail for eleven years...my name had been removed from voting rolls by notification by the DMV...she informed me that this happened often..."

Update: VoteCal data shows he VOTED BY MAIL, though he claimed he did not receive vote-by-mail ballot, came to poll on Election Day and voted provisionally.

#### 27. S. Z.- Ventura Co- Republican (V66)

PVBM voter since 1992 but did not receive VBM ballot.

Update: County registrar website says two VBM ballot requests were processed- one on Oct. 8 and another on Nov. 1. Voted VBM ballot was processed Nov 2, 2018. VoteCal data shows she VOTED BY MAIL, though she claimed she did not receive vote-by-mail ballot, came to poll on Election Day and voted provisionally.

Group 2: Poll voter changed to VBM voter without consent. Most did not receive a VBM ballot. Arrived to vote at poll, listed as VBM voter on roster, had no ballot to surrender and was forced to vote provisionally. DMV ("DL44", "RBM") voter registration was the primary cause.

#### 1. L. B.- Orange Co- Republican (OC84)

Poll voter since 1981. Updated registration via "DL44" in July 2018. Changed to PVBM without consent. Did not receive VBM ballot.

Update: VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

#### 2. B. K.- Orange Co- Republican (OC48)

Poll voter since 2004. Updated registration via "DL44" in September 2018. Changed to PVBM without consent. Did not receive VBM ballot.

"I am a proud voter. I've voted for 50 years and would never vote by mail. I'm upset by this."

Update: VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

#### 3. D. L.- Orange Co- Republican (OC47)

Poll voter since 2002. Updated registration via "RBM" in September 2018. Changed to PVBM without consent. Did not receive VBM ballot.

"I have never had a problem voting in the past...I have never voted by mail and did not ask for this!!!" Update: VoteCal data indicates that her ballot was NOT COUNTED, though she was registered to vote on time and voted provisionally on Election Day.

#### 4. C. E.- Orange Co- Republican (OC92)- unsigned survey response

Poll voter for 40 years. Updated registration via SOS on-line system in May 2018. Changed to PVBM without consent. Unknown if she received a VBM ballot, but she had none to surrender.

Update: VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

#### 5. R. M.- Orange Co- Republican (was Democrat) (OC93)- unsigned survey response

Poll voter since 2008. Updated registration via SOS on-line system in June 2018. Changed to PVBM without consent. Unknown if she received a VBM ballot, but she had none to surrender.

"...I overheard two others with the same problem...also, why did I have to put my political party on the outside of the envelope?"

Update: VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

#### 6. K. B.- Los Angeles Co- Republican (LA18)

Poll voter since 1985. Updated registration via "DL44" in July 2018. Changed to PVBM without consent. Did not receive VBM ballot.

Update: VoteCal data indicates her provisional ballot was counted. However, county registrar website says her VBM ballot was issued Oct.9 and was "received and verified".

#### 7. D. B.- Los Angeles Co- Democrat (LA18)

Poll voter since 1983. Updated registration via "DL44" in June 2018. Changed to PVBM without consent. Did not receive VBM ballot.

"Never registered to vote by mail. Always have voted in person."

Update: VoteCal data indicates his provisional ballot was counted. However, county registrar website says his VBM ballot was issued Oct.9 and was "received and verified".

#### 8. D. H.- Los Angeles Co- Republican (LA 72, LA 90)

Poll voter since 1980. Updated registration via "DL44" in September 2018. Changed to PVBM without consent. Did not receive VBM ballot.

"I am extremely angry that my designation was changed to mail vote causing me to vote provisionally. I feel my vote does not count... I feel I am the victim of voter fraud...I feel my age and party affiliation are factors in not receiving ballot..."

Update: VoteCal data indicates her provisional ballot was counted. However, county registrar website says her VBM ballot was issued Oct.13 and was "received and verified".

#### 9. A. W.- Los Angeles Co- Democrat (LA1)

Poll voter since 2008. Updated registration via DMV in June 2017. Changed to PVBM without consent. Did not receive VBM ballot.

"I was listed as vote by mail but never requested to vote by mail. I never received a ballot..."

Update: VoteCal data indicates his provisional ballot was counted. However, county registrar website says his VBM ballot was issued Oct.9 and was "received and verified".

#### 10. M. D.- Los Angeles Co- Democrat (LA21)

Re-registered from PVBM to poll voter January 2018 via SOS on-line system (though he claims it was via DMV). Still listed as PVBM in October 2018. Did not receive VBM ballot.

"Entire new voter registration at DMV on 1/26/18 to ensure any trace of vote by mail <u>deleted</u>. Arrived at polling station. On vote by mail list!"

Update: County registrar website says VBM ballot was issued Oct. 9 and says VBM ballot is still in process. Says provisional ballot was not counted. Witness's called Registrar, who said his provisional was not counted and would not give the reason why. VoteCal data verifies that NO VOTE WAS COUNTED (neither VBM nor provisional).

#### 11. R. M.- Los Angeles Co- Republican (LA88)

Poll voter since 2004. Updated registration via "RBM" when he got a new driver license. This created a <u>second</u> registration for him (with his middle name spelled out) without consent, which is a PVBM registration. He received a VBM ballot without consent.

Update: County registrar website says VBM ballot was issued Oct. 18 and says VBM ballot is still in process. Says provisional ballot was not counted. However, VoteCal data shows he voted at poll, which indicates that his provisional ballot WAS counted.

#### 12. D. D.- Los Angeles Co- Republican (LA19)

New registration via "DL44" in June 2018 and made PVBM without consent. Received VBM ballot but threw away and came to polls.

"I did not request a VBM form and received one anyways..."

Update: VoteCal data indicates his provisional ballot was counted. However, county registrar website says his VBM ballot was issued Oct.9 and was "received and verified".

#### 13. D. E.- Los Angeles Co- NPP (was a Democrat) (LA123)- unsigned survey response

Poll voter since 2001. Updated registration via "DL44" in September 2018. Changed to PVBM without consent. Unknown if she received a VBM ballot, but she had none to surrender.

#### 14. M. F.- San Diego Co- Republican (SD12)

Poll voter since 2017. Updated registration via "DL44" in May 2018. Changed to PVBM without consent. Did not receive VBM ballot.

"Did not receive mail-in ballot. Was not aware I was mail-in voter."

Update: VoteCal data shows he voted at poll, which indicates that his provisional ballot was counted.

#### 15. D. M.- San Diego Co- Democrat (SD13)

Poll voter since 2008. Updated registration via "office" in 2016. Changed to PVBM without consent. Unknown if he received a VBM ballot, but he had none to surrender.

"Listed by mail conflict. Always voted at precinct listed."

Update: VoteCal data indicates that his ballot was NOT COUNTED, though he was registered to vote on time and voted provisionally on Election Day.

#### 16. M. M.- San Diego Co- Democrat- (SD14)

Poll voter since 2004. Registration was duplicated with a different name spelling in May 2018 via "DL44". New registration without consent. Made PVBM without consent. Other registration still poll. Unknown if she received a VBM ballot, but she had none to surrender.

"...they said I requested a mail ballot which I did not."

Update: VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

#### 17. E. R.- San Diego Co- Democrat (SD37)

Poll voter since 2000. Changed address via NCOA in February 2017. Changed to PVBM without consent. Received VBM ballot.

"... *I don't recall requesting mail in because if I were aware I would have not requested mail in.*" Update: VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

#### 18. T. W.- San Diego Co- Republican (SD112)

Poll voter since 2008. Updated registration via the registrar office in November 2016. Changed to PVBM without consent. Unknown if he received a VBM ballot, but he had none to surrender.

Update: VoteCal data shows he voted at poll, which indicates that his provisional ballot was counted.

#### 19. S. A.- San Bernardino Co- Republican (SBern23)

Poll voter since 2016. Updated registration via SOS on-line system in October 2018. Changed to PVBM without consent. Did not receive VBM ballot.

"I never received a mail in ballot nor did I request one..."

Update: VoteCal data shows he voted at poll, which indicates that his provisional ballot was counted.

#### 20. M. E.- San Bernardino Co- Republican (SBern43)

Updated registration to poll voter in November 2017. Updated via "DL44" in July 2018. Changed to PVBM. Did not receive VBM ballot.

Update: VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

### 21. J. G.- San Bernardino Co- Democrat (SBern11)

Poll voter since 2008. Updated registration via SOS on line system in July 2016. Changed to PVBM without consent. Unknown if she received a VBM ballot, but she had none to surrender.

"... Today when I came in, my voting preference had been changed to 'mail-in'. I never changed my status."

Update: VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

### 22. T. B.- San Bernardino Co- Republican- now NPP (SBern69)

Poll voter since 2004. Updated registration via "DL44" in August 2018. Changed to PVBM without consent. Also changed to NPP. Unknown if he received a VBM ballot, but he had none to surrender. Unknown if he chose to change to NPP.

"...I have never used a mail in ballot- ever- and never requested one... [My children] were also changed to permanent mail in..."

Update: VoteCal data shows he VOTED BY MAIL, though he claimed he did not receive vote-by-mail ballot, came to poll on Election Day and voted provisionally.

#### 23. K. B.1-San Bernardino Co- Republican (SBern69)

Updated registration via SOS on-line system in June 2016. Changed to PVBM. Unknown if she received a VBM ballot, but she had none to surrender.

Update: VoteCal data shows she VOTED BY MAIL, though it's claimed she did not receive vote-by-mail ballot, came to poll on Election Day and voted provisionally.

### 24. K. B.2- San Bernardino Co- Republican (SBern69)

Updated registration at the poll in June 2016. Changed to PVBM. Unknown if she received a VBM ballot, but she had none to surrender.

Update: County registrar website says "mail ballot was not received". VoteCal data indicates her ballot was NOT COUNTED, though she was registered to vote, came to poll and voted provisionally.

### 25. K. P.- San Bernardino Co- Republican (SBern5)

Poll voter since 1984. Updated registration via "DL44" in July 2018. Changed to PVBM without consent. Received VBM ballot but did not bring one to surrender.

"Received mail in ballot...Have never gotten mail in ballot before nor did I request one..."

Update: County registrar website says "mail ballot was not received". VoteCal data indicates that her ballot was NOT COUNTED, though she was registered to vote, came to poll and voted provisionally.

### 26. A. B.- San Bernardino Co- No Party Preference (SBern6)

Poll voter since 1998. Updated registration via "DL44" in September 2018. Changed to PVBM without consent. Received VBM ballot but threw it away and had none to surrender.

"Apparently we got switched to permanent mail in ballot without our knowledge or consent. We received the mail in ballots but disposed of them."

Update: County registrar website says "mail ballot was not received". VoteCal data indicates that his ballot was NOT COUNTED, though he was registered to vote, came to poll and voted provisionally.

### 27. G. W.- Monterey Co- Republican (M2)

Poll voter since 1998. Updated registration via "RBM" in July 2018. Changed to PVBM without consent. Do not know if he received VBM ballot but had none to surrender.

"I was told that I was an absentee voter and had already been issued a ballot... I had not signed up for absentee..."

Update: VoteCal data shows he voted at poll, which indicates that his provisional ballot was counted.

### 28. D. K.- Monterey Co- Republican (M51)- unsigned survey response

Poll voter since 1999. Updated registration with new address via SOS on-line system in August 2018. Changed to PVBM without consent. Do not know if he received VBM ballot.

### 29. R. M.- Calaveras Co- American Independent (C29)

Poll voter since 2012. Updated registration via "DL44" in August 2018. Changed to PVBM without consent. Received VBM ballot but threw away.

Update: VoteCal data shows he voted at poll, which indicates that his provisional ballot was counted.

### 30. C. R.- Calaveras Co- Republican (C34)

New registration in November 2016. Made PVBM without consent. Received VBM ballot but did not bring it to surrender.

Update: VoteCal data shows he voted at poll, which indicates that his provisional ballot was counted.

#### 31. E. L.- Amador Co- NPP (was Republican) (A1)- unsigned survey response

Poll voter since 2017. Updated registration via "DL44" in August 2018. Changed to PVBM without consent. Party changed to NPP without consent. Received VBM ballot but gave to registrar. Happened to husband as well.

### Group 3: Poll voter on the voter registration list, but <u>mistakenly listed as mail voter</u> on the check-in roster. Most did not receive mail ballot and forced to vote provisionally.

#### 1. D. S.- Riverside Co- Republican (R3)

Long-time poll voter. Updated registration in April 2018- still listed as poll voter but on roster as VBM voter. Did not receive VBM ballot. This also happened in June 2018. This time, she pre-confirmed her registration with the county, but it still happened.

"...My polling place register shows me as a mail ballot voter. I did not get a mail ballot. I had phoned Riverside Election Dept several times to ensure this did not happen...

Update: VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

#### 2. P. J.- San Bernardino Co- Democrat (SBern19)

Poll voter since 1984. On list as poll voter but on roster as VBM voter. Did not receive VBM ballot.

"The facts are, we were not sent and did not request mail-in ballots...I worry that this will affect my vote and my husband's...we heard multiple voters being told the same story."

Update: County registrar website says "no mail ballot status information found". VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

#### 3. D. J.- San Bernardino Co- Democrat (SBern19)

Poll voter since 2012. On list as poll voter but on roster as VBM voter. Did not receive VBM ballot.

Update: County registrar website says "no mail ballot status information found". VoteCal data shows he voted at poll, which indicates that his provisional ballot was counted.

### 4. P. W.- San Bernardino Co.- Republican (SB21)

Poll voter since 1991. On list as poll voter but on roster as VBM voter. Did not receive VBM ballot. "Hotline... argued that I went to the DMV and changed it....stated that it was mailed to me on the 31st and I should have received it."

Update: County registrar website says "mail ballot was not received". VoteCal data indicates that her ballot was NOT COUNTED, though she was registered to vote, came to poll and voted provisionally.

### 5. M. R.- San Bernardino Co- Republican (SB67)

Poll voter since 2009. On list as poll voter but on roster as VBM voter. Did not receive VBM ballot. "I never requested a mail-in ballot!"

Update: County registrar website mail ballot status says "no results found". VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

### 6. V. C.- San Bernardino Co- Democrat (SB97)

Poll voter since 1997. On list as poll voter but on roster as VBM voter. Did not receive VBM ballot. "I was not allowed to vote because they stated I was sent a mail ballot which I did not receive. So I was given a provisional ballot…"

Update: County registrar website says "no mail ballot status information found". VoteCal data shows she voted at poll, which indicates that her provisional ballot was counted.

### 7. S. L.- Los Angeles Co- Democrat (LA14, 15)

Long-time poll voter changed in 2017 to PVBM via NCOA change of address. Updated registration to poll voter in October 2018. On list as poll voter but on roster as VBM voter. Received VBM ballot but did not bring one to surrender. This has happened in last two elections. Her June 2018 provisional was counted.

"This is the second time I tried to vote that there is incorrect information on my voting status... I never signed up to vote by mail...I have been voting for over 50 years and have never encountered the complications these last two elections have presented. The LA County Register Recorder has a moral obligation to rectify this "default" vote by mail issue. It is highly suspect and commensurate with the voter suppression movement in this country..."

Update: VoteCal data indicates her provisional ballot was counted. However, county registrar website says her VBM ballot was issued Oct.9 and was "received and verified".

### 8. <u>C. Y.- Los Angeles Co.- No Party Preference (LA2)</u>

Updated registration on line to change from PVBM to poll voter in August 2018. His change to poll voter was confirmed via email. On list as poll voter but on roster as VBM voter. Received VBM ballot but did not bring one to surrender.

"Changed from absentee ballot voting to in-person voting. Received... email confirmation...Received both absentee ballot in mail <u>AND</u> vote-in-person instructions. Poll...had my name listed as vote by mail."

Update: County registrar website says VBM ballot was issued Oct. 9 and says VBM ballot is still in process. Says provisional ballot was not counted. VoteCal data shows that NO VOTE WAS COUNTED (neither VBM nor provisional).

### Appendix C: Example Comments from Voters, Officials and Poll Observers

"For first time, did not receive absentee ballot..." —San Diego Co. voter

"It's disturbing that 80-85% of ballots had to be changed to provisional due to voters not receiving mail-in ballots." —Orange County poll observer

"Many said they didn't sign up [for vote by mail] and many said ballots never arrived. You tell me- is there something "fishy" going on?" —Kern County poll worker

"An alarming number of voters had no idea their registration was changed to mail in and never received a mail in ballot..."—Los Angeles County poll observer

"I have never voted by mail and did not ask for this!" —Orange County voter

"The only polling location observed where there was not an issue of...voters not receiving mail-in ballots... was a "gated" community with a guard on duty..." —Orange County poll observer

"I found eight absentee ballots in a bundle... They were in the bushes..." —Orange County witness

"Election material was received but no ballots were received." — San Diego County voter

"A lot of provisionals passed out... Worst scenario I've seen."—San Bernardino County poll observer

"...ran out of provisional ballots and began turning [provisional]voters away. Approx. 16 voters turned away."

— Ventura County poll observer

"I feel that my age and party affiliation are factors in not receiving ballots..."—Los Angeles County voter

"The volume [of provisionals] in prior elections was less than 10 per polling station... I was observing 30, 40, 50 per polling station. Poll workers were very concerned."—Ventura County poll observer

"I never requested VBM, why is this happening? This is not right!"—Ventura County voter

"He was not pleased about provisional voting. He said 'I have voted for over 50 years. I fought for that right. Voting is my right.' (The wife was crying)"—Los Angeles County poll observer

"Police came... because personnel were concerned about long line with disgruntled voters." —Orange County poll observer

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https://laist.com/2018/11/21/provisional ballots surged in la county if you cast one heres what to know.php

- vii Table 28: https://www.eac.gov/assets/1/1/2014 EAC EAVS Comprehensive Report 508 Compliant.pdf
- https://laist.com/2018/11/21/provisional ballots surged in la county if you cast one heres what to know.php
- https://www.pe.com/2019/04/03/vote-provisionally-in-november-2018-your-ballot-was-probably-counted/
- x https://www.apnews.com/3cfd93f7859149809949bd611287154e
- xi https://www.scpr.org/news/2016/11/08/66006/missing-your-mail-in-ballot-you-re-not-alone/
- xii https://www.sacbee.com/news/politics-government/election/local-election/article109774702.html
- http://www.latimes.com/local/lanow/la-me-turnout-20181106-story.html?outputType=amp
- xiv https://laist.com/2018/11/21/provisional\_ballots\_surged\_in\_la\_county\_if\_you\_cast\_one\_heres\_what\_to\_know.php
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vi https://www.sos.ca.gov/administration/news-releases-and-advisories/2018-news-releases-and-advisories/ca-secretary-state-requests-information-regarding-la-county-voting-roster-printing-error/



### **EIPCa Witness Statement**

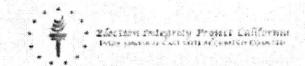
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Election Integrity Project California, Inc. (Eirca)  ©Election Integrity Project California, Inc. copyrighted 2	Witness Statement ©	15	<b>=</b>	updated: 8.30.2018

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### EIPCa Election Season Observer Incident Report

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### EIPCa Witness Statement

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# Election Integrity Project Collins

# EIPCa Election Season Observer Incident Report

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OFFICE OF THE DIRECTOR
DEPARTMENT OF MOTOR VEHICLES
P.O. BOX 932328
SACRAMENTO. CA 94232-3280



September 5, 2018

Honorable Alex Padilla Secretary of State 1500 11th Street Sacramento, CA 95814

Dear Secretary of State Padilla:

The Department of Motor Vehicles and Department of Technology recently discovered an administrative processing error in the DMV system that impacted some California Motor Voter data transmitted to the California Secretary of State's office. The Departments completed a comprehensive review in order to prevent a reoccurrence of this error, and have implemented new and additional safeguards in the Motor Voter registration system, including software updates and staff training.

Following an extensive audit of the 1.4 million customer records that were transmitted to the Secretary of State's office between April 23 and August 5, 2018, we have determined approximately 23,000 customers may have been affected by this error. These errors occurred through no fault of the customer and were caused by DMV technicians who had more than one customer record open on their computer screens at the same time and those records were inadvertently merged. As a result, inaccurate customer information – largely affecting voter preferences such as, vote-by-mail options, language and political party selections – was transmitted to the Secretary of State. Some of those 23,000 customers did not complete an affidavit of registration to vote and their records were sent erroneously to the Secretary of State. None of the impacted customers are undocumented immigrants who received a driver license under AB 60.

We are committed to working collaboratively with your office to implement a quick and efficient resolution for impacted customers. Accordingly, during the next week, state officials will send notification to customers whose records contained errors so they can verify and correct that information well before the October 22, 2018 voter registration deadline for the upcoming General Election.

We will provide any additional information and assistance needed.

Sincerely,

JEAN SHIOMOTO

Director

Department of Motor Vehicles

AMY TONG

Chief Information Officer/Director

Department of Technology

### OFFICE OF THE DIRECTOR DEPARTMENT OF MOTOR VEHICLES P.O. BOX 932328

P.O. BOX 932328 SACRAMENTO, CA 94232-3280



September X, 2018

Customer Street Address City, CA 99999

Re: Processing Error in Your Voter Registration Information

#### Dear DMV Customer:

This is to notify you that an error occurred in processing voter registration information you supplied during a visit to a Department of Motor Vehicles (DMV) field office between April 23 and August 5, 2018. There was no security breach – however, your voter registration information on file with elections officials may not be accurate. You have been identified as an affected customer and need to take action. This error was caused by DMV, was not your fault, and DMV sincerely apologizes for this inconvenience.

This letter provides information on what happened and what you need to do to correct any errors.

What Happened: Under federal and state law, DMV customers are offered an opportunity to register to vote when they visit a field office. If a customer affirms they are eligible to vote, their voter preferences are sent to elections officials. DMV recently discovered a problem affecting a relatively small percentage of its customers who visited its offices between April 23 and August 5, 2018. For those customers, DMV transmitted voter information to elections officials that was different than the information provided by the customer, such as whether they chose to vote by mail, their choice of political party, and whether they intended to register to vote.

#### What You Need to Do:

- Go to the California Secretary of State's website and review your personal voter information; <a href="https://voterstatus.sos.ca.gov">https://voterstatus.sos.ca.gov</a>
- To make changes, go to: https://registertovote.ca.gov

For further information, to cancel your registration, or to obtain a paper registration form, call the California Secretary of State at: 1-800-345-8683.

If you already corrected voter registration record since visiting the DMV, you do not need to take any further action.

Sincerely,

JEAN SHIOMOTO Director

## Folling Place: 501 E. Pennsylvania Que

### EIPCa Election Season Observer Incident Report

Election Integrally Project Californi than immediated half allowing Const.

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(City) California

# EIPCa Election Season Observer Incident Report

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Election Integrity Project Californi