

PUBLIC INTEREST

— LEGAL FOUNDATION —

**Testimony of
J. Christian Adams**

**Before the Senate State Government and Transportation
Committees**

On

Noncitizen registration and voting in the Commonwealth

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I am President and General Counsel for the Public Interest Legal Foundation, a non-partisan charity devoted to promoting election integrity and preserving the constitutional decentralization of power so that states may administer their own elections.

In 2016, as a result of a lawsuit where my organization represented the American Civil Rights Union against the Philadelphia election commissioners, **we were the first to discover that non-citizens were getting onto the voter rolls in Philadelphia, and in some cases voting.** We issued a detailed report about these discoveries in Philadelphia, copies of which were personally presented to the House State Government Committee in October of 2016 and again in October of this year.

In other words, this lawsuit was the canary in the coal mine, the first to reveal that aliens were getting on voter rolls and voting in Pennsylvania. That the problem a year later proved to be exponentially worse was not a surprise.

In our lawsuit, we experienced stonewalling of the highest order. In fact, we had to bring the lawsuit because Philadelphia election officials were non-responsive to our original request to inspect election records under the National Voter Registration Act. Only after we sued, were we permitted to inspect Philadelphia's election records, and there were discovered the alien registration and voting.

I can report to this Committee that we are now experiencing the same stonewalling from the State, and if our requests for data are not met, we will sue State election officials in federal court to obtain the information. This Committee can ask for the same information we have asked for.

This matter before your committee and other investigative bodies demonstrates the most important voting rights and election integrity challenge in our time: **keeping non-citizens from participating in American elections.**

Should Pennsylvania fail to disclose the full scale of failures allowing—even inviting--noncitizens of legal presence into the voter registry, it will risk maintaining similar flawed Motor Voter configurations not yet properly exposed in other jurisdictions subject to the National Voter Registration Act.

Our voting, immigration, and entitlement programs have become increasing interwoven in the decades following the enactment of the NVRA to a point that its authors did not adequately anticipate. Incomplete study and disclosure of Pennsylvania's now partially-admitted failings will harm eligible voters and prospective citizens alike.

The Public Interest Legal Foundation marks its concern for the matter well before the recent disclosures made to legislative committees. In 2016, the PILF sued the Philadelphia City Commissioners¹, revealing more than 80 noncitizens seeking removal from the registry between 2013 and 2015. Roughly half voted illegally before admitting their ineligibility after the fact.² A year later, the City confirmed and expanded these findings to the scale of our current understanding.³

The Department of State disclosed the existence of an official study to identify the number of noncitizens that have yet to unmask themselves as ineligible voters by comparing PennDOT data containing verifiable proofs of citizenship against claims to the contrary enshrined in the voter rolls.⁴ Months have passed since those announcements and, given the relative simplicity of such data comparisons and prevalence of said techniques among state voter registration officers around the nation, the study should be complete.

Outside efforts to release the results of this official study in full is clearly within the public interest. The PILF is acting to bring these facts to light. On October 23, the organization submitted an inspection request pursuant to the NVRA to review records available at the time. We've unfortunately been required to follow-up in writing on December 4 and twice person following each letter. The PILF is still met with relative silence. This pattern of behavior is without doubt opening doors where civil action becomes necessary.

This issue expands well beyond Pennsylvania. This year alone, the PILF was able to positively identify more than 1,000 noncitizens within New Jersey's voter

¹ *ACRU v. Philadelphia City Commissioners* (2:16-cv-01507-CDJ), <https://publicinterestlegal.org/cases/acru-v-philadelphia/>

² PILF; Aliens & Felons: Thousands on the Voter Rolls in Philadelphia (2016), <https://publicinterestlegal.org/files/Philadelphia-Litigation-Report.pdf>

³ Philadelphia Inquirer; Glitch let ineligible immigrants vote in Philly elections, officials say (9/20/2017), http://www.philly.com/philly/columnists/chris_brennan/philly-voter-fraud-trump-immigrants-registration-commissioners-penn-dot-20170920.html

⁴ Ibid.

registration system.⁵ Worse, about 75 percent of them trace their entry to Motor Voter prompts improperly configured. We witnessed first-hand how engaging with NVRA systems—even when admitting noncitizen status on the voter application—still invites heightened scrutiny from immigration case officers.

In Virginia, the PILF found more than 5,500 registrants cancelled for citizenship eligibility issues by the Commonwealth.⁶ Before we could perform any statewide tally, however, litigation was again needed because election officials in Virginia, like in Philadelphia, stonewalled release of public information. The PILF brought cases against three locales until statewide officers reversed their advice to withhold disclosure.⁷ I fear similar attitudes may be present here.

Faith and integrity in Pennsylvania’s election system will not exist without transparency.

The most important things this Committee can do to solve the problem of alien registration and voting are as follows:

(1) **Examine the scope of the known problem.** Demand the lists of aliens who have been discovered and removed for citizenship defects across the Commonwealth from the Secretary of the Commonwealth.

(2) **Review voting history for the noncitizens who registered to vote.** How many of them voted? Were any prosecuted for what constitutes both a state and federal crime?

(3) **Implement some measure of citizenship verification protocols in Pennsylvania.** There are a variety of options, ranging from requiring documentary proof of citizenship at registration, to accessing commercial or government databases to assist in citizenship verification, to, if nothing else, fixing the mess that has plagued Pennsylvania voter registration for years when it allowed aliens to register.

⁵ PILF; Garden State Gotcha: How Opponents of Citizenship Verification for Voting Are Putting New Jersey’s Noncitizens at Risk of Deportation (2017), <https://publicinterestlegal.org/blog/garden-state-gotcha-how-opponents-of-citizenship-verification-for-voting-are-putting-new-jerseys-noncitizens-at-risk-of-deportation/>

⁶ PILF; Alien Invasion II: The Sequel to the Discovery and Cover-Up of Noncitizen Registration and Voting in Virginia (2017), <https://publicinterestlegal.org/blog/alien-invasion-ii-sequel-discovery-cover-non-citizen-registration-voting-virginia/>

⁷ *PILF v. Manassas* and *PILF v. Chesterfield County* (completed in 2017), <https://publicinterestlegal.org/cases/pilf-v-susan-reed-city-manassas-va/>

Thank you for the opportunity to submit testimony.

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Respectfully submitted,
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