

**Demos**

# Contacting the State

## Expanding **Voter Registration** for Low-Income **Ohioans:**

The Impact of the National Voter Registration Act

Lisa J. Danetz



# About Dēmos

Dēmos is a non-partisan public policy research and advocacy organization. Headquartered in New York City, Dēmos works with advocates and policymakers around the country in pursuit of four overarching goals: a more equitable economy; a vibrant and inclusive democracy; an empowered public sector that works for the common good; and responsible U.S. engagement in an interdependent world.

Dēmos was founded in 2000.

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# About the Democracy Program

The Democracy Program works to strengthen democracy in the United States by reducing barriers to voter participation and encouraging civic engagement, focusing on barriers to participation by traditionally disfranchised communities. De`mos supports expanded democratic participation by conducting research; engaging in pro-voter litigation; providing information, resources and technical assistance to advocates and policymakers; and advancing a broad agenda for election reform.

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# About the Author

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# Introduction

Democracy works as intended when all citizens are able to participate and make their voices heard. While the United States has come a long way in expanding the franchise over the past 220 years, barriers to participation still exist and these barriers disproportionately affect low-income citizens. In 2008, the registration gap between low-income and high-income citizens was over 19 percentage points.<sup>1</sup>

Significantly, millions of low-income citizens could be brought into the political process each year by proper implementation of an often-neglected provision of the National Voter Registration Act (NVRA), which requires states to provide voter registration services to low-income persons through public assistance offices.<sup>2</sup> Ohio's experience—the subject of this report—provides a case in point, and offers valuable lessons both for advocates and for state officials seeking to encourage voter registration and achieve the full promise of the NVRA.

In the winter of 2005-2006, data analysis and field investigations showed that Ohio was, and for many years had been, violating its obligation to provide voter registration services to persons served by the Ohio Department of Job and Family Services. To rectify the situation in Ohio, Dēmos and its partners at the Lawyers' Committee for Civil Rights Under Law and Project Vote, with help from pro bono law firm Dechert LLP, brought a lawsuit on behalf of low-income Ohio citizens who had not received the required voter registration services.

After more than three years of hard-fought litigation, the lawsuit ended with a comprehensive settlement agreement in November 2009. As a result of the settlement agreement, Ohio has begun to see dramatic improvement in its performance, with 101,604 persons completing voter registration applications at state public assistance offices in the first six months of implementation, or approximately 16,900 per month—an increase of over 950 percent compared to the 1,775 registration applications per month produced by these same offices prior to the lawsuit.<sup>3</sup>

What follows is the story of Ohio's path toward meaningful implementation of the NVRA's requirements for voter registration services at state public assistance offices, and what this experience shows about the elements of a successful program.



# Section 7 of the NVRA

Section 7 of the NVRA requires states to provide voter registration services at all public assistance offices.<sup>4</sup> In particular, each public assistance office must, at a minimum, do the following:

- ▶ Distribute a voter registration application and a voter notice form (sometimes called a declination form) with each application, recertification, renewal, or change of address with respect to the receipt of benefits.<sup>5</sup>
- ▶ Provide assistance in completing the voter registration forms to the same degree the agency provides assistance in completing its own forms.<sup>6</sup>
- ▶ Accept completed voter registration applications and transmit them promptly to the appropriate elections official.

Because it reaches low-income citizens at the government offices they are most likely to visit, the public agency voter registration mandated by the NVRA is especially important in states with significant poverty.

# Examining Ohio's Record on Public Agency Voter Registration

Ohio is a state with significant levels of poverty. In 2006, when Dēmos filed its lawsuit, the state was reported to be “home to some of the highest rates of poverty and some of the lowest household incomes” in the United States.<sup>8</sup> Cleveland had the highest poverty rate among big cities in the United States and also had the lowest median household income of any big city in the United States.<sup>9</sup> Cincinnati joined Cleveland on the list of poorest places, at number eight.<sup>10</sup> And the poverty rate in Columbus increased almost 2 percentage points between 2004 and 2005.<sup>11</sup>

In the winter of 2005-2006, Dēmos and its partners began to look into Ohio's implementation of Section 7 of the NVRA, and we were disturbed by what we found. First, the available data showed little voter registration activity at the state's public assistance offices and, indeed, suggested that voter registration opportunities likely were not being provided there. Many offices of the Department of Job and Family Services (DJFS), which administers public assistance in Ohio, reported registering extremely few clients. In ten counties, DJFS offices did not register a single voter in two years<sup>12</sup>; DJFS offices in another 17 counties each collected fewer than ten voter registrations<sup>13</sup>; and DJFS offices in 32 additional counties each submitted fewer than 100 registrations<sup>14</sup> during the 2003-2004 reporting period. Moreover, the most recent available Census data showed an income-based registration gap of 24 percentage points: Only 68 percent of Ohioans in households making less than \$15,000 a year were registered to vote versus 92 percent of individuals in households making \$75,000 or more.<sup>15</sup>

Second, on-site visits substantiated the concerns that Ohio was not providing the voter registration services required by the NVRA. In the fall of 2005, spot-checks at the DJFS offices in Lorain, Franklin, Delaware, Lake, and Cuyahoga counties revealed that the offices did not even have voter registration application forms on site.<sup>16</sup> In the early winter, interviewers spoke to 103 people who had gone to DJFS offices for transactions covered under the NVRA and only three of those people reported being provided a form that asked whether they wanted to register to vote.<sup>17</sup>

Interestingly, during this time period, at least one small county in the state showed the great potential of effective NVRA Section 7 implementation. In the 2003-2004 period, 1,027 voter registration applications were collected in Athens County,<sup>18</sup> a rural county of approximately 60,000 residents in southeast Ohio.<sup>19</sup> Because of the leadership of its local county DJFS director, this small county DJFS office collected more voter registration application forms than did its counterparts in such highly populated counties as Franklin, Hamilton, Montgomery, and Summit Counties, each of which had more than 500,000 residents and exceeded the statewide percentage of persons below the poverty line.<sup>20</sup> Indeed, these four highly populated counties registered a combined total of just 1,686 voters at DJFS offices during the relevant time period.<sup>21</sup>

## Contacting the State

To address Ohio's clear problems in complying with the public agency voter registration provisions of the NVRA, Dēmos and its partners sent a notice letter to the Ohio Secretary of State and the Director of the Ohio Department of Job and Family Services. A local activist organization sent similar letters.<sup>22</sup> Such a notice letter is required by the NVRA before the onset of litigation to provide a state with the opportunity to cure the problem.

Unfortunately, Ohio was not interested in correcting its violation of federal law. The response sent on behalf of then-Secretary of State Kenneth Blackwell disclaimed any responsibility to ensure compliance with the NVRA and asserted that Ohio already had enough registered voters.<sup>23</sup> Dēmos and its partners made a further attempt to avoid litigation through a letter offering to meet with the Secretary's office to try to address the compliance issues, but received no response.

In late September 2006, Dēmos and its partners therefore filed a lawsuit against the Secretary of State and the Director of the Ohio Department of Jobs and Family Services. The lawsuit was on behalf of Carrie Harkless and Tameca Mardis, two public assistance recipients who were not offered voter registration when they sought public assistance benefits at Ohio DJFS offices, and on behalf of the Association of Community Organizations for Reform Now ("ACORN"), which often conducted voter registration drives in front of DJFS offices because DJFS offices were failing to provide the voter registration services required by federal law.

# Who Was Responsible for Ohio's Violation of Federal Law?

From Dēmos' perspective, the state officials' responsibility for the failed NVRA compliance was clear-cut. Federal law, through the NVRA, imposes responsibilities upon each *state* with respect to voter registration for federal elections, and therefore *state officials* must be held accountable for a failure of compliance. Dēmos' lawsuit therefore named as defendants: (1) the Secretary of State, as the chief election officer, and (2) the Director of the Ohio Department of Job and Family Services, as the head of the "single state agency," the entity responsible under federal law for the administration of federally funded public assistance in the state.

Both of these Ohio officials denied that they had responsibility for ensuring that DJFS offices provide the required voter registration services. Secretary of State Kenneth Blackwell indicated in court filings that he viewed his NVRA responsibilities as strictly limited to the adoption of administrative rules detailing the duties of designated agencies and the creation of a "training program" for such agencies—embodied in an instruction manual.<sup>24</sup> Whether this training was effective or was actually followed by DJFS offices was of no concern to the Secretary of State. While this response from then-Secretary of State Kenneth Blackwell may not have been surprising, advocates were disappointed when his successor, Jennifer Brunner—who campaigned for office by pledging elections that "were free, fair, open and honest"<sup>25</sup>—took the same position in court.<sup>26</sup>

For its part, the Ohio DJFS viewed state law as precluding it from taking any steps to ensure county compliance with the NVRA. Thus, from the perspective of both state officials who were named as defendants, each individual county Department of Job and Family Services was solely responsible for its own compliance with Section 7 of the NVRA, and state-level officials had no role in ensuring the state's compliance. In the view of these officials, even blatant disregard of the law by DJFS offices simply was not their problem to fix and, if plaintiffs or any other complainants had a problem with performance, they should take it up with individual county offices.

Although plaintiffs argued that this interpretation was directly at odds with the language of the NVRA and Congress' intent in enacting it,<sup>27</sup> the district court initially agreed with the state officials, granting a motion to dismiss and essentially saying that aggrieved plaintiffs needed to pursue a compliance action against each county DJFS individually.<sup>28</sup>

The plaintiffs appealed. For the NVRA to have the full intended societal impact—that state public assistance offices actually provide voter registration services as required—there must be an effective accountability mechanism in the event of compliance problems. If state-level officials could not be held responsible, NVRA enforcement could require, in any particular non-compliant state, the initiation of dozens of lawsuits against individual offices to combat statewide non-compliance—a nearly impossible hurdle for private citizens, or even the Department of Justice, to overcome.

The U.S. Department of Justice (under the Bush Administration) agreed with the plaintiffs' legal position, filing an amicus brief supporting them in the U.S. Court of Appeals for the Sixth Circuit.

The Sixth Circuit's decision was a victory for the plaintiffs and for strong enforcement of the NVRA. The Court held that both the Secretary of State and the state DJFS Director were liable for compliance failures in Ohio.<sup>29</sup> With respect to the Secretary, the Court agreed that the Secretary's responsibilities under the statute were clear:

To determine whether the Secretary may be held responsible for Ohio's NVRA violations, we need not look further than the text of the statute. The NVRA requires that each state designate a State officer or employee as the chief State election official to be responsible for coordination of State responsibilities under the NVRA.... As noted in the legislative history, this designated official is responsible for implementing the state's function under the bill.<sup>30</sup>

The Court also held that both state and federal law make the Director accountable for compliance problems.<sup>31</sup> Notably, with respect to federal law, the court stated:

[T]he Director, as the head of the "single state agency" in Ohio responsible for administering public assistance programs, has the responsibility to provide statewide voter registration services....

Federal regulations mandate that the "single state agency" for various federal public assistance programs must distribute voter information and registration materials as specified in the NVRA.... In Ohio, that "single state agency" is the DJFS.... And as already discussed, Ohio law also makes the statewide DJFS, and thus the Director, responsible for supervising the distribution of voter registration materials by local DJFS offices.<sup>32</sup>

The ruling was a unanimous opinion, joined by judges appointed by President George H.W. Bush and President William Jefferson Clinton.

# Ohio's Disregard of its Voter Registration Responsibilities

## State level problems

Once the case returned to the district court, the discovery process confirmed that neither the Secretary of State's office nor the state DJFS had exercised oversight or monitored the provision of voter registration services by county DJFS offices since the inception of agency-based registration in 1994. The state DJFS readily admitted it had taken no steps to ensure that county offices were providing voter registration services prior to the summer of 2008.<sup>33</sup> In addition, the long-time Elections Administrator in the Secretary's office—who had been with the Elections Division since prior to the passage of the NVRA and who had served a stint as Elections Director—testified that she had no knowledge of any particular Elections Division employee who had ever been assigned responsibility for coordinating or overseeing voter registration at county DJFS offices.<sup>34</sup>

To be clear, prior to the lawsuit, the Secretary of State's office did not entirely ignore Section 7, but its implementation was extraordinarily limited. The Secretary's office promulgated a single manual for all designated agencies in 1994 and then redistributed it with minor changes only sporadically after that time (in 2000 and 2006). And, although county agencies reported voter registration numbers to the Secretary's office periodically, *no one looked at the numbers to see whether voter registration was actually occurring.*<sup>35</sup> One result, for example, was that no one ever noticed instances of ridiculously low numbers, as happened with Lorain County—part of Greater Cleveland and including the 10th largest city in the state—which reported a total of 9 voter registration applications submitted at all its public assistance offices in the 2005-2006 reporting period.<sup>36</sup>

## County level problems

The discovery process also uncovered significant problems with Section 7 implementation at county DJFS offices. In fact, discovery showed that the problems were widespread in the state's most populous counties as well as others with larger percentages of low-income residents.

For example, evidence from Franklin County, the state's capitol, showed a disturbing disregard of voter registration responsibilities.<sup>37</sup> The state DJFS Director Douglas Lumpkin, who served as the director of the Franklin County DJFS from approximately 2006 through 2008, testified under oath that he did not know whether case managers at Franklin County DJFS offices provided voter registration services to applicants for public assistance during his tenure, nor did he speak to the NVRA Coordinator or any other employee of the Franklin County DJFS office about whether the required voter registration services were offered.<sup>38</sup> The current Franklin County NVRA Coordinator testified that, other than at the time of original implementation in 1995, there were

no voter registration policies issued prior to February 2008 (more than 18 months after we sent our notice letter), and that no training on NVRA responsibilities was conducted until May 2008. From January to May 2008,<sup>39</sup> the Franklin County DJFS did not generate even a single voter registration application and, by July 2008, almost two years after we filed suit, the county DJFS had transmitted fewer than ten to the local Board of Elections.<sup>40</sup> In that same time period, the county DJFS had an average SNAP<sup>41</sup> caseload of 131,983 clients per month.<sup>42</sup>

There was not much attention paid to voter registration at the Cuyahoga County DJFS either.<sup>43</sup> The director testified that the Cuyahoga DJFS created a voter registration plan but did not follow it.<sup>44</sup> The county kept voter registration applications on desks in each of its seven offices rather than distribute the voter registration applications with each application, reapplication or change of address with respect to benefits as required by the NVRA. In response to a question about whether case managers even discussed voter registration services with clients during face to face interviews, the director replied that his “general impression is that that happens occasionally but with little frequency.”<sup>45</sup> It was therefore perhaps unsurprising that, for 2007-2008, Cuyahoga County reported only 295 voter registration applications as submitted through public assistance agencies.<sup>46</sup>

At the Hamilton County DJFS, many of the demonstrated problems revolved around changes of address.<sup>47</sup> Nationwide, low-income individuals are over twice as likely to move as those with incomes above the poverty line.<sup>48</sup> When a public assistance client changes his or her address for the receipt of benefits, it is particularly important that voter registration services be provided because, even if the client is already registered to vote, the client also will need to change his or her voter registration address. At the Hamilton County DJFS, clients who reported a change of address received the agency’s address change forms from the receptionist and then dropped the completed forms in a box. There were no policies to provide voter registration applications with those forms, to instruct clients to update their voter registration information, or to offer any assistance.<sup>49</sup>

Problems were not limited to large counties. In Ross County, a small county of approximately 76,000 people, 16.3% of individuals live below the poverty line.<sup>50</sup> At a 2009 summer conference for staff of local Boards of Elections, an attendee from Ross County told the Secretary’s staff that people had been arriving at the Board of Elections to register to vote, stating that the county DJFS office told them to apply at the Board of Elections—even though the NVRA requires the county DJFS office to provide voter registration services itself.<sup>51</sup>

# Mediation and Settlement

At the conclusion of discovery and with the assistance of a magistrate judge at two mediation sessions, the defendants finally agreed to a settlement that provided meaningful relief to ensure future compliance with the public assistance registration requirements of the NVRA.<sup>52</sup> The Settlement Agreement contains many elements, including important requirements concerning notice, procedures, training, data collection, reporting, oversight, and additional services:

## NOTICE

- ▶ Notice of Settlement Agreement provided by the state DJFS to all relevant staff, along with explanation of requirements;

## PROCEDURES

- ▶ Designation of a staff person, within both the Secretary's office and the state DJFS, with responsibility for the state's compliance and implementation of Section 7 of the NVRA;
- ▶ Integration of the offer of voter registration, the offer of assistance, and a voter registration application within each agency benefits form;
- ▶ Modification of the DJFS statewide computer system used by all frontline caseworkers for client interviews to incorporate the provision of voter registration, whether interviews occur in or out of the office;
- ▶ Requirement that DJFS employees assist clients in completing voter registration materials to the same degree as they assist in completing other agency forms;
- ▶ Inclusion of a voter registration application and Notice of Rights form<sup>53</sup> with on-line applications, reapplications, and changes of address, and assistance in completing the forms to the same degree as is provided with regard to completion of other agency on-line forms;

## TRAINING

- ▶ Creation or revision, and distribution, of voter registration materials by the Secretary including a poster announcing the availability of voter registration, the Designated Agency Voter Registration Instruction Manual, and PowerPoint training materials;
- ▶ Maintenance of training materials on state DJFS intranet and Secretary's website;
- ▶ Implementation of an extensive and regular training program for those employees with voter registration responsibilities<sup>54</sup>;
- ▶ Maintenance by the Secretary's office of a toll free telephone help line dedicated to voter registration questions;



## REPORTING

- ▶ Monthly reporting of voter registration applications submitted by each county DJFS;
- ▶ Automated reporting, by month and by county, of the numbers of (i) notice of rights information documents printed; (ii) voter registration application forms distributed as well as the breakdown of voter registration applications provided in person as a separate form, by mail, or attached to other forms; and (iii) total of applications, reapplications, and changes of address;
- ▶ Quarterly reporting by each county Board of Elections of the number of voter registration applications originating from a county DJFS;
- ▶ Obligation that the Secretary's office use data collected pursuant to new procedures in biennial reporting to the U.S. Election Assistance Commission;

## OVERSIGHT

- ▶ Monthly review by the state DJFS of reported data and follow up with any county DJFS where there has been an abnormally low number of voter registrations or the data show other significant anomalies;
- ▶ Quarterly review by the Secretary's office of the numbers of voter registration applications reported to have been submitted by county DJFS offices to local Boards of Elections, and follow-up in counties where it appears there may be problems;
- ▶ Institution of a regular review of voter registration services, using the same mechanisms the state DJFS employs to oversee the local administration of the Supplemental Nutrition Assistance Program (formerly Food Stamps);
- ▶ Spot checks, investigations and self-assessments;
- ▶ Enforcement procedures for compliance failures;
- ▶ Remedial action for individuals not given the opportunity to register to vote;

## ADDITIONAL VOTER REGISTRATION SERVICES TO BROADEN VOTER REGISTRATION AMONG LOW-INCOME RESIDENTS

- ▶ Designation of the Department of Veterans Affairs, in its administration of medical services and services for homeless veterans, as a voter registration agency<sup>55</sup>;
- ▶ Education of inmates about to be discharged and recently released offenders about their voting rights in Ohio and encouragement of voter registration upon release.

# The Numbers Show Substantial Improvement

In the wake of the settlement agreement signed in November 2009, the results have been dramatic. In the first six months of reporting under the settlement—January through May 2010—101,604 voter registration applications were submitted at the county DJFS offices, averaging 16,900 per month, an improvement of over 950 percent.<sup>56</sup> Before the filing of the lawsuit, by contrast, Ohio was registering only 1,775 persons at public assistance offices each month.

Indeed, our experience with other states suggests that this high level of success can be maintained over time with proper adherence to the improved procedures called for in the settlement. In nineteen and a half months since the entry of a preliminary injunction and settlement agreement in a similar lawsuit in Missouri (a state with a smaller public assistance caseload than Ohio), that state has averaged over 11,000 voter registration applications from its public assistance offices each month.<sup>57</sup> We see no reason why Ohio should have a different experience.

## Ohio's initial success is evident at the individual and county level as well:

- ▶ In March 2010, lead plaintiff Carrie Harkless was offered voter registration services by the Lorain County DJFS office where she receives benefits, which allowed her to register at a new address. This was the very first time Ms. Harkless was offered voter registration as required under the NVRA.
- ▶ Ohio's larger county DJFS offices are now submitting registration applications for significant numbers of clients every month. Franklin County, one of Ohio's largest and home to the state capital, reported 1,623 registration applications in January, 1,931 in February, 2,714 in March, and 2,472 in April. In each month, over a quarter of the clients engaging in an in-person NVRA-covered transaction completed a voter registration application.<sup>58</sup>
- ▶ Several counties that had not registered a single voter in the 2003-2004 reporting period are now collecting over 100 registration applications each month. For example, in January 2010, Medina County, a mid-sized county, produced 126 registration applications, representing over 17 percent of its in-person NVRA-covered transactions.<sup>59</sup>
- ▶ Even smaller counties are registering a significant percentage of their clients. In April 2010, 27 clients in Brown County completed a voter registration application, representing 48 percent of the number of clients engaging in an in-person covered transaction. Similarly, Belmont County collected registration applications from 69 percent of the 340 clients completing an in-office covered transaction in April.<sup>60</sup>

# Conclusion

Three years of negotiation, litigation, and other advocacy resulted in a vastly improved system for providing voter registration services to Ohio's low-income citizens. The Sixth Circuit now has clarified that state officials are responsible for implementation and oversight of voter registration services at the state's public assistance offices. Specific staff, at both the state and county levels, have been assigned responsibility for NVRA compliance; new training materials have been created and trainings are occurring frequently; voter registration applications are attached to almost all application, reapplication, and change of address forms; there is regular reporting and review of voter registration information and data; a county self-assessment process and regular review of voter registration services have been instituted; and remedial action is taken to ensure individuals not given the opportunity to register to vote are provided that opportunity.

All in all, it is a comprehensive system—and one that is clearly working for the more than 100,000 individuals who have been able to register to vote using the state's new procedures since they were instituted on January 1, 2010.<sup>61</sup> With proper implementation of the public agency provisions of the NVRA, hundreds of thousands of eligible low-income voters in additional states throughout the country also could be added to the ranks of registered voters, helping to fulfill the NVRA's goal of a fully inclusive and representative democracy.

# Endnotes

1. U.S. Census Bureau, Current Population Survey, Voting and Registration in the Election of November 2008, analysis by Dēmos.
2. See 42 U.S.C. § 1973gg-5(a).
3. Based on information provided under the Settlement Agreement, the monthly average of voter registration applications submitted to county DJFS offices since the implementation of the Settlement Agreement has been 16,881. Prior to the lawsuit, the monthly average was 1,775. U.S. Election Assistance Commission, The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 2005-2006, available at <http://www.eac.gov/program-areas/research/eavs/national-voter-registration-act-studies>.
4. 42 U.S.C. § 1973gg-5(a).
5. 42 U.S.C. § 1973gg-5(a)(4)(A)(i); 42 U.S.C. § 1973gg-5(a)(6)(A) & (B).
6. 42 U.S.C. § 1973gg-5(a)(4)(A)(ii); 42 U.S.C. § 1973gg-5(a)(6)(C).
7. 42 U.S.C. § 1973gg-5(a)(4)(A)(iii); 42 U.S.C. § 1973gg-5(d).
8. Tim Doulin and Sherri Williams, “Poverty Figures Grimmer for Ohio,” The Columbus Dispatch (August 30, 2006).
9. Bruce H. Webster Jr. and Alemayehu Bishaw, U.S. Census Bureau, Income, Earnings, and Poverty Data From the 2005 American Community Survey, at 18 (issued August 2006), available at <http://www.census.gov/prod/2006pubs/acs-02.pdf> (last viewed April 29, 2010).
10. *Id.*
11. “Poverty Figures Grimmer for Ohio,” *supra* at 8.
12. Data provided by the State of Ohio in *League of Women Voters v. Ohio*, No. 05-cv-7309 (N.D. Ohio). DJFS offices in Erie, Guernsey, Jefferson, Medina, Morgan, Morrow, Muskingum, Ross, Washington and Wyandot counties failed to register a single voter during the 2003-2004 reporting period.
13. *Id.* DJFS offices in Ashland, Clermont, Coshocton, Hancock, Hardin, Hocking, Jackson, Licking, Logan, Lorain, Mercer, Monroe, Perry, Pickaway, Richland, Seneca, and Union counties each collected fewer than ten voter registration applications during the 2003-2004 reporting period.
14. *Id.* DJFS offices in Adams, Auglaize, Brown, Butler, Champaign, Crawford, Fayette, Fulton, Geauga, Harrison, Henry, Holmes, Huron, Lake, Madison, Meigs, Montgomery, Noble, Ottawa, Paulding, Pike, Putnam, Sandusky, Scioto, Shelby, Summit, Vinton, Warren, Wayne, Williams and Wood counties each submitted fewer than 100 voter registration applications during the 2003-2004 reporting period.
15. U.S. Census Bureau, Current Population Survey, Voting and Registration in the Election of November 2004, analysis by Dēmos.
16. Deposition of Anne Bringman, at 13:16-14:1, 15:6-17:7 (Sept. 24, 2009), in *Harkless v. Brunner*, No. 06-cv-2284. (N.D. Ohio).
17. Complaint at 28, *Harkless v. Brunner*, No. 06-cv-2284 (N.D. Ohio Sept. 21, 2006).
18. Data provided by State of Ohio in *League of Women Voters v. Ohio*, No. 05-cv-7309 (N.D. Ohio).
19. U.S. Census Bureau, State and County QuickFacts, 2006. 2009 estimates available at <http://quickfacts.census.gov/qfd/states/39/39009.html>.

20. U.S. Census Bureau, State and County QuickFacts, 2006. 2009 data available at [http://quickfacts.census.gov/qfd/maps/ohio\\_map.html](http://quickfacts.census.gov/qfd/maps/ohio_map.html).
21. Data provided by the State of Ohio in *League of Women Voters v. Ohio*, No. 05-cv-7309 (N.D. Ohio).
22. See Letter from Cynthia Samples and Roslyn Talerico, Co-Convenors, Greater Cleveland Voter Coalition, to J. Kenneth Blackwell, Secretary, Office of the Ohio Secretary of State (February 23, 2006) (Complaint Exh. A, in *Harkless v. Brunner*, No. 06-cv-2284. (N.D. Ohio Sept. 21, 2006)).
23. Letter from Judy Grady, Director of Elections and Election Reform, Office of Ohio Secretary of State, to Letter from Cynthia Samples and Roslyn Talerico, Co-Convenors, Greater Cleveland Voter Coalition, copied to Neil Steiner, Partner, Dechert LLP (May 26, 2006) (Complaint Exh. C, in *Harkless v. Brunner*, No. 06-cv-2284. (N.D. Ohio Sept. 21, 2006)).
24. Motion to Dismiss of Defendant J. Kenneth Blackwell, Secretary of State, at 3-4, in *Harkless v. Blackwell*, No. 06-cv-2284 (N.D. Ohio Oct. 16, 2006).
25. See, e.g., [http://www.jenniferbrunner.com/index.php/pages/index\\_new/about\\_jennifer\\_brunner/](http://www.jenniferbrunner.com/index.php/pages/index_new/about_jennifer_brunner/) (last viewed May 18, 2010).
26. Proof Brief of Defendant-Appellee Jennifer Brunner, Ohio Secretary of State, at 13-34, in *Harkless v. Brunner*, Nos. 07-3829, 07-4165 (6th Cir. Dec. 31, 2007); Defendant Secretary of State's Memorandum Contra Plaintiffs' Motion For Reconsideration, at 1, 2, in *Harkless v. Brunner*, No. 06-cv-2284 (N.D. Ohio Feb. 26, 2007).
27. See 42 U.S.C. § 1973gg-8 ("Each state shall designate a State officer or employee as the chief State election official to be responsible for coordination of State responsibilities under [the NVRA]."); S. REP. NO. 103-6, at 39 (1993) ("[E]ach state would have to designate a chief state election official responsible for implementing the state's function under the bill.").
28. *Harkless v. Blackwell*, 467 F.Supp.2d 754, 764, 768-769 (N.D. Ohio 2006), rev'd sub nom. *Harkless v. Brunner*, 545 F.3d 445 (6th Cir. 2008).
29. *Harkless v. Brunner*, 545 F.3d 445 (6th Cir. 2008).
30. *Id.* at 451 (internal quotations and citations omitted).
31. *Id.* at 455-458.
32. *Id.* at 455-458 (internal quotations and citations omitted).
33. Answer of Director Lumpkin to Plaintiff Tameca Mardis' First Set of Interrogatories to Defendant Douglas Lumpkin, at 9, in *Harkless v. Brunner*, No. 06-cv-2284 (N.D. Ohio July 24, 2009) (Answer to Interrogatory #4).
34. Deposition of Patricia A. Wolfe, at 17:22-18:10, 20:8-20:14, 65:17-66:14, 154:5-157:20, 250:6-251:8 (June 26, 2009) in *Harkless v. Brunner*, No. 06-cv-2284 (N.D. Ohio).
35. *Id.* at 88:18-25, 89:16-90:6; Deposition of Patricia A. Wolfe Vol. II, at 237:16-20, 287:19-289:1, 295:4-7 (Sept. 15, 2009) in *Harkless v. Brunner*, No. 06-cv-2284 (N.D. Ohio).
36. See U.S. Election Assistance Commission, 2006 Election Administration and Voting Survey Data Files (Excel Spreadsheet, page juri\_02\_34, column AD), available at <http://www.eac.gov/program-areas/research/doc/eds-2006/data-files-and-survey-chapters> (last viewed May 26, 2010).

37. Franklin County is the state's second most populous county and 15.1% of individuals there live below the poverty line, compared to 13.3% statewide. See U.S. Census Bureau, State and County QuickFacts, available at <http://quickfacts.census.gov/qfd/states/39/39049.html> (last viewed April 29, 2010).
38. Deposition of Douglas Lumpkin (improperly titled Deposition of Donald Lumpkin), at 21:6-15, 23:20-27:22, 57:5-58:5 (June. 18, 2009) in *Harkless v. Brunner*, No. 06-cv-2284 (N.D. Ohio).
39. Deposition of Carmen Duckens, at 13:20-16:13, 213:15-214:14 (Sept. 18, 2009) in *Harkless v. Brunner*, No. 06-cv-2284 (N.D. Ohio).
40. *Id.* at 107:5-108:14.
41. SNAP refers to the Supplemental Nutrition Assistance Program, formerly known as Food Stamps.
42. Ohio Department of Job and Family Services, Public Assistance Monthly Statistics Report for January through May 2008, available at <http://jfs.ohio.gov/pams/archive.stm>.
43. Cuyahoga County has the state's largest population and 15.9% of individuals there live in poverty, compared to 13.3% statewide. See U.S. Census Bureau, State and County QuickFacts, available at <http://quickfacts.census.gov/qfd/states/39/39035.html> (last viewed April 29, 2010).
44. Deposition of Joseph Gauntner, at 110:13-112:8 (Sept. 23, 2009) in *Harkless v. Brunner*, No. 06-cv-2284 (N.D. Ohio).
45. *Id.* at 35:16-23.
46. U.S. Election Assistance Commission, Data set for The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 2007-2008, available at <http://www.eac.gov/program-areas/research/eavs/the-impact-of-the-national-voter-registration-act-on-federal-elections-2007-2008>.
47. Hamilton County is the state's third most populous county and 13.6% of individuals there live below the poverty line, compared to 13.3% statewide. See U.S. Census Bureau, State and County QuickFacts, available at <http://quickfacts.census.gov/qfd/states/39/39061.html> (last viewed April 29, 2010).
48. Scott Novakowski, Democracy in a Mobile America, (Dēmos, July 2009), available at [http://www.demos.org/pubs/democracy\\_mobile.pdf](http://www.demos.org/pubs/democracy_mobile.pdf).
49. Deposition of James A. Ashmore, at 38:24-41:19, 64:1-5, 76:23-77:2 (Sept. 29, 2009), in *Harkless v. Brunner*, No. 06-cv-2284 (N.D. Ohio).
50. U.S. Census Bureau, State and County QuickFacts, accessed April 29, 2010, available at <http://quickfacts.census.gov/qfd/states/39/39141.html>.
51. Deposition of Gretchen Quinn, at 72:8-24 (June 24, 2009), in *Harkless v. Brunner*, No. 06-cv-2284 (N.D. Ohio).
52. The Settlement Agreement is available at <http://www.demos.org/pubs/Signed%20Final%20Settlement%20Agreement.pdf>.
53. The Notice of Rights form contains most of the information required to be provided in the form described by 42 U.S.C. § 1973gg-5(a)(6)(B).
54. A statewide training for county DJFS NVRA Coordinators will occur annually with quarterly updates for the first two years. In addition, the county DJFS NVRA Coordinators will provide annual training to county personnel as well as training for new staff within one month after their start date or before their first public contact, whichever occurs first.
55. This designation becomes effective only upon acceptance of the designation by the Secretary of the Department of Veterans Affairs. See 42 U.S.C. § 1973gg-5(a)(3)(B)(ii).

56. 2010 data provided by Ohio Department of Jobs and Family Services pursuant to settlement agreement in *Harkless v. Brunner*, No. 06-cv-02284 (N.D. Ohio). Comparison data from U.S. Election Assistance Commission, The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 2005-2006, available at [http://www.eac.gov/program-areas/research-resources-and-reports/copy\\_of\\_docs/the-impact-of-the-national-voter-registration-act-on-federal-elections-2005-2006/attachment\\_download/file](http://www.eac.gov/program-areas/research-resources-and-reports/copy_of_docs/the-impact-of-the-national-voter-registration-act-on-federal-elections-2005-2006/attachment_download/file).
57. Data provided by Missouri Department of Social Services pursuant to compliance plan in *Association of Community Organizations for Reform Now v. Scott*, No. 08-cv-04084 (W.D. Mo.).
58. Data provided by Ohio Department of Jobs and Family Services pursuant to settlement agreement in *Harkless v. Brunner*, No. 1:06-cv-02284 (N.D. Ohio).
59. Data provided by Ohio Department of Jobs and Family Services pursuant to settlement agreement in *Harkless v. Brunner*, No. 1:06-cv-02284 (N.D. Ohio).
60. *Id.*
61. *Id.*

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