



COUNCIL OF THE DISTRICT OF COLUMBIA
Committee on the Judiciary & Public Safety
Performance Oversight Hearing, DC Board of Elections

Testimony of Stacey Litner, Prisoners' Rights Advocacy Director
Washington Lawyers' Committee for Civil Rights and Urban Affairs
February 9, 2022

The right to vote is a fundamental element of participation in our democracy. In 2020, the Council took an important step by enacting the Restore the Vote Amendment Act, which eliminated the exclusion of incarcerated individuals from the franchise.¹ This measure ended a racialized practice of denying the vote to incarcerated individuals that had its origins in Jim Crow laws; and to reaffirm that the voice of every member of our community matters. The goal of this legislation, to ensure that the franchise is meaningful for incarcerated persons, is at risk of being undermined by a series of administrative obstacles. While we believe that the Board of Elections is sincerely committed to assisting incarcerated persons to vote, and has taken steps to do so, there are additional measures that must be taken to transform the objectives of the law into reality.

Update the Voter Registration Application to Clarify Incarcerated Residents' Eligibility

Chapter 10 of the D.C. Code defines a person's residence as the primary home where they live, or where they intend to return after an absence.² The Code clarifies that when an individual is kept at any institution at public expense—which applies to individuals who are incarcerated—their residency will remain unchanged.³ As a result, D.C. residents who are incarcerated outside of the District may still vote in the District's elections.

While the Code is clear, the Voter Registration Application and Board of Elections' regulations are not. The current Voter Registration Application instructs people that in order to vote in D.C., they must "maintain residency in the District of Columbia for at least 30 days prior to the election" in which they intend to vote.⁴ This language tracks the language of the Board of Elections' regulation on voter registration.⁵ Neither the form nor the Board of Elections regulation, however, define residency to include incarcerated individuals, as intended under the Restore the Vote Amendment Act and as defined in the D.C. Code described above. As a result, the form is, at best, ambiguous and confusing. At worst, the form is substantially likely to disenfranchise incarcerated residents, who may read that language as requiring them to be physically present in the District for thirty day in order to be eligible to vote.

¹ D.C. Law 23-277. Restore the Vote Amendment Act of 2020; D.C. Act 23-484; 67 DCR 13867.

² D.C. CODE § 1-1001.02(16)(A).

³ D.C. CODE § 1-1001.02(16)(E).

⁴ Available at https://www.dcboe.org/dcboe/media/PDFFiles/VRF-English-10122021-filable_1.pdf.

⁵ D.C. Mun. Regs. Tit. 3, § 3-500.

This difficulty played out during the last election. Despite being informed of the right to vote, many incarcerated residents struggled with completing the form. Specifically, Field 4 of the Voter Registration Application—the “Address Where You Live” field—requires the provision of a District address. The form contains no guidance for residents incarcerated outside the District on how to complete this field, since the address where they “live” is out of state, but their residence, as a matter of law, is in the District. As a result of the lack of clear direction on the form, we are aware of individuals who completed the application incorrectly and would have been denied the right to vote during the last election without guidance from advocates.

The Board of Elections recognized this problem and has attempted to address it by creating an instruction sheet for incarcerated individuals. The instruction sheet directs those residents to list their last District address prior to incarceration in Field 4, despite that the language of the form asks not for the person legal “residence,” but for “where you live.” The wording of the form is extremely confusing. Further, the form warns individuals that if they sign the declaration and knowingly include false information, they can be fined up to \$10,000 and/or imprisoned for up to five years. Thus, incarcerated residents are being instructed to include an address in Line 4 other than the “address where you live,” but is in fact their residence for voting purposes, and then attest that it is the address where they live under threat of imprisonment or a fine.

These difficulties are compounded by the fact that the Board of Elections’ instruction sheet for incarcerated residents is not part of the application form itself. Rather, it is a separate document that is not online or otherwise commonly available. The Board of Elections provided the instructions to the Bureau of prisons to distribute to District residents in their custody without any mechanism to ensure that it was actually received. Thus, it is likely that incarcerated individuals will not receive the instructions, and therefore will either not fill out the registration form or will fill it out incorrectly; making it unlikely they will be able to successfully register to vote.

To ensure that the objectives of the Restore the Vote Act Amendment are fully realized, the Board of Elections must promulgate emergency regulations specifically addressing these issues and clarifying the qualifications for incarcerated individuals to vote.⁶ Further, the Board should immediately update Field 4 of the Voter Registration Application to ask for a person’s residence, as opposed to where they live, provide a complete definition of residency on the form, and instructions for what address should be listed by incarcerated applicants as their “residence.”

Add a Field for Jail/Prison Identification Number to the Registration Form

Nearly every jail and prison in the United States assigns an identification number to persons incarcerated within their jurisdiction and requires that number to be included on all incoming mail. The Voter Registration Application, however, does not request that information. If the Board of Elections sends a ballot to an incarcerated resident without their jail or prison ID number displayed in the address on the

⁶The Board of Elections is authorized to promulgate rules after a 30 day notice, D.C. CODE § 2-505, allowing for this change to be made well before the June 2022 elections. While substantively different, the Board of Elections has previously promulgated rules specific to other unique groups of voters, such as uniform and overseas residents.

envelope, the mail will not be delivered. Amending the Voter Registration form to collect incarcerated residents' jail or prison ID number is necessary to comply with the Restore the Vote Act's requirement that the Board of Elections make efforts to directly provide every registered qualified elector in custody with an absentee ballot and postage-paid return envelope.⁷

While the Board of Elections is aware of this problem, it has taken the position that it is unable to collect jail and prison ID numbers because doing so would violate the National Voter Registration Act of 1993. The Committee disagrees. The Campaign Legal Center addressed the Board of Elections' concerns on this issue in writing; clarifying that the National Voter Registration Act is not applicable to the Bureau of Prisons, and that even if it were, nothing in that act prohibits collection of prisoner ID numbers, just the *disclosure* of them.⁸ The Board of Elections has not replied to that letter. Further, prison ID numbers are already publicly available on the BOP's inmate locator website.⁹ Thus, requesting this information through the Voter Registration Application creates no risk of releasing private information, and significantly increases the likelihood that incarcerated district residents will not be disenfranchised. The Board of Elections should, therefore, immediately update the Voter Registration Application to directly collect prison and jail ID numbers.¹⁰

Data Tracking and Sharing

To ensure that the intent of Restore the Vote is fulfilled, it is essential the Board of Elections track and share data specific to the incarcerated population. We have several suggestions for how to improve data tracking and sharing.

Voter Registration Status Website

The Board of Elections currently allows District residents to check their voter registration status through its election website. While the website contains several important pieces of information, it does not include information about where the resident receives their mail (Field 5 of the Voter Registration Application). Because transfers are frequent within a jail or prison setting, access to this information is critical. Without it, family members and advocates have no way of helping incarcerated residents determine whether a ballot will be sent to them at their current facility. The Board of Elections should therefore update the online Voter Registration Status website to include the information from Field 5 of the Voter Registration Application.

Elections Modernization Amendment Act of 2021

⁷ D.C. CODE § 1–1001.05(9A)(B) (Perm)(2021).

⁸ For a more detailed analysis of this issue, please see the Campaign Legal Centers November 16, 2021 letter attached to this testimony.

⁹ <https://www.bop.gov/inmateloc/>.

¹⁰ The Committee does not believe that additional regulations need to be promulgated in order to update the Voter Registration Application with jail or prisoner ID numbers. However, if the Board of Elections determines that such regulations are necessary, they should be promulgated as emergency regulations in order to ensure that the necessary changes to the form can be made expeditiously.

Currently pending before the Council is the Elections Modernization Amendment Act of 2021 (B24-0507). The Committee urges the Council to pass this legislation with two changes. First, the provision of the Act requiring the Board of Elections to create a website for voters to track their ballots—paragraph 10(C)(B)(i)—should additionally require the Board of Elections to include a field listing the address where the individual’s ballot was sent. Like the recommendation regarding the registration website above, this would allow incarcerated residents or their advocates to confirm that a ballot was mailed to the correct address.

Second, paragraph 21 of the Act should be amended to require the Board of Elections to track data relating to incarcerated individuals. Specifically, the aggregate number of residents held in each DC DOC and BOP facility,¹¹ the number of individuals who have filled out the Voter Registration Application broken down by facility, the number of individuals registered to vote at each facility, the number of completed ballots the Board of Elections received by facility, and the number of ballots counted by facility. Tracking and sharing data specific to this population will allow future barriers to be identified and remedied. This information will also allow the Board of Elections, advocates, family members, and candidates to conduct voter registration and get out the vote initiatives.

Conclusion

The Restore the Vote Amendment Act was a crucial step towards restoring the right to vote to the thousands of District residents. We are here today to ask the Council and Board of Elections to remove these additional barriers to ensure that the right given can be exercised.

¹¹ If the Board of Elections is unable to obtain data from the BOP about the number of DC residents by facility, the remaining should still be collected and made publicly available.



November 16, 2021

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Re: Collecting Bureau of Prisons register numbers on voter registration forms

Dear Ms. McCann:

We write to support the Board's ongoing efforts to facilitate voter registration and participation for incarcerated D.C. residents. In particular, this letter explains why the National Voter Registration Act of 1993 (NVRA or Act) does not bar the Board from collecting individuals' Federal Bureau of Prisons (BOP) register numbers as part of the voter registration process.

We recognize and applaud the Board for its efforts to increase voter registration and participation among D.C. residents incarcerated in BOP facilities. One tool that would further these efforts is access to incarcerated residents' BOP register numbers, which would allow the Board to correspond with and distribute materials to those residents by mail. The Board could collect these register numbers by including a field on the standard voter registration form where incarcerated residents can enter their numbers.¹ The Board has expressed concern, however, that collecting this information on registration forms could violate a provision of the NVRA that prohibits disclosing

¹ We recognize that collection of BOP register numbers on registration form may not be necessary if the Board and BOP are otherwise able to guarantee smooth transmission of election-related mail to incarcerated D.C. voters. Indeed, CLC has encouraged the BOP to promulgate a "routine use exception" to the Privacy Act to facilitate this collaboration. See Letter Re: Routine Usage Exception to Allow for Implementation of Universal Enfranchisement and Abolition of Prison Gerrymandering, from CLC, the Washington Lawyers' Committee for Civil Rights Under Law, and the League of Women Voters to Attorney General Merrick Garland (March 30, 2021), https://campaignlegal.org/sites/default/files/202103/DRAFT_03.30.2021_Routine%20Usage%20Exception%20Letter%20DOJ%20%5Bfinal%5D.pdf. If an agreement between the Board and BOP is not established in time for the 2022 election, the Board is not prohibited from soliciting BOP register numbers on the standard voter registration form for the reasons outlined in this memorandum.

the voter registration agency (VRA) through which an individual registered. In particular, the Board expressed concern that, were members of the public to access an incarcerated individual's registration records and see a BOP number listed, they would learn that that individual registered from the BOP. The Board has also indicated that, even if collecting register numbers would not technically violate the NVRA, doing so might violate the intent or policy of the Act.

We write to address these concerns. As discussed below, the NVRA's nondisclosure provision does not apply to the BOP and, even if it did, would not prohibit *collection* of BOP register numbers—only *disclosure* of them. Moreover, because collecting individuals' register numbers would facilitate voter registration and participation, doing so would best serve the Act's purposes. Thus, the Board should not be deterred from updating its voter registration form to include a field for BOP register numbers in order to help all D.C. residents exercise their fundamental right to vote.

I. Background on the NVRA

Congress enacted the NVRA in order to facilitate increased voter registration and participation.² To achieve this end, the Act requires states (including the District) to provide multiple avenues for voter registration.³ As relevant here, states must designate various existing offices as “voter registration agencies” (VRAs), which must then provide services related to voter registration in addition to their regular functions.⁴

The Act also imposes disclosure requirements on states, which must “make available for public inspection . . . all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.”⁵ Every court that has considered the question has concluded that this disclosure requirement extends to data collected from individual registrants.⁶ However, the Act excepts certain information from disclosure.⁷ The exception at issue here limits states' obligation to disclose records “to the extent that such records relate to . . . the identity of a [VRA] through which any particular voter is registered.”⁸ Elsewhere, the statute goes further and affirmatively requires

² 52 U.S.C. § 20501(b)(1)-(2). *See generally, e.g.*, Disabled in Action of Metro. N.Y. v. Hammons, 202 F.3d 110, 114-15 (2d Cir. 2000) (discussing Act's history, purposes, and provisions)

³ *See* 52 U.S.C. § 20503(a); *see also id.* § 20502(4) (defining “state” to include the District).

⁴ *See id.* § 20506.

⁵ *Id.* § 20507(i)(1).

⁶ *See* Ill. Conservative Union v. Illinois, No. 20 C 5542, 2021 WL 2206159, at *5 (N.D. Ill. June 1, 2021) (collecting cases).

⁷ *See* 52 U.S.C. § 20507(i)(1).

⁸ *Id.* The other exception is for records “relate[d] to a declination to register to vote.” *Id.*

states to “ensure that the identity of the [VRA] through which any particular voter is registered is not disclosed to the public.”⁹

II. The NVRA’s nondisclosure provision does not apply to the BOP.

Collection of BOP register numbers on registration forms would not violate (or risk eventual violation of) the NVRA. First, the BOP is not a VRA. Thus, disclosure of information connecting an applicant to the BOP would not violate the prohibition on revealing the VRA through which an individual applicant registered. Second, even if the BOP were a VRA, incarcerated individuals likely would not register *through* the BOP, such that the NVRA’s disclosure prohibition again would not apply.

A. The BOP is not a VRA for the District.

Collection and potential disclosure of individuals’ BOP register numbers cannot violate the Act’s prohibition on revealing the VRA through which an individual registered because the BOP is not a VRA. The Act divides VRAs into two categories: those that the state “shall designate”¹⁰ (mandatory VRAs) and those that the state chooses to designate (discretionary VRAs).¹¹ To be a VRA, then, the BOP would need to fit into one of those categories. However, the agency fails the requirements of both.

First, BOP cannot be a mandatory VRA because it is a federal agency. As the Second Circuit—the only federal appellate court to consider the question—has recognized, the text, structure, and legislative history of the Act all show that federal agencies (with the exception of armed forces recruiting centers¹²) can never qualify as mandatory VRAs.¹³ While the NVRA explicitly designates certain state agencies as mandatory VRAs,¹⁴ a neighboring provision of the

⁹ *Id.* § 20507(a)(6).

¹⁰ *Id.* § 20506(a)(2).

¹¹ *See id.* § 20506(a)(3). The state must designate at least some discretionary VRAs but is free to choose to which offices it gives that label. *Disabled in Action of Metro. N.Y. v. Hammons*, 202 F.3d 110, 115 (2d Cir. 2000); *see* 52 U.S.C. § 20506(a)(3).

¹² *See* 52 U.S.C. § 20506(c)

¹³ *See* *Disabled in Action of Metro. N.Y. v. Hammons*, 202 F.3d 110, 119-29 (2d Cir. 2000) (Katzmann, J.). The Second Circuit’s holding in *Hammons* focused on one part of the definition of mandatory VRAs—offices that provide public assistance. *See id.* However, its logic applies equally to the other category of mandatory VRAs—state-funded agencies that provide programs primarily serving people with disabilities. *See id.*

No court appears to have disagreed with the Second Circuit’s conclusion in *Hammons*, and the Supreme Court lent the view some support in *Young v. Fordice*, 520 U.S. 273 (1997), where, while applying a separate provision of the NVRA, it stated that the NVRA requires states to “provide . . . a system for voter registration at various *state* offices.” *Id.* at 275 (emphasis added).

¹⁴ *See* 52 U.S.C. § 20506(a)(2).

Act obliges federal entities to “cooperate” with state efforts only “to the greatest extent practicable.”¹⁵ As the Second Circuit observed, if the Act gives federal agencies discretion in whether to act as VRAs, “it cannot be said that such offices must be designated as mandatory VRAs.”¹⁶ And as the court noted, “[t]hat States cannot require the participation of federal agencies makes sense given the nature of our federal system.”¹⁷

The NVRA’s legislative history also suggests that federal offices cannot be mandatory VRAs.¹⁸ Both the Senate and House reports on the Act indicate that federal participation in the program “is subject to the Federal agency agreeing to participate” and that “[n]o specific Federal agencies are designated in this bill to participate, it being left to the States to negotiate such arrangements with the appropriate Federal agencies.”¹⁹ As the Second Circuit noted, various floor statements from debate on the measure also “show that the members of Congress most familiar with the legislation—both proponents and opponents—appear to have assumed that [the mandatory VRA provision] covers only State and local government offices.”²⁰ Taken as a whole, the evidence indicates that the BOP, as a federal agency, cannot be a mandatory VRA.

Second, the BOP also cannot be a discretionary VRA. To qualify as a discretionary VRA, an entity must be designated as such by the state²¹ and, if the entity is a federal agency, it must “agree[]” to that designation.²² The District has not designated the BOP as a VRA,²³ and the BOP has not agreed to act as a VRA for the District. Because the BOP is not a mandatory or discretionary VRA, the NVRA’s disclosure restriction related to VRAs is inapplicable and imposes no restraint on the Board’s ability to collect BOP register numbers during voter registration.

¹⁵ *Id.* § 20506(b). The Act also gives federal agencies greater leeway in the context of discretionary VRAs: they can be designated as such only “with the[ir] agreement.” *Id.* § 20506(a)(3)(B)(ii).

¹⁶ *Hammons*, 202 F.3d at 120.

¹⁷ *Id.*

¹⁸ *See Hammons*, 202 F.3d at 124-29.

¹⁹ H.R. Rep. 103-9, at 13 (1993); S. Rep. 103-6, at 29-30 (1993); *see also* H.R. Rep. No. 103-66, at 19 (1993) (Conf. Rep.) (stating that in requiring “offices in the State that provide public assistance,” 52 U.S.C. § 20506(a)(2)(A), to serve as VRAs, Congress intended to include “those *State* agencies in each State that administer” various benefit programs) (emphasis added).

²⁰ *Hammons*, 202 F.3d at 125; *see id.* at 125-26 (collecting statements). For example, an opponent of the Act, discussing a version of the measure that would have done away with mandatory VRAs in favor of greater state discretion, expressed that this alternative approach would “allow[] the States to decide which *State* agencies will offer voter registration.” 139 Cong. Rec. 7175 (emphasis added) (quoted in *Hammons*, 202 F.3d at 126).

²¹ *See* 52 U.S.C. § 20506(a)(3)(A).

²² *Id.* § 20506(a)(3)(B)(ii).

²³ *See* D.C. Mun. Regs. tit. 3, § 511.2; *see also* D.C. Code § 1-1001.07(c)(1)(A), (d)(1)(A).

B. Even if the BOP were a VRA, incarcerated people would not necessarily register “through” it for purposes of the NVRA.

The nondisclosure requirement at issue here bars disclosure only of “the identity of the [VRA] *through which* any particular voter is registered.”²⁴ Thus, this prohibition is relevant only if incarcerated individuals would register *through* the BOP. However, the fact that an individual happens to be incarcerated in a BOP facility while registering does not mean that that individual registered “through” the BOP any more than the fact that an individual happens to receive some public benefit at the time she registers to vote means that she necessarily registered through that public benefits agency. Since incarcerated D.C. residents would not be registered *through* the BOP, the nondisclosure requirement would not bar collection of their register numbers.

III. Even if the BOP were a VRA through which incarcerated residents registered, the nondisclosure provision would not prevent the Board from collecting BOP register numbers.

If the Board concludes that the BOP *is* a VRA through which incarcerated residents registered, it does not follow that the Board cannot collect the BOP register numbers from registration applicants. The NVRA requires the District to “ensure that the identity of the [VRA] through which any particular voter is registered is not disclosed to the public,”²⁵ and exempts from disclosure “records relate[d] . . . to the identity of a [VRA] through which any particular voter is registered.”²⁶ Both provisions deal only with *disclosure* of data, rather than with *collection*: the fact that information is not subject to public disclosure under the NVRA does not imply that election officials are forbidden from collecting that information.²⁷ The relatively few judicial opinions interpreting the disclosure provision reflect a consensus that certain information—such as Social Security numbers—either may or must be redacted from public releases of voter registration applications under the NVRA, yet no court has suggested that election officials may not *collect* that information.²⁸ Thus, the Board could still collect BOP registration numbers and would simply need to redact the BOP register number field so as not to reveal which applicants included a number.

²⁴ 52 U.S.C. § 20507(a)(6) (emphasis added).

²⁵ *Id.*

²⁶ *Id.* § 20507(i)(1).

²⁷ *See, e.g.,* Project Vote/Vote for Am., Inc. v. Long, 682 F.3d 331, 339 (4th Cir. 2012) (requiring disclosure of voter registration records with Social Security numbers (SSNs) redacted, but not requiring state election officials not to collect SSNs); Project Vote, Inc. v. Kemp, 208 F. Supp. 3d 1320, 1344-45 (N.D. Ga. 2016) (requiring redaction of sensitive information in registration applications before public release).

²⁸ *See, e.g.,* Pub. Int. Legal Found., Inc. v. N.C. State Bd. of Elections, 996 F.3d 257, 266-69 (4th Cir. 2021); Long, 682 F.3d at 339; Kemp, 208 F. Supp. 3d at 1344-45; True the Vote v. Hoseman, 43 F. Supp. 3d 693, 732-40 (N.D. Miss. 2014).

IV. The purposes of the NVRA as a whole are best served by maximizing voter registration and participation.

In enacting the NVRA, Congress specified that its purposes included “establish[ing] procedures that will increase the number of eligible citizens who register to vote” and “mak[ing] it possible for . . . State . . . governments to implement [the Act] in a manner that enhances the participation of eligible citizens as voters.”²⁹ In applying the NVRA, courts have recognized that those purposes extend to the provisions that require designation of VRAs: in obligating states to designate various agencies as VRAs, “Congress wanted to make voter registration services available in community-based offices that citizens visit frequently for services or assistance.”³⁰ In other words, the central purposes of the Act and of its VRA provisions are to facilitate voter registration and participation. Because collecting BOP register numbers during the voter registration process would promote registration and participation, doing so best serves the NVRA’s purposes. Conversely, interpreting the nondisclosure requirements related to VRAs expansively to forbid collecting this information would inhibit registration and participation and thereby undermine the NVRA’s aims.

To be sure, potential revelation of BOP register numbers through NVRA disclosure raises valid privacy concerns. As courts have noted in interpreting the statute, Congress likely created the VRA disclosure exception out of fear that “disclosure of where a particular applicant submitted a voter registration form—for instance, whether the form was submitted to a State office providing assistance to the poor . . . —might disclose information about an applicant that is stigmatizing or might otherwise adversely reflect upon a particular applicant.”³¹ The revelation that an applicant is serving a prison sentence could be “stigmatizing” for or “adversely reflect” upon that applicant.

However, this effect is undercut by the fact that information on individuals in BOP custody is already publicly available, and far more readily than information about individuals’ use of public benefits: while the latter is protected by a set of federal³² and District laws,³³ the BOP makes records of incarceration readily available through an online tool enabling any member of the public

²⁹ 52 U.S.C. § 20501(b).

³⁰ Nat’l Coal. for Students with Disabilities Educ. & Legal Def. Fund v. Allen, 152 F.3d 283, 291 (4th Cir. 1998).

³¹ *Kemp*, 208 F. Supp. 3d at 1339. One could argue that Congress’s concern about disclosure of the VRA through which an applicant registered likely stemmed in part from concern that the risk of a potentially embarrassing disclosure would deter individuals from registering. In other words, Congress’s purpose in enacting the disclosure exception was still to facilitate voter registration and participation. In that case, collecting BOP register numbers would align with the exception’s purposes, rather than conflict with them.

³² *See, e.g.*, 7 C.F.R. § 272.1(c) (governing disclosure of information about SNAP recipients).

³³ *See, e.g.*, D.C. Code § 4-209.04 (governing confidentiality of information in public benefits programs administered by District’s government).

to search for incarcerated people by name or register number.³⁴ Moreover, individuals registering from BOP facilities need to include prison-based mailing addresses with their registrations, such that the inclusion of BOP register numbers likely would not add much new information. Thus, disclosure of information about BOP numbers would reveal less private information than disclosures related to public benefit programs.

More importantly, the Board could easily mitigate any possible privacy risk by redacting the register number field on all voter registration applications as a matter of course. Therefore, there is no reason why privacy concerns should override the NVRA's aims of maximizing registration and participation. Because including a field for BOP register numbers on the registration form would increase voter registration and participation, doing so would most effectively achieve the NVRA's purposes.

V. Conclusion

In sum, the NVRA does not prohibit the Board from collecting individuals' BOP register numbers as part of the voter registration process. And because collecting this information would facilitate voter registration and participation for incarcerated D.C. residents, doing so would best serve the Act's purposes. If the Board concludes that the NVRA does not permit disclosure of BOP register numbers, the Board can and should redact that field on all voter registration forms so as not to reveal which voter registration applicants included a number.

Thank you for your time and attention to this important matter. Please do not hesitate to reach out with questions or other ways we can support your efforts moving forward.

Best,

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³⁴ See *Inmate Locator Information*, Fed. Bureau of Prisons, https://www.bop.gov/inmateloc/about_records.jsp (last visited Oct. 12, 2021); *Find an Inmate*, Fed. Bureau of Prisons, https://www.bop.gov/mobile/find_inmate/byname.jsp (last visited Oct. 12, 2021); cf. *Project Vote/Vote for Am., Inc. v. Long*, 682 F.3d 331, 339 n.* (4th Cir. 2012) (observing that privacy concerns related to “prior felony convictions and mental incapacity” might be undercut by “the extent to which such information may already be a matter of public record”).