

# **Kris Kobach: A National Leader in the Attacks on Voting Rights**

By Zachary Mueller

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KOBACH IS **WRONG** FOR KANSAS 

CONTACT US

**KobachisWrong.org**

P.O. Box 5206 Topeka, KS 66605

[Kobach.is.Wrong@gmail.com](mailto:Kobach.is.Wrong@gmail.com)

(913) 662-2571

On April 18, 2018, U.S. District Judge Julie Robinson ruled Secretary of State Kris Kobach in contempt of court. Kobach was found to have disobeyed the Court’s preliminary injunction that blocked a requirement to provide documentary proof of citizenship when registering to vote for the first time in Kansas. Robinson wrote that Kobach “failed to ensure that voter registration applicants covered by the preliminary injunction order became fully registered, a process that required accurate and consistent information be provided to county election officials, individuals impacted by the preliminary injunction, and the public.”<sup>1</sup>

Specifically, the Court found Kobach violated the injunction in two separate areas. First, he failed to “treat those covered by the preliminary injunction the same as all other registered voters, which included sending the standard postcard upon registration”. Kobach’s failure to ensure that all the covered voters received these postcards is critical as Robinson concluded that “Kansans have come to expect these postcards to confirm their registration status”.<sup>2</sup>

Second, Kobach refused to update the County Election Manual, which Robinson called “the policy and training Bible for the 105 county election officials.” Publicly available online, the manual was updated to include the documentary proof of citizenship (DPOC) requirement but lacked notice of the preliminary injunction that took effect two years earlier. Seeking to resolve the issue before the contempt hearing, Kobach simply removed the manual from their website. Robinson, however, found this solution inadequate, writing, “taking the manual offline, almost two years later, means that counties’ only resource is the written, unmodified manual.”<sup>3</sup>

Furthermore, Robinson took note of Kobach’s attempt to shift blame from himself writing, “the Court is troubled by Defendant’s (Kobach’s) failure to take responsibility for violating the Court’s order and for failing to ensure compliance over an issue that he explicitly represented to the Court had been accomplished.” Robinson continued, “[i]nstead, Defendant deflected blame for his failure to comply onto county officials, and onto his own staff”.<sup>4</sup> Ultimately, Robinson held Kobach responsible for the failure to comply with the preliminary injunction

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because he is the state's chief elections officer and it is his responsibility as Secretary of State to ensure that election laws are followed.

Finally, Judge Robinson ordered Kobach, who acted as his own lead attorney in the case, to pay the opposing attorney fees associated with the

contempt motion. The ACLU, who represented opposing counsel, submitted a legal bill of \$51,646.<sup>5</sup> Kobach's decision to not comply with the law meant that Kansas taxpayers had to pick up this hefty tab. It was not the first-time taxpayers paid the cost for Kobach's leadership choices.

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As the state's chief elections officer, his failure to take responsibility for adhering to election law should raise significant red

flags about sending Kobach to a higher office. It is especially troubling, as the law he broke violates the voting rights of the very Kansans he is asking to lead.

### **Campaign for Secretary of State**

In May 2009, Kris Kobach launched his bid for Kansas Secretary of State with a campaign focused on insistent, but unsupported claims of widespread voter fraud. Running for the position that would give him ranking power over elections in the state, Kobach asserted that legitimate voters were being disenfranchised by fraudulent votes.<sup>6</sup> Alleging voter impersonation, double and non-citizen voting was occurring at pervasive levels, Kobach positioned himself as the necessary defender of this apparent threat.<sup>7</sup> While campaigning for voter ID and proof of citizenship laws as the fix to the purported threat, Kobach also called for a purge of thousands from the voting rolls.<sup>8</sup>

Not everyone agreed with Kobach's allegations, however. Many, including prominent Republicans, quickly countered his claims of massive voter fraud. Then acting Kansas Secretary of State Ron Thornburgh, a Republican who had held the office since 1994, responded to Kobach's assertions through his spokeswoman, Stephanie Meyers, saying, "[t]here's no evidence to come anywhere near the term 'pervasive'". Meyers continued, "[w]e think voter fraud is very minimal...that it's not widespread at all".<sup>9</sup>

Secretary of State Thornburgh's assessment is supported by further investigative reporting. *Bloomberg News* found that between 1997 and 2010,

Kansas had only 221 instances of alleged voter fraud, with only a few of these allegations showing any evidence of fraud actually being committed. They went on to state that UFO sightings were more common than voter fraud.<sup>10</sup>

Over those same 13 years, they found more than 10 million votes cast were in Kansas statewide elections alone, adding up to one *allegation* of voter fraud for every 45,000 votes.

Moreover, the overwhelming consensus of credible investigations into voter fraud in the modern era reveal it to be almost entirely nonexistent. In *The Myth of Voter Fraud*, published in 2010, Lorraine

Minnite compiles a comprehensive national study and finds that “voter fraud is episodic and rare relative to the total number of votes cast in any given year or election cycle.”<sup>11</sup> Minnite found that there are three times more violations of migratory bird flights each year than violations of election law.<sup>12</sup>

The Brennan Center for Justice at NYU’s School of Law also looked into the issue and concluded “that voter fraud is sufficiently rare that it simply could not and does not happen at the rate even approaching that which would be required to “rig” an election.”<sup>13</sup> The Republican National Lawyers Association found in 2011 that from 2000-2010, at least thirty states had three or less convictions over that ten year period.<sup>14</sup> The *Washington Post* investigation into the issue concluded that there is “such little evidence that it boards on complete irrelevance and only

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should bare mentioning as proof of the lack of voter fraud, not of it.”<sup>15</sup> Finally, at the end of 2016, the *New York Times* made “inquiries to all 50 states (noting that everyone but Kansas responded)” and found that “no states reported indications of widespread fraud.”<sup>16</sup>

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Even governmental agencies who pursued and attempted to prosecute voter fraud, like the George W. Bush administration, turned up

scant evidence. Shortly after becoming United States Attorney General, John Ashcroft moved the prosecution of voter crimes to third on the list of priorities, just below terrorism and espionage.<sup>17</sup> Ashcroft sought to create a “new ethic” in the DOJ’s approach to voting rights, believing voter fraud was a rampant phenomenon.<sup>18</sup> In 2002, Ashcroft changed standing DOJ guidelines that had previously barred federal prosecutions of “isolated acts of individual wrongdoing” in elections that were not part of a larger effort to defraud an election.<sup>19</sup> Before Ashcroft reversed the guidelines, prosecutors generally had to prove an intent to commit fraud, not simply a violation of election laws. Under the new ethic, individuals who may commit election violations were prioritized over coordinated efforts to rig elections. Even after the shift and the high level of priority given to pursuing election crimes, *The New York Times* concluded that, “Five years after the Bush administration began a crackdown on voter fraud, the Justice Department has turned up virtually no evidence of any organized effort to skew federal elections.”<sup>20</sup>

What’s more, the election crimes prosecuted by Ashcroft’s initiatives were, for the vast majority of cases, found to be mistakes, confusion or misunderstandings of election laws by individual voters.<sup>21</sup> Years later, Kris Kobach would implement with striking similarity the same strategic approach as the Ashcroft Justice Department, and predictably the same lack of evidence of voter fraud.

Kobach was undeterred by his critics or the lack of any significant evidence; he continued to build a career based upon bold claims of election crimes. At a press conference days before the 2010 election, Kobach claimed that there could be as many as 2,000 cases of Kansans voting under the name of a deceased voter.<sup>22</sup> For an example, Kobach named Albert K. Brewer. *The Wichita Eagle*, however, later uncovered that Brewer was in fact not dead, but simply shared the same name and birthdate as his deceased father. Undisturbed by the blunder, Kobach’s campaign said, “[w]e never said for sure. We’re not embarrassed by it.”<sup>23</sup> Throughout his career, Kobach continues to make spurious

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claims of rampant voter fraud – even as empirical evidence overwhelmingly shows the problem to be insignificant.

## **Kobach and Federation for American Immigration Reform**

Of additional deep concern, Kobach’s solutions to voter fraud were first peddled by a leading anti-immigrant organization, Federation for American Immigration Reform (FAIR). As laid out in a previously published report by this PAC, John Tanton, founder of FAIR and a Kobach ally, has racist proclivities that have been well documented. This Kobach connection suggests that his goal may be less about preventing fraud and more about regulating who is voting.

In 2004, FAIR worked with Arizona State Senator Russell Pearce to introduce the Taxpayer and Citizen Protection Act, or Proposition 200 in Arizona, a measure that required new voting restrictions, notably requiring photo identification (ID) and proof of citizenship to vote. The effort was backed by FAIR to the tune of \$450,000.<sup>24</sup> Although Republican Party leaders, both Senators and the Arizona Republican Party, vocally opposed the bill,<sup>25</sup> Arizona voters overwhelmingly passed Prop. 200. Only the requirement to present photo ID went into effect immediately, while the prerequisite of proof of citizenship made its way to the Supreme Court.

## **Kobach and the Tea Party’s Birtherism**

During the same timeframe as Kris Kobach’s campaign for Secretary of State, a new national movement was on the rise nationwide: the Tea Party Movement. Kobach was an early and strong supporter of the movement, even embracing racist conspiracy theories popularized by the movement. Kobach

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publicly dabbled in birtherism, the racist conspiracy theory that President Barack Obama was not born in the United States. At a 2010 campaign rally, Kobach “joked”, “You know what the President and God have in common? Neither has a birth certificate.” When confronted on the question, his campaign denied that Kobach was a birther but all the while, Kobach continued to call for President Obama to release his “long-form” birth certificate. In response to the birth

certificate that the President had released, Kobach said, "it doesn't have a doctor's signature on it", adding, "until a court says otherwise, I'm willing to accept that he's a natural U.S. citizen. But I think it is a fair question: Why just not produce the long-form birth certificate?"<sup>26</sup>

This embrace of birtherism is concerning in its own right. But Kobach's political use of this racist conspiracy theory cannot be disconnected from his spurious claims of voter fraud. To question both the legitimacy of Barack Obama to be President and to claim that the ballot box is besieged by fraud, implies that Kobach questions the right of the first black President to hold the Office.

### **Kansas Secretary of State – Kobach's Record of Attacks on Voting Rights**

Throughout his career Kris Kobach has championed policy and leadership positions that suppress voting rights. The remaining sections of this report will document his attacks on voting rights in five areas: voter identification law, proof of citizenship documentation, crosschecking of voters, prosecutorial power and penalties, and conclude with President Trump's Voter Commission. In every instance, numerous credible studies show that Kobach was seeking to prevent a problem that empirical evidence demonstrates is insignificant. More importantly, Kobach's sweeping solutions to address a nearly nonexistent problem served only to set up barriers to the voting booth.

### **Attack One - Voter ID**

Kobach was an architect and advocate for the Secure and Fair Elections Act (SAFE Act), signed into law by then Governor Brownback on April 18, 2011. It aimed to address key areas where Kobach suspected voter fraud, including photo identification (ID). The photo ID provision requires that a voter must show a state-issued photo ID at their polling location before casting a ballot, in order to stop someone from impersonating another registered voter. If someone lacks the necessary ID, however, they can cast a provisional ballot but must later show ID to a county election official to make their vote count.<sup>27</sup>

After voter ID laws were enacted in Kansas and many other states, numerous studies followed to assess the effects of voter ID laws and who was impacted. In September 2014, the U.S. Government Accountability Office (GAO) compiled and examined many of these studies and found that between 5 and 16 percent of registered voters lacked the necessary form of ID to access the ballot.<sup>28</sup>

Another study found, “11 percent of United State citizens – more than 21 million individuals – do not have government-issued photo identification.”<sup>29</sup> For Kansas specifically, one estimate had as many as 200,000 Kansans who may lack the ID required to vote.<sup>30</sup> These studies found that millions of American citizens lack immediate access to the necessary forms of ID needed to use their fundamental right to vote.

Voter ID also has the potential to put a price tag on accessing the voting booth. In Kansas while a free voter ID can be acquired, the potential voter must submit an application affirming they receive government assistance or earn less than 150 percent of the poverty rate.<sup>31</sup> Presumably, if a voter does not meet either of these requirements or they are unaware of the free option they must pay a \$14 fee to acquire a Kansas ID.

Such fees may appear minimal to some, but for someone earning the minimum wage of \$7.25/hour, a \$14 fee requires two hours of work. Low-income Kansans, less likely to have the necessary ID, are also least likely to be able to afford any fees to acquire the necessary documents. One study estimates that those earning less than \$35,000 a year are twice as likely to lack government photo identification.<sup>32</sup> Former United States Attorney General Eric Holder warned that the potential costs and barriers created by voter ID laws are dangerously reminiscent of “poll taxes.”<sup>33</sup>

It is not just the poor who are more likely to face a barrier to the ballot box with voter ID law, but also racial and ethnic minorities. For example, Brennan Center found 8 percent of whites, 16 percent of Hispanics, and 25 percent of African Americans lack government issued photo ID.<sup>34</sup> This disparity translates to turnout as well. A report issued by professors at the University of California San Diego, found naturalized citizens were 12.7 percent less likely to vote in general elections and 3.6 percent less likely to vote in primaries in states with photo ID laws.<sup>35</sup>

Voter ID in Kansas also has the potential to decrease overall voter turnout. From 2008 to 2012, while overall nationwide turnout decreased, Kansas’ voter turnout decreased an estimated 1.9 to 2.2 percent more than other states.<sup>36</sup>

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According to a low-end calculation by *The Washington Post*, the drop in turnout resulted in 34,000 fewer Kansan voters.<sup>37</sup>

Similar findings were shared by the Kansas Advisory Committee to the U.S. Commission on Civil Rights, which conducted hearings and published a report in March 2017 on the effects of Kansas' SAFE Act. The report found "in practice, a number of eligible citizens may be required to pay for their documents. Any such instances may effectively be compared to a poll tax, which is unconstitutional under both the 14th and 24th Amendments." The report continued that "insufficient training of poll workers has resulted in eligible voters being turned away because the poll workers were unaware that the identification provided is in fact considered 'acceptable' under the SAFE Act requirements." They also found voter education implemented "was significantly less than similar efforts in other states and may have resulted in eligible citizens' failure to comply with the new law." U.S. Commission on Civil Rights concluded that the "preliminary analysis of voter turnout data in Kansas indeed suggests that voter participation declined following the implementation of the SAFE Act." Most importantly, they found "the SAFE Act may disparately impact voters on the basis of age, sex, disability, race, income level, and political affiliation."<sup>38</sup>

A further compounding issue is the cost to taxpayers of implementing the law. To start, the costs to implement Kobach's SAFE Act were vastly underestimated. The Kansas Division of the Budget estimated a cost of only \$69,500 over two years, while comparative programs cost much more in outreach alone.<sup>39</sup> GotVoterID.com, the website to promote the new voter ID requirement, alone cost \$310,000.<sup>40</sup> Expenses continued to mount. Kobach went on an 11-city Voter Tour over three weeks in 2012 to promote the new requirements.<sup>41</sup> These expenses also do not include the legal battles over the documentary proof of citizenship portion of the SAFE Act.

## **Attack Two – Proof of Citizenship**

A second significant regulation created by Kobach's SAFE Act required that everyone registering to vote for the first time in Kansas must show documentary proof of citizenship. Designed to prevent what Kobach had long claimed was a pervasive problem – namely that of noncitizens attempting to register and vote. This too would prove to be a solution in search of a problem.

Investigations by election experts, journalists and historians alike overwhelmingly share in the conclusion that noncitizen voting is exceedingly rare

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to the point of insignificance.<sup>42</sup> These studies found the percentage of noncitizen voting less than one percent – between .0003 and .001 percent.<sup>43</sup> Moreover, Rutgers University professor Lorraine Minnite in her 2010 book, *The Myth of Voter Fraud*, contends that individual acts of voter fraud are illogical in nature – making the illogical act of fraud on the part noncitizens even more greatly

exacerbated.<sup>44</sup> The impact of an individual vote by a noncitizen is vastly outweighed by the threat it would present to their immigration status. What is more likely and logical is that the few instances of noncitizens attempting to register are the result of confusion rather than an attempt to defraud the electoral process. This reality is further detailed during the recent federal trial, *Fish v. Kobach*, (see Appendix on The Trial).

Continuing to press this cause, Kobach testified in February 2015 before the United States House of Representatives Committee on Oversight and Government Reform. There he claimed that Deferred Action for Childhood Arrivals (DACA) would further erode the integrity of our elections, because DACA claimants would register and vote. The facts demonstrate otherwise. If DACA participants were to register to vote, they would be required to sign an affidavit swearing that they were a U.S. citizen, which would be a crime and would remove their ability to obtain protected status. Barring the illogical rationale behind such an action, Kobach told the Committee:

“It is a certainty that the Administration’s executive actions will result in a large number of additional aliens registering to vote throughout the country. These are irreversible consequences, because *once an alien registers to vote, it is virtually impossible to detect him and remove him from the list of registered voters.* . . . The Administration’s actions have set us back in our efforts, increasing the risk of stolen elections and gravely undermining the rule of law.”<sup>45</sup>

To justify his claim, Kobach gave two examples that lack credibility and offer little evidence of noncitizens voting but do reveal borderline racist attitudes.

First, Kobach cites an incident almost two decades old in Seward County, Kansas where 50 employees of a hog farm just across the border in Oklahoma all sent in voter registration cards at the same time. Based solely on the memory of one poll worker, it was alleged these same employees were bussed into the polling place. This poll worker also claimed to know that some workers at the hog plant were noncitizens. He reached the conclusion that some were noncitizens because

they could not read English and needed translation from the van driver.<sup>46</sup> No prosecutions ever followed from these allegations.<sup>47</sup> The speculations of a poll worker 18 years prior is hardly evidence of a pervasive problem.

Second, Kobach cited a more recent example from the 2010 democratic primary for a state representative seat in North Kansas City, MO.

Again, Kobach builds his case off the observations of a single poll worker who alleged that more than 50 Somalis voted in the election. As before, the poll worker's only proof for lack of citizenship was the inability to speak English. Kobach told the committee that "the use of alien votes to steal the election succeeded."<sup>48</sup> These allegations, however, were tested in court in 2010. Both Jackson County Judge W. Stephen Nixon and the state appeals court rejected the case. Nixon ruled that "credible evidence proves that there was no voter misconduct and there was no voter fraud with regard to this election."<sup>49</sup>

Documentary proof of citizenship (DPOC) also needs to be weighed against the barriers it erects. One nationwide study found as "many as 7% of United States citizens – 13 million individuals – do not have ready access to citizenship documents."<sup>50</sup> The same study found potential access limitations for women because "as many as 32 million voting age-women may not have available proof of citizenship documents that reflect their current name."<sup>51</sup> Again, otherwise

eligible voters are impeded from accessing their right to vote.

Over a dozen documents can be used to prove your citizenship to register to vote. The most common is a birth certificate. Kansas will provide a free copy if you were born in Kansas and were issued a birth certificate by the state. If you were born outside of Kansas, obtaining a copy of your birth certificate will cost about \$10 to \$25 depending on the state. This process takes time and possible fees. A 2014 Harvard Law School study estimates that the time and travel to acquire the necessary documents could cost upwards of \$75.<sup>52</sup> The result is

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Additionally, DPOC can have an adverse effect on voter registration drives. Requiring documents that most people do not readily carry with them dramatically reduces the effectiveness of registering voters anywhere other than in locations where such documents are necessary and therefore more readily available.

### **Legal Scrutiny of Proof of Citizenship in Voter Rights**

Concerned by the harm to voter registration drives, the League of Women Voters of Kansas filed suit against Kansas' SAFE Act. It was not the first time Kansas' law on proof of citizenship documents faced legal scrutiny. DPOC under the SAFE Act took effect on January 1, 2013. Full implementation of the law was called into question in June of that same year after a ruling by the United States Supreme Court prompted by FAIR-backed Arizona Prop. 200.

The Supreme Court ruled in Arizona Prop. 200 against the states' ability to require proof of citizenship to register to vote in federal elections. The decision separated the issue between the federal registration form and the registration form issued by individual states. Writing for the majority opinion, Justice Antonin Scalia wrote, "the Federal Form provides a backstop: No matter what procedural hurdles a state's own form imposes, the Federal Form guarantees that a simple means of registering to vote in federal elections will be available." Justice Scalia concluded that requiring every additional piece of information a state requires on the federal form "would be a feeble means of 'increas[ing] the number of eligible citizens who register to vote in elections for Federal office, a provision outlined by the National Voter Registration Act'"<sup>53</sup> Justice Scalia left open the possibility for the U.S. Election Assistance Commission (EAC) to add DPOC to the federal form, however.

After the Supreme Court decision, the Election Commission denied any change to the federal form. In response, Kobach and Arizona Secretary of State Ken Bennett filed a federal lawsuit against the EAC for failing to add proof of citizenship to the federal form used in their states. They pursued this lawsuit with scant evidence; Bennett acknowledged he had no evidence of noncitizens registering to vote with the federal form before or after DPOC became law in Arizona.<sup>54</sup> Lacking any substantial new evidence, Kobach and Bennett nevertheless pursued the case.

They had early success with U.S. District Judge Eric Melgren, who ordered the federal Election Assistance Commission to add DPOC to Arizona's and Kansas' federal form. Judge Melgren's decision, however, was reversed by the 10<sup>th</sup> U.S. Circuit Court of Appeals the following year. The ruling again focused on the federal form, leaving an opportunity for Kobach to enforce DPOC on the state form, which he did.

Kobach used this new distinction to establish a two-tiered voting system. Kobach instructed voters who registered using the federal form, but who did not provide proof of citizenship to only be allowed to cast ballots in federal races – barring these voters from casting ballots for state and local issues. Kobach's two tier system was set to affect around 18,000 Kansans during the 2014 August primaries.

The ACLU filed suit, alleging that the two-tier voting system violated the Kansas Constitution's equal protection clause. Judge Franklin Theis rejected Kobach's arguments, writing that the discrimination of those who elect to use the federal form is a "limit and compromise" to their voting rights. Judge Theis ruled that Kobach acted "without the authority of any Kansas statute" and was "clearly beyond the scope of any existing regulatory authority." The result "could mislead, intimidate, and have a chilling effect on the Plaintiffs' exercise of their right to vote," wrote Judge Theis.<sup>55</sup>

After his two-tier voting system was blocked by the courts, Kobach once again switched tactics. In September 2015, Kobach proposed a new administrative rule, seeking to purge from the voter rolls Kansans who registered with the federal form, but failed to provide proof of citizenship within 90 days after registering.<sup>56</sup> The purge was set to clear the names off a suspended registration list. According to an analysis by *The New York Times* the suspended list, comprised of some 35,000 Kansans, represented two percent of total registrants in Kansas.<sup>57</sup> Those on the list were spared, however, when yet another lawsuit halted the purge.

Then at the end of 2015, Kobach's DPOC requirement was resuscitated at the U.S. Election Assistance Commission with the appointment of its new executive director, Brian Newby. For eleven years, Newby had been the top election official of Johnson County, Kansas. His record, however, was far from

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spotless. A series of emails, attained by the Associated Press, showed Newby created a hostile work environment and violated county policy on intimate relationships with subordinates. Newby had an affair with the Assistant Election Commissioner whom he had previously appointed to the position. Newby then used his government credit card to avoid oversight allowing himself to review and approve his own spending. In March 2016, a county audit found almost \$36,000 in questionable spending and asked Newby to return over \$5,000 in travel expenses. Kobach was made aware of the audit and other concerns facing the office in April 2015, by the Johnson County Election Office.<sup>58</sup> But in an apparent lack of concern, Kobach highly recommended Newby for the Executive Director position at the federal EAC.

Newby recognized the role that Kobach played in landing him his new job writing in an email to Kobach, “repeated prayers of thanksgiving.” In a series of emails that followed Newby encouraged Kobach by stating that they wanted the same thing; he wrote, “I think I would enter the job empowered to lead the way I want to.” In another email Newby wrote, “I wanted you in the loop, in part because of other issues in the past with the (U.S. Election Assistance Commission). I also don’t want you thinking that you can’t count on me.”<sup>59</sup>

Once in office, Newby unilaterally approved an update for the federal form that allowed Kansas, Alabama and Georgia to require DPOC. Newby’s reversal of the previous U.S. Election Assistance Commission decision contradicted the “policy and precedent previously established” by the commission according to the EAC’s Vice Chairman Thomas Hicks.<sup>60</sup> In response, the League of Women Voters filed a federal suit against Newby’s decision.

### **Fish v. Kobach Voting Rights Lawsuit: Filing & Findings before Trial (See Appendix on the Trial)**

The ACLU filed another state lawsuit, *Fish v. Kobach*, that sought an order to force Kansas to immediately register thousands of Kansans who wanted to register to vote at a Department of Motor Vehicles (DMV) office, which uses the federal form. Later, the League of Women Voters case was joined with the *Fish* case.

In May 2016, U.S. District Judge Julie Robinson, a George W. Bush appointee, issued a preliminary injunction in the *Fish* case ordering Kobach to fully register all Kansans who registered using the federal form, but who lacked DPOC. In her ruling, Robinson indicated that the SAFE Act likely violated the

“minimal information” provision in the National Voter Registration Act.<sup>61</sup> In response to Robinson’s ruling, Kobach once again proposed a two-tier voting system. Kobach requested another temporary administrative rule change to once again allow votes in federal races only from those who registered using the federal form but who lacked DPOC.<sup>62</sup> But the courts again blocked Kobach’s maneuvers.

On July 29, 2016, two days after early voting began for the primaries, Judge Larry Hendricks of the Shawnee County District Court, ordered all votes must be counted for state and local races from the 17,500 Kansans who registered

with the federal form and without DPOC.<sup>63</sup> In November 2016, Judge Hendricks affirmed his ruling, writing that Kobach “simply lacks the authority to create a two-tiered system of voter registration.”<sup>64</sup>

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Undeterred by the court’s findings, Kobach refused to follow Judge Robinson’s May order to fully register and notify the voters covered under her preliminary injunction. In an effort to force Kobach to comply, Robinson scheduled a contempt of court hearing for September 2016. To avoid being found in

contempt of court, Kobach reached an agreement requiring him to fully register those covered under the injunction, notify them of their registration, and give them the ability to access the full ballot in November.<sup>65</sup>

Then in September 2016, the 10<sup>th</sup> Circuit Court of Appeals denied Kobach’s appeal for validity on requiring proof of citizenship. George W. Bush appointee, Judge Jerome Holmes wrote, “[t]here can be no dispute that the right to vote is a constitutionally protected fundamental right.”<sup>66</sup>

The Court went on to rule against Kobach’s evidence of 30 cases of noncitizens registering to vote between 2003 and 2013 (only three ever attempted to cast a ballot) by noting it “fell well below” sufficient evidence.<sup>67</sup> Judge Holmes went on to warn that Kansas’ law risked a “mass denial of a fundamental constitutional right.”<sup>68</sup> Holmes then laid out a two-part test for the *Fish v Kobach* trial that placed the burden of proof on Kansas Secretary of State Kobach. First, Kobach

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was directed to prove that there are a substantial number of noncitizens voting in Kansas, and secondly, nothing less than documentary proof of citizenship could be used to prevent the problem – that is, if he was able to prove that it exists.

Before the trial even began Kobach found himself fined for misleading the Court. Just weeks after Donald Trump won the presidential election, Kobach meet with him about his transition to the White House. On the way into the meeting Kobach was photographed with a document entitled, “DEPARTMENT OF HOMELAND SECURITY KOBACH STRATEGIC PLAN FOR FIRST 365 DAYS.”<sup>69</sup> A portion of the last bullet point was visible and read, “Draft Amendments to the National Voter.”<sup>70</sup> This bullet point caught the attention of the ACLU, who was concerned that the document proposed to the President Elect a change to the National Voter Registration Act (NVRA). Such a change could affect the *Fish* trial.

Kobach balked at opposing counsel’s request for the document claiming it was not relevant to the case. Two federal judges who privately examined the document disagreed. They ordered Kobach to turn over the document.<sup>71</sup>

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In response to Kobach’s actions surrounding the document, U.S. Magistrate Judge James P. O’Hara ordered a \$1,000 fine against Kobach. O’Hare levied the fine because Kobach mislead the court about the documents and therefore sought to prevent any further such conduct.<sup>72</sup> “The court agrees that the defendant’s deceptive conduct and lack of candor warrant the imposition of sanctions,” wrote O’Hare.<sup>73</sup> He

went on to conclude, “at the risk of stating what should be obvious, when any lawyer takes an unsupportable position in a simple matter such as this, it hurts his or her credibility when the court considers arguments on much more complex and nuanced matters”.<sup>74</sup>

Judge Robinson, affirmed the \$1,000 fine against Kobach for misleading the court.<sup>75</sup> Robison wrote that Kobach “demonstrates a pattern, which gives further credence to Judge O’Hara’s conclusion that a sanction award is necessary to deter defense counsel in this case from misleading the Court about the facts and record in the future.” Robinson concluded that “statements made and/or positions taken by Secretary Kobach have called his credibility into question.”<sup>76</sup>



Kobach's documents were finally made public after a court ruling in October 2016, and they confirmed his intent to change the NVRA, including text on "Draft Amendments to National Voter Registration Act to promote proof-of-citizenship requirements."<sup>77</sup> Kobach's intent to change the NVRA was further underscored by an email he sent to Gene Hamilton, a member of Trump's presidential transition team a day after the election. In what appear to be maneuvers to enact proof of citizenship nationally and regardless of the upcoming trial result, Kobach wrote, "I have already started amendments to the NVRA that will make clear that proof of citizenship requirements are permitted".<sup>78</sup>

The *Fish* trial's deposition of Kobach further highlighted his intent to implement DPOC nationwide. Kobach noted that he had drafted an amendment to the NVRA that would allow states to pass proof of citizenship requirements. Kobach went on to say he secured a commitment from his "friend" Iowa Congressman, Steve King, a hardcore nativist activist, to introduce such an amendment if he loses *Fish v. Kobach* case. The deposition also discussed his promotion of the amendment to President-elect Trump and his transition team.

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### **Attack Three – Crosscheck**

The third type of voter fraud Kobach claims is double voting: the instance of an individual who registered twice and votes twice, typically across state lines. While still exceedingly rare, double voting does occur. The vast majority of these cases, however, are the result of accidents or confusion and not efforts to defraud elections.

To combat double voting Kobach greatly expanded the Interstate Crosscheck Program. Created by Kobach's predecessor in 2005 and run solely by Kansas' Secretary of State Office, only three neighboring states were part of the program at its founding. Kobach greatly expanded the program with over half of all states participating in Crosscheck by 2016.<sup>79</sup> The seemingly banal program to clean voter rolls has major flaws that call into question any relative utility.

States participating in Crosscheck send their voting rolls to Kansas in January. The rolls are examined under the Crosscheck program to identify

***The Washington Post*  
reported that  
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rate.**

potential duplicate registrations. The compiled list of “potential double voters” is then sent back to the respective state with recommendations to purge the older registration if the name and last four digits of the Social Security number match a newer one. But the lists Crosscheck compiles are highly inaccurate.

*The Washington Post* reported that

Crosscheck has a 99.5 percent false-positive rate.<sup>80</sup>

They found of the 84 million votes cast in 22 states, only 14 cases were referred for prosecution, representing 0.00000017 percent of the votes cast.<sup>81</sup> One data expert who examined the program said that Crosscheck had a “childish methodology” for flagging double registrants.<sup>82</sup> And a study from Harvard concluded that even a most conservative use of Crosscheck data would “eliminate about 200 registrations that might cast legitimate votes for every one registration used to cast a double vote.”<sup>83</sup> These problems have translated into real purges of legitimate voters.

After participating in Crosscheck for the first time in 2013, Virginia attempted to purge 57,000 voters from the rolls, in part based on Crosscheck data.<sup>84</sup> In 2014, Idaho’s Ada County wrongfully terminated 765 eligible voters from their rolls based on the Crosscheck data.<sup>85</sup> Such wrongful purges are only exacerbated by the fact, as the Harvard study concluded, “there is almost no chance that double votes could affect the outcome of a national election.”<sup>86</sup>

The potential for discriminatory outcomes raises even another level of concern, as Crosscheck’s inaccuracies have greater potential to affect minority populations. Vanita Gupta, former head of the U.S. Department of Justice’s Civil Rights Division, told *NBC News* that purges are “going to hit the communities of color the most. We have U.S. Census data that shows that minorities are represented in 85 of the most common 100 names.”<sup>87</sup> An analysis of Crosscheck published in *Rolling Stone* found the system flagged one in six Latinos, one in seven Asian Americans and one in nine African Americans as potential double registrants.<sup>88</sup>

Additionally, Crosscheck is rife with security concerns. A *ProPublica* investigation into Crosscheck found the data files were hosted on an insecure server. In addition, usernames and passwords to access the entire database were regularly shared by email, and passwords were overly simplistic and only irregularly changed.<sup>89</sup> An additional journalistic investigation found that “even a novice hacker could breach the network.”<sup>90</sup> The reporting prompted Kobach to

move the Crosscheck database from Arkansas to the Kansas Secretary of State's Office in 2018.<sup>91</sup> The move was to accomplish security upgrades, but experts claim the upgrades to just the Secretary of State's Office are not enough and the data is still vulnerable to hackers.<sup>92</sup> Further still, End Crosscheck, an organization based in Chicago, raised additional concerns after they were alerted to a Kansas resident who filed a Freedom of Information Act request in 2013. She received a list of 945 first and last names and the last four digits of their Social Security numbers. The error prompted Florida to provide free fraud protection services and free credit checks to those 945 affected individuals.<sup>93</sup> The lack of a secure system is one more reason to question Kobach's expansion of the program.

Pointing to the reality of inaccurate data on state voting rolls, Kobach warns of this data's potential for massive voter fraud. In a 2018 *Breitbart* column, Kobach cites an estimate by the Pew Foundation of 1.8 million inaccurate registrations.<sup>94</sup> The Pew study Kobach cites, however, makes no mention of voter fraud or double voting but instead advocates for modernizing the voting rolls with less physical paperwork.<sup>95</sup> The Pew study concludes that fixing the problem would require a broader matching system, increased security, and new ways voters can register online.<sup>96</sup> None of Pew's recommendations are satisfied by Crosscheck.

The mounting concerns over Crosscheck have led some states to leave the program. At the end of January 2018, Kentucky joined Alaska, Florida, Massachusetts, New York, Oregon, Pennsylvania and Washington in abandoning Crosscheck.<sup>97</sup> Bills currently in the legislatures of New Hampshire, Illinois and even Kansas, would, if passed, require state officials to withdraw from Crosscheck.<sup>98</sup> Even as states leave, Kobach continues to promote the program.

Meanwhile, a more accurate system for cleaning state voter rolls exists: the Electronic Registration Information Center (ERIC). Launched in 2012, ERIC's function is to provide a similar service as Crosscheck but offers three important differences. First, ERIC is managed and controlled by the participating states, while Crosscheck is run solely by the Kansas Secretary of State office.<sup>99</sup> Second, ERIC identifies inaccurate voter registrations cross-referencing states voter rolls, U.S. Postal Service data, motor vehicle licensing agency data, and the Social Security Administration master death index list, while Crosscheck just compares states voting rolls.<sup>100</sup> Third, ERIC identifies eligible voters who are not registered to vote, or whose information is out of date, while Crosscheck simply seeks to identify potential double voters. More, ERIC's membership requires that states notify voters of inaccurate information and notify others of their eligibility to vote, in an attempt to increase registration.<sup>101</sup> The difference in the program shows

Crosscheck is simply another tool for Kobach to justify the hunt for voter fraud, or more cynically, obfuscate the lack of it.

Less ideologically driven Secretary of States are moving to ERIC. Molly Woon, a spokeswoman for the Oregon Secretary of State told *KCUR*, “Oregon left the Kansas Crosscheck program because we found more effective and efficient ways to help ensure more accurate voter rolls, specifically the ERIC Program.”<sup>102</sup> Minnesota Secretary of State Steve Simon said, “there is an unacceptably high risk of false positives,” about Crosscheck before he moved to join ERIC.<sup>103</sup> In January 2018, Missouri joined ERIC after the Missouri Association of County Clerks and Election Authorities unanimously passed a resolution urging move to ERIC.<sup>104</sup>

On the other hand, Kobach’s pitch for states to choose Crosscheck: it’s free. In promoting the program in 2013, Kobach assured states that Kansas was prepared to cover the cost of compiling a nationwide list.<sup>105</sup> And there is a one-time fee of \$25,000 to join ERIC. Crosscheck has a price tag for Kansas, however. The security upgrades for the Crosscheck database system to be only marginally more secure cost Kansas taxpayers \$20,000.<sup>106</sup> And though Crosscheck does not have any dedicated staff members, it is housed completely inside Kansas Secretary of State’s Office and requires staff to be assigned, at least temporarily, to work on the administration of the program. The cost to participating states may be free, but Kansas will pay the cost of Kobach maintaining control of such a flawed program. As the old adage goes, you get what you pay for.

**Molly Woon, a spokeswoman for the Oregon Secretary of State told *KCUR*, “Oregon left the Kansas Crosscheck program because we found more effective and efficient ways to help ensure more accurate voter rolls, specifically the ERIC Program.”**

#### **Attack Four – Prosecutorial Power and Increased Penalties**

After numerous attempts failed to find voter fraud of any significance, Kobach began to assert that voter fraud stemmed from an inadequate prosecutorial effort. This could change, Kobach argued, if his office was granted the power to prosecute. He claimed he would pursue the 100 cases of double voting his office had identified in 2014.<sup>107</sup>

Typically, allegations of election violations would be referred to either the county attorney where the allegation took place, the appropriate U.S. district attorney or the FBI to investigate. Based on the investigation, the referral entity would determine whether or not to prosecute the case. Kobach believed this system was insufficient due to lack of resources and a justified preference to focus on violent crime.<sup>108</sup>

After his reelection in 2014, Kobach renewed his push for the power to pursue allegations of voter fraud, asserting that his office would give the issue the attention it needed. In January 2015, Kobach gave testimony to the Kansas Senate Judiciary Committee to justify the need for the unprecedented prosecutorial power he sought. Citing his Crosscheck data, Kobach claimed, “the opportunities for double voting are plentiful.”<sup>109</sup> Kobach also argued the current punishment for election crimes was insufficient. He argued, “the only way to stop the crime of double voting is to deter it by imposing substantial penalties on those who commit the crime.”<sup>110</sup> Yet, as Kobach’s voter fraud cases reveal, increasing punishments for accidents and confusion may just serve to dissuade otherwise eligible people from voting for fear of penalties from failing to understand election law.

In his testimony, Kobach claimed to have identified 18 cases of double voting over the previous four years,<sup>111</sup> significantly fewer than he had previously alleged. And it is an arguably statistically insignificant number to justify a change in the law. Kobach maintained to the Senate Committee that he referred these 18 alleged incidents to the relevant county and district attorneys but said only one was being prosecuted.<sup>112</sup>

In response, U.S. Attorney Barry Grissom denied that Kobach had notified him of allegations of voter fraud. "Going forward, if your office determines there has been an act of voter fraud please forward the matter to me for investigation and prosecution," Grissom wrote in a letter to Kobach’s office. "Until then, so we can avoid misstatements of facts for the future, for the record, we have received no voter fraud cases from your office in over four and a half years. And, I can assure you, I do know what I'm talking about," Mr. Grissom wrote.<sup>113</sup> Other county attorneys were similarly unpersuaded for the necessity to extend Kobach prosecutorial power. Senior deputy prosecutor at the Riley County attorney's office, Barry Disney said, "[w]e have 105 counties with 105 county attorneys — I don't know how having 106 is going to make it any better. I just don't see the need for it."<sup>114</sup>

Nonetheless, in June 2015, Governor Brownback signed the Stopping Election Crime by Uniting Regulation and Enforcement Act into law, granting

Kobach the power he sought to prosecute voter fraud. This act made Kobach the only Secretary of State in the country to have such prosecutorial power. Then in October of that same year Kobach announced his first cases, instances that appear more to be the result of accidents than attempts to defraud an election.

For his first case, Kobach charged Steven and Betty Gaedtke, for double voting in Kansas and Arkansas in 2010 election. The couple had applied for advance voting ballots from Johnson County because they were in the middle of the move to Arkansas where they bought a retirement home. They claim to have filled out and mailed the ballots but forgot they had done so and voted again on election day in Arkansas. The couple claimed the accidental double voting was caused by the stress of the move.<sup>115</sup> The charges were eventually dropped against Betty, but Steven pleaded guilty and was fined \$500.<sup>116</sup>

Kobach's third case alleged Lincoln Wilson had double voted, once in Kansas and again in Colorado. Wilson who lives in western Kansas, near the border with Colorado, owns property in both states. "Kris Kobach came after me for an honest mistake," Wilson said.<sup>117</sup> At the time Wilson believed he was allowed to vote on local issues in both places but not the national elections. Wilson said he would, "vote for president in one state, and local issues in both places".<sup>118</sup> Wilson, who fought the charges, says he has \$50,000 in legal fees but was eventually found guilty and fined \$6,000 with another \$158 in court costs.<sup>119</sup>

**“Kris Kobach came after me for an honest mistake,” Lincoln Wilson said, after Kobach charged him with double voting**

Then Kobach charged Randall Kilian. Similarly, Kilian who owns property in Kansas and Colorado, believed he was able to vote on the local issues in both places. Mr. Kilian received the maximum fine of \$2,500 for his confusion over the law.<sup>120</sup>

Then in April 2017, almost two years after receiving his prosecutorial powers, Kobach charged a noncitizen for voting. Kobach found out that Victor David Garcia had voted before becoming a citizen, after Garcia reregistered to vote at his naturalization ceremony. Garcia received probation for up to three years and a \$5,000 fine.<sup>121</sup>

Most recently, in January 2018 Kobach charged two more people with double voting, bringing his number of cases to 15 cases over the three years.

Kobach charged Que J. Fulmer who also thought, wrongly, that if he paid taxes both in Kansas and Colorado he could vote in both local elections. <sup>122</sup>

In another case, Kobach brought charges against a 20-year old first-time voter, Bailey Ann McCaughey. According to her mother, Bailey “voted while in Garden City at college and also filled out a mail-in ballot, which I sent – not realizing that she had voted already voted.” <sup>123</sup> The honest mistake has “terrified” Bailey, who told her mother she never wants to vote again. <sup>124</sup>

Though granted unprecedented power to prosecute a supposedly pervasive problem, Kobach’s efforts produced extremely limited results. After presumably three years of dogged efforts to prosecute voter fraud, Kobach was only able to charge 15 people. And examination of his cases appears to show that little more than a dozen of the 1.3 million registered Kansas voters were confused about their right to vote or had accidentally voted twice. This flimsy evidence is a far cry from a pervasive problem with any potential to defraud our elections.

### **Attack Five – Voter Commission**

An early supporter of Donald Trump, Kobach sought to use his relationship with the new President to promote his restrictive voting policies nationwide. Kobach got his first chance shortly after the 2016 Presidential election when Trump claimed massive voter fraud in the results. Trump claimed that between 3 million and 5 million illegal votes were cast, resulting in Trump’s loss of the popular vote. <sup>125</sup> Though widely debunked, Kobach jumped to defend the statement of rampant voter fraud. “I think the president-elect is absolutely correct when he says the number of illegal votes cast exceeds the popular vote margin,” said Kobach. <sup>126</sup>

President Trump’s own lawyers, however, rebuked this claim of fraud in an attempt to prevent a recount in Michigan and Pennsylvania writing, “[a]ll available evidence suggests that the 2016 general election was *not* tainted by fraud or mistake.” <sup>127</sup> This point was echoed by Secretary of State Offices across the country who must certify the results for their

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individual states. By the way, Kobach had indeed certified the results for Kansas.<sup>128</sup>

To justify the assertion, Kobach relied on the widely discredited report by Jessie Richman,<sup>129</sup> (who would serve as an expert witness for Kobach in the *Fish v Kobach* trial – see Appendix). Richman’s expert testimony drew from the same

**Jessie Richman, the author of the report Kobach cited, confirmed under oath that Kobach’s claim in support of President Trump is not supported by his data or any other data he was aware of.**

data in the report Kobach and Trump were using to back their claims. Richman, however, wrote the “claim Trump is making is not supported by our data.”<sup>130</sup> He confirmed this analysis under oath at the trial, stating that Kobach’s claim in support of President Trump is not supported by his data or any other data he was aware of.<sup>131</sup>

Undeterred, the pair pressed on, apparently convinced of a problem that research and data hitherto were unable to support. On May 11, 2017, President Trump signed an executive order creating the Presidential Advisory Commission on Election Integrity. Appointing Kobach as vice chair, Trump also named Vice President Mike Pence the Commission’s nominal head. Originally scheduled to meet five times with a budget of half a million dollars, Trump shuttered the Commission after only two meetings and a slew of lawsuits surrounding its conduct.

From the start, Kobach’s appointment to lead the Commission roused a range of criticisms. A coalition of 24 faith groups wrote a letter to Congress urging lawmakers not to fund the Commission.<sup>132</sup> Their letter was followed by one from the NAACP. Both letters called for remembrance of the long and bloody struggle for expanding access to the ballot box.<sup>133</sup> The *New York Times* Editorial Board wrote, the Commission’s “purpose is not to restore integrity to elections but to undermine the public’s confidence enough to push through policies and practices that make registration and voting harder, if not impossible,” concluding that Kobach’s efforts on the commission posed a danger to democracy.<sup>134</sup>

Former Attorney General Eric Holder also expressed grave concerns about Kobach’s appointment calling him a “fact-challenged zealot.”<sup>135</sup> Robert Bauer, the co-author of a bi-partisan report commissioned by the Obama Administration, thought the commission would “advance reforms that are costly, unnecessary and a burden on lawful voting by eligible voters,” failing to focus on the conclusions



from his report that called for better technology, more opportunities for early voting, and better-trained poll workers.<sup>136</sup> This prompted four top Democrats to request Kobach's resignation from the panel.<sup>137</sup>

Even members of the Commission itself were skeptical of its goals. Alan King, a probate judge in Alabama who was on the Commission said "[t]here's an underlying ideology that they only want people to vote who look like they do and think like they do."<sup>138</sup>

On the other hand, Kobach was confident the Commission would finally find the evidence of the level of voter fraud that he had been proclaiming for many years. In an interview with *Breitbart*, Kobach guessed the number of incidents of voter fraud "is probably going to be very big, certainly I would think in the hundreds of thousands, but we'll find out what that number is."<sup>139</sup> To collect this information on the supposed large numbers of fraudulent voters, Kobach sent a letter to all the Secretary of State Offices around the country. He requested each state submit their publicly available data ranging from date of birth, address, military status and party identification. Kobach also requested any evidence of voter fraud and lists of convictions on election related crimes since 2000.

This request for information was widely refused by Secretaries of State from both parties. Mississippi's Republican Secretary of State, Delbert Hosemann, had the most colorful response, telling the Commission that they could "go jump in the Gulf of Mexico, and Mississippi is a great state to launch from."<sup>140</sup> Moreover, 70 members of congress sent Kobach a letter that asked him to rescind the request, citing problems with security. Responding to the rebuke, Kobach took to his *Breitbart* column to allege impropriety on the part of states' refusal to respond to his request. He asked rhetorically, "What information are they so determined to keep under wraps?"<sup>141</sup>

Following Kobach's letter, the Electronic Privacy Information Center filed suit requesting an immediate injunction against the data collection. The courts denied the injunction, but ruled states did not have to comply with the Kobach's request.<sup>142</sup>

The ruling prompted Kobach to send another letter re-requesting the information from the states. He urged states to comply, saying, "I want to assure you that the Commission will not publicly release any personally identifiable information regarding any individual voter or any group of voters from the voter registration records you submit."<sup>143</sup> But Kobach's assurances rang hollow as the Commission had already accidentally released 112 pages of un-redacted emails from those making public comment.<sup>144</sup>

The security of the data or its ultimate use also worried average voters across the country, leading thousands to de-register to vote. Amber McReynolds, director of elections for Denver, Colorado, said nearly 1,000 people in Denver County had withdrawn their registrations and nearly 4,000 people statewide.<sup>145</sup> In Florida 1,715 voters removed themselves from the rolls.<sup>146</sup> Some Kansans followed suit deregistering to vote after Kobach’s request for data.<sup>147</sup>

Apparently unconcerned, Kobach responded to the phenomenon of individuals deregistering to vote with smug self-assurance. Kobach declared they removed their names because they “are not qualified to vote” or “someone who is not a U.S. citizen is saying, ‘I’m withdrawing my voter registration because I’m not able to vote’”.<sup>148</sup>

In the lead-up to the Commission’s second meeting, Kobach again stirred up controversy. Claiming massive voter fraud in New Hampshire, Kobach said that there were 5,513 “likely” fraudulent votes in the close Senate election.<sup>149</sup> The claim was widely criticized as inaccurate.<sup>150</sup> New Hampshire Secretary of State Bill Gardner, a fellow commission member also criticized Kobach’s argument.<sup>151</sup> Kobach’s flawed analysis was based on misinterpretation of New Hampshire election law that allows for same day registration.<sup>152</sup>

The troubles for the Commission piled on. In one of many lawsuits against the Commission, Maine Secretary of State Matthew Dunlap had filed to gain access to information on the Commission’s functioning. Although he was on the Commission, Dunlap was not made aware of its decisions; finding out that the Commission had hired staff only after a reporter alerted him that one staff member had been arrested for child pornography.<sup>153</sup> Three weeks after his request for information was ignored, Secretary Dunlap sued under the Federal Advisory Committee Act (FACA), alleging Vice President Mike Pence and Kobach were in violation of the Act.<sup>154</sup> The FACA requires advisory commissions to provide public access to all “records, reports, transcripts, minutes, appendixes, working

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papers, drafts, studies, agenda, or other documents” that its members consult or prepare. Individual commissioners hold “an enforceable right to obtain” these documents and “to fully participate in the deliberations of the Commission.”<sup>155</sup> On December 22, the court ruled in favor of Secretary Dunlap.<sup>156</sup>

Rather than comply with the lawsuit, on January 3, 2018, after just two meetings, President Trump abruptly ended the Commission, citing the number of lawsuits as the prime motivation in disbanding the Commission.<sup>157</sup>

While many of its critics saw the end of the Commission as a victory, others worried its fade from the public eye could increase its damage. Dunlap told the *Washington Post*, “I think people who are saying ‘the witch is dead’ should be very alarmed by this move. I think that’s very dangerous.”<sup>158</sup> In fact, his fear stemmed from a move to transition the defunct Commission’s work to the Department of Homeland Security (DHS), while maintaining an emphasis on finding voter fraud. Indeed, the Trump administration reaffirmed its commitment to uncovering voter fraud. In a tweet after disbanding the Commission, President Trump wrote, “System is rigged, must go to Voter I.D.”<sup>159</sup> And White House Press Secretary Sarah Huckabee Sanders insisted, “substantial evidence of voter fraud” exists.<sup>160</sup> So efforts to prove claims of voter fraud would continue without the Commission, under the DHS but possibly, with much less transparency, because as Dunlap told the *Times*, “Homeland Security operates very much in the dark...[and] any chance of having this investigation done in a public forum is now lost, and I think people should be, frankly, frightened by that,” he said.<sup>161</sup>

For his part, Kobach attempted to reframe the Committee’s disbanding as a strategic win for “their” side. He said, “it’s a shifting in tactics from having the investigation be done by a federal commission to having it be done by a federal agency”, and continued that the DHS “has a greater ability to move quickly to get the investigation done.”<sup>162</sup> His arguments seemed to confirm Dunlap’s fears, as Kobach told *NPR*, “it eventually became clear that the better way to move forward would be to have the Department of Homeland Security do it within an executive branch agency rather than use the mechanism of a commission under the Federal Advisory Commission Act.”<sup>163</sup>

As Kobach told the *Times*, DHS was chosen because the agency oversees immigration and can come up with an accurate estimate of the number of noncitizens on voter rolls.<sup>164</sup> He said he would remain an informal adviser to DHS on the issue and said the Department’s first step would be to match files of immigrants against national voting rolls. Kobach admitted that DHS had little expertise in voter fraud, but noted DHS has a broad mandate to address election

security issues as critical to U.S. infrastructure.<sup>165</sup> Kobach is likely hoping DHS will use its Systematic Alien Verification for Entitlements (SAVE) database to identify noncitizens voting, even though SAVE's database contains naturalized citizens as well, and DHS had previously warned that the database could not be used to verify state voter rolls.<sup>166</sup>

Yet, Kobach's role is currently in dispute. A DHS spokesman said Kobach is not advising on the matter.<sup>167</sup> Assured of his role, Kobach maintained in an interview with the *Kansas City Star* that, "I was informed by the White House when the president made his final decision that they wanted me to be working closely with the president and this team. ... And that team is both the White House and DHS".<sup>168</sup>

## Conclusion

Kris Kobach set out in 2009 to become the chief elections officer for the State of Kansas. In the intervening nine years, his track record demonstrates that he has worked nonstop to limit Kansans access to the ballot box. Kobach championed the passage of the Secure and Fair Elections Act (SAFE Act).

Kobach's SAFE Act required that everyone registering to vote for the first time in Kansas must show documentary proof of citizenship. Designed to prevent what Kobach had long claimed was a pervasive problem – namely that of noncitizens attempting to register and vote. This too would prove to be a solution in search of a problem.

Unfazed by his critics or courts that ruled against him numerous times, Kobach aspired to take his approach to the national level. But credible national sources condemned Kobach's policies as a potential hurdle to the ballot box for millions of American who lack immediate access to forms of identification needed to use their fundamental right to vote. For women alone, as many as 32 million voting age women may not have proof of citizenship reflecting their current names. Putting his ideology into practice, Kobach expanded the Crosscheck program across half the country, only to have this inaccurate, insecure technology translate into real purges of legitimate voters.

Kobach's central approach to voting rights was excessive concern that noncitizens would seek to influence elections by registering to vote. With little evidence to offer from day one, Kobach turned to less than credible, anti-immigrant sources for his policy choices. This approach was put on trial in U.S. District Court in 2018.

Found in contempt of court on April 18, 2018, court proceedings document that what few noncitizens manage to register to vote were shown to be the result of accidents or administrative errors. Kobach's closing argument demonstrates that he himself may have been painfully aware of this lack of evidence. He closed his case by asserting that even if there were zero evidentiary instances of noncitizens registering to vote, the mere threat of the potential problem is enough justification for proof of citizenship law.

The real threat we have already faced is the length Kris Kobach will go to disenfranchise legitimate voters. Our democracy is a central ideal of our nation. Our history has been one of a long and hard struggle to expand access to the ballot box. Kobach, however, appears determined to create new barriers to access the vote. Voters should decide to elect a Governor – certainly not Kobach – who wants more, not less participation in our democracy.

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To help expose Kris Kobach's political actions and allies and defeat his campaign for governor donate to Kobach is WRONG for Kansas PAC at:

**KobachisWrong.org**

Or

**P.O. Box 5206 Topeka, KS 66605**

**KOBACH IS WRONG FOR KANSAS!** 

## APPENDIX on The Trial

***The Trial Begins:*** Fish v. Kobach began on March 6, 2018, at the federal court house in Kansas City, Kansas. Filed in 2016 by the ACLU on behalf of Steven Wayne Fish, the lawsuit held that Kobach’s DPOC requirement violated the Nation Voter Registration Act (NVRA). The NVRA requires states to provide the opportunity to register at the Department of Motor Vehicles (DMV) with the “minimum amount of information necessary.”

### ***Opposing Council & Opening Statements:***

- Dale Ho, lead attorney for the ACLU opened the trial saying documentary proof of citizenship (DPOC) is a barrier to the ballot box because some Kansans are unable to produce such documents, do to time and cost. He concluded his opening remarks saying DPOC is like taking a “bazooka to a fly.”
- Kobach was named as defendant in the case but also chose to be his own chief legal counsel. Kobach, focusing on the legal definition of “substantial,” attempted to justify the relatively small number alleged noncitizens he presented as evidence to the court. Going back as far as 199, Kobach presented only 129 alleged instances of noncitizens attempting to register to vote. Kobach asserted that even 10 noncitizens voting would qualify as substantial. Although a questionably low bar, it was still one he was never able to clear.

### ***Plaintiffs to the Stand:***

- ACLU called the co-plaintiffs to the stand. Two individuals testified that they sought to register at the DMV in 2014 and believed they were registered only to be informed at the polls they were not on the voting rolls because they failed to provide DPOC. One testified that she could not locate her birth certificate, nor could she afford to purchase a new one from Maryland, demonstrating the barrier citizenship documents present to the ballot box.
- Stephen Fish noted he had attempted to register to vote at the DMV in 2014. Fish noted that he believed he was registered to vote, but was informed via mail a month later that he must provide DPOC in order to complete his

registration. Not possessing a birth certificate or other documentation at the time, he was unable to complete his registration.

- Margaret Ahrens, the former co-president of the League of Women Voters of Kansas, testified as a plaintiff. Ahrens said that the League had opposed SAFE Act, since its inception – characterizing the law as a “complex network of hoops,” which “create barriers to vote.” She continued saying DPOC was “absolutely a blow,” to voter registration and that the League, “stopped registering voters, plain and simple,” after the law went into effect in 2013.
  - o Ahrens went on to testify that some local League chapters attempted to register voters under DPOC before the 2014 midterm election. Such efforts were dramatically inefficient compared to previous years. From 2012 to 2014, the following reductions in voter registration were noted: Sedgwick County chapter a 90 percent reduction, Emporia chapter and 75 percent reduction, and Shawnee Chapter a 70 percent reduction.
- Visibly distraught by the negative effect that DPOC had on registering new voters Ahrens concluded her testimony saying the League has “no experience with undocumented workers attempting to register to vote or attempting to vote.”

***Defendants to the Stand:***

- Tabatha Lehman, the Sedgwick County Election Commissioner, testified on a spreadsheet she had compiled of 38 alleged noncitizens attempting to register to vote. Appointed by Kobach in 2011, Lehman’s list was broken into three parts: 1) noncitizens who registered to vote before DPOC (18 identified); 2) noncitizens blocked by DPOC (16 identified); and 3) noncitizens who registered during the injunction (4 identified).
  - o Two of these alleged incidents were exposed as nonexistent examples of voter fraud. For example, one individual filled out a voter registration application, but marked that they were not a citizen. This invalidates the registration. Another individual, after receiving a request to submit DPOC, mailed the letter back writing, “I am not a citizen” and “I cannot vote, thank you.” “Thanks.” Lehman passed these instances on to the Secretary of State’s Office, but testified at the trial that they were not attempts at voter fraud.

- Over the almost 20-year period these 38 alleged noncitizens registered to vote, only five were identified as actually casting a ballot. During that same period, more than 1.3 million votes were cast in Sedgwick County. This data points more to confusion than an attempt to defraud an election.
- Brian Caskey, Kansas' Director of Elections of Kansas, testified regarding a mistake in his own sworn affidavit. Conceding that mistakes occur even under the threat of perjury, Caskey's testimony begs the question on why a different standard should apply to noncitizens who may accidentally file a voter registration form.
- Caskey went on to explain the petition process for those who lack DPOC. Such individuals are required to file a petition with the State Election Board, which consists of the Secretary of State, Lieutenant Governor and the Attorney General. Determination of citizenship is then subjectively determined by the Board, as a list of acceptable documents or requirements does not exist. Only five individuals have ever used this vague process.
  - Jo French, one of the handful of individuals who went through the Board process testified in the trial. Born at home in Arkansas in 1941, French never was issued a birth certificate. Lacking proof of citizenship, French presented: a family Bible where her name and birthdate are hand-written, a baptism certificate, and a high school transcript as evidence of her citizenship. None of these materials prove citizenship. Regardless, the Board determined French to be a citizen.
  - French testified that the process was not a burden to her. But, she made multiple calls, asked a friend to drive her 40 minutes to an in-person meeting with Secretary Kobach and the Attorney General of Kansas, and paid \$8 to Arkansas to check their records for a birth certificate.
  - French also testified that she "did not want the voter fraud" she heard about on TV, and that she wanted to participate in the trial to make Kobach "look good."

Kansans, such as French, may believe Kobach's claim that voter fraud is a pervasive problem. Her testimony, however, is more of an indication of the



barrier someone who lacks citizenship documents may have to overcome in order to access their fundamental right to vote. Or if they lack the resources French has, may be blocked from the ballot box all together. Even more egregiously, Kobach claimed in a preliminary hearing that a sworn affidavit of citizenship from such a petitioner would suffice as evidence for the Board. It begs the question, why does Kobach believe such an affidavit is sufficient in one instance and not in another.

***Expert Witnesses for the ACLU:*** A series of expert witnesses took the stand to offer estimates and evaluations of the data and mythology to accurately assess the scope of the problem.

- Dr. Michael McDonald, a professor at the University of Florida, is an expert in analyzing voter turnout. McDonald noted that the more than 35,000 registrants placed on the suspended or canceled registration list represented about 12 percent, or one in eight new registrants from 2013 when the law took effect to March 2016.
  - o McDonald said that DPOC disproportionately affected young voters 18 to 29 years old, noting that young voters were more sensitive to voting barriers. He noted that younger voters represent 43.2 percent of those placed on suspended or canceled registration list, but only 14.9 percent of the total voter rolls. Compounding the problem, McDonald reported that establishing of voter participation matters; thus preventing participation at an early age can have the opposite effect.
  
- Dr. Lorraine Minnite, a professor at Rutgers University and author of “The Myth of Voter Fraud”, testified that “instances of voter fraud nationally are extremely rare.” Minnite continued by defining voter fraud as the “intentional corruption of an election by voters.” Moreover, Minnite testified that allegations of voter fraud are not based on “empirical evidence,” but rather “have political use.”
  - o Minnite detailed the instance from North Kansas City in 2010. Despite the clear ruling in the case, Minnite pointed to numerous examples over five years where Kobach continued to cite the case as an example of noncitizens voting, including his in testimony to Congress in 2015. She commented on the lack of empirical evidence, but how Kobach continued to use this case to his political advantage.

- Minnite also reviewed the spreadsheet of the alleged noncitizens attempting to register in Sedgwick County. She testified that a better explanation of the data would be administrative mistakes and confusion on the part of noncitizens, not an attempt to commit fraud.

***Expert Witnesses for Kobach:*** Kobach’s experts tended to represent the anti-immigrant movement, rather than experts on voting issues. Most were longtime advocates for greater restrictions to ballot access.

- Hans von Spakovsky, a senior fellow at the conservative think tank the Heritage Foundation, von Spakovsky gave Kobach a campaign donation in 2010, and allowed a fundraising email he wrote to be sent to Kobach supporters.
  - Kobach and von Spakovsky also share a disdain for the 14<sup>th</sup> Amendment to the U.S. Constitution. After attempting to dance around the issue, von Spakovsky conceded that he disagreed with the 14th Amendment’s guarantee of birthright citizenship. He testified that, in his view, at least one parent must be a United States citizen if a child is to be granted citizenship.
  - Unlike the Plaintiffs’ expert witnesses, von Spakovsky never published peer-reviewed work on voting issues. Von Spakovsky asserted that DPOC is only a “tangential burden,” and not an added barrier to the vote. He also testified that he could not think of any voter regulation that was burdensome to voters. He found the State Election Board hearing to be “all the flexibility that is needed.”
  - Von Spakovsky’s expert report for the court relied solely on Kobach’s assertion of the 38 alleged cases from Sedgwick County and demonstrated no investigation of the underlying data himself. Despite the court ruling in the case, von Spakovsky too continued to use the North Kansas City as an example of the problem of noncitizens voting.
  - With a much broader definition of fraud, he asserted that any time a noncitizen even attempts to register to vote they are “defrauding legitimate citizens from a fair election.” Judge Robinson asked him if one noncitizen voting in an election defrauds the whole electoral process, he agreed. But when Judge Robinson asked if a 1,000 individuals were denied the right to vote, would that also be defrauding the electoral process, von Spakovsky disagreed.

- Steven Camerota, the director of research at the Center for Immigration Studies (CIS) was next brought to the stand by Kobach. Since 1996, Camerota has been with CIS, a think tank apart of the anti-immigration establishment and part of John Tanton’s organizational network. CIS was originally a project of the Federation for American Immigration Reform (FAIR), founded by Tanton in 1978. CIS was intentionally spun off from FAIR to give the appearance of objectivity in the immigration debate.
  - o CIS has a history of circulating the work of white nationalists. As recently as 2016, CIS distributed articles first published on *American Renaissance* and *VDare*, two openly white nationalist publications.<sup>169</sup> CIS has also published Kobach’s work, and he remains on their website in the list of CIS’s authors.<sup>170</sup> Mark Krikorian, CIS’ Executive Director donated to Kobach’s campaign in 2009, 2010, and in 2017. Krikorian has also, repeatedly praised Kobach’s work and advocated for Kobach to receive a high-level position in the Trump Administration.<sup>171</sup>
  - o Tanton’s role in founding CIS was briefly brought up in Camerota’s cross-examination. Camerota also testified that he believes, “the English language is the glue that holds the country together.”
  - o Camerota also has never published peer-reviewed articles on elections or turnout rates, to which he was offered as an expert. Judge Robinson took his whole testimony under advisement to determine if any of his testimony is admissible.
  - o Camerota was asked by Kobach to comment on the claim that CIS is motivated by “racial and ethnic bias” saying “that is ridiculous.” Continuing, Camerota claimed that the Southern Poverty Law Center (SPLC) “smears” people they disagree with and “routinely taints them with a racist brush” – a mantra used by Kobach himself. The Southern Poverty Law Center are not smear artists of any kind, but a respected source on white supremacist organizations for more than 40 years.
  
- The testimony of Jessie Richman, though not a far-right ideologue like the previous two, still did not hold up under scrutiny. A professor at Old Dominion University, Richman’s work had been widely criticized before he stepped foot in the court room.
  - o Richman had used the Cooperative Congressional Election Survey (CCES) to calculate noncitizen registration rates. The CCES is a

widely used data set, however, it only tracks citizens. The misuse of the data lead over 200 political scientists to sign an open letter criticizing his work. They were alerted to his work after Kobach cited his data to justify President Trump's false claim that 3 -5 million fraudulent votes were counted in the 2016 Presidential election. This claim Richman testified, is not supported by his or any data source that he is aware of.

- Richman's provided four estimates of the total Kansas noncitizens who attempted to register or registered. Using the 127 alleged instances of noncitizens provided by Kobach as well as CCES data, Richman testified his best estimate was that one percent of the noncitizen population may have attempted to register to vote.

***Rebuttal to Kobach's Experts:***

- Stephen Ansolabehere, the creator of the CCES and Harvard professor, followed Richman, refuting his use of the CCES data. Ansolabehere said the 14 respondents that Richman identified from the CCES as noncitizens attempting or successfully registered to vote in Kansas should be understood as a response error. He also responded to Richman's other findings saying, they provided "no information on noncitizenship registration in Kansas." He concluded that all of Richman's estimates were "not statistically different than zero."
- Eitan Hersh, a professor at Tufts University, was also a rebuttal witness to Richman. Hersh analyzed the same 127 alleged instances. He was able to confirm 122 who appeared in the Kansas voter registration database, but only 48 of whom were successfully registered. Qualifying this phenomenon, Hersh testified that about 400 people in the database had a birthdate after they supposedly registered to vote. Hersh concluded that the 122 alleged noncitizens should be considered most likely to be administrative errors.
  - Hersh also testified that the voter rate of these 122 is at zero or one percent, thus concluding that these instances were likely accidents. To intentionally register as a noncitizen but not vote is like "holding up a bank and not taking any money."
- Pat McFerron, a Republican pollster, was hired by Kobach to conduct a survey on the prevalence of Kansans citizenship documents. Before

McFerron could testify, Judge Robinson instructed Secretary Kobach's team that they had "violated the rules of civil procedure" in putting forward McFerron, so his testimony might not be admitted.

- Matt Barreto, a UCLA professor and founder of Latino Decisions, a polling and research firm, detailed serious errors in McFerron's survey. Critique included that McFerron's survey was not a representative sample, induced bias in its questions, and the survey was implemented outside industry standards.

***Contempt of Court:***

- The trial concluded with Judge Julie Robinson finding Kris Kobach in contempt of court on April 18, 2018. Kobach has promised to appeal the decision in the U.S. Supreme Court. In the meantime, Kansas taxpayers will foot the opposing attorney legal fees of \$51,646 dollars.

## ENDNOTES

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- <sup>1</sup> Fish v. Kobach, No. 16-2105-JAR (The United States District Court for the District of Kansas April 18, 2018).
- <sup>2</sup> Ibid.
- <sup>3</sup> Ibid.
- <sup>4</sup> Ibid.
- <sup>5</sup> Lowry, Bryan. "ACLU Sends Kobach's Office a Nearly \$52,000 Bill in Latest Court Filing." *The Kansas City Star*, May 7, 2018. Accessed May 7, 2018. <http://www.kansascity.com/news/politics-government/article210645389.html>.
- <sup>6</sup> "Kris Kobach to Run for Kansas Secretary of State next Year." *The Wichita Eagle*, May 26, 2009. Accessed December 2017. <http://www.kansas.com/news/article1006980.html>.
- <sup>7</sup> Slajda, Rachel. "AZ Immigration Law Writer Running For Office In Kansas On Voter Fraud Platform." *The Talking Points Memo*, October 25, 2010. Accessed December 2017. <https://talkingpointsmemo.com/muckraker/az-immigration-law-writer-running-for-office-in-kansas-on-voter-fraud-platform>.
- <sup>8</sup> Ibid.
- <sup>9</sup> SZCZEPANSKI, CAROLYN. "Kris Kobach Tells Us Why He's Running for Sec of State." *The Pitch*, May 27, 2009. Accessed December 2017. <https://www.pitch.com/news/article/20576421/kris-kobach-tells-us-why-hes-running-for-sec-of-state>.
- <sup>10</sup> Wilkinson, Francis. "The Kansas Model for Voter-Fraud Bluffing." *Bloomberg*, January 31, 2017. Accessed December 2017. <https://www.bloomberg.com/view/articles/2017-01-31/the-kansas-model-for-voter-fraud-bluffing>.
- <sup>11</sup> Minnite, Lorraine Carol. *The Myth of Voter Fraud*. Ithaca: Cornell University Press, 2010.
- <sup>12</sup> Ibid.
- <sup>13</sup> "Debunking the Voter Fraud Myth." The Brennan Center for Justice. January 31, 2017. Accessed December 2017. <https://www.brennancenter.org/analysis/debunking-voter-fraud-myth>.
- <sup>14</sup> Hines, Debbie. "New Republican Data Shows No Need For Voter ID Laws." The Huffpost. December 12, 2011. Accessed December 2017. [https://www.huffingtonpost.com/debbie-hines/voter-fraud-statistics\\_b\\_1139085.html](https://www.huffingtonpost.com/debbie-hines/voter-fraud-statistics_b_1139085.html).
- <sup>15</sup> Ingraham, Christopher. "7 Papers, 4 Government Inquiries, 2 News Investigations and 1 Court Ruling Proving Voter Fraud Is Mostly a Myth." *The Washington Post*, July 9, 2014. Accessed December 2017. [https://www.washingtonpost.com/news/wonk/wp/2014/07/09/7-papers-4-government-inquiries-2-news-investigations-and-1-court-ruling-proving-voter-fraud-is-mostly-a-myth/?utm\\_term=.18fce37404c0](https://www.washingtonpost.com/news/wonk/wp/2014/07/09/7-papers-4-government-inquiries-2-news-investigations-and-1-court-ruling-proving-voter-fraud-is-mostly-a-myth/?utm_term=.18fce37404c0).
- <sup>16</sup> Wines, Michael. "All This Talk of Voter Fraud? Across U.S., Officials Found Next to None." *Th New York Times*, December 18, 2016. Accessed December 2017. <https://www.nytimes.com/2016/12/18/us/voter-fraud.html>.
- <sup>17</sup> Minnite, Lorraine Carol. *The Myth of Voter Fraud*. Ithaca: Cornell University Press, 2010.
- <sup>18</sup> Ibid.
- <sup>19</sup> Lipton, Eric, and Ian Urbina. "In 5-Year Effort, Scant Evidence of Voter Fraud." *Th New York Times*, April 12, 2007. Accessed December 2017. <https://www.nytimes.com/2007/04/12/washington/12fraud.html>.
- <sup>20</sup> Ibid.
- <sup>21</sup> Ibid.
- <sup>22</sup> Carpenter, Tim. "Kobach Slips on Voting Claim." *The Topeka Capital Journal*, October 29, 2010. Accessed December 2017. [http://www.cjonline.com/news/state/2010-10-29/kobach\\_slips\\_on\\_voting\\_claim](http://www.cjonline.com/news/state/2010-10-29/kobach_slips_on_voting_claim).
- <sup>23</sup> Ibid.
- <sup>24</sup> Kubrin, Charis Elizabeth. *Punishing Immigrants: Policy, Politics, and Injustice*. New York, NY: New York University Press, 2012.
- <sup>25</sup> Ibid.
- <sup>26</sup> Hanna, John. "Kobach: Obama Should End Speculation." *The Wichita Eagle*, July 24, 2010. Accessed December 2017. <http://www.kansas.com/news/politics-government/election/article1035501.html>.
- <sup>27</sup> Plumlee, Rick. "Document Fees for ID to Vote in Kansas Raise Concerns." *The Wichita Eagle*, February 19, 2012. Accessed December 2017. <http://www.kansas.com/news/local/article1086554.html>.

- 
- <sup>28</sup> The United States. Government Accountability Office. *The Government Accountability Office*. September 2014. Accessed December 2017. <https://www.gao.gov/assets/670/665966.pdf>.
- <sup>29</sup> "Citizens Without Proof." The Brennan Center for Justice. November 28, 2006. Accessed December 2017. <https://www.brennancenter.org/analysis/citizens-without-proof>.
- <sup>30</sup> Wang, Tova, and Jennifer Lohr. "VOTER IDENTIFICATION IN KANSAS: A MISPLACED PRIORITY." Demos. 2014. Accessed December 2017. [http://www.demos.org/sites/default/files/publications/VoterID\\_Kansas\\_Demos.pdf](http://www.demos.org/sites/default/files/publications/VoterID_Kansas_Demos.pdf).
- <sup>31</sup> Wang, Tova, and Jennifer Lohr. "VOTER IDENTIFICATION IN KANSAS: A MISPLACED PRIORITY." Demos. 2014. Accessed December 2017. [http://www.demos.org/sites/default/files/publications/VoterID\\_Kansas\\_Demos.pdf](http://www.demos.org/sites/default/files/publications/VoterID_Kansas_Demos.pdf).
- <sup>32</sup> "Citizens Without Proof." The Brennan Center for Justice. November 28, 2006. Accessed December 2017. <https://www.brennancenter.org/analysis/citizens-without-proof>.
- <sup>33</sup> Horwitz, Sari. "Eric Holder Vows to Aggressively Challenge Voter ID Laws." *The Washington Post*, July 10, 2012. Accessed December 2017. [https://www.washingtonpost.com/world/national-security/eric-holder-vows-to-aggressively-challenge-voter-id-laws/2012/07/10/gJQApOASbW\\_story.html?utm\\_term=.9f10cee612a4](https://www.washingtonpost.com/world/national-security/eric-holder-vows-to-aggressively-challenge-voter-id-laws/2012/07/10/gJQApOASbW_story.html?utm_term=.9f10cee612a4).
- <sup>34</sup> "Citizens Without Proof." The Brennan Center for Justice. November 28, 2006. Accessed December 2017. <https://www.brennancenter.org/analysis/citizens-without-proof>.
- <sup>35</sup> Hajnal, Zoltan, Nazita Lajevardi, and Lindsay Nielson. *Voter Identification Laws and the Suppression of Minority Votes*. Report. University of California San Diego.
- <sup>36</sup> The United States. Government Accountability Office. *The Government Accountability Office*. September 2014. Accessed December 2017. <https://www.gao.gov/assets/670/665966.pdf>.
- <sup>37</sup> Bump, Phil. "Voter ID Laws in Kansas and Tennessee Dropped 2012 Turnout by Over 100000 Votes." *The Washington Post*, October 9, 2014. Accessed December 2017. [https://www.washingtonpost.com/news/the-fix/wp/2014/10/09/gao-voter-id-laws-in-kansas-and-tennessee-dropped-2012-turnout-by-over-100000-votes/?utm\\_term=.2e701e8e0491](https://www.washingtonpost.com/news/the-fix/wp/2014/10/09/gao-voter-id-laws-in-kansas-and-tennessee-dropped-2012-turnout-by-over-100000-votes/?utm_term=.2e701e8e0491).
- <sup>38</sup> The United States. Government Accountability Office. *The Government Accountability Office*. September 2014. Accessed December 2017. <https://www.gao.gov/assets/670/665966.pdf>.
- <sup>39</sup> Wang, Tova, and Jennifer Lohr. "VOTER IDENTIFICATION IN KANSAS: A MISPLACED PRIORITY." Demos. 2014. Accessed December 2017.
- <sup>40</sup> Reilly, Ryan J. "'Got Voter ID?' State Efforts At Public Education Vary Widely." *The Talking Points Memo*, July 13, 2012. Accessed December 2017. <https://talkingpointsmemo.com/muckraker/got-voter-id-state-efforts-at-public-education-vary-widely>.
- <sup>41</sup> "Kobach's Voter Tour." Gotvoterid.com. 2012. Accessed December 2017. <http://www.gotvoterid.com/tour.html>.
- <sup>42</sup> "Citizens Without Proof." The Brennan Center for Justice. November 28, 2006. Accessed December 2017. <https://www.brennancenter.org/analysis/citizens-without-proof>.
- <sup>43</sup> Ibid.
- <sup>44</sup> Minnite, Lorraine Carol. *The Myth of Voter Fraud*. Ithaca: Cornell University Press, 2010.
- <sup>45</sup> Testimony of Kris Kobach: Hearing before the Committee on Oversight and Government Reform. February 12, 2015. <https://oversight.house.gov/wp-content/uploads/2015/02/Kobach-Testimony-House-OGR-21215.pdf>
- <sup>46</sup> Ibid.
- <sup>47</sup> Holman, Rhonda. "Challenging the Facts of Kobach's Defense." *The Wichita Eagle*, July 8, 2013. Accessed July 8, 2013. <http://www.kansas.com/news/local/news-columns-blogs/article1118622.html>.
- <sup>48</sup> Testimony of Kris Kobach: Hearing before the Committee on Oversight and Government Reform. February 12, 2015. <https://oversight.house.gov/wp-content/uploads/2015/02/Kobach-Testimony-House-OGR-21215.pdf>
- <sup>49</sup> Abouhalkah, Yael Y. "Beware Kobach's Lie about KC Voter Fraud Case." *The Kansas City Star*, July 5, 2013. Accessed December 2017. <http://www.kansascity.com/opinion/opn-columns-blogs/yael-t-abouhalkah/article322569/Beware-Kobach's-lie-about-KC-voter-fraud-case.html>.
- <sup>50</sup> "Citizens Without Proof." The Brennan Center for Justice. November 28, 2006. Accessed December 2017. <https://www.brennancenter.org/analysis/citizens-without-proof>.
- <sup>51</sup> Ibid.
- <sup>52</sup> Sobel, Richard. *The High Cost of 'Free' Photo Voter Identification Cards*. Report. Charles Hamilton Huston Institute for Race and Justice, Harvard Law School.

- 
- <sup>53</sup> Arizona v. Inter Tribal Council of Ariz., Inc., (2013).
- <sup>54</sup> Fischer, Howard. "Supreme Court Strikes down Arizona Voter ID Citizenship Law." *Supreme Court Strikes down Arizona Voter ID Citizenship Law*, June 17, 2013. Accessed December 2017. [http://www.tucsonlocalmedia.com/news/article\\_175faf0e-d76a-11e2-aad6-0019bb2963f4.html](http://www.tucsonlocalmedia.com/news/article_175faf0e-d76a-11e2-aad6-0019bb2963f4.html).
- <sup>55</sup> Belenky v. Kobach, No. 2013cv1331 (The District Court of Shawnee County, Kansas Division Seven January 15, 2016).
- <sup>56</sup> The Associated Press. "Timeline of Kris Kobach's Drive to Restrict Voting in Kansas." *The Kansas City Star*, July 20, 2016. Accessed December 2017. <http://www.kansascity.com/news/state/kansas/article90723752.html>.
- <sup>57</sup> Bosman, Julie. "Voter ID Battle Shifts to Kansas." *The New York Times*, October 15, 2015. Accessed December 2017. <https://www.nytimes.com/2015/10/16/us/politics/kansas-voter-id-law-sets-off-a-new-battle-over-registration.html>.
- <sup>58</sup> "Former Johnson County Elections Chief Left behind a Scandal." *The Kansas City Star*, October 17, 2016. Accessed December 2017. <http://www.kansascity.com/news/politics-government/article108844337.html>.
- <sup>59</sup> The Editorial Board. "Bromance between Kris Kobach and Brian Newby Leads to Attack on Voting Rights." *The Kansas City Star*, April 1, 2016. Accessed December 2017. <http://www.kansascity.com/opinion/editorials/article69509812.html>.
- <sup>60</sup> Horwitz, Sari. "How Kansas Has Become a Battleground State for Voting Rights." *The Washington Post*, February 16, 2016. Accessed December 2017. [https://www.washingtonpost.com/news/post-nation/wp/2016/02/19/how-kansas-has-become-a-battleground-state-for-voting-rights/?utm\\_term=.2fb0db8f1b59](https://www.washingtonpost.com/news/post-nation/wp/2016/02/19/how-kansas-has-become-a-battleground-state-for-voting-rights/?utm_term=.2fb0db8f1b59).
- <sup>61</sup> <http://www.kansascity.com/news/state/kansas/article90723752.html>
- <sup>62</sup> Lowry, Bryan. "Kansas Judge Rules 17,500 Suspended Voters Can Cast Ballots in All Races." *The Kansas City Star*, July 29, 2016. Accessed December 2017. <http://www.kansascity.com/news/politics-government/article92732812.html>.
- <sup>63</sup> Ibid.
- <sup>64</sup> "JUDGE RULES SECRETARY OF STATE KRIS KOBACH 'LACKS THE AUTHORITY TO CREATE A TWO-TIERED SYSTEM OF VOTER REGISTRATION'." ACLU. November 4, 2016. Accessed December 2017. <https://www.aclu.org/news/court-permanently-blocks-kansas-dual-voter-registration-system>.
- <sup>65</sup> Woodall, Hunter. "Kobach, ACLU Reach Agreement on Voting Case, Avoid Contempt Hearing." *The Kansas City Star*, September 29, 2016. Accessed December 2017. <http://www.kansascity.com/news/politics-government/article104898266.html>.
- <sup>66</sup> Lowry, Bryan. "Kobach Scores Win in One Case, as Appeals Court Rejects His Arguments in Another." *The Wichita Eagle*, October 19, 2016. Accessed December 2017. [www.kansas.com/news/politics-government/article109208192.html](http://www.kansas.com/news/politics-government/article109208192.html).
- <sup>67</sup> Ibid.
- <sup>68</sup> Ho, Dale. "Trump's Lies Pave the Way for an Assault on Voting Rights." *The New York Times*, January 26, 2017. Accessed December 2017. <https://www.nytimes.com/2017/01/26/opinion/trumps-lies-pave-the-way-for-an-assault-on-voting-rights.html>.
- <sup>69</sup> Fish v. Kobach, No. 2:16-cv-02105-JAR-JPO slip op. at 373-3 (The United States District Court District of Kansas July 24, 2017).
- <sup>70</sup> Fish v. Kobach, No. 2:16-cv-02105-JAR-JPO slip op. at 373-3 (The United States District Court District of Kansas July 24, 2017).
- <sup>71</sup> Fish v. Kobach, No. 16-2105-JAR slip op. at 320 (The United States District Court District of Kansas April 17, 2017).
- <sup>72</sup> The Associated Press. "Judge Fines Kris Kobach \$1K for Misleading Court on Materials He Brought to Trump Meeting." *The Topeka Capital Journal*, June 23, 2017. Accessed December 2017. <http://www.cjonline.com/news/state-government/2017-06-23/judge-fines-kris-kobach-1k-misleading-court-materials-he-brought>.
- <sup>73</sup> The Associated Press. "Judge Fines Kris Kobach \$1K for Misleading Court on Materials He Brought to Trump Meeting." *The Topeka Capital Journal*, June 23, 2017. Accessed December 2017. <http://www.cjonline.com/news/state-government/2017-06-23/judge-fines-kris-kobach-1k-misleading-court-materials-he-brought>.



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- <sup>74</sup> Fish v. Kobach, No. 16-2105-JAR slip op. at 320 (The United States District Court District of Kansas April 17, 2017).
- <sup>75</sup> Graham, David A. "Judge: Kobach Statements 'Demonstrate a Pattern' of Misleading Claims." *The Atlantic*, July 26, 2017. Accessed December 2017. <https://www.theatlantic.com/politics/archive/2017/07/judge-kobachs-statements-demonstrate-a-pattern-of-insupportable-claims/534975/>.
- <sup>76</sup> Fish v. Kobach, No. 16-2105-JAR slip op. at 374 (The United States District Court District of Kansas July 25, 2017).
- <sup>77</sup> Fish v. Kobach, No. 2:16-cv-02105-JAR-JPO slip op. at 373-3 (The United States District Court District of Kansas July 24, 2017).
- <sup>78</sup> Levine, Sam. "Head Of Trump Voter Fraud Probe Wanted To Change Law To Make Registering More Difficult." *The Huffpost*, July 15, 2017. Accessed December 2017. [https://www.huffingtonpost.com/entry/kris-kobach-nvra\\_us\\_59698037e4b017418627ac98?xpi](https://www.huffingtonpost.com/entry/kris-kobach-nvra_us_59698037e4b017418627ac98?xpi).
- <sup>79</sup> Esau, Keith. "Interstate Voter Registration Crosscheck Program." Presentation Slides, National Conference of State Legislators, Williamsburg, Virginia. June, 15, 2017.
- <sup>80</sup> Ingraham, Christopher. "This Anti-voter Fraud Program Gets It Wrong over 99 of the Time the GOP Wants to Take It Nationwide." *The Washington Post*, July 20, 2017. Accessed December 2017. [https://www.washingtonpost.com/news/wonk/wp/2017/07/20/this-anti-voter-fraud-program-gets-it-wrong-over-99-of-the-time-the-gop-wants-to-take-it-nationwide/?utm\\_term=.e6f583c8bcdf](https://www.washingtonpost.com/news/wonk/wp/2017/07/20/this-anti-voter-fraud-program-gets-it-wrong-over-99-of-the-time-the-gop-wants-to-take-it-nationwide/?utm_term=.e6f583c8bcdf).
- <sup>81</sup> Ingraham, Christopher. "7 Papers, 4 Government Inquiries, 2 News Investigations and 1 Court Ruling Proving Voter Fraud Is Mostly a Myth." *The Washington Post*, July 9, 2014. Accessed December 2017. [https://www.washingtonpost.com/news/wonk/wp/2014/07/09/7-papers-4-government-inquiries-2-news-investigations-and-1-court-ruling-proving-voter-fraud-is-mostly-a-myth/?utm\\_term=.a8ac05c1cc1d](https://www.washingtonpost.com/news/wonk/wp/2014/07/09/7-papers-4-government-inquiries-2-news-investigations-and-1-court-ruling-proving-voter-fraud-is-mostly-a-myth/?utm_term=.a8ac05c1cc1d).
- <sup>82</sup> Palast, Gerg. "The GOP's Stealth War Against Voters." *The Rolling Stone*, August 24, 2016. Accessed December 2017. <https://www.rollingstone.com/politics/features/the-gops-stealth-war-against-voters-w435890>.
- <sup>83</sup> Goel, Sharad, Marc Meredith, Michael Morse, David Rothschild, and Houshmand Shirani-Mehr. *One Person, One Vote: Estimating the Prevalence of Double Voting in U.S. Presidential Elections*. Report. Harvard. October 24, 2017. Accessed December 2017. <https://scholar.harvard.edu/files/morse/files/1p1v.pdf>.
- <sup>84</sup> Nolan, Jim. "Chesterfield Registrar Delays Purge of Voter Rolls." *The Richmond Times-Dispatch*. October 9, 2013. Accessed December 2017. [http://www.richmond.com/news/local/chesterfield/chesterfield-registrar-delays-purge-of-voter-rolls/article\\_162e36b5-0be7-5dc8-af9f-48876a167b43.html](http://www.richmond.com/news/local/chesterfield/chesterfield-registrar-delays-purge-of-voter-rolls/article_162e36b5-0be7-5dc8-af9f-48876a167b43.html).
- <sup>85</sup> <http://idahonews.com/news/truth-squad/ada-county-wrongly-strips-more-than-750-voter-registrations>
- <sup>86</sup> Goel, Sharad, Marc Meredith, Michael Morse, David Rothschild, and Houshmand Shirani-Mehr. *One Person, One Vote: Estimating the Prevalence of Double Voting in U.S. Presidential Elections*. Report. Harvard. October 24, 2017. Accessed December 2017. <https://scholar.harvard.edu/files/morse/files/1p1v.pdf>.
- <sup>87</sup> <https://www.nbcnews.com/politics/supreme-court/trump-administration-stirs-alarm-over-voter-purges-n789706>
- <sup>88</sup> Palast, Gerg. "The GOP's Stealth War Against Voters." *The Rolling Stone*, August 24, 2016. Accessed December 2017. <https://www.rollingstone.com/politics/features/the-gops-stealth-war-against-voters-w435890>.
- <sup>89</sup> "The Voter Fraud Commission Wants Your Data — But Experts Say They Can't Keep It Safe." *Politico Magazine*. October 23, 2017. Accessed December 2017. <https://www.propublica.org/article/crosscheck-the-voter-fraud-commission-wants-your-data-keep-it-safe>.
- <sup>90</sup> Cameron, Dell. "Even a Novice Hacker Could Breach the Network Hosting Kris Kobach's Bogus Voter Fraud Program." *Gizmodo*. November 9, 2017. Accessed December 2017. <https://gizmodo.com/even-a-novice-hacker-could-breach-the-network-hosting-k-1820263699>.
- <sup>91</sup> Lerner, Kira. "In Effort to Expose Voter Fraud, Kansas Republican Exposed 945 Social Security Numbers." *Think Progress*. January 22, 2018. Accessed January 22, 2018. <https://thinkprogress.org/kobach-crosscheck-breach-d3fe7368a9fd/>.
- <sup>92</sup> Cameron, Dell. "As Crosscheck Moves to Secure Voter Data, Hacking Fears Grow Among Experts and Politicians." *Gizmodo*. January 24, 2018. Accessed January 24, 2018. <https://gizmodo.com/as-crosscheck-moves-to-secure-voter-data-hacking-fears-1822344007>.

- 
- <sup>93</sup> Lerner, Kira. "In Effort to Expose Voter Fraud, Kansas Republican Exposed 945 Social Security Numbers." *Think Progress*. January 22, 2018. Accessed January 22, 2018. <https://thinkprogress.org/kobach-crosscheck-breach-d3fe7368a9fd/>.
- <sup>94</sup> Hayward, John. "Kris Kobach: Lawsuits Against Election Committee Seek to Prevent Exposure of Non-Citizens on Voter Rolls." *Breitbart*. July 21, 2017. Accessed December 2017. <http://www.breitbart.com/radio/2017/07/21/kobach-lawsuits-election-committee-seek-prevent-exposure-non-citizens-voter-rolls/>.
- <sup>95</sup> The Pew Center on the States. "Inaccurate, Costly, and Inefficient." *The Pew Center*. February 2012. Accessed December 2017. [http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs\\_assets/2012/pewupgradingvoterregistrationpdf.pdf](http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2012/pewupgradingvoterregistrationpdf.pdf).
- <sup>96</sup> *Ibid.*
- <sup>97</sup> Cameron, Dell. "Eighth State Quietly Quit Free Anti-Voter-Fraud Program Over Security Concerns and 'Unreliable' Results." *Gizmodo*. January 29, 2018. Accessed January 29, 2018. [http://b.3cdn.net/advancement/1d6cccf4b34b9645da\\_hdm6i29rp.pdf](http://b.3cdn.net/advancement/1d6cccf4b34b9645da_hdm6i29rp.pdf).
- <sup>98</sup> *Ibid.*
- <sup>99</sup> "Questions & Answers: Interstate Crosscheck Program ("Crosscheck") & Electronic Registration Information Center ("ERIC")." *Advancement Project*. August 12, 2015. Accessed December 2018. [https://b.3cdn.net/advancement/1d6cccf4b34b9645da\\_hdm6i29rp.pdf](https://b.3cdn.net/advancement/1d6cccf4b34b9645da_hdm6i29rp.pdf).
- <sup>100</sup> ERIC at Work, Statistics (as of Aug. 10, 2015), *available at* <http://www.ericstates.org/statistics>.
- <sup>101</sup> ERIC Bylaws, *supra* note 5 at 15.
- <sup>102</sup> Lowe, Peggy. "Kansans Caught In Crosscheck System Singled Out For Kobach's Voter Fraud Campaign." *NPR*, February 7, 2017. Accessed December 2017. <http://kcur.org/post/kansans-caught-crosscheck-system-singled-out-kobachs-voter-fraud-campaign#stream/0>.
- <sup>103</sup> [https://www.washingtonpost.com/news/wonk/wp/2017/07/20/this-anti-voter-fraud-program-gets-it-wrong-over-99-of-the-time-the-gop-wants-to-take-it-nationwide/?utm\\_term=.c3148d027e51](https://www.washingtonpost.com/news/wonk/wp/2017/07/20/this-anti-voter-fraud-program-gets-it-wrong-over-99-of-the-time-the-gop-wants-to-take-it-nationwide/?utm_term=.c3148d027e51)
- <sup>104</sup> "Missouri Is 23rd State to Join Electronic Registration Information Center." *Missouri Secretary of State Office*, January 17, 2018. Accessed January 2018. <https://www.sos.mo.gov/default.aspx?PageId=9326>.
- <sup>105</sup> Palast, Gerg. "The GOP's Stealth War Against Voters." *The Rolling Stone*, August 24, 2016. Accessed December 2017. <https://www.rollingstone.com/politics/features/the-gops-stealth-war-against-voters-w435890>.
- <sup>106</sup> Lerner, Kira. "In Effort to Expose Voter Fraud, Kansas Republican Exposed 945 Social Security Numbers." *Think Progress*. January 22, 2018. Accessed January 22, 2018. <https://thinkprogress.org/kobach-crosscheck-breach-d3fe7368a9fd/>.
- <sup>107</sup> Berman, Ari. "A Voter-Fraud Witch Hunt in Kansas." *The Nation*, June 11, 2015. Accessed December 2017. <https://www.thenation.com/article/voter-fraud-witch-hunt-kansas/>.
- <sup>108</sup> Testimony of Kris Kobach: Hearing before the Committee on Oversight and Government Reform. February 12, 2015. <https://oversight.house.gov/wp-content/uploads/2015/02/Kobach-Testimony-House-OGR-21215.pdf>
- <sup>109</sup> *Ibid.*
- <sup>110</sup> *Ibid.*
- <sup>111</sup> *Ibid.*
- <sup>112</sup> *Ibid.*
- <sup>113</sup> The Associated Press. "Prosecutors Question Kobach Claims of Voter Fraud in Kansas." *Lawrence Journal World*, February 10, 2015. Accessed December 2017. <http://www2.ljworld.com/news/2015/feb/10/prosecutors-question-kobach-claims-voter-fraud-kan/>.
- <sup>114</sup> Woodruff, Hunter. "Secretary of State Kris Kobach Announces First Conviction of Noncitizen Voting in Kansas." *The Kansas City Star*, April 12, 2017. Accessed December 2017. <http://www.kansascity.com/news/politics-government/article144256424.html>.
- <sup>115</sup> Eveld, Edward M. "Former Olathe Couple among Those Charged with Voter Fraud by Kris Kobach." *The Kansas City Star*, October 28, 2015. Accessed December 2017. <http://www.kansascity.com/news/politics-government/article41728149.html>.
- <sup>116</sup> *Ibid.*
- <sup>117</sup> Strauss, Ben. "'Kris Kobach Came After Me for an Honest Mistake'." *Politico Magazine*, May 21, 2017. Accessed December 2017. <https://www.politico.com/magazine/story/2017/05/21/kris-kobach-voter-fraud-investigation-prosecution-215164>.

---

<sup>118</sup> Ibid.

<sup>119</sup> Ibid.

<sup>120</sup> Moloney, Madelyne. "Few Cases, Many Questions Characterize Kobach's War on Voter Fraud." *The Topeka Capital Journal*, January 14, 2017. Accessed December 2017. <http://www.cjonline.com/news/state-government/2017-01-14/few-cases-many-questions-characterize-kobach-s-war-voter-fraud>.

<sup>121</sup> Woodall, Hunter. "Secretary of State Kris Kobach Announces First Conviction of Noncitizen Voting in Kansas." *The Kansas City Star*, April 12, 2017. Accessed December 2017. <http://www.kansascity.com/news/politics-government/article144256424.html>.

<sup>122</sup> Lerner, Kira. "Kobach Is Prosecuting This Confused Senior with Four Counts of Felony Voter Fraud." *Think Progress*, January 5, 2018. Accessed January 5, 2018. <https://thinkprogress.org/kobach-fraud-charge-1ee6a6b469d3/>.

<sup>123</sup> Minton, Mark. "Subject in Voter Fraud Case Was First-time Voter." *The Garden City Telegram*, January 9, 2018. Accessed January 9, 2018. <http://www.gctelegram.com/news/20180109/subject-in-voter-fraud-case-was-first-time-voter>.

<sup>124</sup> Ibid.

<sup>125</sup> Phillip, Abby, and Mike DeBonis. "At White House Trump Tells Congressional Leaders 3-5 Million Illegal Ballots Cost Him the Popular Vote." *The Washington Post*, January 23, 2017. Accessed December 2017. [https://www.washingtonpost.com/news/post-politics/wp/2017/01/23/at-white-house-tells-congressional-leaders-3-5-million-illegal-ballots-cost-him-the-popular-vote/?utm\\_term=.c4a561f31388](https://www.washingtonpost.com/news/post-politics/wp/2017/01/23/at-white-house-tells-congressional-leaders-3-5-million-illegal-ballots-cost-him-the-popular-vote/?utm_term=.c4a561f31388).

<sup>126</sup> Lowry, Bryan. "Kobach Backs Trump's Unsupported Claim of Millions Illegally Voting." *The Wichita Eagle*, November 30, 2016. Accessed December 2017. <http://www.kansas.com/news/politics-government/election/article117933098.html>.

<sup>127</sup> Bump, Philip. "In an Anti Recount Filing Trumps Lawyers Say the Election Was Not Tainted by Fraud or Mistake." *The Washington Post*, January 25, 2017. Accessed January 2017. [https://www.washingtonpost.com/news/the-fix/wp/2016/12/05/in-an-anti-recount-filing-trumps-lawyers-say-the-election-was-not-tainted-by-fraud-or-mistake/?utm\\_term=.4d7410e3cf39](https://www.washingtonpost.com/news/the-fix/wp/2016/12/05/in-an-anti-recount-filing-trumps-lawyers-say-the-election-was-not-tainted-by-fraud-or-mistake/?utm_term=.4d7410e3cf39).

<sup>128</sup> Ibid.

<sup>129</sup> Koerth-Baker, Maggie. "The Tangled Story Behind Trump's False Claims Of Voter Fraud." *Five Thirty Eight*, May 11, 2017. Accessed January 2017. <https://fivethirtyeight.com/features/trump-noncitizen-voters/>. also see Lapowsky, Issie. "Author of Trump's Favorite Voter Fraud Study Says Everyone's Wrong." *Wired*, January 25, 2017. Accessed December 2017. <https://www.wired.com/2017/01/author-trumps-favorite-voter-fraud-study-says-everyones-wrong/>.

<sup>130</sup> Richman, Jesse. "Is It Plausible That Non-citizen Votes Account for the Entire Margin of Trump's Popular Vote Loss to Clinton?" *Old Dominion University*, January 24, 2017. Accessed December 2017. <https://fs.wp.odu.edu/jrichman/2016/11/28/is-it-plausible-that-non-citizen-votes-account-for-the-entire-margin-of-trumps-popular-vote-loss-to-clinton/>.

<sup>131</sup> LLOPIS-JEPSEN, Celia. "Still Updating: The Daily Developments Of The Kansas Motor-Voter V. Kobach Trial." *KCUR*, March 19, 2018. Accessed March 19, 2018. <http://kcur.org/post/still-updating-daily-developments-kansas-motor-voter-v-kobach-trial#stream/0>.

<sup>132</sup> "Faith Organization Letter Against Funding the Commission on Election Integrity." Religious Action Center of Reform Judaism. July 20, 2017. Accessed December 2017. [http://rac.org/faith-organization-letter-against-funding-commission-election-integrity?utm\\_source=press&utm\\_medium=email&utm\\_term=votingrights](http://rac.org/faith-organization-letter-against-funding-commission-election-integrity?utm_source=press&utm_medium=email&utm_term=votingrights).

<sup>133</sup> "STATEMENT FROM THE NAACP ON PRESIDENT TRUMP'S ADVISORY COMMISSION ON ELECTION INTEGRITY, AND ITS ATTEMPT AT VOTER SUPPRESSION." NAACP. July 1, 2017. Accessed December 2017. <http://www.naacp.org/latest/statement-naacp-president-trumps-advisory-commission-election-integrity-attempt-voter-suppression/>.

<sup>134</sup> The Editorial Board. "The Bogus Voter-Fraud Commission." *The New York Times*. July 22, 2017. Accessed December 2017. [https://www.nytimes.com/2017/07/22/opinion/sunday/the-bogus-voter-fraud-commission.html?\\_r=0](https://www.nytimes.com/2017/07/22/opinion/sunday/the-bogus-voter-fraud-commission.html?_r=0).

<sup>135</sup> NAGA SIU, DIAMOND. "Former Attorney General Holder Calls Kobach a 'fact-challenged Zealot'." *Politico*, July 24, 2017. Accessed December 2017. <https://www.politico.com/story/2017/07/24/holder-kobach-voters-naacp-240902>.

<sup>136</sup> The Editorial Board. "Trump's Fraudulent Voter-Fraud Commission." *The New York Times*, May 15, 2017. Accessed December 2017. <https://www.nytimes.com/2017/05/15/opinion/trump-voter-fraud-commission.html>.

---

<sup>137</sup> Levine, Sam. "Democrats Demand Kris Kobach Resign From Trump Voter Fraud Probe." *The Huffpost*, July 18, 2017. Accessed December 2017. [https://www.huffingtonpost.com/entry/democrats-kris-kobach-resign\\_us\\_596e2973e4b010d776740192](https://www.huffingtonpost.com/entry/democrats-kris-kobach-resign_us_596e2973e4b010d776740192).

<sup>138</sup> Wagner, John. "Trump's Voter Commission Is Dead, but Critics Worry Its Mission May Live on." *The Washington Post*, January 6, 2018. Accessed January 6, 2018.

[https://www.washingtonpost.com/politics/trumps-voter-commission-is-dead-but-critics-worry-its-mission-may-live-on/2018/01/06/73183548-f243-11e7-97bf-bba379b809ab\\_story.html?utm\\_term=.c952995889ab](https://www.washingtonpost.com/politics/trumps-voter-commission-is-dead-but-critics-worry-its-mission-may-live-on/2018/01/06/73183548-f243-11e7-97bf-bba379b809ab_story.html?utm_term=.c952995889ab).

<sup>139</sup> Hayward, John. "Kris Kobach: Lawsuits Against Election Committee Seek to Prevent Exposure of Non-Citizens on Voter Rolls." *Breitbart*, July 21, 2017. Accessed December 2018.

<http://www.breitbart.com/radio/2017/07/21/kobach-lawsuits-election-committee-seek-prevent-exposure-non-citizens-voter-rolls/>.

<sup>140</sup> Fessler, Pam. "Amid Skepticism And Scrutiny, Election Integrity Commission Holds First Meeting." *NPR*, July 19, 2017. Accessed December 2017.

<https://www.npr.org/2017/07/19/537910132/amid-skepticism-and-scrutiny-election-integrity-commission-holds-first-meeting>.

<sup>141</sup> Kobach, Kris W. "Kobach: A Victory for Public Information." *Breitbart*. July 19, 2017. Accessed December 2017. <http://www.breitbart.com/big-government/2017/07/19/kobach-a-victory-for-public-information/>.

<sup>142</sup> ERIC v. PRESIDENTIAL ADVISORY COMMISSION ON ELECTION INTEGRITY, No. 17-5171 (United States Court of Appeals, District of Columbia Circuit December 26, 2017).

<sup>143</sup> Myers, John. "President Trump's Voter Fraud Panel Asks Again for Data from California — and Again the Answer Is No." *Los Angeles Times*, July 26, 2017. Accessed December 2017.

<http://www.latimes.com/politics/essential/la-pol-ca-essential-politics-updates-president-trump-s-voter-fraud-panel-1501115101-htmistory.html>.

<sup>144</sup> Neuman, Scott. "Vote Fraud Commission Releases Public Comments, Email Addresses And All." *NPR*, July 14, 2017. Accessed December 2017. <https://www.npr.org/sections/thetwo-way/2017/07/14/537282309/vote-fraud-commission-releases-public-comments-email-addresses-and-all>.

<sup>145</sup> Lee, Kurtis. "Kris Kobach Says Trump's Voter Fraud Panel Will Keep Voter Data Secure. Some States Aren't Buying It." *Los Angeles Times*, July 27, 2017. Accessed December 2017.

<http://www.latimes.com/nation/la-na-pol-voter-fraud-commission-20170727-story.html>.

<sup>146</sup> Royal, Asa. "Florida Voters Cancel Their Own Registration. Is Trump's Fraud Commission the Cause?" *Tampa Bay Times*, July 31, 2017. Accessed December 2017.

<http://www.tampabay.com/news/florida-voters-cancel-their-own-registration-is-trumps-fraud-commission/2332036>.

<sup>147</sup> Lowry, Bryan, and Hunter Woodall. "Trump Voter Commission Tells States to Hold off on Sending Data — for Now." *The Kansas City Star*, July 10, 2017. Accessed December 2017.

<http://www.kansascity.com/news/politics-government/article160528569.html>.

<sup>148</sup> Weiser, Wendy R. "The White Houses Voter Fraud Commission Has Already Damaged Our Democracy." *The Washington Post*, July 18, 2017. Accessed December 2017.

[https://www.washingtonpost.com/opinions/the-white-houses-voter-fraud-commission-has-already-damaged-our-democracy/2017/07/18/a04f25d6-6b42-11e7-9c15-177740635e83\\_story.html?tid=hybrid\\_collaborative\\_1\\_na&utm\\_term=.d92be6fad56](https://www.washingtonpost.com/opinions/the-white-houses-voter-fraud-commission-has-already-damaged-our-democracy/2017/07/18/a04f25d6-6b42-11e7-9c15-177740635e83_story.html?tid=hybrid_collaborative_1_na&utm_term=.d92be6fad56).

<sup>149</sup> Kobach, Kris W. "Exclusive – Kobach: It Appears That Out-of-State Voters Changed the Outcome of the New Hampshire U.S. Senate Race." *Breitbart*, September 7, 2017. Accessed December 2017.

<http://www.breitbart.com/big-government/2017/09/07/exclusive-kobach-out-of-state-voters-changed-outcome-new-hampshire-senate-race/>.

<sup>150</sup> Weigel, David. "Election Integrity Commission Members Accuse New Hampshire Voters of Fraud." *The Washington Post*, September 8, 2017. Accessed December 2017.

[https://www.washingtonpost.com/news/powerpost/wp/2017/09/08/election-integrity-commission-members-accuse-new-hampshire-voters-of-fraud/?tid=a\\_inl&utm\\_term=.176d1c32f0ad](https://www.washingtonpost.com/news/powerpost/wp/2017/09/08/election-integrity-commission-members-accuse-new-hampshire-voters-of-fraud/?tid=a_inl&utm_term=.176d1c32f0ad).

<sup>151</sup> Wagner, John. "New Hampshire Officials Slam Kris Kobach for Unfounded Assertion That Election Was Fraudulent." *Chicago Tribune*, September 12, 2017. Accessed December 2017.

<http://www.chicagotribune.com/news/nationworld/politics/ct-new-hampshire-kris-kobach-election-fraud-20170912-story.html>.

<sup>152</sup> Weigel, David. "Election Integrity Commission Members Accuse New Hampshire Voters of Fraud." *The Washington Post*, September 8, 2017. Accessed December 2017.

---

[https://www.washingtonpost.com/news/powerpost/wp/2017/09/08/election-integrity-commission-members-accuse-new-hampshire-voters-of-fraud/?tid=a\\_inl&utm\\_term=.176d1c32f0ad](https://www.washingtonpost.com/news/powerpost/wp/2017/09/08/election-integrity-commission-members-accuse-new-hampshire-voters-of-fraud/?tid=a_inl&utm_term=.176d1c32f0ad).

<sup>153</sup> Woodard, Colin. "Maine's Member of Trump Voter Fraud Commission Decries 'vacuum of Information'." *Press Herald*, October 18, 2017. Accessed December 2017.

<https://www.pressherald.com/2017/10/18/maines-secretary-of-state-demands-documents-from-trumps-voter-fraud-commission/>.

<sup>154</sup> Ibid.

<sup>155</sup> Stern, Mark Joseph. "Trump's Voter Fraud Commission Was Done In By Its Own Arrogant Lawlessness." *Slate*, January 4, 2018. Accessed January 4, 2018. <https://slate.com/news-and-politics/2018/01/why-trumps-voter-fraud-commission-disbanded.html>.

<sup>156</sup> GERSTEIN, JOSH. "Court: Trump Voter Fraud Commission Must Give Democrat Member More Access." *Politico*, December 22, 2017. Accessed December 2017.

<https://www.politico.com/story/2017/12/22/trump-voter-fraud-committee-democrat-access-318433>.

<sup>157</sup> Tackett, Michael, and Michael Wines. "Trump Disbands Commission on Voter Fraud." *The New York Times*, January 18, 2018. Accessed January 18, 2018.

[https://www.nytimes.com/2018/01/03/us/politics/trump-voter-fraud-commission.html?emc=edit\\_th\\_20180104&nl=todaysheadlines&nid=66154840](https://www.nytimes.com/2018/01/03/us/politics/trump-voter-fraud-commission.html?emc=edit_th_20180104&nl=todaysheadlines&nid=66154840).

<sup>158</sup> Wagner, John. "Trump Abolishes Controversial Commission Studying Voter Fraud." *The Washington Post*, January 4, 2018. Accessed January 4, 2018. [https://www.washingtonpost.com/politics/trump-abolishes-controversial-commission-studying-voter-fraud/2018/01/03/665b1878-f0e2-11e7-b3bf-ab90a706e175\\_story.html?utm\\_term=.664ae73a9e55](https://www.washingtonpost.com/politics/trump-abolishes-controversial-commission-studying-voter-fraud/2018/01/03/665b1878-f0e2-11e7-b3bf-ab90a706e175_story.html?utm_term=.664ae73a9e55).

<sup>159</sup> Trump, Donald. Many mostly Democrat States refused to hand over data from the 2016 Election to the Commission On Voter Fraud. They fought hard that the Commission not see their records or methods because they know that many people are voting illegally. System is rigged, must go to Voter I.D. January, 4, 2018, 05:02 <https://twitter.com/realDonaldTrump/status/948872192284155904>

<sup>160</sup> Wagner, John. "Trump Abolishes Controversial Commission Studying Voter Fraud." *The Washington Post*, January 4, 2018. Accessed January 4, 2018. [https://www.washingtonpost.com/politics/trump-abolishes-controversial-commission-studying-voter-fraud/2018/01/03/665b1878-f0e2-11e7-b3bf-ab90a706e175\\_story.html?utm\\_term=.664ae73a9e55](https://www.washingtonpost.com/politics/trump-abolishes-controversial-commission-studying-voter-fraud/2018/01/03/665b1878-f0e2-11e7-b3bf-ab90a706e175_story.html?utm_term=.664ae73a9e55).

<sup>161</sup> Tackett, Michael, and Michael Wines. "Trump Disbands Commission on Voter Fraud." *The New York Times*, January 18, 2018. Accessed January 18, 2018.

[https://www.nytimes.com/2018/01/03/us/politics/trump-voter-fraud-commission.html?emc=edit\\_th\\_20180104&nl=todaysheadlines&nid=66154840](https://www.nytimes.com/2018/01/03/us/politics/trump-voter-fraud-commission.html?emc=edit_th_20180104&nl=todaysheadlines&nid=66154840).

<sup>162</sup> GERSTEIN, JOSH, and Mattew NUSSBAUM. "Trump Disbands Voter Fraud Commission." *Politico*, January 3, 2018. Accessed January 3, 2018. <https://www.politico.com/story/2018/01/03/trump-disbands-voter-fraud-commission-322621>.

<sup>163</sup> Siegel, Robert. "Kris Kobach On What Led To The Disbandment Of Controversial Election Commission." *NPR*, January 4, 2018. Accessed January 4, 2018.

<https://www.npr.org/2018/01/04/575774092/kris-kobach-on-what-led-to-the-disbandment-of-controversial-election-commission>.

<sup>164</sup> Tackett, Michael, and Michael Wines. "Trump Disbands Commission on Voter Fraud." *The New York Times*, January 18, 2018. Accessed January 18, 2018.

[https://www.nytimes.com/2018/01/03/us/politics/trump-voter-fraud-commission.html?emc=edit\\_th\\_20180104&nl=todaysheadlines&nid=66154840](https://www.nytimes.com/2018/01/03/us/politics/trump-voter-fraud-commission.html?emc=edit_th_20180104&nl=todaysheadlines&nid=66154840).

<sup>165</sup> GERSTEIN, JOSH, and Mattew NUSSBAUM. "Trump Disbands Voter Fraud Commission." *Politico*, January 3, 2018. Accessed January 3, 2018. <https://www.politico.com/story/2018/01/03/trump-disbands-voter-fraud-commission-322621>.

<sup>166</sup> Stern, Mark Joseph. "Trump's Voter Fraud Commission Was Done In By Its Own Arrogant Lawlessness." *Slate*, January 4, 2018. Accessed January 4, 2018. <https://slate.com/news-and-politics/2018/01/why-trumps-voter-fraud-commission-disbanded.html>.

<sup>167</sup> Wagner, John. "Trump's Voter Commission Is Dead, but Critics Worry Its Mission May Live on." *The Washington Post*, January 6, 2018. Accessed January 6, 2018.

[https://www.washingtonpost.com/politics/trumps-voter-commission-is-dead-but-critics-worry-its-mission-may-live-on/2018/01/06/73183548-f243-11e7-97bf-bba379b809ab\\_story.html?utm\\_term=.c952995889ab](https://www.washingtonpost.com/politics/trumps-voter-commission-is-dead-but-critics-worry-its-mission-may-live-on/2018/01/06/73183548-f243-11e7-97bf-bba379b809ab_story.html?utm_term=.c952995889ab).

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<sup>168</sup> Lowry, Bryan, and FRANCO ORDOÑEZ. "Contrary to His Claims, Kobach Not Part of New Voter Fraud Investigation, DHS Says." *The Kansas City Star*, January 8, 2018. Accessed January 08, 2018. <http://www.kansascity.com/news/politics-government/article193647529.html>.

<sup>169</sup> Piggott, Steven. "Anti-Immigrant Center for Immigration Studies Continues to Promote White Nationalists." Southern Poverty Law Center. November 07, 2016. Accessed December 2017. <https://www.splcenter.org/hatewatch/2016/11/07/anti-immigrant-center-immigration-studies-continues-promote-white-nationalists>.

<sup>170</sup> "Kris W. Kobach." CIS.org. Accessed November 2017. <https://cis.org/Kris-W-Kobach>.

<sup>171</sup> Krikorian, Mark, Kris Kobach for Immigration Czar!. January, 3 2017, 1:30pm. <https://twitter.com/markskrikorian/status/816396444722745345>. also see Woodruff, Besty. "Kris Kobach Was Considered for ICE Boss Before 'Voter Fraud' Job." *The Daily Beast*, July 7, 2017. Accessed November 2017. <http://www.thedailybeast.com/mr-voter-fraud-goes-to-washington-cant-get-job>.