

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Referral by
the Secretary of the State

File No. 2008-049

FINDINGS AND CONCLUSIONS

This referral came to the Commission after an article appeared in the Hartford Courant on April 20, 2008. The article brought to the attention of the Secretary of the State a review by the University of Connecticut (hereinafter the "UConn study") regarding the accuracy of voter lists and possible election law violations by local officials. More specifically, the article alleged that individuals who were listed as deceased had also been listed as having voted after the reported date of death. The Secretary of the State submitted the instant referral to the Commission based on the results of the UConn Study. After the investigation, the Commission makes the following findings and conclusions:

1. General Statutes § 9-35, provides in pertinent part:

(a) The registrars, on the Tuesday of the fifth week before each regular election, shall be in session for the purpose of completing a correct list of all electors who will be entitled to vote at such election. Such registry list shall consist of an active registry list and an inactive registry list. Such session shall be held during such hours between nine o'clock a.m. and five o'clock p.m. as the registrars find necessary to complete the list. Notice of such session shall be given at least five days before the session by publication in a newspaper having a circulation in such municipality, if any, and by posting on the signpost therein, if any, or at some other exterior place near the office of the town clerk. Such publication shall not be required to be in the form of a legal advertisement.

(b) *At such session and on any day except on the day of an election or primary, **the registrars shall remove from the list the name of each elector who has died**, who has been disfranchised or who has confirmed in writing that the elector has moved out of the municipality, except electors entitled to remain on such list under the provisions of this chapter. An elector shall be deemed to have confirmed in writing that the elector has moved out of the municipality if (1) the elector has submitted a change of address form for purposes of a state motor vehicle operator's license, unless the elector states on the form that the change of address is not for voter registration purposes, (2) the elector has submitted a change of address form to a voter registration agency, as defined in section 9-23n, and such agency has provided such change of address to the registrars of voters, or (3) the registrars of voters have received a cancellation of previous registration from any*

other election official indicating that such elector has registered as an elector outside such municipality. . . .[Emphasis added.]

2. General Statutes § 9-360, provides in pertinent part:

Any person not legally qualified who fraudulently votes in any town meeting, primary, election or referendum in which the person is not qualified to vote, and any legally qualified person who, at such meeting, primary, election or referendum, fraudulently votes more than once at the same meeting, primary, election or referendum, shall be fined not less than three hundred dollars or more than five hundred dollars and shall be imprisoned not less than one year or more than two years and shall be disfranchised. Any person who votes or attempts to vote at any election, primary, referendum or town meeting by assuming the name of another legally qualified person shall be guilty of a class D felony and shall be disfranchised.

3. The UConn Study found 8,558 electors on the voting rolls who were allegedly deceased. 329 of these electors were reported to have cast a ballot after death at least once between November 1994 and August 2007 for a total of 533 votes cast during that time period.
4. In conjunction with the instant referral, the Secretary of the State's Office conducted a survey of all 169 municipalities' registrars of voters, which resulted in the removal of 4,884 confirmed-deceased electors. However, 1,356 of the identified electors (20.26%) were kept on the rolls, as those electors were either confirmed to be alive or the registrar was unable to sufficiently verify that the elector had died.
5. After its survey, the Office of the Secretary of the State was critical of the UConn report. Fully 28.17% of the electors were found to be on the "inactive" list. To be taken off the "inactive" list, an individual would have to show a higher level of identification at the polling place than an active voter in order to be restored and cast a ballot. *See* General Statutes § 9-42. Such elector would not be able to avail himself of the affidavit procedure available to active voters who do not have identification at the polls. *See* General Statutes § 9-261 (a) (2). The inactive list provides significant protection against voter fraud in this instance.
6. Upon initiation of the investigation into the instant referral, it was discovered that while 329 individuals were reported to have voted after their dates of death for a total of 533 votes cast, this data covered a time period of twelve years. At least 32 elections or referenda occurred during that time period resulting in an average of approximately 44.42 votes per year throughout the state with only approximately 16.66 votes per each election or referenda. However, these votes were spread out over 80 towns & cities, nearly half the municipalities in the state.
7. Since law enforcement resources are scarce and the data potentially unreliable, it was determined at that time that a full investigation was not justified based on the referral and the data alone, particularly in light of the extremely low numbers found statewide.

However, instead of dismissing the matter on its face, investigatory resources were dedicated on a low-priority basis in order to take a sample of municipalities and make investigatory visits to each. These visits were targeted at trying to determine common reasons or even a pattern as to why such electors were listed as having voted after death, as well as to take a sample of the death-verification systems of different registrars. These investigatory field visits were done on an as-available basis in conjunction with field visits associated with other investigations in the area. Six municipalities were ultimately selected based on both size, as well as other criteria (explained in more detail below): 2 small size towns, Westbrook and Essex; 1 medium sized town, Stonington; and 3 large towns, New Haven, Guilford and New London. Additionally, we received unsolicited information from the Towns of Bristol and Hampton, bringing the total sample size to 8 towns, or 10% of the total towns reported to have recorded votes by allegedly deceased individuals.

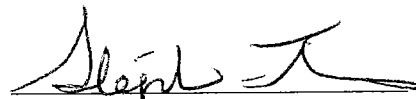
8. After investigation, no pattern of fraudulent voting was found in the 10% of the municipalities surveyed. Instead, a pattern of human error emerged from the study. The most common error found was incorrect data entry. The town of Guilford alone—whose 38 reported votes-after-death represented fully 11.55% of the total reported—was found to have a incorrectly input the voting information for the during 2004 general election for 37 of the deceased electors. The 38th allegedly “dead voter” in Guilford was found to be alive and well. At least 2 other electors reported dead in the UConn study were also found to be alive. The second most common error was checkers crossing off the wrong name on the voting lists at the polls. This is an error that is brought to the Commission’s attention from time to time in the so-called “double-voting” cases which most often end up with the discovery of such an error. *See, e.g., Complaint by Eleanor Michaud, Preston, File No. 2010-090 (name similar to the elector crossed off by poll worker).*
9. Further, after investigation, no evidence and/or pattern of neglect in removal of voters was found. Instead, it was found that each of the registrars of voters in the towns surveyed appreciated their responsibility to remove dead electors and had systems of discovering and verifying the death of electors in their town. Many were found to have gone above and beyond merely relying on the town registrar of vital statistics, using external data such as obituaries and the Internet website www.legacy.com.
10. However, the various registrars also appreciated that until a death could be reliably verified, an elector should not be removed from the list. The statutory scheme surrounding registration as an elector is built with safeguards that err on the side of keeping an elector on the rolls for a period of time sufficient to assure that such elector is no longer able or willing to remain as such. Only when an elector can be confirmed as deceased, affirmatively removes himself or fails to either respond to a canvass or cast a ballot within the statutory time period enumerated in General Statutes §§ 9-32 & 9-35 may the registrar remove such elector from the rolls. Moreover, even if the registrars had failed to remove a deceased elector, such electors would have been removed in due course (four years) via the canvass procedures required of every registrar of voters.

ORDER

The following Order is recommended on the basis of the aforementioned finding:

That no further action be taken.

Adopted this 17th day of November of 20 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission