

By Bev Harris, founder of [Blackboxvoting.org](http://Blackboxvoting.org)

The mysterious disappearance of voting histories for 488 registered voters in Shelby County, discovered by Black Box Voting, attracted much attention and has been referred to the US Dept. of Justice for investigation by US Rep. Steve Cohen.

Two important new developments:

1) An internal analysis conducted by the Tennessee Democratic Party and the Democratic National Committee's voter protection team has found that more than 11,000 voters statewide, who are still active on the voter file, have had parts of their voting history disappear.

2) In new investigative research by **BLACK BOX VOTING**, examining what actually happens to voters wrongfully classified as "inactive", it was found that 35 percent of these were actually purged (cancelled from the voter rolls).

Failure to credit voters with voting causes an acceleration in the purge process, and can place these voters under greater burdens to retain voting status. The BBV analysis of what actually happens to those who are incorrectly accelerated for purge indicates that of 1,638 active, voting voters incorrectly shifted to "inactive" status in 2006, about 65 percent managed to re-activate themselves by 2009, but 35 percent, even though they did not qualify for purge, were cancelled by 2009 with the code "no vote in 2 federal elections."

Records show that this set of 1,638 voters deemed inactive in 2006 HAD voted in the 2004 general election; also, they had not moved, died, been convicted of a felony, been duplicates, had incorrect social security numbers, or changed name or any other information. Thus, these voters did not qualify for transfer to "Inactive" status in 2006, which led directly to purge processes in 2007 and 2009.

## **11,000 MISSING HISTORIES**

I'm going to reprint the important findings of the Tennessee Democratic Party and National Democratic Party election protection team in full following this article.

In summary:

"Data analysts came to this conclusion by comparing two separate, statewide voter file updates provided by the office of the Coordinator of Elections. The files [ ] released in December 2011 and May 2012 respectively [ ] contain updated voting records for every registered voter in the state of Tennessee. Excluding purged voters, all of the voting history included in the December

2011 voter file should be included in the May 2012 voter file. However, a side by side comparison of the voter files found the following discrepancies between the December and May updates:

- 7,036 voters lost their 2010 Voting History;
- 5,993 voters lost their 2008 Voting History;
- 1,771 voters lost both their 2010 and 2008 Voting History;
- 43 Voters lost their entire voting history.

..."the data shows the problem is widespread, affecting 11,258 voters in 69 different counties in just the last five months."

### **BBV INVESTIGATION: INCORRECT "INACTIVE" STATUS TRIGGERS ACTUAL REMOVAL FROM VOTER ROLLS**

In 2012, approximately 150,000 Shelby County voters were transferred to "Inactive" status, despite full knowledge by Shelby County Administrator Richard Holden that Shelby County's voter lists are inaccurate.

Holden initially denied the now-confirmed problem of 488 missing histories, claiming on television that "Bev Harris just wants to sell a book". More disturbing, when Rep. Steve Cohen discovered 40,000 missing histories in a file provided by Shelby County Elections, Holden claimed he had checked the file himself and implied that Randy Wade (a popular Memphis public servant and former candidate for sheriff, who works for Cohen), had somehow altered the records, which had been provided to Wade by Holden on a read-only disc.

The truth is, it's time for Holden's removal. You can't have an elections official who can't be trusted, and you can't have vital, federally required election records keep showing up flat wrong. Earlier this year (as shown in Election Commission minutes), Holden admitted that he knew of approximately 2300 voters not credited with voting in 2010, but could not identify hundreds of them. But that didn't stop him from purging 36,000 voters. In his zeal to inactivate and remove, neither accuracy nor collateral damage seem to matter.

But back to bad data on voter lists: The rules for purging voters who do not vote require a mailing, FOLLOWED BY failure to vote in two consecutive federal elections, followed by a second mailing.

In order to evaluate how many voters who were incorrectly transferred to "Inactive" status are actually cancelled, you have to wait until approximately three years after the Inactive status took effect; those voters for whom records show no voting history are collected up, typically after two November federal elections (which take place every two years, on even-numbered years). They are then, typically in the next (odd-numbered) year, sent a NON-FORWARDABLE mailer. If that mailer comes back to the elections office, or if they do not respond to it, they are purged.

So I examined the issue of actual harm by going back to a 2005 database, provided by Regina Newman, an attorney and one of the plaintiffs in the 2010 Shelby County election lawsuit.

This database contained the voting histories for the 2004 federal general election. It also contained the "status" -- Active or Inactive.

I then obtained a voter history list provided to a former Shelby County elections commissioner, Shep Wilbur, from discovery documents in a 2006 election lawsuit. This file omitted federal general elections altogether, but did contain voter address and status.

I separated out a total of 1,638 voters who were in both the 2005 and 2006 voter lists; had voted in the 2004 General election, and had been deemed "Active" in 2005, but were transferred to "Inactive" in 2006, but had no other complicating factors (no felonies, still alive, didn't move, not a duplicate, etc.)

These 1,638 voters did not qualify for "Inactive" status.

### **WHAT HAPPENED TO THE 1,638 INCORRECTLY FLAGGED AS "INACTIVE" VOTERS?**

I then obtained the 2009 voter database containing records for all active, inactive and cancelled voters, dated September 2009. From the list of 1,638 voters, I found 568 who were cancelled, and removed from the voter list, with the "status reason: "Cancel - Inactive Status for 2 Fed Gen".

Thus, of the 1,638 voters wrongfully deemed "Inactive", 35 percent were actually cancelled for not having a voting history in two federal general elections. I could not confirm this lack of voting on any of the dozen or so voter history databases I have dated 2006-2009, for one simple reason: Shelby County has an odd habit of omitting the crucial "federal general election" histories for ALL voters altogether when it prints the voter history files. The last two federal general elections keep getting left off the reports. Consistently. Making it impossible to either corroborate the "no vote" status or to compare successive files to see if the histories are disappearing.

Keep in mind that the state uploads from Shelby County frequently, so an eroding history inside Shelby County will end up eroded on the state database as well.

Now, as for the remaining 1,070 "inactive" (not!) voters: They had to jump through extra hoops to remain on the list.

- 552 re-activated their registration with a confirmation mailing.
- 279 re-registered.
- 201 were reactivated by casting a vote.
- 48 were kept inactive with a note that a mailer had been returned.

It does wrong to voters to capriciously subject a set of them to extra steps. But we have twin compounding problems:

1) If voter histories later erode away for some voters, they go into end-stage purge mode. All it takes to remove them is a non-forwardable mailer.

2) I have been contacted by a credible source within the U.S. Post Office, who reports that this nonforwardable mailer is being spotted with truncated, that is, non-deliverable addressing. I have traced the source of these mailings to a private Austin, Texas-based company called Business Ink Corporation. This firm has a branch in Memphis, and according to research provided by Susan Pynchon of Florida Fair Elections Coalition, is reported to handle mailing business for 500 counties.

I don't have standing under Tennessee's restrictive public records laws to do public records examinations, but based on successive instances of (1) incorrect transfers to "Inactive" status; (2) evaporating voter histories and (3) reported truncated addresses in the non-forwardable mailers, I recommend the following step to detect bogus addressing:

- Visit the election office and request an inspection of all returned notices. Look up the street addresses shown on the actual return item itself. What is truncating? Well it would look like this: (Should be): 1456 South Forest Glen; (Truncated): 1456 South; (Should be): 123 Marionnetta; (Truncated): 123 Marion

If true that nonforwardable election mailers are being sent with undeliverable, truncated addresses in Memphis, this may be happening elsewhere, so this election protection action should be expanded to other states.

## **RACIALLY DISPROPORTIONATE WRONG "INACTIVE" STATUS**

While not as dramatic as the extreme racial and political skew shown in my "488 missing histories" story, voters with wrongful shift to inactive status did not follow a normal distribution.

The overall racial distribution for voters who show up both in 2005 and 2006 databases is:

Black: 38%

White: 40%

No Racial Identifier: 22%

The racial distribution for voters incorrectly transferred to Inactive status was

Black: 43%

White: 31%

Total skew: 14% (5% over + 9% under normal distribution)

## **MAKE A NOTE OF IT: ELECTION PROTECTION ACTIONS**

- Obtain and keep successive files to help detect voter history erosion
- Absolutely require that EVERY voter history database include the fields for the past two federal general elections.
- Check all returned address cards for all cancelled voters to make sure they were correctly addressed.

This article was originally posted at [Blackboxvoting.org](http://Blackboxvoting.org)