When Kris Kobach, Kansas' aggressive secretary of state, convinced the state legislature to give him prosecutorial power to pursue voter fraud, he said it was necessary to root out tens of thousands of undocumented aliens who were voting as well as tens of thousands more who he claimed were voting in two states.

Two years later, Kobach has produced exactly nine convictions. Most of them were not illegal immigrants but rather older registered Republicans. Who Kobach targeted, and the controversial homegrown computer program he used to find them, matter even more now that he has been selected by President Trump to lead a commission on voter fraud. Kobach’s boss has claimed on numerous occasions, without evidence, that millions of
illegal ballots cost him the popular vote. Kobach, despite his sweeping pronouncements to Kansas politicians, hasn’t found anything resembling a fraud of that proportion.

What he found was Lincoln L. Wilson.

In August of 2012, Wilson, a 66-year-old entrepreneur, went to vote in Goodland, Kansas, a small town near the Colorado border. When Wilson was asked where he lived, he said he owned homes in both Kansas and Colorado. When he was asked where he voted, he answered that he voted in local elections in both states. An election official told him to fill out a provisional ballot, so he did. When he went to the clerk’s office to update his address and vote in 2014, he again filled out a provisional ballot at the direction of the clerk.

“I’d vote for president in one state, and local issues in both places,” he told POLITICO Magazine. He said he’d been doing this ever since his property tax bill on a hotel he owned in Goodland had doubled in one year in 2004.

Because they were provisional ballots, they were never actually counted. But that didn’t matter to Kobach who in 2015, after a local prosecutor’s decision not to open a case, charged Wilson with three felonies and seven misdemeanors. Kobach alleged that Wilson had voted unlawfully going back to 2010 and that he had committed perjury by signing Kansas’s voting registration form, which stipulates citizens verify they will vote only once.

Wilson, who voted for Trump last November, spent 18 months fighting Kobach and the charges against him. He went through two lawyers and, he says, nearly $50,000 in legal fees before pleading guilty to three misdemeanor counts of voting without being qualified and two misdemeanor counts of falsely swearing to an affidavit. He was fined $6,000 fine, and another $158 in court costs. “Kris Kobach came after me for an honest mistake,” Wilson said. “Damn right, I’m upset.”

“My position is if you double vote, we will find you and it will be a heavy hit to the wallet,” Kobach said. “This is a man who has stated he had a right to vote in two states, so I don’t see how he can say it was an honest mistake now.” He added that Wilson’s fees would have been less had he not contested the conviction.

Kobach has built a national reputation as a conservative hardliner on voting fraud, and he has become a stalwart Trump advisor. When the President claimed between three and five million illegal immigrants caused him to lose the popular vote to Hillary Clinton, advisor Stephen Miller cited Kobach to George Stephanopoulos in a February interview, saying, “I suggest you invite Kris Kobach onto your show and he can walk you through some of the evidence of voter fraud in greater detail.”
Nearly all of the perpetrators have been found using Kansas's proprietary database called Crosscheck, which some critics have questioned as a potentially dangerous tool that can be used to restrict voting access. And as Kobach ascends to the national stage, those who have watched him in Kansas worry about what he may do with his new platform.

“He promised he was going to deliver all these illegal alien voters in Kansas,” said John Carmichael, a Democratic state representative from Wichita, who has sparred with Kobach. “But we’ve got nine people in two years—and most of them are law-abiding United States citizens, who just need better education.”

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Kobach, 51, attended Harvard—Samuel Huntington, the famed political scientist, was a mentor—and won a scholarship to Oxford, where he earned a political science doctorate. He added a law degree from Yale when he returned to the U.S. After missionary work in Africa and serving as a city councilman in Overland Park, Kansas, he was a fellow in the George W. Bush White House, and worked as John Ashcroft’s immigration advisor (the two men hiked and bodysurfed together; Kobach is also an accomplished rower).

After 9/11, immigration became Kobach’s pet issue, and he helped create a system to track immigrants from 25 Muslim countries. He later helped the Arizona legislature write its controversial law that required police officers to demand the papers of people suspected of being in the country illegally. Kobach also led challenges against allowing illegal immigrants to pay in-state college tuition.

During the 2008 election, Kobach read reports of groups like ACORN filing fraudulent voter registration forms, which he says turned his attention to the issue. Two years later, then a law professor in Kansas, Kobach ran for secretary of state on a platform built mostly around voter fraud, despite scant evidence in Kansas. It was an unusually ambitious agenda for an office that is traditionally administrative. (After he won, one critic attributed his win not to his policies, but to his good looks: “He’s very young, attractive and personable,” she said. “He speaks very well.”) Newsweek profiled him, christening him the “Deporter in Chief.”

Once in office, Kobach quickly helped push through a law that required proof of citizenship to register to vote. The ACLU would eventually successfully challenge parts of the law; a federal court found it denied 18,000 Kansans the right to vote. At the same time, critics have also accused Kobach of outright racism for questioning in 2015 whether President Barack Obama might stop prosecuting black criminals and his participation in a conference...
hosted by a “white nationalist” group, according to the Southern Poverty Law Center. “The SPLC calls so many people racist they have watered down the term,” Kobach said. “The claim is absurd.”

In 2015, Kobach went to the Kansas legislature and asked for the power to prosecute voter crimes, something no other secretary of state in the country can do. He cited two major issues: double voting and noncitizens voting. Kobach told me there could be as many as 70,000 people registered to vote in Kansas and another state. It is not illegal to be registered in two states and it should be noted that several members of Trump’s inner circle—and his own family, too—have been registered to vote in more than one state.

Kobach also told me there could be 18,000 noncitizens registered to vote in Kansas. Dale Ho, the director of the Voting Rights Project at the American Civil Liberties Union, said that number was derived from a study with a sample size of less than 40 people. Six noncitizens with temporary Kansas drivers licenses told a researcher they had registered to vote or tried to. Ho looked through Kansas’s voter files to find the six people, but found none of them.

In October of 2015, with his new prosecutorial power, Kobach announced his first set of cases. Wilson learned of the charges when he received a phone call from a reporter. “I said, ‘What the hell is going on?’” Wilson said. What troubled him perhaps most was that he says he had already been interviewed about his voting record by officials in Sherman County in Kansas, and no chargers were filed. “Only the secretary of state,” Wilson said.

Other convictions follow a similar pattern. A Kansas couple—a Vietnam veteran and a retired domestic violence educator—built a home in Arkansas and voted in both states, once in person and once by mail, unaware there was an issue (charges against the wife were dropped because she hadn’t signed her absentee ballot). According to Carmichael, the Kansas state representative, a district attorney looked into the case and declined to prosecute before Kobach took up the mantle.

Another man was prosecuted for voting in a 2012 referendum on marijuana in Colorado when a ballot was mailed to his house. Then there was a surgical nurse who lived part-time in both Kansas and Colorado, and voted in both locations unaware it was against the law. “She was mortified,” said her lawyer, Jerry Fairbanks, who also represented Wilson. “This is a woman who’s probably never had a parking ticket.” Most of the perpetrators paid fines of several thousand dollars. At least seven of those convicted were registered Republicans and over the age of 60.
Kobach said the prosecutions were critical to election integrity because of how close some local elections can be. “We’ve had margins of less than 10 for water commissioners, school board and mayors,” he said. “So just a few fraudulent votes make an impact.” Last month, Kobach announced his first prosecution of a noncitizen, a Peruvian immigrant in the process of naturalizing. “It’s the tip of the iceberg,” he said. “I expect we’ll be waiting awhile for the next one,” Carmichael said.

Wilson, meanwhile, remains furious. “I’m a convicted man now,” he said.

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Kobach located the majority of his targets using a homegrown computer program. The Interstate Voter Registration Crosscheck Program was started by Kansas Secretary of State Ron Thornburgh in 2005. By compiling voter information from different states in a single database, a computer attempts to match voters who might have voted in more than one state. The system has been greatly expanded by Kobach and now 32 states participate. According to Kobach’s office, Crosscheck was used to find all of his prosecutions with the exception of the one noncitizen.

With Kobach now a leader of Trump’s Voter Fraud Commission—Vice President Mike Pence is the titular head—some of his critics are concerned that the system, which they consider demonstrably flawed, is about to get a national rollout. “Crosscheck is a really valuable tool,” Kobach told me, though he said states should control it, not the federal government.

“One outcome of this commission is that we could be talking a lot more about Crosscheck,” said Mark Johnson, who teaches election law at the University of Kansas law school and defended a man prosecuted by Kobach for voter fraud. “Since there are a significant number of false matches with Crosscheck, you’re inevitably going to lose people off the voter roles who should be allowed to vote.”

Marc Meredith, a professor at the University of Pennsylvania and the co-author of a recent study on double voting, agreed. Meredith explained that data sent to states is often based on first name, last name and date of birth, which results in the false matches. He added that what states do with the data, which is often a mystery, can also be a problem. Though detailed instructions are distributed with Crosscheck’s reports, they are not always followed appropriately, he said. In 2014, for example, election officials in Ada County, Idaho mistakenly revoked 765 registrations that were flagged by Crosscheck, including a school
district superintendent who learned of the error only when she attempted to vote. Two states—Florida and Oregon—have dropped Crosscheck.

“I agree that you want to do your best to not have duplicate registrations in multiple states,” Meredith said. “But the primary problem is there are significant costs to taking acts to ensure there are no duplicate registrations. The way Crosscheck presents itself is costless. But understanding which registrations are active and inactive and making sure it’s the same person, it’s not easy. It sounds innocuous but the details are not innocuous.”

According to the study, there are two million people in the national voter file from 2012 who share first and last names and dates of birth. The study estimates that if the voter file is a complete record of who voted, then 0.02% of votes cast in 2012 were double votes. The study found that if the rolls are purged based on duplicates of first name, last name and date of birth, around 200 legitimate voters would be removed for every double vote cast. “Crosscheck is just a starting point,” Kobach said, noting that Kansas contacts voters and follows strict procedures when cancelling a registration. “States are obligated to follow the law.”

The larger problem, Johnson explained, that Kobach’s critics run into in the debate around Crosscheck and other voting rights issues, is that they can’t defend the absolute accuracy of elections. When Kobach says one improper vote tarnishes an entire election, Johnson can’t argue that all votes are cast legally—just that the vast majority are.

“The point the secretary is trying to make with the prosecutions is by finding a few examples it allows him to say I’ve proven that the big problem exists,” Johnson said. “But it doesn’t. And while I wish I could say he’s 100 percent wrong, I can’t. I can only say he’s 99.999 percent wrong.”