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**NICHOLE MISSINO, LEAH HOOPEES &
GREGORY STENSTROM**

v.

**DELAWARE COUNTY BOARD OF
ELECTIONS & DELAWARE COUNTY
BUREAU OF ELECTIONS**

: **COURT OF COMMON PLEAS,**
: **DELAWARE COUNTY**
:
: **ELECTION LAW**
:
: **NO: CV-2022-008091**
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**DELAWARE COUNTY BOARD OF ELECTIONS OPPOSITION TO AMENDED
COMPLAINT AND MOTION TO STRIKE**

The Delaware County Board of Elections and Delaware County Bureau of Elections (collectively, the “Board”), by and through their undersigned counsel, hereby submit their Response to the Amended Complaint (“Amended Complaint”) filed by Plaintiffs Nichole Missino, Leah Hoopes and Gregory Stenstrom (collectively “Plaintiffs”) and Motion to Strike the same. As explained further below, because the so-called Amended Complaint is neither a true Amended Complaint nor a valid Motion for Leave to Amend, the filing should be disregarded and stricken from the docket.

I. INTRODUCTION & PROCEDURAL HISTORY

Because the document at issue is neither an Amended Complaint nor a Motion for Leave to Amend, the document should be disregarded and stricken from the docket by this Court.

Plaintiffs commenced this case by improperly filing a Motion for Preliminary Injunction on November 2, 2022, which was subsequently dismissed for lacking an underlying Complaint with allegations. Plaintiffs then filed an original Complaint on November 3, 2022 asserting a single cause of action for breach of fiduciary duty, along with another Motion for Preliminary Injunction. A true and correct copy of the November 3, 2022 Complaint is attached as **Exhibit A**. The second Motion for Preliminary Injunction was subsequently denied. Plaintiffs then filed a third Motion for Preliminary Injunction on November 16, 2022, which was denied on November 22, 2022 after a nine and a half hour hearing.

The Board then filed Preliminary Objections to the Complaint on November 23, 2022, within the time allotted by the Pennsylvania Rules of Civil Procedure. Plaintiffs filed a response on December 8, 2022.

Plaintiffs then filed the so-called “Amended Complaint” on December 21, 2022, which contains no cause of action and instead names a number of additional defendants, which Plaintiffs purport to have discovered during the November 22, 2022 hearing. A true and correct copy of the “Amended Complaint” is attached as **Exhibit B**.

For the reasons set forth below, this non-compliant filing is a nullity, as it complies with none of the Pennsylvania Rules of Civil Procedure and contains no actual causes of action or allegations against the Board.

Accordingly, the Board requests that this Court strike this pleading and dismiss this case with prejudice in response to the Board’s original Preliminary Objections.

II. ARGUMENT

A. Plaintiffs Were Not Entitled to File an Amended Complaint at This Juncture

Although the Pennsylvania Rules of Civil Procedure permit the amendment of pleadings as of right under three circumstances, none apply here, and the Amended Complaint cannot take effect.

Pa. R.C.P. 1033 permits two methods of amending a pleading. Under Pa. R.C.P. 1033(a), a party may amend a pleading “at any time to change the form of action, add a person as a party, correct the name of a party, or otherwise amend the pleading” so long as the party has either the “filed consent of the adverse party” or “leave of court” to do so. Neither situation applies here, as Plaintiffs have not filed any consent of the Board to this amendment (and the Board would not consent to amendment), nor have Plaintiffs been given an order of the court permitting amendment.

The third method, under Pennsylvania Rule of Civil Procedure 1028, is similarly not at issue. According to Pa. R.C.P. 1028(c)(1), a party may file an amended pleading “as of course within twenty days after service of a copy of preliminary objections.” The Board filed its Preliminary Objections on November 23, 2022. Plaintiffs did not file their Amended Complaint until December 21, 2022, which is twenty-eight days later and eight days outside of the deadline in Pa. R.C.P. 1028(c)(1).

Because Plaintiffs have neither obtained the Board’s consent nor been ordered to file an amended pleading, they do not comply with Rule 1033. And because they have filed the pleading outside of the 20-day deadline, they do not comply with Rule 1028. Plaintiffs therefore cannot file an Amended Complaint without moving for leave to amend, which they have failed to do.

B. Plaintiffs Failed to Move for Leave to Amend

Because Plaintiffs cannot file as of right under either Rules 1028 or 1033, they must move for leave to amend the Complaint, and have failed to do so.

Again, Rule 1033 allows a plaintiff to file an amended pleading with leave of court, which must be accomplished through a Motion for Leave to Amend. Plaintiffs have not filed a Motion for Leave to Amend, but have skipped that step, and instead have moved right into filing an “Amended Complaint”.

Moreover, even if the “Amended Complaint” was to be treated as a Motion for Leave to Amend, Plaintiffs have failed to develop argument on how the motion meets the applicable standard, and it should be treated as waived.

C. The Amended Complaint Itself Violates the Pennsylvania Rules of Civil Procedure

Finally, even if Plaintiffs can overcome those significant procedural hurdles, the Amended Complaint fails to comply with the Pennsylvania rules governing Complaints and should accordingly not be accepted by this Court.

First, the Amended Complaint fails to contain a cause of action. Pennsylvania Rules of Civil Procedure 1019-1022 govern the contents of pleadings. Rule 1019(a) requires that the “material facts **on which a cause of action** or defense is based shall be stated in a concise and summary form.” (emphasis added). Rule 1020(a) requires that “[e]ach cause of action and any special damage related thereto shall be stated in a separate count containing a demand for relief.” Rule 1021(a) requires that “[a]ny pleading demanding relief shall specify the relief sought.”

The Amended Complaint meets none of these requirements. It contains no causes of action, no statements of damages, and no specification of relief sought. Moreover, the material “facts” as pled are not reasonably related to any perceived cause of action, including the cause of

action in the original Complaint for breach of fiduciary duty.¹ *See Gavasto v. 21st Century Indemnity Ins. Co.*, 249 A.3d 1187, 2021 WL 754026, at *8 n. 9 (Pa. Super. Ct. Feb. 26, 2021) (noting that plaintiffs had the burden to specifically state a cause of action in the complaint and a failure to do so violated Rule 1020). The document is totally deficient under virtually every Rule of Civil Procedure governing pleadings, and this Court should not treat it as a properly filed Amended Complaint.

III. CONCLUSION

For the reasons set forth above, the Delaware County Board of Elections respectfully requests that this Court refuse to consider the Amended Complaint a properly filed pleading and to strike the same from the docket.

Dated: January 5, 2022

Respectfully submitted,

/s/ J. Manly Parks

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¹ The Board incorporates by reference its argument in its Preliminary Objections as to the Complaint and that single cause of action, to the extent that this Court entertains this pleading as an Amended Complaint stating a cause of action for breach of fiduciary duty.

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a true and correct copy of the foregoing Response and Motion to Strike Amended Complaint to be filed and served via this Court's e-filing system upon all counsel and pro se parties of record.

/s/ Nicholas M. Centrella, Jr.

Dated: January 5, 2022

EXHIBIT A

Copying Prohibited

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA

**NICHOLE MISSINO, GREGORY
STENSTROM AND LEAH HOOPES,
Plaintiffs,**

v.

**DELAWARE COUNTY BOARD OF
ELECTIONS, AND DELAWARE
COUNTY BUREAU OF ELECTIONS
Defendants.**

No.: CV-2022_____

COMPLAINT

CIVIL ACTION: ELECTION CASE

ORAL ARGUMENTS REQUESTED

JURY TRIAL REQUESTED

COMPLAINT FOR RELIEF IN ELECTION CASE

1. The Plaintiff, Nicole Missino, resides at 478 Granite Terrace, Springfield, Pennsylvania. Ms. Missino is a political candidate running for the Pennsylvania House of Representatives.

2. The Plaintiff, Gregory Stenstrom, is a duly appointed observer and certified poll watcher appointed by Nicole Missino. Mr. Stenstrom resides at 1541 Farmers Lane, Glen Mills, PA. 19342.

3. The Plaintiff, Leah Hoopes, is a duly appointed observer and poll watcher appointed by Nicole Missino, and also a Bethel Township Committeewoman. Ms. Hoopes resides at 41 Sulky Way, Chadds Ford, PA. 19317.

4. The Defendant, Delaware County Board of Elections (“DELCO BOE”), is a County Board of Elections for Delaware County, Pennsylvania, with those powers and duties as set forth in the Pennsylvania Election Code. The DELCO BOE has appointed various employees to act for it pursuant to 25 Pa.C.S. § 2643. The poll watchers have standing in the case as poll watchers allowed in the polling places who are entitled to challenge the qualifications of voters in accordance with the provision of section 1210(d) of the Code (25 PS Sec 3050(d) Sec(417(b), and

inspect the voting check list and either of the two numbered lists of voter during those intervals when voters are not present in the polling place provided the watcher does not mark upon or alter any of these official records. PA 12 Sec 417(b). Specifically, the only surface area provided to challenge either ballots or application for ballots is in the Wharf center. With the implementation of changes to the configuration of the voting process and centralized counting centers, the surface for meaningful challenge must include the Wharf because it is where votes are sent, received and stored before elections. Once Election day commences, so does prec canvassing and canvassing, where poll watchers have limited to no right to challenge, leaving no surface area or interval for poll watchers to carry out their rightful duties on behalf of candidates. Therefore, the rights of the poll watchers MUST apply to the centralized counting centers because that is the only surface area and interval, they have to exert those rights – hence Hoopes and Stenstrom have standing. (See Exhibit 20)

5. The Court has both personal juris as the Plaintiffs are residents of Delaware County and subject matter juris and legal authority over State election code.

6. The Plaintiff, Nicole Missino, seeks basic fairness and transparency to allow her watchers and observers to be present and observe in a meaningful way the curing of defective ballots at the Wharf Counting Center in Chester, Pennsylvania.

7. Nicole Missino also wants access to the records which would ensure that the DELCO BOE has properly verified the approximately 25,000 unverified mail-in ballots for Delaware County.

8. On information and belief, there is no evidence that the DELCO BOE has contacted the Help America Vote Verification (“HAVV”) to verify that the voter was a “qualified elector” before sending out the mail-in ballots.

9. This written attestation as to the completion of the required L&A Testing must be emailed to RA-STBEST@pa.gov as required by Section 1105-A of the Pennsylvania Election Code, found at 25 P.S. § 3031.5.

10. Defendant, the DELCO BOE, failed to provide the attestation as to the L&A

Testing because the absentee/mail-in ballots were mailed out before the L&A testing was performed.

11. Defendant cannot certify to the Secretary of the Commonwealth of Pennsylvania that it has completed its L&A testing, nor has it identified the system configuration, which includes testing whether the scanners can read the ballots, and checking if the software works properly.

12. This type of required testing must be done publicly.

13. Plaintiffs will establish that Defendant failed to comply with the Election Code and the aforesaid directives and cannot certify to the Secretary that Delaware County that it has completed its L&A testing or identified the system configuration for the election.

CAUSE OF ACTION

14. Defendants had a fiduciary duty to adhere to PA Election code as prescribed by law, which is their primary function and duties, and their names apply – Board of Elections and Bureau of Elections.

15. There are multiple key elements of the fiduciary duty of Board Members, the duty of care and the duty of loyalty. The duty of care requires Board Members to act on a fully informed basis, in good faith, and with due diligence and care. The duty of fair dealing The fiduciary has to act in a fair manner and not take advantage of the confidence of the beneficiaries to gain profit or unfair disadvantage.

16. Violations of Election Code

17. Breach of Fiduciary Duty See 42 PA C.S.A Sec 5525

- a. A fiduciary duty and trust relationship exists
- b. A breach of that duty or abuse of that trust has occurred and committed misconduct
- c. The misconduct has caused them to suffer damages

BACKGROUND

18. With the Pennsylvania midterm elections scheduled to occur on November 8, 2022, the Petitioners in prior pleadings have noted gross irregularities in handling ballots and precinct V-drives by the Respondents. Respondents have significantly deviated from Federal and State law, and from State Directives issued by the Pennsylvania Secretary of State to ensure that mail in and absentee ballots are properly and securely tested, verified, only mailed to “eligible / qualified voters,” and will subsequently, securely survive the processing, scanning and tabulation of votes, as they were cast by the “eligible / qualified voters.”

19. These said deviations from law, statutes, and directives directly jeopardizes election integrity and the security of the citizenry’s right to vote. The US Election Assistance Commission (“EAC”), in conjunction with voting machines systems manufacturers (Hart Intercivic, Dominion, and ES&S, being the most predominant). These steps must include every protocol that counties will use in the actual election.

20. L & A testing promotes election integrity by:

- a) Providing election officials an opportunity to identify errors in election definition and ballot format and layout, including appropriate locations for folds on absentee/mail-in ballots, missing races, missing party identification, misspellings of candidate names, incorrectly worded ballot questions, and incorrect tabulation.
- b) Exposing inadequate or faulty election supplies, such as incorrect paper stock and memory cards that haven’t been properly wiped of data and reformatted.
- c) Demonstrating to political parties, candidates, the media, and voters that they should feel confident in the integrity of Pennsylvania elections.

INJUNCTIVE RELIEF

21. Pursuant to Rule 1531 (a) of the Pennsylvania Rules of Civil Procedure holds that “a court

shall issue a preliminary or special injunction only after written notice and hearing only unless it appears to the court that immediate and irreparable injury will be sustained before notice can be given or a hearing held, in which case the court may issue a preliminary injunctions or special injunction without a hearing or without notice.” The Pennsylvania Commonwealth Court has enumerated criteria for deciding whether to grant special relief of a preliminary injunction. The court is asked to consider whether (1) the petitioner(s) is (are) likely to prevail on the merits; (2) an injunction is necessary to prevent immediate and irreparable harm; (3) greater injury would result from refusing the injunction than from granting it, and granting it will not substantially harm other interested parties; and (4) the injunction will not adversely affect the public interest; (5) the injunction will properly restore the parties to their status immediately prior to the passage of the law and (6) the injunction is reasonably suited to abate the offending activity. *SEIU Healthcare PA. v. Commonwealth*, 104 A.3d 495, 501-02 (Pa. 2014).

ARGUMENT

22. The fair, safe and secure election process is integral to every registered voter in the County of Delaware. The elected and hired officials owe its citizens the highest duty to ensure that their voting franchise is not compromised or rendered unnecessarily diluted by the introduction of improper and, frankly illegal, ballots. If permitted to conduct canvassing of absentee and mail-in ballots using untested machines and paper ballots, the potential for tampering with ballots and criminal manipulation of voting data will cast a cloud over November 8, 2022 and adversely affect all voters who attempted to participate by voting in that election.
23. The petitions are not strangers to the Respondents and their repeated demands for transparency and fairness in conducting the elections in the past have been vigorously resisted.
24. Defendants have significantly deviated from Federal and State law, and from State Directives issued by the Pennsylvania Secretary of State to ensure that mail in and absentee ballots are properly and securely tested, verified, only mailed to “eligible / qualified voters,” and will

subsequently, securely survive the processing, scanning and tabulation of votes, as they were cast by the "eligible / qualified voters." Said deviation from law, statutes, and directives directly jeopardizes election integrity and the security of the citizenry's right to vote.

25. The US Election Assistance Commission ("EAC"), in conjunction with voting machines systems manufacturers (Hart Intercivic, Dominion, and ES&S, being the most predominant), other federal agencies, and the Secretary of State of the Commonwealth of Pennsylvania, have crafted procedures to ensure the integrity of the vote in compliance with Federal and State laws. The EAC's Testing and Certification program is the critical first step in the process of maintaining the reliability and security of voting systems in the United States. When properly and strictly followed, they minimize surface area and vectors for potential election fraud.
26. To wit, the "Commonwealth of Pennsylvania Department of State Certification of Hart Intercivic Verity Voting 2.3.4," issued by the Secretary of State, pertinent excerpts of which are included in Exhibit 1, which are used by Delaware County, states that as a condition for certification of the Hart Intercivic Verity voting systems in Pennsylvania that:

*"All jurisdictions implementing the Verity Voting 2.3.4 need to carry out a full Logic and Accuracy test on each device **without fail** and maintain evidence of Logic and Accuracy Testing (L&A Testing) in accordance with the statutory requirements for pre-election and post-election testing." (page 48)*

And further states that:

"The systems used for ballot definition must be configured securely following conditions outlined in this report and following any Directives and Guidance issued by the Secretary. Any data transfer between the vendor and county must be done using encrypted physical media or secure file transfer process. The file transfer and download must be tracked and audited to make sure that data has not been accessed by unauthorized personnel" (page 50)

27. The Secretary of State also includes the EAC certification certificate, and diagrams of system components covered by the State's certification (in Exhibit 1), and references the

“Commonwealth of Pennsylvania Department of State Directive on Logic and Accuracy Testing” (Exhibit 2) which states that ALL counties “**must**” comply with all directives issued that are related to conditions for certification.

28. The Defendants have ignored Federal and State law – again; ignored the requirements and procedures that must be followed as a condition of State certification of voting systems – again; and ignored the directives of the Secretary of State - again; and as they did in the 2020 general election and the 2022 primary, as documented by Petitioners previous cases, that included lengthy, detailed complaints, 98 exhibits of physical, quantitative evidence documenting election violations, and criminal fraud.
29. Deviation from these strict laws, directives and specific procedures introduces multiple vulnerabilities for election fraud, the most grievous of which is they most often result in cast ballots being removed and culled from the normal processing and tabulation trajectory for “remediation,” “curation,” and “repair,” where they are susceptible to spoliation, and even wholesale substitution. In short, it is the physical equivalent of intentionally throwing a wrench into an engine that has been built to perform under specific conditions. Once a mail in or absentee ballot is removed from its outer envelope, and secrecy envelope, it is equivalent to a fired bullet, without forensic or auditable pedigree, and susceptible to fraud – hence the strict procedures required by Federal and State law and directives to ensure a ballot will remain within a secure, and auditable trajectory.
30. On October 6th, 2022, Delaware County placed a legal notice in the “Philadelphia Inquirer” stating they would be conducting “Logic and Accuracy Testing” (“L&A”) starting on October 11th, 2022. (Exhibit 3)
31. On October 7th, 2022, the Delaware County government website stated they would commence mailing out mail in and absentee ballots to voters that had requested them on October 7th and 8th, 2022. (Exhibit 4)
32. This sequence of events – mailing out mail in and absentee ballots to voters (commencing October 7th and 8th) before conducting L&A Testing (commencing on October 11th) – is in direct contravention of Pennsylvania law, and the Secretary of State’s Certification of Voting

Systems, and Directives for pre-election L&A Testing referred to previously in Exhibit 2, to wit on page 2 of the Directive (the first page after the cover), it states:

Logic & Accuracy Testing

Scope:

*All jurisdictions in Pennsylvania **must** conduct pre-election logic and accuracy testing (hereinafter L & A testing) prior to every election (primary, general, special, etc.) that is conducted in the jurisdiction. Pursuant to Section 1105-A of the Pennsylvania Election Code, 25 P.S. § 3031.5, the following Directive is issued by the Secretary of the Commonwealth for all pre-election L & A testing in the Commonwealth of Pennsylvania.*

L&A testing is a series of pre-election steps intended to ensure that ballots, scanners, ballot marking devices, and any component of a county's certified voting system are properly configured and in good working order prior to being used in an election. These steps must include every protocol that counties will use in the actual election.

L & A testing promotes election integrity by:

- Providing election officials an opportunity to identify errors in election definition and ballot format and layout, including appropriate locations for folds on absentee/mail-in ballots, missing races, missing party identification, misspellings of candidate names, incorrectly worded ballot questions, and incorrect tabulation.*
- Exposing inadequate or faulty election supplies, such as incorrect paper stock and memory cards that haven't been properly wiped of data and reformatted.*

- **Demonstrating to political parties, candidates, the media, and voters that they should feel confident in the integrity of Pennsylvania elections.** (bold and underline added for emphasis)

Following completion of L&A testing, each county board **shall** certify to the Secretary when they have completed their L & A testing and identify the system configuration for the election. The certification shall be on a form prescribed and furnished by the Secretary. Jurisdictions must complete the attestation at least 15 days prior to every election held in the jurisdiction and must be submitted via email to “RA-STBEST@pa.gov.”

33. Section 1105-A of the Pennsylvania Election Code, 25 P.S. § 3031.5, referenced by the aforementioned paragraph provides further clarification of the sequence of events in which L&A Testing must take place, and the importance of testing forms, in general, and it’s intent to include ballots in the context of the Directive’s scope, BEFORE the Board of Elections and Bureau of Elections may commence mailing out registration, and mail in and absentee ballots to voters, to wit:

25 P.S. § 1105. Standardized forms.

General rule. --Whenever possible, the secretary shall prescribe by regulation standardized voter registration or absentee ballot application forms which may be used, with prior approval by the secretary, by political bodies, candidates and organized bodies of citizens in compliance with both the provisions of this part and the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

(b) Prior approval. -- The secretary shall develop a system whereby political bodies, candidates and organized bodies of citizens may receive prior approval of standardized forms developed pursuant to subsection (a).

34. The essence and summary of this required sequence of events is that if the printed paper ballots mailed out to mail in and absentee voters have not been verified to ensure the

candidates and issues are printed properly on the paper forms, and tested by the scanners and tabulation servers, and also tested with the equipment that will process and scan those mail in ballots, to include the BlueCrest Mail Sorter, and Agissar Envelope slicing and extraction machines, which are critical processing components that failed (miserably) in previous elections in November 2020, 2021, and 2022, then the entire voting and election process remains in dire jeopardy.

35. Many thousands of mail in and absentee ballots were culled and removed from the “normal” voting tabulation process in the Delaware County central counting center at the Wharf building on Seaport Avenue in Chester City because mail in ballots could not be sorted properly by precinct by the “BlueCrest” mail sorter, or were sliced into pieces by the “Agissar” envelope slicer and ballot extraction equipment – and spoiled. This required hundreds of foreign “Voter Protection volunteers” who arrived by busloads, and by the hundreds, converging from outside the county, to remove ballots from the observation of certified poll watchers and observers who resided in Delaware County, to scotch tape the ballots back together, and for approximately 6,000 ballots that were spoiled so badly they could not be scanned at all, for these same foreign persons to “curate” the ballots by “interpreting” and copying over the voters marked choices to “fresh” ballots from a myriad of different precincts and districts, to rescan the substituted ballots. This made national and international news, with the media, fixated on the narrative of “the safest and most secure election in history,” diligently massaging the optics with headlines like “*Fact check: Video does not show election workers fraudulently completing ballots in Delaware County, PA,*” citing the “*Delaware County's response to video circulating of ballots*” press release – all leaving out the gargantuan number of ballots that had been spoiled with the public lie of omission that “**Some** ballots were damaged by the extractor during this process in such a way that the ballots could not be scanned successfully.” Defendants also conveniently left out the fact that the “curations” were previously being performed out sight of observers – a fact known to Petitioners, and few others. Petitioners Stenstrom and Hoopes had initiated an injunction to allow poll watchers into a sequestered back room where the aforementioned “volunteers” had previously been doing their “curating.” Despite the Court’s order to allow Petitioners in the back room for 5 minutes every 2 hours, initially Delaware County Republican Executive Committee (DCREC) Board Member John McBlain, who was representing Petitioners as their counsel, and Board of Elections Solicitor Manley Parks resisted this Court’s order over Petitioners vigorous objections, and unilaterally decided to move the “curation” to the main room, along with the 6,000 spoiled ballots, in an effort to keep Petitioners out of the back room – ignoring this Court’s order. McBlain subsequently resigned from

the DCREC after the 2020 election and shortly thereafter was appointed as a Board Member to the Board of Elections – and is now among the Defendants. This willful recalcitrance of the Defendants, and their firsthand knowledge of exactly what happens as a result of not properly conducting L&A Testing, and the resulting massive spoliation, demonstrates that without the Court’s intervention, there is no reason for the behavior not to continue. (See Exhibit 16)

36. Regardless of the allegations of wholesale substitution of mail in ballots which is among the stated controversies in Petitioners other lawsuits in the appellate trajectory, **this disaster in the processing of mail in and absentee ballots substantially contributed to the fact that 220 precincts of the 428 precincts (51%) could not be reconciled in accordance with PA Title 25 Sec § 1404 and Sec § 1405 specifications for the November 2020 general election.** (See 2020 Return Board Report in Exhibit 5)
37. The **May 2022 primary election** preceding the upcoming November 8th, 2022, general election suffered identical problems because of illegitimate deviations from Law and Directives resulting in 108 precincts of 428 precincts (25%) that could not be reconciled in accordance with PA Title 25 Sec § 1404 and Sec § 1405 specifications. (See 2022 Return Board Report in Exhibit 6)
38. In both the November 2020 and May 2022 elections the bipartisan Return Board could not complete reconciliation and certification of the vote for reasons described in their reports (Exhibit 5 and 6), and did NOT physically sign or certify the election results as required by Pennsylvania election law, in which their duties are specified no less than 26 times in the code, in part because of the aforementioned election law violations, deviations from Law and Directives, and acts of the Defendants as described herein.
39. As a matter of record, the closing statement in Exhibit 7 that the report was “Reviewed in person or via e-mail by each Return Board Member. In lieu of in-person signing, approval of content via e-mail was accepted” is highly suspect, as the Return Board was denied the opportunity to attest to, and present their report in public hearing, on the public record, in accordance with P.A. 25 Sec § 1404 and § 1405, by James Allen, Director of Election Operations for the Bureau of Elections of Delaware County (Defendant), and subsequently, in both frustration and in order to comply with law, the Return Board member distributed the

report to members of the public in attendance, of which a copy (Exhibit 7) was provided to Petitioners. It is for this reason, among others enumerated herein, that oral arguments are required, to be able to confirm, or refute, the reports, and false utterances of James Allen, by Return Board members to be called as witnesses.

40. Regardless of any attestations by witnesses, the Return Board reports for November 2020 and May 2022 contain and describe so many blatant violations of PA Title 25 Sec § 1404 and Sec § 1405 they are too numerous to list, the sections of which are included as Exhibit 7 – in full – because **virtually the entire sections of the statutes were ignored and wantonly violated by the Defendants, and the elections were certified without investigation or reconciliation of tens of thousands of votes by electors.**
41. Had the Defendants adhered to, and strictly complied with Pennsylvania Law and the Directives of the Secretary of State, this debacle could have been potentially avoided, and at a minimum, met the standard of intent and purpose of the Secretaries Directive on L&A Testing that *“political parties, candidates, the media, and voters ... should feel confident in the integrity of Pennsylvania elections.”*
42. Exhibit 2 includes excerpts from the L&A Testing procedures, as only four examples of procedures defined in the Pennsylvania Secretary of State’s Directive on L&A Testing that were not strictly followed by the Defendants, and instead they used their own procedures – which they refused to provide to “eligible /qualified voters” and citizens of Delaware County who observed and documented the L&A Testing, in great detail.
43. Among the most egregious deviations from the lawfully required by the Secretary of State Directive on L&A Testing procedures excerpt in Exhibit 2, are:
 - (1) The scanners were NOT tested in “Election Mode” and instead set to “Test” mode in direct contradiction to the specification to **“Set each voting machine to be tested in “election mode” rather than “test mode”** per paragraph 4.3.1 of the Directive.
 - (2) There was no testing of pre-printed ballots, as directed in the test procedures per paragraph 2 of the Directive that **“Prior to beginning the structured L & A testing, test the**

printed ballots that will be issued to voters to confirm that the ballots can be read by the tabulating equipment once they are returned for counting.”

The Defendants did not test the special ballot paper purchased by the County for the special ballot printers specified by Hart Intercivic. *NOTE: The County has the capability to pre-print their own ballots to meet all specifications for printed ballots but did not do so, yet, the L&A observers, whose affidavits are included herein, sighted pre-printed ballots – which were not used – which was further confirmed by James Allen, Director of Election Operations in public statements at the Board of Elections meeting on October 25th, 2022.*

- (3) Hart Intercivic Verity vDrives were discarded after the test in a “bucket” contrary to the test procedures which require the same vDrives used in L&A Testing be used in the election per paragraph 3.3 of the Directive to **“Create a media device for each precinct scanner or central scanner that will be used in the election.”**
- (4) Mail in envelopes, secrecy envelopes, and folded ballots were not tested with the “BlueCrest” mail sorter and “Agissar” envelope slicer and ballot extraction equipment per paragraph 2 of the Directive to **“Test these ballots on the equipment that will be used to centrally count mail ballots.”**
44. Observer reports of L&A Testing and sworn Affidavits are included as Exhibits 8, 9, 10, and 11, which enumerate a large, gross number of deviations from the Secretary of State’s L&A Testing Directive (Exhibit 2), and violations of applicable sections of P.A. 25, including multiple affirmations of the specific violations in the aforementioned paragraph.
45. Return Sheets for Upper Darby Precincts 3,4, and 5 were publicly posted the evening of the May 2022 election for public inspection (Exhibit 12), along with paper tape receipts from the Verity Scanners (otherwise known as “Proof Sheets” in P.A. 25), and serve as an example for what should be done at all polling locations, and at the Wharf building. Proof Sheets can only be printed out with a Verity vDrive formatted and bonded to the specific Verity Scanner by the Verity Election Management System (EMS).

46. The reason that Verity vDrives used in L&A Testing MUST be used for the election, and not discarded as sworn and documented in the Affidavits of Exhibits 8, 9, 10 and 11 are as follows:

- A record of the L&A Testing, verification of the Cast Vote Record (CVR) for the ballot test deck, machine counts and serial number counts documented on the official L&A Testing Return Sheet, provides an audit trail and pedigree that can be verified post-election that the vDrive is, indeed, the authentic media device mapped to the specific machine.
- The "Blue Seal vDrive Compartment" serial number on the tamper proof tape circled in red, and highlighted in transparent yellow (black and light gray in monotone versions of this document) on the Return Sheets in Exhibits 12 must be sequential and are an essential part of the requirement for a "strict chain of custody."
- Process vulnerability exploits could be used to create pre- or post- election vDrives to fabricate election day returns for Verity Scanners and entire precincts that could be substituted by as few as a single confederate "bad actor." Evidence of such substitution could include any or all of the following:
 - Entire precincts that cannot be reconciled, as was the case in November 2020 and May 2022 elections as documented in the Return Board reports (Exhibits 5 and 6).
 - "Missing" or unreconcilable Return Sheets and Proof Sheets (paper tapes)
 - "Missing" Verity vDrives not turned in by 0200 hours (2:00am) US EST on Election Eve.
 - "Missing" Verity vDrives being "found" post-election that do not reconcile and match Return Sheets and/or Proof Sheets (paper tapes).
 - Unexplained breaks in the required "strict chain of custody" required by the Secretary of State's Certification of Hart Intercivic voting systems (Exhibit 1).

Most of which were admitted by (the same) Defendants own attorneys for the November 2020 election in their response to Petitioners appellate cases CV-2020-007532 and CV-2022-000032.

47. Arguments that pre-printed ballots need not be tested in accordance with the Pennsylvania Secretary of State L&A Testing Directive were posed by James Allen, Director of Election Operations for the Defendants at the public October 25th, 2022, Board of Elections meeting. He stated that he directed “informal” testing of the mail in ballots before they were sent to persons who requested them using Ballot Document Definition (BDD) files and ballots created by personnel employed by the Defendants at the Delaware County Voting Machine Warehouse using Verity Touch Writers to create test ballots. Aside from the fact that he ignored Federal and State law, and the Secretary of States Directive, this argument is easily refuted by the fact that thousands of mail in ballots could not be scanned or were so badly spoiled in the November 2020 election during the BlueCrest mail sorting and Agissar ballot extraction process at the centralized Delaware County Wharf Counting Center, it disenfranchised thousands of “eligible / qualified voters” and called election integrity into question by voters who could not know if their ballots were among the “remediated,” “curated,” spoiled or otherwise uncounted mail in ballots.
48. At the same aforementioned Board of Elections meeting, James Allen also reported that over “60,000” (untested) mail in ballots had been sent out by the Bureau of Elections, of which “32%” had already been returned. Without having conducted lawful L&A Testing in accordance with the Secretary of State’s Directive, Petitioners and the class of “eligible / qualified voters” and candidates have no way of know whether there will be a repeat of the Delaware County Bureau of Elections debacle in 2021, where Delaware County Council candidates Frank Agovino and Joseph Lombardo sued after hundreds (670) of ballots were sent to wrong address by Defendant's vendor, ElectionIQ (See Exhibit 14). James Allen told the Inquirer "the county is aware of the lawsuit and plans to respond," while ElectionIQ did not return messages. Whether this was another case of not following lawful procedures and directives, or whether the matter was successfully resolved, is not a matter of public record, but indicative of the seeming contempt Defendant’s executives and employees seem to hold for compliance with the law to ensure the highest level of confidence in election integrity.
49. As of 1030 hours (10:30am) US EST, October 28th, 2022, the Pennsylvania Department of State currently aligns with Allen’s aforementioned report that over “60,000” ballots have been mailed to persons who requested them. However the same Department of State report shows

that 18,359 of those ballots were sent to “Unverified” persons who may, or may not, be “eligible / qualified voters.” Given the propensity for Defendants eschewing federal law, state law as defined in P.A. Title 25, and Secretary of State Directives, as described herein, whether those persons were properly verified as “eligible / qualified voters” is reasonably suspect.

50. Persons listed as “unverified” in the Department of State’s database in Exhibit 15, currently number **18,359**, by the Friday before Election Day. These prospective “unverified” voters have up to six (6) days AFTER election day to provide verification that they are “eligible / qualified voters.” Note that previously verified voters can be automatically dropped from the “verified” list if they have not voted in the previous two (2) general elections among other reasons, but nevertheless, the list is what it is, and all we have to reference. Exhibit 15, is the most current Social Security Administration (SSA) Weekly Data for Help America Vote Verification (“HAVV”) Transactions for Pennsylvania as of October 28th, 1440 hrs (2:40pm) US EST. Given that there are currently 265,000 “unverified” voters that were sent mail in ballots statewide, it seems unlikely that Delaware County would account for the bulk of the HAVV requests and returns.
51. Regarding the Pennsylvania Secretary of State's press release titled “Department of State Corrects Information About “Unverified Ballots”” dated October 27th, 2022 included as EXHIBIT 17, it directly contradicts the Secretary's own previously full document and directive titled “Guidance Concerning Civilian Absentee and Mail-In Ballot Procedures” (Exhibit 18).
52. Further, the Secretary's press release also contradicts PA Title 25 Sec § 1305 “Delivering or Mailing Ballots,” and Sec § 1302-D “Application for Official Mail In Ballots” (as Amended by “Act 77”of 2019) which are included in full in EXHIBIT 19, to wit, the Secretary's Guidance directly quotes and references PA 25 Sec § 1305 and § 1302-D, which states no less than 15 times that ONLY a "qualified" elector (voter) may receive a ballot, and ONLY AFTER the elector is "qualified" by verification of identity.
53. Contrary to both Federal and State law, and the Secretary of States own Guidance document that a ballot CAN NOT BE PROVIDED to an elector unless they are first verified and qualified, the Defendants ignored the law and guidance - again.

54. Pennsylvania election law PA Title 25 Sec § 1305 “Delivering or Mailing Ballots,” and Sec § 1302-D “Application for Official Mail In Ballots” (as Amended by “Act 77”of 2019) is quite clear and requires NO interpretation that ONLY a qualified elector can receive a ballot, and must be verified beforehand, and that failing that check and /or if ballots are received from Unverified (unqualified) voters, then they must be segregated, and cannot be counted in the election unless the elector (voter) or the Defendants can VERIFY that the elector (voter) within 6 days of the election.

55. Regarding the \$10.00 cash deposit for challenging an application for an absentee ballot, “no excuse” mail in ballot, or an application for a mail-in ballot, “for any of the reasons provided in 25 PA CONS STAT § 1329, the statute specifically states that:

"Absentee electors may be challenged on the grounds that: (1) elector is not a qualified elector, (2) the elector was within the municipality of his residence on the day of the election when the polls were open, except where he was in military service or ill or physically disabled, or (3) that the elector was able to appear personally at the polling place on the day of the election during the period the polls were open in the case his ballot was obtained for the reason that he was unable to appear personally at the polling place due to illness or physical disability (Id. § 2135.8(e),

56. NONE of the above situations applies to the Petitioners complaint. **Petitioners are NOT “challenging” any verified elector, but rather requesting that the 18,389 unverified electors already identified in the Pennsylvania Department of State database in Exhibit 15, be segregated until Defendants provide proof that they submitted the HAVV request and received a reply before sending the requestor (elector) a mail in ballot.**

57. It is incumbent of the Defendants to verify electors BEFORE sending them a mail in ballot, and an individual unverified elector to ensure they are “verified” prior to the election (or up to 6 days after the election), and NOT the Petitioners or any other "eligible / qualified voter" responsibility to do so.

58. Clearly the intent of the statute is not to burden the Petitioners with a \$189,389 cash tariff to verify that the Defendants complied with the law, and requesting documentation that the Defendants did so in a game of financial "chicken" and chance that the County citizenry

should have to shoulder the price for. The recalcitrant Defendants have already violated election law by not lawfully performing L&A Testing before sending out the 60,000+ untested ballots, and Petitioners intent, remedy and relief is to mitigate the damage.

59. As further rationale and logic that that is not the Statute's intent, then with a fine of \$15,000 for each election law violation, it would seem to good bet for an enterprising person with the available cash to post the \$189,389 cash bet on the odds of finding only 13 unverified voter out of 18,389 currently unverified voters listed in the Department of State database, to break even, and double that investment assuming an additional 13 unverified voters. Given the litany of gross election violations and poor attention to detail demonstrated by the Defendants, as described herein, it is just as likely that none of the 18,389 unverified voters were verified by HAVV requests, and a potential “payout” of a whopping \$275,835,000 fine for said enterprising investor.
60. Defendants have continuously insisted that “Risk Limited Audits” (“RLA”) have shown “no discrepancies” as evidence of their competence and compliance with law and directives – which is also a conflation with a reconcilable election by “eligible / qualified voters,” and frankly, an utter falsehood. An RLA merely verifies that the Hart Intercivic Varsity scanners are operating correctly for a small number of sampled ballots (less than 1%), selected by the Defendants for testing, when in fact, tens of thousands of votes could not be reconciled in the 2020 general election and May 2022 primary – and it is almost surely going to happen again in the November 2022 general election.
61. The disingenuous insistence by Defendants that “all is well” and the elections they have presided over are the “safest and most secure in history” despite the plethora of evidence to the contrary, while continuing to ignore the Laws and Directives designed by informed legislatures, the Secretary of State, manufacturers, and experts in election integrity is why it is critical that the Court must intervene and grant the remedies and relief sought by the Petitioners.

RELIEF REQUESTED

62. WHEREFORE, a preliminary injunction segregating the mail-in ballots from the canvassing of votes for the November 8, 2022, midterm elections is necessary to preserve the integrity of the election. Petitioners recognize that at this late juncture before the election, which is less than two weeks away, there are seemingly too many problems described herein to overcome, but they must be addressed, and Petitioners acted as soon as they were able.
63. Petitioner's appellate brief to the Commonwealth Court for CV-2022-000032, which this Court has granted right of appeal, considers the dilemma that if the Court avoid review of allegations in the crucible of a public courtroom before a trier of fact for the requested oral arguments, and / or avoid evidentiary hearing and discovery at a minimum for the jury trial requested, it could clearly enable the unrepentant Defendants to continue with their unlawful conduct, without civil remedy by the citizenry, candidates, and "eligible / qualified voters," either before an election (for not being "ripe"), or after an election (for being moot), with no remaining litigative surface area or vector for remedy under Pennsylvania "civil law" that governs conduct of election officials that stands apart from the vagaries of standing and laches requirements specific to "election law," leaving a Constitutional "no man's land" in which public corruption may thrive. Granting the relief and remedies sought by the Petitioners is the only way to bring clarity to these controversies, and almost certainly to only way to meet P.A. Title 25 and the Secretary of States related directives and intent of "**Demonstrating to political parties, candidates, the media, and voters that they should feel confident in the integrity of Pennsylvania elections.**"
64. Petitioners also recognize that a demand for relief that requires a complete "do over" to force Defendants to strictly comply with the law and directives enumerated herein to ensure a secure, honest, and auditable election could not likely be performed before Election Day, which could potentially disenfranchise "eligible / qualified voters" and cast further doubt on the integrity of Pennsylvania elections, and the competence and integrity of the Defendants and the respective County Council members charged with their appointments and governance of those agencies. Petitioners cannot, in good conscience, request the Court to be the arbiter of the Hobson's Choice of enforcing the law it is sworn to uphold and adjudicate, or delaying the election.

PRAYER FOR RELIEF

65. Hence, Petitioners propose the following remedies:

- Immediately execute the separately filed Spial Injunction and Order.
- In accordance with P.A. Title 12 that ALL Precinct Return Sheets and Proof Sheets (paper tapes), which are “unsealed records,” be made available for inspection, copy and photographs for ALL Precincts on Election Evening by the public, as required by law, as soon as possible after the polls close, and BEFORE that precinct may be processed further and counted.
- Given that the Return Sheet is an integral, required part of the returned election materials by Judges of Elections (JOE’s), then it only makes sense that one part cannot exist without the others, and that it cannot be possible to count the Election Day cast votes for a Precinct without having a Return Sheet, so this could not possibly be objectional because it cannot be allowed to happen in accordance with law.
- Given that the L&A Testing Verity vDrives has already been spoiled, and there is no possible means to “unspoil” them, or re-establish an already broke chain of custody, and the only alternative to be able to ensure a renewed “strict chain of custody” is for vDrives to be separately be ensconced in a tamper proof envelope or box (by itself), and a tamper proof film tape (which will easily show breakage if anyone attempts to open the container), signed and dated by the Judge of Elections, and at least one other poll worker at the Precinct. In addition to signature and date, the Serial number for the Paper Tape, the Lifetime Machine Count from the Paper Tape, and Scanner Bag Seal # will be written on the tamper proof foil for comparison to the Return Sheet and Paper Tapes at the Wharf Building BEFORE the vDrive can be processed further for tabulation.
- ONLY after the above verifications that a strict chain of custody has been maintained, as evidenced by the vDrive still within the sealed container, and tamper proof tape intact, as verified by the Petitioners, or their designated representative, may the vDrive be opened, at which point it will be observed with continuous “eyeballs on” – again by the Petitioners, their designated representative, and at least two other certified poll watchers, from both the DNC and GOP – may the vDrive be inserted into the tabulation servers, and be counted and processed by the EMS.

- That the Defendants provide physical evidence in the form of emails or other suitable HAVV responses that all persons requesting mail in, or absentee ballots were verified – as required by law (P.A. Title 25) before the Defendants sent them, which in turn will may be spot checked by Petitioners or their designated representatives.
- That any ballot of an unverified voter be segregated from the “eligible / qualified voter” ballots until it is verified, and not be ingested into the processing and specifically that the ballot envelope remains sealed. This may be simply done by the Defendants providing proof that they received a response from the SSA for their presumed 18,389 HAVV requests sent by the Defendants. By statute, an unverified voter (or the Defendants) has up to 6 days post-election day to verify and process the ballot.
- If an unverified voter ballot remains after tabulation and provisional ballot challenge on the Saturday following the election, any provisional ballots that are subsequently considered to be counted, will be compared to both the ballots already processed and counted, and the segregated unverified person’s envelopes before being further ingested into the counting and tabulation process.
- A simple remedy to verifying that only “eligible / qualified voters” mail in ballots be ingested into the count and processed for tabulation that complies with the letter, intent and spirit of the law is to enter the returned mail in ballots through the BlueCrest mail sorter, which as its name implies, will sort the mail in and absentee ballots by precinct, and also takes an image of each envelope. Whether a voter participated, or not, in an election is a matter of public record, and is not private or protected information – only the person’s ballot inside the envelope is sacrosanct. It could not be a violation of pre-canvassing or canvassing laws or directives to provide Petitioners or their appointed representatives, or the public envelope images, sorted by precinct, so that they can be compared with the ballots requested, sent, and received list PRIOR to opening the envelopes and extracting the inside, sacrosanct ballot for further processing and counting.
- Given that mail in and absentee ballots from “verified” “eligible / qualified voters” should be sorted by precinct, and available for further ingestion into the counting and tabulation process, it would seem reasonable and prudent to allow certified poll watchers from opposing parties, and the public to compare the count of the number of mail in ballots by

precinct, and to allow a minimum of ten (10) spot checks comparing outer envelopes to the BlueCrest mail sorter images provided to the public, Petitioners and their designated representatives, earlier, as described above, and total mail in ballot piece count for the precinct.

- Given that the mail in ballots were not tested with the “Agissar” envelope slicers and ballot extraction machines, as required by the Secretary of State’s L&A Testing Directive **“to confirm that the ballots can be read by the tabulating equipment once they are returned for counting”** and the surety that they will again slice thousands of ballots into pieces that must be handled, scotch taped, “remediated,” “curated “or otherwise spoiled, as has been the case in all elections since November 2020, then the only viable alternative is that the envelopes be opened by hand – as has been the case in ALL previous elections prior to November 2020, it is a simple math equation to compute how many workers will need to be engaged to open them in a timely manner, by precinct. The BlueCrest mail sorter processes 50,000 pieces per hour, so virtually all mail in ballots can be processed by 10am on election day after the 7am start of pre-canvassing and canvassing. Assuming one person can carefully open and extract 6 ballots per minute, and 30 workers can reasonably fit in the area adjacent to the “Agissar” equipment as has been the case in previous elections, that is approximately 180 ballots per minute, and 10,800 ballots per hour – and assuming reasonable breaks, and kerfuffle’s that always accompany a manual process, it is reasonable to assume that it could take as little as six (6) hours after the envelopes are sorted to be ready for scanning in the Wharf building Verity high speed scanners, and the ballots can be sorted by box per precinct along with their outer envelopes to preserve the ability to audit any anomalies further should the need arise. The above is meant to be illustrative of the fact that the mail in ballots can be readily prepared and scanned well before, or at least simultaneous to the return of election materials from the precincts, and certainly all counted the evening of the Election.

66. The above modifications, which will be summarized in the proposed Order, only address the specific violations of Federal and State laws, and the L&A Testing Directives, and do not violate any other existing laws or Directives the Petitioners are aware of. Oral arguments have been requested to discuss these remedies in public, before the Court, and while the Defendants

– and public – may bristle, the Petitioners and “eligible / qualified voters” did not create this situation – the Defendants did. It is either come to some reasonable accommodation to cure the violations sufficient to conduct the election on Election Day, or the Hobson’s choice that will cause even more grist, venom and doubt of election integrity for the “eligible / qualified voters” of Pennsylvania.

67. The Petitioners, who were private citizens who valued their anonymity prior to the November 2020 election, and since, have been venomously and viciously attacked in public hearings, forums, and the media, and been endlessly harassed for simply performing their civic duty as first certified poll watchers, and now common citizens, with standing as “eligible / qualified voters.” Petitioners have been called by Defendants executives and Delaware County Council – all public authorities and figures – as well as both DNC and GOP corporate officers – also public figures – and elected officials that include the District Attorney, Pennsylvania Attorney General, and US Attorney General “liars,” “lunatics,” “vexatious,” “contemptible,” “Trumpanzees,” “MAGA extremists,” “extremists,” “terrorists,” and every imaginable manner of vile filth. They have been physically threatened, threatened with arrest and incarceration, harassed and “investigated” by Special Agents of the District Attorney, Attorney General, and FBI. They have been formally classified as “domestic terrorists” by the Department of Homeland Security, surveilled, and wiretapped. They have suffered loss of their incomes and professional careers. They have been sanctioned three separate times by the Defendants seeking hundreds of thousands of dollars. Their attorneys have been harassed and complaints submitted for their disbarment to State disciplinary boards. They have been almost entirely alone, save a relative handful of other private citizens, who were similarly afflicted for having the temerity to do their duty and uphold their sworn oaths and allegiance to our great Republic.
68. Election integrity, accountability and change can only be brought to lawful, peaceful fruition via the Courts, and a restoration of faith that justice will ultimately prevail – that our laws and Courts will prevail. Of the 65+ primary election fraud cases that arose from the November 2020 election, not one was allowed the right of an evidentiary hearing. Most were dismissed without opinion or surface area for meaningful appeal.

69. Given that citizens filing meritorious petitions were pilloried, none more than the Petitioners; their lawyers fighting disbarment, and no other esquires willing to stand in the breach and make an argument, and election violations and vectors for fraud unabated by the Defendants and other like Boards, politicians, and political parties, who will be left to speak? Even if Petitioners cases could possibly be refuted if they ever see a day in a public courtroom, and they potentially have it all wrong – what is to become of the next citizen and esquire with righteous cause?
70. The only remedy and relief, is an incentive to re-engage the citizenry and esquires to vigorously participate in elections, our sovereign rights to self-governance with representative that we, the people choose, and whom are not selected and illegitimately installed “for our own good.”
71. As a starting point, 60,0000+ mail in ballots were unlawfully sent out by the Defendants, each one being an individual election violation, with the statues and penalties for each violation ranging from \$1,000 to \$15,000 per violation, which provides a range of between \$60,000,000 and \$900,000,000, not accounting for punitive and treble damages should fraud be proven.
72. The Petitioners did not do this for money or any other financial recompense, and those staggering potential damages would place a financial burden on the same citizenry that will hopefully benefit from Petitioners’ efforts. However, to restore a sense of order, justice, and encourage others to engage and risk their lives, property and liberty to ensure election integrity in the future, Petitioners seek jury trial post-election, and after the storm has passed, to assess accountability and a meaningful financial judgement, that a jury will decide, that will hopefully remind them Defendants that the citizenry is watching them, they will act, and they will be held accountable, as they should be.
73. Petitioners pray that the Court will grant these remedies and relief, and others as the Court deems fit, to ensure the violations of law by the Defendants to not occur again – and will not be unamenable or displeased should the Court decide to make the Hobson’s Choice.

Respectfully submitted:



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EXHIBIT 1

Commonwealth of Pennsylvania Department of State Certification of Hart Intercivic Verity Voting 2.3.4 - Excerpts

<https://www.dos.pa.gov/VotingElections/Documents/Voting%20Systems/Hart%20Intercivic%20Verity%20Voting%202.3.4/Hart%20Verity%202.3.4%20Secretary%27s%20Certification%20Report%20Final%20with%20Signature.pdf>

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE**

**REPORT CONCERNING THE EXAMINATION RESULTS OF HART
VERITY VOTING 2.3.4 WITH VERITY SCAN PRECINCT SCANNER,
VERITY COUNT TABULATING AND REPORTING SOLUTION,
VERITY CENTRAL - CENTRAL SCANNING SOLUTION, VERITY
TOUCH WRITER AND TOUCH WRITER DUO BALLOT MARKING
DEVICES, AND VERITY DATA ELECTION DATA ENTRY
SOFTWARE AND VERITY BUILD ELECTION DEFINITION
SOFTWARE**



Issued By:



Kathy Boockvar
Acting Secretary of the Commonwealth
June 13, 2019

Figure 1 – Exhibit 1 - COVER - PA SecState Hart Voting Certification



United States Election Assistance Commission



Certificate of Conformance

Hart Verity Voting 2.3.4

The voting system identified on this certificate has been evaluated at an accredited voting system testing laboratory for conformance to the 2005 *Voluntary Voting System Guidelines (2005 VVSG)*. Components evaluated for this certification are detailed in the attached Scope of Certification document. This certificate applies only to the specific version and release of the product in its evaluated configuration. The evaluation has been verified by the EAC in accordance with the provisions of the *EAC Voting System Testing and Certification Program Manual* and the conclusions of the testing laboratory in the test report are consistent with the evidence adduced. This certificate is not an endorsement of the product by any agency of the U.S. Government and no warranty of the product is either expressed or implied.

Product Name: Verity Voting

Model or Version: 2.3.4

Name of VSTL: SLI Compliance

EAC Certification Number: HRT-VERITY-2.3.4

Date Issued: May 29, 2019

Executive Director
U.S. Election Assistance Commission

Scope of Certification Attached

Figure 2 – Exhibit 1 - EAC Certificate - PA SecState Hart Voting Certification

Components Included:

This section provides information describing the components and revision level of the primary components included in this Certification.

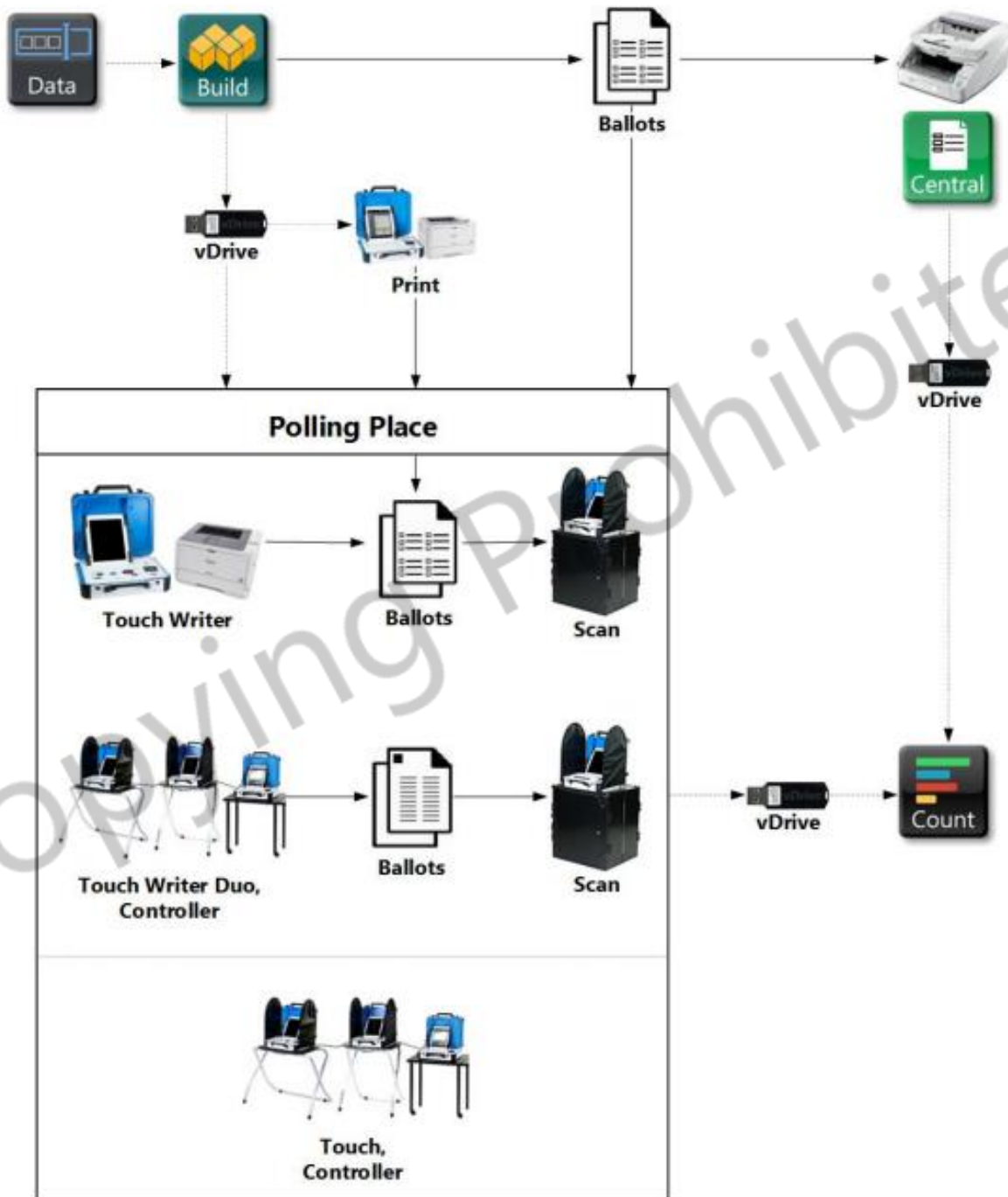


Figure 3 Exhibit 1 - COMPONENTS - PA SecState Hart Voting Certification

IV. Conditions for Certification

Given the results of the examination that occurred in January and February 2019 and the findings of the Examiners as set forth in their reports, the Secretary of the Commonwealth certifies the Verity Voting 2.3.4 subject to the following conditions:

(Paragraphs A through C omitted for this Exhibit)

D. All jurisdictions implementing the Verity Voting 2.3.4 need to carry out a full Logic and Accuracy test on each device without fail and maintain evidence of Logic and Accuracy (L&A) testing in accordance with the statutory requirements for pre-election and post-election testing. The Department does not recommend automated L&A testing and discourages the use of preprinted ballots provided by vendors. All components being used on election day, including accessible devices and any Electronic Poll Books being used, must be part of the L&A testing. Counties must ensure that the L&A test includes all ballot styles, and the test cases include all applicable scenarios of PA straight party method identified in Attachment C to the Directive for electronic voting systems published by BCEL on September 11, 2017. Jurisdictions must also include test cases to invoke the configured warnings during election definition during L&A testing. *(Page 48 of Certification)*

(Paragraphs E through L omitted for this Exhibit)

M. Jurisdictions using the services of Hart or a third-party vendor for election preparation activities must work with Hart or the vendor to ensure that systems used for ballot definition activities are considered part of the voting system and use certified voting system components. The systems used for ballot definition must be configured securely following conditions outlined in this report and following any Directives and Guidance issued by the Secretary. Any data transfer between the vendor and county must be done using encrypted physical media or secure file transfer process.

The file transfer and download must be tracked and audited to make sure that data has not been accessed by unauthorized personnel. *(Page 50 of Certification)*

Copying Prohibited

EXHIBIT 2

Commonwealth of Pennsylvania Department of State Directive on Logic and Accuracy Testing - Excerpts

[https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/PADOS
_Directive_Logic_Accuracy%20with%20attestation.pdf](https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/PADOS_Directive_Logic_Accuracy%20with%20attestation.pdf)

TLP: WHITE



DIRECTIVE ON LOGIC & ACCURACY TESTING

Date: September 14, 2020

Figure 4 - Exhibit 2 - COVER - PA SecState Directive on L&A Testing

Logic & Accuracy Testing

Scope:

All jurisdictions in Pennsylvania must conduct pre-election logic and accuracy testing (hereinafter L & A testing) prior to every election (primary, general, special, etc.) that is conducted in the jurisdiction. Pursuant to Section 1105-A of the Pennsylvania Election Code, 25 P.S. § 3031.5, the following Directive is issued by the Secretary of the Commonwealth for all pre-election L & A testing in the Commonwealth of Pennsylvania.

L&A testing is a series of pre-election steps intended to ensure that ballots, scanners, ballot marking devices, and any component of a county's certified voting system are properly configured and in good working order prior to being used in an election. These steps must include every protocol that counties will use in the actual election.

L & A testing promotes election integrity by:

- Providing election officials an opportunity to identify errors in election definition and ballot format and layout, including appropriate locations for folds on absentee/mail-in ballots, missing races, missing party identification, misspellings of candidate names, incorrectly worded ballot questions, and incorrect tabulation.
- Exposing inadequate or faulty election supplies, such as incorrect paper stock and memory cards that haven't been properly wiped of data and reformatted.
- Demonstrating to political parties, candidates, the media, and voters that they should feel confident in the integrity of Pennsylvania elections.

Following completion of L&A testing, each county board shall certify to the Secretary when they have completed their L & A testing and identify the system configuration for the election. The certification shall be on a form prescribed and furnished by the Secretary. Jurisdictions must complete the attestation at least 15 days prior to every election held in the jurisdiction and must be submitted via email to RA-STBEST@pa.gov.

(Page 2 of Directive)

2 TESTING OF ABSENTEE AND MAIL-IN BALLOTS

Prior to beginning the structured L & A testing, **test the printed ballots that will be issued to voters to confirm that the ballots can be read by the tabulating equipment once they are returned for counting. Test these ballots on the equipment that will be used to centrally count mail ballots.** If using a ballot on demand (BOD) printer to print mail ballots, test the functionality of the printer for all ballot styles.

- Prepare the BOD printer following the manufacturer's procedures and load the required ballot definition files on the BOD printer. Print ballots of all ballot styles that would be printed using the device for election use.
- If using pre-printed ballots, gather test ballots to be used for all ballot styles used in the election from the print vendor.
- Mark ballots of each ballot style and type (absentee/mail-in) following the "tabulation test voting pattern" and scan them using both a central scanner and precinct scanner
- A good way to test all of the ballots is to create an "All Poll" media device for the scanners. An "All Poll" media device will permit all ballot styles for the election to be scanned.
- Fold some ballots comparable to the manner absentee and mail-in ballots are received.
- Scan the ballots on the central scanner following the exact same process that you would follow on election day.
- Further, scan the ballots four times on the precinct scanner, each time changing the direction in which the card is inserted into the scanner. The goal of this test is to ensure that all printed ballots can be read by the tabulator in all orientations.
- Once ballots are tested for absentee and mail-in voting, changes should not be made to a county's election definition. If the election definition is changed, ballots need to be retested. If the election definition is changed after the county has distributed any absentee or mail-in ballots, when these ballots are returned, the ballots will either need to be hand-counted or a ballot duplication team will need to transfer the voter's votes to a ballot that can be tabulated by the voting equipment. Follow the procedure for creating a true duplicate copy of a damaged or defective ballot. When a ballot is duplicated, the county must maintain both the original and duplicate ballot and record an identical serial number on each.

3.3 PREPARATION OF MEDIA DEVICE

- Before data for an election can be placed on any memory card for an optical scan tabulator, central count scanner, or ballot marking device, the data contained on the memory card from any previous election must be removed under the guidelines of the relevant voting system. Ensure that media has been fully formatted.
- Inspect all media devices and ensure that they are labelled and numbered appropriately.
- Label the media device with the name of the poll (e.g., precinct name, absentee, mail-in, provisional). It is best practice to make the marking and labelling as evident as possible. For example, write the precinct name/number, device name etc. clearly. As a best practice, use different colored labels for primary and redundant (back-up) media.
- Download the election information to the media devices according to the voting systems manufacturer's instruction.
- Create a media device for each precinct scanner or central scanner **that will be used in the election.**

(Page 6 of Directive)

4.3 PRECINCT SCANNERS

Once a test deck and expected results have been validated, test decks are scanned by a bipartisan team of election officials or voting system operators, on each voting system for which the ballot style is used.

This test is used to check the accuracy of the ballot coding, the ability of the tabulators to accurately record votes marked on the ballots and the ability of tabulators to accurately tally votes from all scanned ballots. Every scanner that will be used in the election must be tested.

4.3.1 Machine Setup and Preparation

- Set each voting machine to be tested in “election mode” rather than “test mode.”
- Review and confirm that the prepared test decks contain all the applicable test cases suggested in “tabulation test voting variation”.
- Load each precinct scanner with the pre-labeled memory cards specific to each election day precinct.
- Perform all the actions that would take place on election day. The goal is to test all actions as they would happen on election day.
 - Ensure that the precinct scanner is set for the correct election.
 - Open the polls and validate the accuracy of the information displayed on the screens and public counters.
 - Print zero reports and validate the reports. Check the date and time, precinct polling place details, election, and that contest totals are zero.
- Once the polls are “open” and a zero tape is generated, the bipartisan team should sign the zero tape to identify the officials participating in the test for each precinct scanner.

(Page 9 of Directive)

EXHIBIT 3

**Delaware County Notices in Philadelphia Inquirer
dated October 6th, 2022
Regarding Logic and Accuracy Testing**

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that the Delaware County Board of Elections will conduct testing of the Election Day voting system equipment; Logic and Accuracy testing of all equipment used in the precincts on Election Day will commence Tuesday, October 11, 2022 at 8:00 a.m. at the Voting Machine Warehouse, 403 East 24th Street, Chester, PA 19013 and will continue daily until complete. The testing will be done in accordance with 25 P.S. §3011 (c).

Testing of the Central Automatic Tabulating Election Equipment will be held Thursday, October 27, 2022, commencing at 10:00 a.m. in Bureau of Elections Chester Office, 2501 Seaport Drive, 1st Floor Suite BH 120, Chester, PA 19013. The testing will be done in accordance with 25 P.S. §3031.14. Any person eligible in accordance with 25 P.S. §3031.14(b)(2) may be present during the testing.

DELAWARE COUNTY BOARD OF ELECTIONS

Ashley Lunkenheimer
John P. McBlain
Scott J. Alberts

Figure 5 - Exhibit 3 - Legal Notice of L&A in Philadelphia Inquirer October 6th, 2022

EXHIBIT 4

Delaware County Notices Regarding Logic and Accuracy Testing

<https://www.delcopa.gov/publicrelations/releases/2022/delcoelectionsbeginsreleaseofvbmballots.html>



Delaware County Elections Begins Release of Vote-by-Mail Ballots

Home / Departments / Public Relations Releases / Delaware County Elections Begins Release of Vote-by-Mail Ballots

Released: October 7, 2022

Delaware County Elections has begun the process of releasing the initial batch of vote-by-mail ballots (including both no-excuse mail-in ballots and traditional absentee ballots) to those Delaware County voters who submitted a vote-by-mail application for the Nov. 8 General Election prior to Sept. 25, 2022.

In all, more than 42,000 vote-by-mail ballots processed and approved by the Delaware County Bureau of Elections will be mailed October 7 and 8. Vote-by-Mail ballots requested on or after Sept. 27 will be mailed in subsequent mailings. The deadline to apply to Vote by Mail is Nov. 1, and applications may be submitted on the Votes PA website at delcopa.gov/vbm-app.

Delaware County voters have the option of returning their completed vote-by-mail ballot through the United States Postal Service or through any one of the more than three dozen ballot drop boxes located in municipalities across the county. Postage is NOT required.

Most ballot drop boxes will be open and accepting Delaware County vote-by-mail ballots on Mon., Oct. 24. Voters who wish to use a drop box before Oct. 24 may use the ballot drop box located in the lobby of Government Center Building in Media. This drop box, easily accessible to voters from the Orange Street entrance to the complex, is the only drop box open now.

The complete list of Delaware County ballot drop boxes can be found on the Delco Votes! website at delcopa.gov/dropbox. Ballot drop box locations have remain largely unchanged over the past few elections, with a two recent exceptions: the Upper Chichester drop box has been discontinued at the request of the municipality, and the Media Borough drop box has been discontinued by the Bureau of Elections due to its close proximity to several other easily accessible drop boxes.

Delaware County voters who intend to cast a mail-in or absentee ballot.

Figure 6 - Exhibit 4 - Delaware County October 7th, 2022, Website Notice that Mail In and Absentee Ballots were being sent to Voters

EXHIBIT 5

**Report of the Delaware County Return Board for the
General Election, November 2020**

November 18, 2020

Delaware County Board of Election
201 West Front Street
Media PA, 19063

Dear Members of the Delaware County Board of Elections:

Re: Report of the Delaware County Return Board for the General Election, November 2020

Pursuant to the Post-Election General Reconciliation Project dated November 2016 from the Commonwealth of Pennsylvania, the undersigned Delaware County Return Board met from Friday, November 6 through Monday, November 16, 2020, from 8:30 AM to 3:00 PM every day.

The Return Board consisted of 18 Tabulators, including 9 Democrats and 9 Republicans. The below report is a summary of our findings and recommendations. Also attached is a spreadsheet that elaborates on the specific tasks undertaken pursuant to 25 P.S. § 3154(b)(c)(d); 25 P.S. § 3031.17 and paragraph 10 of the Directive Concerning the Use, Implementation and Operation of the Electronic Voting Systems by County Board of Elections, Election Code, 25 P.S. § 3031.17 et al., dated 6/09/2011.

All work was performed in teams of two (one Republican and one Democrat) and all individual work was signed off by team members that performed the task(s). These documents have been organized for storage at the Voting Machine Warehouse for the statutorily required timeframe, except for the voted ballots used in the hand recount. These ballots were sealed in ballot bags and returned to Media by a member of Delaware County Sheriff's Department.

We met with the representatives of 202 Delaware County Precinct Election Boards to comply with the Election Code, from Friday November 13 through Monday November 16, 2020. The individual precinct representatives were most helpful in assisting in our efforts. It should be noted that a majority of the precinct Election Board members remarked that the training materials were often lacking in clear instruction as to

the opening and closing of the polls and the preparation of the Return Sheets. The Return Board is available to discuss specific areas of concerns and will await the Board of Elections directions to assist the County in preparing appropriate training materials for the Election Board members going forward.

The Return Board wishes to acknowledge the guidance and help of the Voting Machine Warehouse Supervisor, Jim Savage, and his staff during the Return Board's daily work.

Initially, as part of our duties, we reviewed the list of voters (Yellow Book) and compared same to the County Public Count, Return Sheets, and noted the differentials. We determined that most inconsistencies in the Yellow Book numbers were human error, except for a small number of precincts and those precincts were referred to the Delaware County District Attorney.

As part of our interviews with the 202 precinct Election Board representatives, we discussed the unused paper ballots, a majority of which, were available for our review. We noted on their Return Sheets any extra ballots that the precinct received during the day from the Bureau of Elections as well as those produced by the precinct Touch Writers. As part of the process, we analyzed ballots issued, the number of spoiled ballots, and the number of ballots cast. Finally, we insured that provisional ballots were not included in the scanner tallies or the Yellow Books.

We were able to reconcile the above numbers in a majority of the precincts that sent representatives to help assist the Return Board in its audits. It was determined that out of a total of 428 Delaware County precincts, we needed to meet with 220 individual precincts, the remainder of which were able to be reconciled with the provided/returned documentation. Of the 220 precincts, 94 precincts were Reconciled; 29 precincts had minor Discrepancies with Explanations and 79 precincts could not be Reconciled. Additionally, 18 precincts did not respond to the County's multiple emails and phone calls, requesting their cooperation during the four days that we designated as interview dates (November 13, 14, 15, and 16).

It is important to note that there was no indication of fraud in the data or during the interviews throughout our assignment. We point out that each and every Unreconciled or Discrepancies with Explanation Return

Sheets were the result of training issues. The election workers were consistent in wanting “to do it right” but did not know how. It is assumed that these training issues have been noted and will be corrected going forward.

Next, as part of our duties, we reviewed the Return Sheets from the 220 precincts identified as needing additional information and noted the missing scanner tapes. In those precincts where the tapes were missing, it can be explained by lack of training, lack of properly attaching them to the Return Sheets, human error, or a lack of Return Sheets in the precinct Election Officers’ “White Box.”

The Return Board recommends that the County eliminate the combination of scanners that permitted voters to submit marked ballots into any scanner at voting locations where there were two or more precincts. The precinct Election Boards did not know how to correctly co-mingle the final scanner print outs from multiple precincts, hence the inability to reconcile unused ballots or had no information in the Audit section on the Return Sheets. Attempts were undertaken to help the precinct Election Boards, during the interviews, to calculate the final scanner numbers for the Return Sheets and we were successful in a majority of the questioned precincts. The scanner printout numbers were compared to the removable storage media used by the County to count votes cast at each precinct and were found to be Reconciled.

Finally, the Return Board undertook a statistical hand recount of ballots from a number of randomly selected precincts that totaled over 2,300 ballots cast. This count was done by hand and compared to the electronic tabulation numbers generated by the County V-drives from the scanners. The hand count tabulation was consistent with the votes reported from the machines by the County.

The Return Board would like to thank the County Board of Elections for the trust that you have given us to perform this important Post-Election General Reconciliation Audit. We stand ready to assist you again in Spring 2021 Primary and if any of our analysis or recommendation needs further explanation, please contact us if necessary.

Conclusion/ Recommendations

1. The Election Day Guide, the Alphabetized envelopes and the Return Sheets must be redone with the assistance of experienced Judges of Elections (JOE).
2. Training for opening, closing and preparing Return Sheets.
3. Eliminate co-mingling of scanners in locations with multiple precincts.
4. Better efforts made to ensure JOE's can contact the Bureau of Elections during the day. JOE's had multiple questions that could have been solved but were unable to contact anyone.
5. Completely revise the Poll Workers' Election Day Guide.
6. Revise Return Sheets at the bottom – "Audit" – need to include:
 - A. Extra ballots printed on Touch Writers.
 - B. Extra ballots received on election day from the Bureau of Elections.
7. Better explanation of the purpose of the "List of Voters" and the need for accuracy. Errors were noted throughout, as well as cross-outs and voters signing the book versus poll worker (the Clerk).
8. Return sheets need to be distributed in the "White Box."
9. The White Boxes must be left in-tack for Return Board review when questions arise.
10. Unused ballots must be returned in the box that they were delivered in and placed in the sealed cages delivered to the Voting Machine Warehouse.
11. Precinct Election Boards must count unused ballots after the polls close, not back the numbers in by subtracting the voted and spoiled ballots from the total received.
12. Precinct Election Boards complained that precinct property owners/supervisors would not open the buildings/polling locations to poll workers until 6 AM. It takes over 1 hour and 15 minutes to set up one precinct and some Judges had 2 precincts.
13. Need a short and specific checklist for the closing of polls from 8 PM to dropping materials off at the County Government locations.

14. The Security Seals that are required to be installed after polls are closed, need specific instructions as to their placement.
15. Specific Provisional Ballot video training would help.
16. The online training quiz needs to explain why the answer by the poll worker was determined to be incorrect. "What is the right answer/proper procedure?"
17. The precinct Election Boards have requested hands-on training on how to produce required reports from scanners and Touch Writers.
18. The human errors can be greatly eliminated by additional training and revising the Return Sheets/Alphabetical envelopes and the Election Day Guide.

Return Board Members

Karen Reeves

Mary Jo Headley

Donna Rode

Jennifer Booker

Norma Locke

Kenneth Haughton

Jean Davidson

James A. Ziegelhoffer

S. J. Dennis

Regina Scheerer

Marilyn Heider

Cathy Craddock

Tom Gallagher

Maureen T. Moore

Louis Govinden

Pasquale Cipolloni

Doug Degenhardt

Gretchen Bell

Reviewed in person or via email by each Return Board member. Permission was granted to add their initials as approval of the content, in lieu of in-person signing.

EXHIBIT 6

**Report of the Delaware County Return Board for the
Primary Election, May 2022**

Return Board

Delaware County Board of Elections
201 West Front St.
Media, PA. 19063

June 6, 2022

Dear Members of the Delaware County Board of Elections:

Re: Report of the Delaware County Return Board for the Primary Election May 17, 2022

Pursuant to the Post-Election General Reconciliation Project dated November 2016 from the Commonwealth of Pennsylvania, the entire undersigned Delaware County Return Board met Friday, May 20, 2022 through Tuesday, May 31, 2022 from 8:00 AM to 3:30 PM to complete the required audit. Additionally, the Democrat and Republican Review Board Supervisors met Thursday, June 2, 2022 to review and finalize the required audit.

The Return Board consisted of 18 tabulators including 9 Democrats and 9 Republicans. The below report is a summary of our findings and recommendations. There also is a spreadsheet that elaborates on the specific tasks undertaken pursuant to 25 P.S. s. 3154 (b)(c)(d); 25 P.S. s 3031.17 and paragraph 10 of the Directive Concerning the Use, Implementation and Operation of the Electronic Voting Systems by County Board of Elections, Election Code, 25 P.S. s 3031.17 et al, dated 6/09/2011.

All work was performed in teams of two, one Republican and one Democrat, and all individual work was signed off by the team members that performed the task(s). These documents have been organized for storage at the Voting Machine Warehouse for the statutorily required time frame, except for the voted ballots used in the hand recount. The actual voted ballots were sealed in ballot bags and returned to the Bureau of Elections Office at the Wharf in the City of Chester by a member of the Bureau of Elections.

The Return Board wishes to acknowledge the guidance and help of the Voting Machine Warehouse Custodian, Jackie Dunn and her staff.

Initially, as part of our duties we reviewed the Total Numbered List of Voters form and compared this list to the Machine Tapes received from each Precinct in the materials returned on Election night. There were:

- 18 Precincts that did not include the Total Numbered List of Voters form (or left it entirely blank)
- 25 Precincts that did not include the Machine Tapes
- 18 Precincts that did not include the Return Sheet

As part of the review process, we analyzed the total ballots received in the cage, the number Touch Writer ballots generated and any additional ballots received from the County. From these totals we subtracted the total unused ballots and the total spoiled ballots. For the precincts with the proper documentation this tally was correct. Finally, we ensured that the Provisional White Numbered List of Voters was not included the tallying total votes cast.

Previously, the County developed a new Provisional Numbered List of Voters form. Further training needs to be given to Poll Workers as to how this is to be returned on Election night. Provisional ballots are not part of the review of the Return Board.

Because some Judge of Election(s)/Election Board Member(s) made little or no attempt to record the number of ballots received, we needed to open the return boxes and hand count the returned ballots. Again, we suggest further training for the Poll Workers on how to properly fill out the Return Sheet. It still needs to be emphasized the importance of properly filling out the Return Sheet on Election Night. Even if a Precinct has the Total Ballots Received in Cage pre-printed on the Return Sheet, the Judge of Election(s)/Election Board Member(s) should still count the ballots to ensure the ballot count is accurate.

Of the 428 precincts, 323 were reconciled (with little or no discrepancies). Additionally, 105 precincts were irreconcilable of which, 18 were missing the Total Numbered List of Voters form, 25 were missing the Machine Tapes, and 18 were missing the Return Sheet. The category and category count were:

- Reconciled: 201 Precincts, or 46.96%
- Reconciled, Minor Discrepancy (Any difference which is 2 or less): 122, or 28.50%
- Not Reconciled, Major Discrepancy (Any difference which is 3 or more): 38, or 8.88%
- Unreconcilable: 67, or 15.65%

The Return Board's hope is that the Bureau of Elections can determine if the problem Precincts (ones with missing and/or inaccurate information), had any Precinct Election Board Members attend the Training Sessions, or take the Poll Workers Test. Attending Training is necessary so these problem Precincts do not continue to make these same mistakes in future elections.

Finally, the Return Board undertook the required Commonwealth 2% statistical hand recount of ballots from 11 randomly selected Precincts, that totaled 2,463 votes (2% of the total votes cast at polling places during the 2022 Primary Election).

This count was done by hand; however, it was not compared to the electronic tabulation numbers generated by the County V-drives from the scanners because the Return Board was never provided a list of the electronic tabulation numbers generated by the County V-drives from the scanners for Tabulation.

The Return Board would like to thank the County Board of Elections for the trust given us to perform this audit. We stand ready to assist you again in November 2022.

Return Board Recommendations

1. Provide additional training for poll opening, poll closing and preparing the Return Sheet. Hopefully, there can be additional hands on training which will cover the Machine Tapes that are required to be printed at the opening and closing of the polls.
2. Revise and minimize the Poll Workers' Election Day Guide.
3. Provide additional training and explanation of the Return Sheet Paper Ballot Audit for all Poll Workers. The Return Board cannot complete its required functions when the Poll Workers leave these numbers blank or incorrectly complete the Return Sheet.
4. The Judge of Election (JOE) counting all delivered ballots from the County prior to poll opening to ensure the ballot amount received matches the ballot amount delivered. All unused ballots must be counted at the end of the night, recorded on Return Sheet, returned in the box that they were delivered in, and then placed in the sealed cages to be delivered to the Voting Machine Warehouse.

5. Although the Return Board did not count Provisional Ballots, we observed that there is still a need for specific Provisional Ballot training and the proper procedures of voting, processing and returning a Provisional Ballot. As per the instructions in the Election Day Guide, importance must be stressed upon the Judge of Election(s)/Election Board Member(s) of placing all used and unused Provisional Ballot material in the proper envelope and then in the Blue Poll Bag for proper return to the Bureau of Elections.
6. The online training quiz needs to explain why the answer by the poll worker was determined to be incorrect. "What is the right answer/proper procedure?" This was a recommendation last election and has not been implemented. How does a poll worker know how to clear up his/her "wrong answer" if they are never told what is the correct answer or way to handle the hypothetical question?
7. Training for Poll Workers to instruct each voter that the Candidates' box on the ballot must be properly filled in. In the Election Day Guide, an example is shown on how to mark a ballot. Printed material showing these instructions should be provided for each privacy ballot station for voter reference on Election Day.
8. Train and instruct the Judge of Election(s)/Election Board Member(s) to keep the cover sheet attached to the Total Numbered List of Voters form for Precinct identification. Often, the cover sheet gets detached from the Total Numbered List of Voters form and the Precinct identification becomes difficult for Tabulation. If the Bureau of Elections would provide a pre-printed Precinct sticker for the Total Number of Voters form, that also may be a possible alternate solution.
9. We suggest more emphasis be placed on the Poll Workers' training to train the voter in filling out the box properly.

Return Review Board Members

Jennifer Booker	Cathy Craddock
Meg Conboy	Douglas W. Degenhardt
Jean Davidson	Walter E. Fredericksen
Susan J. Dennis	Mary Jo Headley
Hunter Hammock	Marilyn Heider
Maureen T. Moore	Maryanne Mann
Mary Mullen	Karen Reeves
Robert Stump	Donna K. Rode
James A. Ziegelhoffer	Regina Scheerer

Reviewed in person or via e-mail by each Return Board Member. In lieu of in-person signing, approval of content via e-mail was accepted.

EXHIBIT 7

**PA Title 25 Sec § 1404 “Computation of Returns by
County Board; Certification; Issuance of Certificates
of Election;”**

**and § 1405 “Manner of Computing Irregular Ballots;”
as Amended by “Act 77” of 2019**

[https://www.legis.state.pa.us/WU01/LI/LI/US/PDF/1937/0/
0320..PDF](https://www.legis.state.pa.us/WU01/LI/LI/US/PDF/1937/0/0320..PDF)

Section 1404. Computation of Returns by County Board; Certification; Issuance of Certificates of Election.—

(a) The county board shall, at nine o'clock A. M. on the third day following the primary or election, at its office or at some other convenient public place at the county seat, of which due notice shall have been given as provided by section 1403, publicly commence the computation and canvassing of the returns, and continue the same from day to day until completed, in the manner hereinafter provided. For this purpose, any county board may organize itself into sections, each of which may simultaneously proceed with the computation and canvassing of the returns from various districts of the county in the manner provided by this section. Upon the completion of such computation and canvassing, the board shall tabulate the figures for the entire county and sign, announce and attest the same, as required by this section. ((a) carried without amendment Oct 8, 2004, P.L.807, No.97)

(b) It shall be the duty of each board of registration commissioners in each county, before the time fixed for the county board to convene for purpose of computing and canvassing returns of any primary or election, to certify to said county board the total registration of each election district within its jurisdiction, and the enrollment of each district by political parties at primaries. The county board, before computing the votes cast in any election district, shall compare said registration and enrollment figures with the certificates returned by the election officers showing the number of persons who voted in each district, or the number of ballots cast. If, upon consideration by said return board of the returns before it from any election district and the certificates aforesaid, it shall appear that the total vote returned for any candidate or candidates for the same office or nomination or on any question exceeds the number of registered or enrolled electors in said election district or exceeds the total number of persons who voted in said election district or the total number of ballots cast therein, or, if it shall appear that the total number of partisan votes returned for any candidate or candidates for the same office or nomination at any primary exceeds the number of electors registered or enrolled in said district as members of that political party, or exceeds the total number of persons belonging to that party who voted in said district or the total number of ballots of that party cast therein, in any such case, such excess shall be deemed a discrepancy and palpable error, and shall be investigated by the return board, and no votes shall be recorded from such district until such investigation shall be had, and such excess

shall authorize-- (a) the summoning of the election officers, overseers, machine inspectors, and clerks to appear forthwith with any election papers in their possession; (b) the production of the ballot box before the return board, and the examination and scrutiny of all of its contents, and all of the registration and election documents whatever, relating to said district, in the presence of representatives of each party and candidate interested who are attending the canvass of such votes; and the recount of the ballots contained in said ballot box, either generally or respecting the particular office, nomination, or question as to which the excess exists, in the discretion of the return board; (c) the correction of the returns in accordance with the result of said recount; (d) in the discretion of the return board, the exclusion of the poll of that district, either as to all offices, candidates, questions, and parties, or as to any particular offices, candidates, questions, or parties as to which said excess exists, if the ballot box be found to contain more ballots than there are electors registered or enrolled in said election district, or more ballots of one party than there are electors registered or enrolled in said district as members of that party, or more ballots than the number of voters who voted at said election, or more ballots of one party than the number of voters of that party who voted at said election; (e) a report of the facts of the case to the district attorney where such action appears to be warranted.

(c) The county board shall first publicly account for all extra official ballots printed under the provisions of section 1007 of this act. The general returns made by the election officers from the various election districts shall then be read one after another in the usual order, slowly and audibly, by one of the clerks who shall, in each case of a return from a district in which ballots were used, read therefrom the number of ballots (in the case of primaries the number of ballots of each party) issued, spoiled and cancelled, and cast, respectively, whereupon the clerk having charge of the records of the county board showing the number of ballots furnished for each election district, including the number of extra official ballots as provided by section 1007 of this act as so furnished, and the number of unused ballots and spoiled and cancelled ballots returned, shall publicly announce the number of the same respectively, and unless it appears by said number or calculations therefrom that said records, and the said general return correspond, no further returns shall be read from the latter until all discrepancies are explained to the satisfaction of the county board. In the case of districts in which voting machines are used, there shall be read from the general return the identifying number or other designation of each voting machine used, the numbers registered on the protective counter or device on each machine prior to the opening of the

polls and immediately after close of the same, whereupon the clerk having charge of the records of the county board showing the number registered on the protective counter or device of each voting machine prior to delivery at the polling place, shall publicly announce the numbers so registered, and unless it appears that the said records, and the said general return correspond, no further returns shall be read from the latter until any and all discrepancies are explained to the satisfaction of the county board. ((c) amended Nov. 27, 2019, P.L.673, No.94)

(d) (1) In districts in which paper ballots have been used, when the records agree with said returns regarding the number of ballots and the number of votes recorded for each candidate (on each party ticket at primaries), said votes for each candidate shall be read by the clerk slowly, audibly, and in an orderly manner from the general return which has been returned unsealed, and the figures announced shall be compared by other clerks with the general return which has been returned sealed. The figures announced for all districts shall be compared by one of the clerks with the tally papers from the respective districts. If any discrepancies are discovered, the county board shall thereupon examine all of the return sheets, tally papers and other papers in its possession relating to the same election district. If the tally papers and sealed general return sheet agree, the unsealed general return shall be forthwith corrected to conform thereto. But in every other case the county board shall forthwith cause the ballot box of the district to be opened and the vote therein to be recounted in the presence of attorneys, watchers, and candidates interested, and if the recount shall not be sufficient to correct the error, the county board may summon the election officers and overseers, if any, to appear forthwith with all election papers in their possession.

(2) In districts in which voting machines have been used, when the records agree with the returns regarding the number registered on the voting machine, the votes recorded for each candidate shall be read by the clerk slowly, audibly, and in an orderly manner from the general return sheet which has been returned unsealed, and the figures announced shall be compared by other clerks with the duplicate return sheet which has been returned sealed, and if the voting machine is of the type equipped with mechanism for printing paper proof sheets, said general and duplicate return sheets shall also be compared with said proof sheets, which have been returned as aforesaid. If any discrepancies are discovered, the county board shall thereupon examine all of the return sheets, proof sheets and other papers in its possession relating to the same election district. The said proof sheets shall be deemed to be the primary evidence of the result of the election and to be prima facie accurate, and if the proper proof sheets properly identified, shall be mutually

consistent, and if the general and duplicate returns, or either of them, from said district shall not correspond with said proof sheets, they shall be corrected so as to correspond with same, in the absence of allegation of specific fraud or error, proved to the satisfaction of the county board.

(3) If any error or fraud is discovered, the county board shall compute and certify the votes justly regardless of any fraudulent or erroneous returns presented to it, and shall report the facts to the district attorney of the proper county for action.

(4) In districts where electronically tabulated ballots are used in conjunction with central ballot tabulation, the return board shall compare the number of persons voting as indicated on the computer return sheets, with the number voting as indicated on the sealed general return from the election district. In the case of a discrepancy, the procedures specified for paper ballots in subsection (d)(1) shall be followed. ((4) added July 11, 1980, P.L.600, No.128)

(5) In districts where ballots are tabulated at the election district, the procedures specified for paper ballots in subsection (d)(1) shall be followed. ((5) added July 11, 1980, P.L.600, No.128)

(e) Provision for Recount or Recanvass of Vote.--Whenever it shall appear that there is a discrepancy in the returns of any election district, or, upon petition of three voters of any district, verified by affidavit, that an error, although not apparent on the face of the returns, has been committed therein, or of its own motion or under subsection (g), the county board shall at any time prior to the completion of the computation of all of the returns for the county, summon the election officers of the district, and said officers, in the presence of said board, shall conduct a recount or recanvass of all ballots cast. Before making such recount or recanvass, the said board shall give notice in writing to the proper custodian of voting machines, and to each candidate, and to the county chairman of each party or political body, affected by the recount or recanvass; and each such candidate may be present in person, or by attorney, and each of such parties, or bodies, may send two representatives to be present at such recount or recanvass.

(1) In a county in which an election district uses voting machines, all of the following apply:

(i) The county board shall:

(A) make a record of the number of the seal upon the voting machine and the number on the protective counter or other device;

(B) make visible the registering counters of such machine; and

(C) without unlocking the machine against voting, recanvass the vote cast on the machine.

(ii) If, upon such recanvass, it shall be found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the said board, with the assistance of the custodian, in the presence of the election officers and the authorized candidates and representatives, shall unlock the voting and counting mechanism of the machine, and shall proceed thoroughly to examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in returns from such machine. Each counter shall be reset at zero (000) before it is tested, after which it shall be operated at least one hundred times. After the completion of such examination and test, the custodian shall then and there prepare a statement, in writing, giving in detail the result of the examination and test, and such statement shall be witnessed by the persons present, and shall be filed with the said board.

(iii) If, upon such recanvass, it shall appear that the original canvass of the returns by the election officers was incorrect, the said returns and all papers being prepared by the said board shall be corrected accordingly: Provided, however, That in the case of returns from any election district wherein the election was held by the use of a voting machine equipped with mechanism for printing paper proof sheets, said proof sheets, if mutually consistent, shall be deemed to be the primary evidence of the result of the election and to be prima facie accurate, and there shall not be considered to be any discrepancy or error in the returns from any such district, such as to require a recanvass of the vote, if all available proof sheets, from the voting machine used therein, identified to the satisfaction of the return board and shown to its satisfaction to have been produced from proper custody, shall be mutually consistent, and, if the general and duplicate returns, or either of them, from said district shall not correspond with said proof sheets, they, and all other papers being prepared by said return board, shall be corrected so as to correspond with the same, in the absence of allegation of specific fraud or error, proved to the satisfaction of the return board by the weight of the evidence, and only in such case shall the vote of said election district be recanvassed under the provisions of this section.

(2) In a county in which an election district uses paper ballots other than those used in conjunction with an electronic voting system, all of the following apply:

(i) The county board shall, in the presence of the election officers and the authorized candidates and representatives, cause:

(A) the ballot box of each district to be opened and the vote in the ballot box to be recounted; and

(B) the entire vote of the election district to be counted correctly.

(ii) The county board may summon the election officers and overseers to appear with all election papers in their possession to assist in determining an accurate count or addressing errors and omissions.

(3) In a county in which an election district uses an electronic voting system utilizing paper ballots, all of the following apply:

(i) The county board shall recount all ballots using manual, mechanical or electronic devices of a different type used for the specific election.

(ii) All ballots containing overvotes shall be counted manually.

(4) In a county in which an election district uses any other type of electronic voting systems, the county board shall conduct the recanvass similar to the procedure specified in clause (1) for voting machines.

((e) amended Oct. 8, 2004, P.L.807, No.97)

(f) As the returns from each election district are read, computed and found to be correct or corrected as aforesaid, they shall be recorded on the blanks prepared for the purpose until all the returns from the various election districts which are entitled to be counted shall have been duly recorded, when they shall be added together, announced and attested by the clerks who made and computed the entries respectively and signed by the members of the county board. Returns under this subsection shall be considered unofficial for five (5) days. The county board shall submit the unofficial returns to the Secretary of the Commonwealth by five o'clock P. M. on the Tuesday following the election. The submission shall be as directed by the secretary for public office which appears on the ballot in every election district in this Commonwealth or for a ballot question which appears on the ballot in every election district in this Commonwealth. At the expiration of five (5) days after the completion of the computation of votes, in case no petition for a recount or recanvass has been filed in accordance with the provisions of this act, or upon the completion of the recount or recanvass if a petition therefor has been filed within five (5) days after the completion of the computation of votes, the county board shall certify the returns so computed in said county in the manner required by this act, unless upon appeals taken from any decision, the court of common pleas shall have directed any returns to be revised, or unless in case of a recount, errors in the said returns shall have been found, in which case said returns shall be revised, corrected and certified accordingly. The county board shall thereupon, in the case of elections, issue certificates of

election to the successful candidates for all county, city, borough, township, ward, school district, poor district and election offices, and local party offices to be filled by the votes of the electors of said county, or of any part thereof. ((f) amended Oct. 8, 2004, P.L.807, No.97)

(g) This subsection relates to recounts and recanvasses ordered by the secretary.

(1) Except as set forth in subsection (h), the secretary shall order a recount and recanvass to all county boards if the unofficial returns prepared in accordance with subsection (f) reflect any of the following:

(i) A candidate for a public office which appears on the ballot in every election district in this Commonwealth was defeated by one-half of a percent or less of the votes cast for the office. This subclause includes a candidate for retention to a Statewide judicial office.

(ii) A ballot question appearing on the ballot in every election district in this Commonwealth was approved or rejected by one-half of a percent or less of the votes cast on the question.

(2) The secretary shall issue an order under clause (1) by five o'clock P. M. of the second Thursday following the day of the election.

(3) The secretary shall provide twenty-four (24) hours notice of an order under clause (1) to each candidate and to the county chairman of each party or political body affected by the recount and recanvass. Notice shall be by press release, the World Wide Web site or other means.

(4) A candidate affected by the recount and recanvass may be present, in person or by attorney, at the recount and recanvass. A party or body affected by the recount and recanvass may send two representatives to the recount and recanvass.

(5) The recount and recanvass shall:

(i) follow procedures specified in subsection (e);

(ii) be scheduled to be held by the third Wednesday following the day of the election; and

(iii) be completed by noon on the following Tuesday.

(6) The results of the recount and recanvass shall be submitted to the secretary by 12 o'clock noon on the day following completion of the recount and recanvass.

(7) The secretary shall issue a press release and publish on the World Wide Web site all results received from the county boards of election.

(8) Following the completion of the recount and recanvass, the Commonwealth shall pay to each county the sum specified in sections 1701 and 1702. The amounts necessary to pay the counties are hereby appropriated, upon approval of the Governor, to the Department of State.

((g) added Oct. 8, 2004, P.L.807, No.97)

(h) A recount and recanvass shall not be ordered under subsection (g)(1)(i) if the defeated candidate requests in writing that a recount and recanvass not be made. A request under this subsection must be made by 12 o'clock noon on the second Wednesday following the election. ((h) added Oct 8, 2004, P.L.807, No.97)

Section 1405. Manner of Computing Irregular Ballots.--The county board, in computing the votes cast at any primary or election, shall compute and certify votes cast on irregular ballots exactly as such names were written, stamped or deposited in or on receptacles for that purpose, and as they have been so returned by the election officers. In districts in which paper ballots or ballot cards are electronically tabulated, stickers or labels may not be used to mark ballots. A vote cast by means of a sticker or label affixed to a ballot or ballot card shall be void and may not be counted. In the primary the Secretary of the Commonwealth shall not certify the votes cast on irregular ballots for any person for a National office including that of the President of the United States, United States Senator and Representative in Congress; or for any State office including that of Governor and Lieutenant Governor, Auditor General, State Treasurer, Senator and Representative in the General Assembly, justices and judges of courts of record or for any party office including that of delegate or alternate delegate to National conventions and member of State committee unless the total number of votes cast for said person is equal to or greater than the number of signatures required on a nomination petition for the particular office. In the primary the county board shall not certify the votes cast on irregular ballots for any person for a justice of the peace, constable, National, State, county, city, borough, town, township, ward, school district, election or local party office unless the total number of votes cast for said person is equal to or greater than the number of signatures required on a nomination petition for the particular office. (1405 amended Oct. 31, 2019, P.L.552, No.77)

EXHIBIT 8

**Observer Report on L&A Testing
– Joy Schwartz Affidavit**

Observation of Logic and Accuracy Testing in Delaware County, PA

by
Euphrosyne (Joy) Schwartz, October 13,
2022

September 18, 2022 - I emailed a letter to Lauren Hagen, the Clerk for the Bureau of Elections, registering members of my group, the Delco Election Deepdivers, and requesting that we be considered eligible to be present during the Logic and Accuracy (L and A) testing of equipment to be used during the November 8, 2022 General Election, pursuant to the G2022 Equipment Test Notice published by the Board of Elections. According to the notice, the testing of equipment to be used in the precincts was to commence on October 11 at the Voting Machine Warehouse in Chester, PA. The testing of equipment at the central counting center at the Wharf in Chester, PA is to commence on October 27. This notice was never posted on the delcopa.gov website but it was apparently published in *The De/Co Times* and *The Philadelphia Inquirer*. I did not see the notice until Wednesday, October 12, but I was aware that testing would be imminent, so I tried to be proactive in obtaining permission to watch the testing. I did not hear back from Lauren Hagen prior to the beginning of the Land A testing.

September 28, 2022 - I stopped by at the Voter Machine Warehouse in Chester at 7:35 AM to inquire about L and A testing. I spoke with the Custodian of the Warehouse, Jackie Dunn Pratt and showed her the letter I had sent to Lauren Hagen. Jackie informed me that L and A testing would not begin until October 11. She made a copy of my letter and said she would give it to James Allen, the Director of Election Operations for Delco. I asked if she thought my letter was sufficient to register my group to watch the testing. She replied that I should be good to go on October 11. I sat in my car finishing my coffee outside of the warehouse and was able to see inside through a large garage door. I saw workers removing voting machines from the rolling cages where they are stored. A large white truck was inside. The truck pulled out of the garage at around 8:00 AM. Out of curiosity, I followed the truck to the Delaware County Government Center located at the Delaware County Courthouse in Media, PA. The truck stopped at a side entrance and unloaded at least two of the rolling voting machine cages. I thought this was curious since the machines reportedly had not yet undergone the L and A testing. Later I was informed that the county was to hold two hands-on sessions for poll workers who needed more practice on the machines, on October 8 and November 2.

October 10, 2022 - I received an email from Jackie Dunn Pratt, saying that members of my group could watch the Land A testing, which was to commence the following

morning, as long as I provided her with the names of the officers of my group on arrival, which I did the next morning.

Copying Prohibited

October 11, 2022 - I arrived at the warehouse at 8:35, signed in, spoke with Jackie and gave her the information she had requested in her email. I was shown the huge main room containing hundreds of covered, rolling carts, each containing the items that would be needed on Election Day for each precinct in the county. This is a huge operation conducted in a large, brick, industrial garage-like facility. Each cart contained a Hart Verity 2.3.4 scanner, touch writer, printer, and other needed voting materials. On the tops of the carts, I could see sealed cardboard boxes. Jackie announced to the workers that those boxes contained pre-printed ballots that corresponded to each of the precincts and that those boxes were not to be opened.

My Perch • I was shown the location from which I could watch the L and A testing. The location was actually very good for observation. I was allowed to stand or sit on a 4 foot high platform behind a line of tables where the testing was being done. At each of six tables there were two people seated: one a tester and one a cart inspector/helper. I could easily walk up and down the platform and see over the shoulders of every tester at every table and had a good line of vision to each machine being tested, despite my nearsightedness.

Setting Up - There were six tables at which machines were being tested. At the halfway point between the tables there was another table. The man seated at that middle table was named Marvin Rideout. He had two plastic containers full of vdrives in little niches. The containers looked like they were designed to hold the vdrives. The vdrives had labels on them. Marvin also had a stapled packet of papers that looked like a checklist, and a pile of individual 8 by 11 sheets that also looked like checklists. The testers would approach Marvin. He would hand each of them two vdrives, and a checklist, and instruct them which cart (and precinct) they were to test. The cart inspector/helper would then go into the many rows of carts and retrieve the correct cart, bring it to the testing table, remove the seals, unpack the machines, and set them on the table. The tester would open the machines and set them up. Set up included opening the battery compartment, adding a new, fully charged battery, removing seals, opening the vdrive compartment, adding the new vdrive, and powering up the machines. Each tester had a set of color-coded keys with which he could access the machine compartments.

Testing Process - The testers then logged into each machine and used the touch writer to set up the test. Each tester would complete between 7 to 10 ballots, print out each ballot, and feed it through the scanner. Afterward the tapes from the scanner would be printed out. The tester would fill out and sign the check list. The checklist and tapes would be placed into a large yellow envelope with the name of the precinct, and the tester's name on it. The envelopes were placed in a box behind each testing table. The tester and helper would then turn off the machines and it seemed that they would boot

them up again one last time before once again powering them down, disconnecting them and replacing them on the cart. They sometimes wiped down the shelf on the cart if it was dusty and checked to make sure each cart was equipped properly. The sealed boxes of pre-printed ballots were taken off the top of the cart and placed inside the cart. The machines and the cart were all sealed with the proper blue and red seals and the cart was rolled away. This same process was repeated all day during the testing. Each test took about 25 minutes, depending on the efficiency of each testing team, The teams are supposed to be bipartisan. I know there were at least 2 republicans who were testers but cannot confirm the make-up of the teams otherwise. It would have been helpful to see any instructions given to the testers to better understand each step.

Pre-printed Ballots - The sealed boxes that contained pre-printed ballots were never opened and no pre-printed ballots were tested on the machines at the warehouse. It is also important to note that no mail-in ballots were tested at this time. They tested only ballots printed on plain white paper from the printer connected to the touch writer. I asked Jackie if they tested only the touch writer ballots. She affirmed that to be the case and seemed a little evasive or reluctant to talk about that subject further. I asked her if they tested every style of ballot. She said yes. However, I was unable to confirm that through my observations. Although I had a good line of vision to see the screens, I could not determine if the test decks contained every style of ballot that would be used in a precinct. I could not distinguish between an overvote, undervote ballot, a bi-lingual ballot, or a write-in ballot. I did see on the touch writer screen that the testers did not mark the same choices on every ballot in their test deck. Everything moved rather quickly, and I was not permitted to converse with the workers. Jackie was helpful but busy, so I was not able to ask all the questions that I had. I planned to return the next morning with binoculars in order to get a better look at the ballots.

October 12 - I arrived at the warehouse at 8:05 AM and was greeted by another person other than Jackie. When I went into the big room, I could see that Jackie was working on the floor at Tom G's testing table. They were apparently shorthanded. This time I took a seat behind a tester named Paul Marra. Everything I witnessed on October 12 was the same as October 11 with a few exceptions:



1. Not all the same people were there. They appeared to be understaffed. Some of the people were different from the previous day.
2. They had already completed testing approximately 50 carts since the previous morning. I could tell because the sealed ballot boxes were absent from the top of the carts that had already undergone testing, leaving at least around 380 tests yet to be completed.

3. I used my binoculars to watch Paul Marra log into a touch writer. I saw clearly that the ballot he was marking was in "TEST MODE" rather than in "Election Mode." Paul seemed to be a new tester because he was asking questions of another, apparently more experienced tester. I do not know if other testers were using Test Mode. I only saw it used by Paul.
4. The scanner from one of the carts which Paul Marra was testing did not immediately ingest some of the ballots he was feeding into it. He had to hit the button a second time. On the second hit the ballots were ingested into the scanner. There was no effort made that I could see to replace that scanner. It was routinely packed away into the cart. I could see that the lifetime counter on the scanner said "487." I don't know if that is significant.
5. The binoculars better enabled me to see the screens on the touch writer, the scanner, the manifests on the carts, and the cardboard boxes containing printed ballots. I still could not get a good look at the ballots themselves so I cannot ascertain whether every style or type of ballot was tested in each test deck.
6. During the afternoon I stopped by at the Bureau of Elections Office at the Wharf to try to get an answer on the testing of the mail in ballots. I arrived around 2:00 PM and spoke with the Park Police officer who was stationed at the entrance. The lights were low in the large room where the central counting takes place. There was a technician working on the Blue Crest machine and a few election staff milling about, but no L and A testing going on. Clerk Lauren Hagen came out and spoke with me. She informed me that Land A testing of the central counting machines would not be happening until October 27, emphasizing that the timing was done according to statute. She also confirmed that mail-in ballots had indeed gone out already. She was unsure of when the notice of testing had appeared in the newspapers, and could not give me the date. I thanked her and left. That evening I received an email from her, with the notice attached, and a confirmation of the central L and A testing going forward.

My Overall Impressions of Land A Testing - Testing the precinct machines is a huge operation, clearly planned and executed in a very competent, efficient, and methodical manner by Jackie Dunn Pratt. The routines and processes seemed well thought-out. The testers and cart inspectors appeared to be diligent, engaged, and attentive. I got the impression that the process was designed to be watched by the public and anyone watching could not help but have an overall favorable impression of the workers and the detailed planning. However, there are significant questions, concerns, and omissions in the process that I noticed. The responsibility for addressing these concerns is not on the staff at the warehouse, who are simply following instructions they are given, but on election officials who are tasked with ensuring compliance with Pennsylvania codes, statutes, and best practices.

1. The notice posted in the newspapers by the Board of Elections calls for the testing of *machines* used in the upcoming election. It does not mention testing of *ballots*. The directive from the Secretary of State calls for the testing of every ballot style and type in the universe of ballots. Jackie admitted that there is no process for testing pre-printed ballots. The county has had problems with defective bar codes on the pre-printed ballots in the past. Such problems should be detected prior to the election by testing the pre-printed ballots on the precinct scanners, yet this was not done. I have yet to observe any process for testing of mail-in ballots either. Perhaps those will be tested at the central counting center on October 27. However, the notice does not indicate that to be the case. If ballots are not tested, this would appear to be a serious omission by the county.
2. The use of the touch writer in "TEST MODE" is being done counter to the directive from the Secretary of State. At least one tester has made this mistake. This needs to be investigated and corrected. Perhaps more training is needed.
3. Any scanner that spits out a ballot should be checked out and possibly replaced with a properly functioning scanner so as to avoid problems on Election Day.
4. Testing decks really need to be much larger than 7-10 ballots per scanner. The scanners seem to begin to malfunction at the precincts in the middle of the day, when 100 or more ballots have been fed through them. Therefore, it would be prudent to use a larger test deck on the precinct scanners to ensure they are able to take in larger numbers of ballots and function correctly throughout Election Day.
5. It was not possible to ascertain whether test decks included all versions of ballots. That should be somehow made clear to an observer. I tried but was unable to verify if the vote tally of the scanner matched the number of ballots fed into it.
6. Other questions: Is there a mechanism that detects any operation of the machines before or after the election? Has the county enacted any enhanced defensive measures resulting from the June 3 CISA Alert or the May 20th EAC anomaly?
7. The Voting Machine Warehouse is beyond dirty, dank, and dusty. It is not a good choice for storage of very costly machines, which belong to the people of the county, not to county employees. The condition of the building could not be healthful for the employees who have to work there. While the place is orderly and neat, for the sake of the workers and the proper storage of the machines, the county should move its machine center to a more secure, cleaner, climate-controlled facility such as the building purchased by the county last summer in Media. That could also save on pest control services since rodents appear to be a problem in the current facility.
8. In my opinion as a citizen and resident of Delaware County, despite the efforts of the hard-working staff at the warehouse, the use of the Hart Verity Voting Systems seems exceedingly complex, costly, time consuming, labor intensive,

and plagued with too many vulnerabilities to be used in county elections. Complying with Land A testing directives from the Department of State, with certification standards, with state and federal laws, and with EAC best practices is exceedingly burdensome, nearly impossible to achieve, and frankly, unnecessary. A more simple and less costly hand-count, performed and reported by duly elected Judges of Elections and Inspectors from each precinct, would deliver more accurate, more secure, much less costly, and quicker results. Under the current system voters cannot be confident that the processes used will provide fair and accurate election results. This belief became even more apparent to me as I observed the process of L and A testing of the precinct equipment.

Signed  Date Oct 26, 2022
Witness  Date 10/26/2022

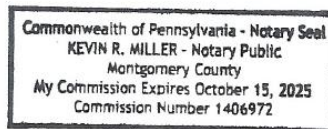


EXHIBIT 9

**Observer Report on L&A Testing
– Colleen Vogel Affidavit**

Observation of Logic & Accuracy Testing in Delaware County, PA

By

Colleen Vogel

8 Leslie Lane; Wallingford PA 19086

October 14, 2022

The details below are a complete record of my observations during Logic and Accuracy Testing conducted by the Delaware County PA Bureau of Elections. The execution of Logic & Accuracy testing has been directed by the Pennsylvania Department of State, in accordance with the 2022 Election requirements.

Arrival and Check-in:

On Friday, October 14, 2022, at 9:28 a.m. I arrived at the Machine Warehouse on 24th Street in Chester PA. I was greeted by Jackie Dunn, who instructed me to sign in (9:38 a.m) and provide my signature on a form sheet outlining some guidelines for observing (i.e. Do no ask questions or disrupt the tester during the testing process; questions can be directed to supervisor). I then proceed to follow Jackie out to the warehouse, where Jackie provided the location where I can observe testing, above the testers on the platform overlooking the process.

Setup and Testing Tables/ Areas:

I arrive at break time, which gave me a chance to observe the set-up prior to the next wave of testing. There was a total of 6 Tables, 5 had a printer, Touch Writer and Scanner. Behind each station where boxes of manilla envelopes, rubber banded with black sharpie titles for Precinct information (Precinct#, Serial# for scanner, touch writer, tester name, date, time); battery packs for machines; ballots and checklist for testing (looked like the check list from L&A) directive. There were 2 testing tables to the right and 2 to the left of a center table; where Vdrives where being logged before and after testing- Vdrive were given to testers; along with testing checklist. After the testers where complete, they returned with the manilla envelope, and paper checklist of completed executed test steps.

Observation of Tester Table 1 (far right, closest to the entry door to the warehouse) - Paul testers name.

Initiate/ Start Test (Log-on)

I observed the tester log into the Touch writer and Scanner using Admin Access Code. He entered his access code. I noticed that each tester had a piece of paper taped to the bottom right table. This paper had a smile face labeled "Mr. Happy" under this paper appeared to be code; my presumption is these are log-on id's/ codes for gaining administrative access to perform testing/ mapping of ballots to precincts. The tester lifted the paper a couple of times before executing his test as referring back to the login code(s). I was unable to see and did not feel it was good to snoop at codes. Noting this testing was solo, in that he did not have another person assisting him; whereas all other testers had a two (2) person team.

Select for Testing & Run Test:

After logging in, the tester then proceeds to select options on the Touch Writer; and Scanner; It appeared on the touch writer he was select a "mode" I was unable to see which mode was selected; there was a banner or poster board obscuring some of my view; nonetheless; the tester then selected a mode; then proceeded to test each candidate selection on the touch writer; printing the ballot; then scanning into the machine. I observed the tester Paul, run through each candidate on the ballot, selecting using the touch writer; one of his test's he put the Audio on and tested the Audio.

Completion of Test:

At the end of his testing, he removed ballots from the Scanner drop box inside the black container; opened the machines; verified serial # on envelop to machine; selected on the touch writer and scanner to printed close reports. He then locked up the machines put the blue tag on, put the testing checklist 5 printed ballots, into envelop and took to the guy with the Vdrives at table# 3)

Comments: process was very repetitive; and all done from the Touch Writer. I did NOT observe any hand ballot testing being scanned into the scanner while observing this tester or testing station. I did not see any testing of mail-in-ballots or absentee ballots.

Observation of Tester Table 2 (2nd to far right, closest to the entry door to the warehouse)

Initiate/ Start Test (Log-on) - 2 Testers were at this table.

Process was the same with this tester; as above; however, with this tester; I looked like to me he selected Tester Mode after logging into the Touch Writer; and the same Tester Mode was selected on scanner. I also observed this tester enter in "write-in" for his L&A testing. He typed in characters similar to these: xhwlehljdhez x dkdlszczcd.

Select for Testing & Run Test:

One difference after observing to consecutive test this test executed a write in candidate on the Touch Writer and the same Touch Writer #21 was used to test the last scanner for the precinct; this was explained to all the testers; due to there are more scanners than touch writers and every scanner was required to be tested. These instructions were given to the testers verbally by Tom. Tom stated that on the envelope, the Touch writer Scanner from and #21 was to be recorded on the envelope. With the Scanner's serial# used with the Touch Writer #21. When I observed, the test, the tester did not login to the Touch Writer, because he was already logged in, with this test, the tester logged in to the scanner only. I did not observe a new Vdrive was entered into the Touch Writer, just a new Vdrive for the scanner.

Completion of Test:

At the end of his testing, he removed ballots from the Scanner drop box inside the black container; opened the machines; verified serial # on envelop to machine; selected on the touch writer and scanner to printed close reports. The report he printed from the Touch Writer (same from the previous test #21) was put into the envelop, and then all locked up with scanner. All machines for that precinct concluded testing. He then locked up the machines put the blue tag on, put the testing check-list 5 printed ballots, into envelop and took to the guy with the Vdrives at table# 3)

Comments: process was very repetitive; and all done from the Touch Writer. I did NOT observe any hand ballot testing being scanned into the scanner while observing this tester or testing station. I did not see any testing of mail-in-ballots or absentee ballots.

Vdrive Table:

I observed the Vdrive Table; watching the man review/ validate rows and columns on a spreadsheet against Vdrives in 2 plastic clear boxes. The man would take 2 Vdrives from a box; check or mark on the spreadsheet paper; and hand it to each tester before testing the machines; then after each tester returned to the table; he would record on the spreadsheet more data. I was unable to see what the data was and can only assume it was logged Vdrive serial # by precinct.

I tried to observing table 4, but Tom was leading this table and I was unable to view any selections he was making. He was standing and using his body to block view from observation deck.

At the end of my observation, 10:56am, I had two general questions regarding the voting machines for Jackie Dunn. One, Have the Machines (scanners, Touch writer, and tabulation machines on a patch maintenance schedule, and when was the last patch of the machine applied? Second, doe the county BOE test under load / volume - for example are the machine performance tested under load where 100 voters place ballots in the scanner within a half hour)? Jackie redirected my questions to Jim Allen.

Colleen E Vogel
October 25, 2022

Commonwealth of Pennsylvania

County of *Delaware*

Carol P Wills

Commonwealth of Pennsylvania - Notary Seal
Carol P Wills, Notary Public
Delaware County
My commission expires October 13, 2023
Commission number 1179887

10/25/2022

EXHIBIT 10

**Observer Report on L&A Testing
– Scott Thomas Affidavit**

Observation of Logic & Accuracy Testing in Delaware County, PA By
Scott Thomas, October 17, 2022

Credentials: 36 years working for Healthcare IT companies as a Software Consultant focusing on Implementation of large Electronic Health Record systems including training, testing, upgrade/migrations, and support.

The details below are a complete record of my observations during Logic and Accuracy Testing conducted by the Delaware County PA Bureau of Elections. The execution of Logic & Accuracy testing has been directed by the Pennsylvania Department of State, in accordance with the 2022 Election requirements.

I arrived on Monday, October 17, 2022, at 12:30 p.m. and was met by Jackie Dunn. I signed in at 12:30 and stayed for 2 hours, signing out at approximately 2:30 p.m.

These are my observations:

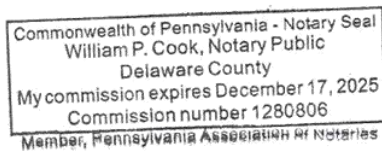
- I observed 6 tables that were used by testers to test about 2 to 3 machines each in this span of 2 hours.
- I was on second floor – tables appeared to be in different arrangement than what Joy described. I was not on any platform looking down, rather I had to keep behind the yellow tape on floor that was around the tables. I was only about 3 feet from one of the scanners that I could view from its right side. There were two tables in front of me, I could walk further to the right and observe Mr. Gallaghers table. V-drive table was just to the left of the entrance door.
- I observed that the touch writer was on release 2.3.4 and was in Test mode. The Touch writer prompted user for “select a polling place” it appeared that user scrolled down list of actual real precincts from which to choose from (I did not recall seeing this selection option election day for May Primaries, perhaps this is prompted when in election mode – making test mode way more different than live mode)
- I observed the same procedures as observed by Joy and Colleen, that is the testers used the Touch writer to create printed ballots – about 7 in a batch and fed into scanner. I did not observe any paper ballots (the type voters fill in selections by pen that are used on election day) being filled in by testers during the 2 hours I was observing.
- On one batch I watched closely, a overvote was created by tester manually filling in with pen so that for that race, one candidate was filled from touch writer and another for same race was manually filled in (touch writer could not select two names for same race) so this kind of test would not happen in the real world – thus wasting time testing something that should never happen (machine and hand entered overvote). The scanner did detect the overvote I recall. Need to have next observer watch this more

closely. Tester also created a ballot with undervotes too. Next Observer should watch more closely how the tester cycled thru these 7 ballots – I got the impression the Touch writer was processing this ballot session as 1 ballot – as I perceived the tester redo several of the ballots to create the overvote and undervote. Need to have next observer watch this more closely to see that each ballot created (of the 7) is indeed processed as a separate voter as far as the touch writer is concerned. (This was the older man, short and stocky, with wiry salt and pepper brown hair, about 55 years old). This tester had a problem with the printer and had to reseal the plug that went into the Touch writer. He also seemed to spend more time on getting thru his testing and checking tapes. His testing of the touch writer seemed to go longer than the tester on other table, this was for Chester 7-3 (need to see if this scanner has troubles on election day).

- I also observed as new cages were brought out when the staff was setting up the equipment a person opened the box and counted the packets (looks like 50 in a packet). There was usually about 13 packets (for total of 650 ballots - these were Chester City precincts). Then they sealed/taped up the box again and placed in the Cage. I could see the Precinct label on it. Afterwards I asked Jackie if the cages would be opened again after testing, she mentioned that the cages would be opened again to put back in the v-drives. Regarding the V-drives - the man manning the v-drive table would dole out the corresponding v-drives to the tester starting a new cage, but I observed that each time a tester returned the v-drives to the table (after testing was complete) the man at table just dropped them into a blue zip bag on the floor - this continued for two "observations" and the bag was there all the time, so I assume all of the returned/tested v-drives were all dropped into this one bag. (and never replaced into their holder rack that was on top of the table from which they originated from). So are these v-drives labeled with little stickers so they can tell what cage/precinct they belong to ?

Scott Edwin Thomas

10/25/22



Wm Cook

10/25/2022

EXHIBIT 11

**Observer Report on L&A Testing
– Scott Holsinger Affidavit**

TLP: WHITE



DIRECTIVE ON LOGIC & ACCURACY TESTING

Date: September 14, 2020

Observation Report

Scott H.
10/19/22

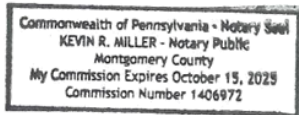
Scott Holsinger
SDH
10/25/22

On site - 2pm to 3pm

Checked in by Jackie
Marvin was site supervisor

See comments in sections below

Kevin Miller
Notary Public
10/25/2022



Logic & Accuracy Testing

Scope:

All jurisdictions in Pennsylvania must conduct pre-election logic and accuracy testing (hereinafter L & A testing) prior to every election (primary, general, special, etc.) that is conducted in the jurisdiction. Pursuant to Section 1105-A of the Pennsylvania Election Code, 25 P.S. § 3031.5, the following Directive is issued by the Secretary of the Commonwealth for all pre-election L & A testing in the Commonwealth of Pennsylvania.

L&A testing is a series of pre-election steps intended to ensure that ballots, scanners, ballot marking devices, and any component of a county's certified voting system are properly configured and in good working order prior to being used in an election. These steps must include every protocol that counties will use in the actual election.

L & A testing promotes election integrity by:

- Providing election officials an opportunity to identify errors in election definition and ballot format and layout, including appropriate locations for folds on absentee/mail-in ballots, missing races, missing party identification, misspellings of candidate names, incorrectly worded ballot questions, and incorrect tabulation.
- Exposing inadequate or faulty election supplies, such as incorrect paper stock and memory cards that haven't been properly wiped of data and reformatted.
- Demonstrating to political parties, candidates, the media, and voters that they should feel confident in the integrity of Pennsylvania elections.

Following completion of L&A testing, each county board shall certify to the Secretary when they have completed their L & A testing and identify the system configuration for the election. The certification shall be on a form prescribed and furnished by the Secretary. Jurisdictions must complete the attestation at least 15 days prior to every election held in the jurisdiction and must be submitted via email to "RA-STBEST@pa.gov."

1 SUMMARY OF L & A TESTING GOALS

- Verify that all ballots are accurately defined, including:
 - All necessary contests (races) are properly programmed, including special elections, retention elections, and ballot questions.
 - Ballot styles are properly mapped to their respective precincts.
 - Candidate names are accurately spelled.
 - Contests and candidates are displayed in the required order.
 - The parties or political bodies of candidates are properly identified.
 - Names of all parties/independent political bodies are correctly spelled.
 - Audio files are present and properly configured for all candidates and ballot questions.
- Verify that all votes are aggregated and tabulated correctly, and that all accompanying hardware is in working order.

- Verify that all voting system component configurations meet certification standards and conditions.
- Verify that the voting system software/firmware works as expected.

2 TESTING OF ABSENTEE AND MAIL-IN BALLOTS

Prior to beginning the structured L & A testing, test the printed ballots that will be issued to voters to confirm that the ballots can be read by the tabulating equipment once they are returned for counting. Test these ballots on the equipment that will be used to centrally count mail ballots. If using a ballot on demand (BOD) printer to print mail ballots, test the functionality of the printer for all ballot styles.

Relevant to our discussion Sunday. This was certainly not done on the Haverford 3-3 and 2-4 machines that I observed

- Prepare the BOD printer following the manufacturer's procedures and load the required ballot definition files on the BOD printer. Print ballots of all ballot styles that would be printed using the device for election use.
- If using pre-printed ballots, gather test ballots to be used for all ballot styles used in the election from the print vendor.
- Mark ballots of each ballot style and type (absentee/mail-in) following the "tabulation test voting pattern" and scan them using both a central scanner and precinct scanner
- A good way to test all of the ballots is to create an "All Poll" media device for the scanners. An "All Poll" media device will permit all ballot styles for the election to be scanned.
- Fold some ballots comparable to the manner absentee and mail-in ballots are received.
- Scan the ballots on the central scanner following the exact same process that you would follow on election day.
- Further, scan the ballots four times on the precinct scanner, each time changing the direction in which the card is inserted into the scanner. The goal of this test is to ensure that all printed ballots can be read by the tabulator in all orientations.
- Once ballots are tested for absentee and mail-in voting, changes should not be made to a county's election definition. If the election definition is changed, ballots need to be retested. If the election definition is changed after the county has distributed any absentee or mail-in ballots, when these ballots are returned, the ballots will either need to be hand-counted or a ballot duplication team will need to transfer the voter's votes to a ballot that can be tabulated by the voting equipment. *Follow the procedure for creating a true duplicate copy of a damaged or defective ballot.* When a ballot is duplicated, the county must maintain both the original and duplicate ballot and record an identical serial number on each.

3 PREPARING FOR FULL L & A TESTING

3.1 LOGISTICS

Under Section 1110-A of the Election Code, 25 P.S. § 3031.10(d), no later than 40 days before an election, the county election board shall mail to the chairman of each political party recognized to participate in a primary election within the county and to the chair or presiding officer of any citizens organization which has registered its name and address at least fifty (50) days before such election, a written notice stating the date, time and location when L & A testing will begin. Further, county boards

should provide at least 48-hours' notice to the public of the time and place of the test to ensure the public has an opportunity to attend.

- Public notice may be placed in a newspaper or legal publication that has at countywide distribution.
- The notice should outline the starting time and location of the testing.
- The notice need not include an ending time for the testing.

The preparation and testing of voting equipment are to be open to members of the public to observe; however, such members of the public shall not in any manner interfere with the preparation and testing of the voting equipment units. To prevent any interference by the public when observing, the election office may make such reasonable rules and regulations concerning the conduct of those members of the public who wish to observe. These rules shall not prevent members of the public from fairly observing and should be published after public approval by the board subject to 25 P.S. §2642 (f).

Further, election offices must consider the following when preparing for L & A testing:

- Review the Secretary of the Commonwealth's certification report for your voting system to ensure that the voting system components are being prepared to meet all conditions of the report.
- Finalize and advertise the dates, times and location of L & A testing. Marvin stated that the testers were from both parties R & D
- Proofread all balloting materials at every stage of setup and production. It is recommended to use more than one proofreader. Ensure that ALL types of ballots are proofread, including election day ballots, absentee ballots, mail-in ballots, provisional ballots, bilingual or alternative language ballots, accessible (audio) ballots, emergency ballots, etc. Please find attached as Appendix B, the ballot proofing checklist used by Department of State. Jurisdictions can use this checklist as a starting point and must add additional items specific to their jurisdiction.
- Ensure that you have adequate multi-partisan teams to conduct the testing. If it is necessary to employ additional staff, it is recommended that counties employ precinct officials, in lieu of third-party vendor personnel, as additional staff. Appeared to be local resident testers and not vendors
- If a vendor will be participating in L & A testing, a county election official must always be present during the testing and verify and attest the results after the testing is complete.
- Ensure that you have adequate space to conduct public testing.
- Ensure that you have an inventory, or manifest, of all devices to be used on election day, including equipment not directly assigned to a specific polling place. All components of the voting system must be tested as part of the L & A testing. Could not verify
- Prepare a task list detailing every action to be taken during the testing activity. The goal is to mimic election activities as much as possible. Requested written testing procedure for public observation from both Jackie and Marvin. Both stated they were unable to provide it to me and referred me to Jim Allen. Marvin said the testers were trained on a procedure. I think this is a major violation and the written procedure will show that the testing does not come close to meeting what is required by Section 3.2

3.2 PREPARATION OF TEST DECKS AND TESTING SCENARIOS

Create a robust test deck for each ballot style and voting system component.

The test deck consists of ballots that are voted with a pre-determined number of valid votes for each candidate, referendum or retention question, as well as each write-in position, that appears on every ballot style used in the upcoming election. The test deck is required to include one or more ballots that

have been improperly voted, i.e. voted in excess of the number allowed for a particular contest, and one or more ballots on which no votes are cast, to test the ability of the system to recognize and/or notify the voter of an under-vote or over-vote. Any pre-election test must take into consideration the many types of scenarios that can occur during an election and test them all to ensure voting system logic and accuracy.

The Department strongly discourages relying solely on automated L & A testing or using only preprinted ballots provided by vendors. Manual entry of votes, using pre-audited ballots prepared by election officials, is the most effective way to identify potential errors and anomalies.

Test decks or testing scenarios must align with the following:

Observed testing of Haverford 3-3 and 2-4

- The relevant test decks must include ballots printed via all printing options - by the ballot printing vendor, from a ballot on demand (BOD) printer and ballots generated from a ballot marking device (BMD).
 - Unknown but not possible with only 7 ballots? Include ALL ballot styles.
 - Impossible with only 7 ballots tested Include ALL ballot types applicable to the election (election day, absentee, mail-in, emergency, provisional, ballot on demand, ballot marking devices, accessible ballots, non-partisan ballots, bilingual ballots, etc.) *Hand filled out ballots were not tested.*
 - Only English tested Include scenarios that include votes for all candidates and ballot positions, including retention elections, ballot questions, candidates for special elections that are held concurrent with regularly scheduled elections.
 - Unknown but unlikely with only 7 ballots tested Include scenarios for ballots in all languages.
 - Unknown but unlikely with only 7 ballots tested Include scenarios for blank ballot and over-voted and under-voted contest selections.
 - Unknown but unlikely with only 7 ballots tested Include scenarios for ballot markings that will trigger various equipment warnings.
 - Impossible with only 7 ballots tested Ensure that all ballot positions are included.
 - Impossible with only 7 ballots tested The ballots shall be voted with a pre-determined number of valid votes for each candidate, each write-in position, and each voting option on every referendum or retention contest that appears on the ballot as certified by the county board in order to verify that the vote system is programmed to correctly count the ballots.
 - Unknown The deck includes one or more ballots that are intended to fail, have been improperly voted, or that are voted in excess of the number allowed by law, and one or more ballots on which no votes are cast, in order to test the ability of the system to recognize and/or notify of an under- or over-vote. Preferably, prepare scenarios that have vote totals for each candidate or contest choice that are different. The goal is to see if the improperly marked ballots result in different totals so that it is evident if the improperly marked ballots will change tabulation totals.
 - Impossible with only 7 ballots tested Prepare a tabulation test deck for each ballot style:
 - Impossible with only 7 ballots tested **Recommended Pattern:** This is a test deck where each choice in a contest will get a different number of votes. If there is a contest containing 4 choices, choice 1 will have one vote, choice 2 will have 2 votes, choice 3 will have 3 votes, and choice 4 will have 4 votes. Write-in option must be considered as a choice.
 - Impossible with only 7 ballots tested **Alternative Pattern:** This is a test deck where the maximum vote any choice in a contest receives is set and then the pattern is repeated within the contest. For example, if the maximum vote is set to 2 and the contest contains 4 choices, then each choice in the contest will get votes in a 1-2- 1-2 pattern. Write-in option must be considered as a choice.

Impossible with only 7 ballots tested

- The same pattern above must be repeated for each ballot set, if applicable.
- Blank Ballot.
- Ballot with all contests over-voted.
- Ballot with random contests over-voted.

- Prepare a functionality test deck – this is a test deck used when multiple devices are used to tabulate the same ballot styles. In this test deck, each choice in a contest receives one vote (to be used for any devices not tested with a tabulation test deck) as follows:
 - For each ballot style, mark a vote for the first candidate in each contest and continue until all the candidates in each contest receive a single vote.
 - For a single contest, once all contest choices are marked for a single vote, create a scenario for a contest undervote.

Impossible with only 7 ballots tested

- Each write-in option must be considered as a choice.
- The same pattern above must be repeated for each type of ballot, for example election day ballot, ballot marking device, absentee/mail-in ballot and provisional ballots as applicable.
- Blank Ballot.
- Ballot with all contests overvoted.
- Ballot with random contests overvoted.

No evidence

- An Excel spreadsheet may be used for documenting the voting variations to be used for creating a test desk and compiling anticipated results if you have no other specific software of choice. Using formulas in Excel will allow you to calculate the anticipated test results and then compare to the results. Contact the Department of State’s technology team if you need assistance creating a spreadsheet.

3.3 PREPARATION OF MEDIA DEVICE

Section 3.3 could not be observed.

- Before data for an election can be placed on any memory card for an optical scan tabulator, central count scanner, or ballot marking device, the data contained on the memory card from any previous election must be removed under the guidelines of the relevant voting system. Ensure that media has been fully formatted.
- Inspect all media devices and ensure that they are labelled and numbered appropriately.
- Label the media device with the name of the poll (e.g. precinct name, absentee, mail-in, provisional). It is best practice to make the marking and labelling as evident as possible. For example, write the precinct name/number, device name etc. clearly. As a best practice, use different colored labels for primary and redundant (back-up) media.
- Download the election information to the media devices according to the voting systems manufacturer’s instruction.
- Create a media device for each precinct scanner or central scanner that will be used in the election.

Marvin confirmed that the testing was being done on test V-Drives. At the completion of the test, the testers gave the test V-Drives to Marvin and he gave them the official voting V-Drives to place in the cage. At the end of testing, the voting machines were closed and sealed with zip ties but the cages were left open for future prep and it was not clear how the V-Drives were protected from tampering (if they were protected).

3.4 PREPARATION OF VOTING EQUIPMENT

L&A testing must include testing every hardware component of the voting system regardless of whether it will be deployed to a precinct or retained at the warehouse as a backup. Below is a list of items to be tested or verified during L&A testing for an election:

- Ballot marking devices

- Precinct scanners
- Central count scanners
- Connected printers
- Connected peripherals for ADA voting equipment

Prior to the testing, perform the following checks:

- Inspect the physical condition of the equipment and locks and sealing mechanisms to ensure they are intact.
- Power on the devices and validate that the certified software/firmware is installed.
- Check the batteries in voting systems that use batteries as either the primary power source or as backup to the primary power source.
- Implement a process to ensure that all batteries are fully charged for election day.
- Check the scanner heads on precinct scanners.
- Check the calibration of scanners.
- Verify the calibration of any ballot marking device (BMD) screens and replace or repair as needed.
- Verify the date and time settings on all voting systems.
- Verify that all media devices are "zeroed out."
- Verify that each device is labelled with its assigned precinct or polling place where it will be deployed and accurately listed on your county's inventory or manifest list.

Unknown

4 CONDUCTING L & A TESTING

All components being used for the election, including all ballot styles, precinct scanners, central count scanners, accessible devices, and any backup equipment being used, must be part of the L & A testing.

4.1 ADMINISTRATIVE STEPS

As described above in section 3.1, the county board of elections must establish reasonable rules and regulations for public observation of L & A testing. The board must also be available during the first day of preparation, at the beginning of the day or for the first hour of public observation, to explain the process and respond to questions. The following practices must also be observed:

Is Jim Allen supposed to be available at the beginning of each test day for questions?

- Administer an oath to those conducting the L & A tests for all persons who are not permanent elections staff.
- Establish an area where the public can observe the process.
- Allow only election officials and those conducting tests into the testing area.
- Prohibit the photocopying of any testing reports or other materials.
- Prohibit security seals or serial numbers from being photographed for public disclosure.
- Prohibit photographic and audio equipment, including cell phone cameras from being used to record security seals or serial numbers, provided that this rule does not prohibit the news media from reporting on the testing process, so long as security seals or serial numbers are not recorded or displayed in any fashion.

4.2 BALLOT MARKING DEVICE TESTING

The functionality and accuracy of ballot marking devices (BMDs) must be included in any pre-election testing protocols. A test deck must be created using a BMD based on the guidelines outlined in the "Preparation of Test Decks and Testing Scenarios" of this document. Once the BMD test deck is created, the ballots must be tested on a related scanner. It is also necessary to test the various devices available to voters with disabilities for use on election day, including audio voting features, tactile discernible controls, and pneumatic switch attachments which can be operated orally or by vacuum pressure (AKA sip-and-puff devices).

Unknown - would like to see the written procedure. Seems like testing in "test mode" would make the entire test process invalid

4.2.1 Machine Setup and Preparation

- Set each voting machine to be tested in "election mode" rather than "test mode."
- Review and confirm that the prepared test decks contain all the applicable test cases suggested in "Tabulation test voting variation" and "Functionality test voting variation".
- Print any "open polls" report that can be printed from the Ballot Marking Device.
- Perform all the actions that would take place on election day. The goal is to test all actions as they would happen on election day.
- For each ballot style, mark and print ballots following the tabulation test voting variation on at least one BMD."
 - Use touchscreen, audio ballot
 - and ATI controller and any other the assistive devices provided by the manufacturer.
 - Use ballots in all languages used on election day
 - Use all the accessible features provided for the ballot, font, contrast, audio-only mode, etc.
- Jurisdictions may choose to mark and print ballots following the functionality test voting variation on other BMDs set up for the same ballot style.
 - Use touchscreen, audio ballot and ATI controller and any other assistive devices provided by the manufacturer.
 - Use ballots in all languages used on election day.
 - Use all the accessible features provided for the ballot, font, contrast, audio-only mode, etc.
- Jurisdictions must test and prepare any ballot marking devices intended to be used as backup devices. Since it is hard to predict where the device would be used, the best approach is to test at least two random ballot styles. Mark and print ballots following the functionality test voting pattern.

Impossible with only 7 ballots tested

Unknown

Impossible with only 7 ballots tested

Unlikely with only 7 ballots tested

Unknown

Unknown

4.2.2 Test Closing Procedures

- Perform end of day polling place activities as on election day.
- Perform a visual inspection of marked and printed ballots to ensure the accuracy of the marked ballots.
- Gather prepared ballots for scanning.
- After confirming that the marked ballots scan and generate expected results, prepare the machines for election day:
 - Clear the data generated during testing.
 - Ensure that the device has all supplies required for printing ballots on election day.
 - Lock and seal the devices.
 - Shut the machines down.

Marvin confirmed that the testing was being done on test V-Drives. At the completion of the test, the testers gave the test V-Drives to Marvin and he gave them the official voting V-Drives to place in the cage. At the end of testing, the voting machines were closed and sealed with zip ties but the cages were left open for future prep and it was not clear how the V-Drives were protected from tampering (if they were protected).

- Review the seals and locks once again and document the validation. The best practice is to have one person prepare the machine and then have one or two reviewers review the seals and locks.
- Any discrepancies noted during the L & A testing must be evaluated in detail to identify the root cause of the problem.
- If the problem is isolated to a specific machine, that machine must be marked and must not be used on election day.
- Explain clearly to observers if any discrepancies are noted to ensure that everyone present completely understands the process and conclusion.

4.3 PRECINCT SCANNERS

Once a test deck and expected results have been validated, test decks are scanned by a bi-partisan team of election officials or voting system operators, on each voting system for which the ballot style is used. This test is used to check the accuracy of the ballot coding, the ability of the tabulators to accurately record votes marked on the ballots and the ability of tabulators to accurately tally votes from all scanned ballots. Every scanner that will be used in the election must be tested.

Unknown - would like to see the written procedure. Seems like testing in "test mode" would make the entire test process invalid

4.3.1 Machine Setup and Preparation

- Set each voting machine to be tested in "election mode" rather than "test mode."
- Review and confirm that the prepared test decks contain all the applicable test cases suggested in "tabulation test voting variation".
- Load each precinct scanner with the pre-labeled memory cards specific to each election day precinct. See note above re: test V-Drives and official V-Drives - Do not know if okay or not?
- Perform all the actions that would take place on election day. The goal is to test all actions as they would happen on election day.
 - Ensure that the precinct scanner is set for the correct election.
 - Open the polls and validate the accuracy of the information displayed on the screens and public counters.
 - Print zero reports and validate the reports. Check the date and time, precinct polling place details, election, and that contest totals are zero.
- Once the polls are "open" and a zero tape is generated, the bipartisan team should sign the zero tape to identify the officials participating in the test for each precinct scanner.

Impossible with only 7 ballots tested

4.3.2 Test Deck Scanning

- The bipartisan team must then begin scanning the ballots on each voting system for which given ballot style is valid.
- The team should follow the ballot instructions while marking and processing ballots to ensure that the instructions are clear.
- Scan ballots in all orientations, alternating between all four possible orientations.
- The testing staff should scan at least one ballot using any feature intended to provide voting system access for persons with disabilities. They should also scan at least one ballot using each required language. While one team member scans ballots, the other team member should monitor the equipment to ensure that the scanner and ballot counter are functioning properly.
- The team must review and confirm that all configured error messages display properly.

This section appears irrelevant if the procedure does not meet the above requirements, but while hard to verify in general, the individual testers appeared to be doing an earnest job

- Once all ballots from the test deck have been scanned into an individual machine, the team must “close” the polls and run a totals report.
- The team should compare the results reported by the voting system to the expected results, confirm the accuracy of or discrepancies in the results, and determine if the system has passed or failed the test. Any discrepancies indicating a failure must be investigated, resolved, and the system must then be re-tested.
- If a test deck is run and the pre-determined vote count is different than the voting system's tabulated results, the test team should document the problem, and then compare the unique voting variation (test plan) with the test deck pattern to ensure that the test deck was made correctly and that all ballots were scanned.
- Any corrections to the test deck itself, or to the casting of the test deck, should be made, and the test deck should be re-run until two error-free test results are produced. If the tested voting system fails to produce two error-free results, the system should not be used in any election until the problem is resolved and a new round of pre-election testing is successfully completed.
- The pre-election test results reports should be signed by the test team and placed in secure storage for any record retention periods the jurisdiction may require. After all voting systems for which each ballot style is valid have been tested, the test deck should be similarly stored with all corresponding reports, audit trails and log sheets.
- The test should be documented by the testing team on a log created specifically for this purpose. The log shall include:
 - The date the test was executed.
 - The names of the persons who performed the test and recorded the results.
 - The serial number of the machine on which the test was executed.
 - The machine's protective counter number as it appeared both at the beginning and conclusion of testing.
 - The name or description of the test performed.
 - The version number of the software tested.
 - The test result – either “pass” if the results match the expected results exactly or “fail” if there is even one discrepancy.
- Jurisdictions must test and prepare any scanning devices intended to be used as backup devices. Since it is hard to predict where the device could be used, the best approach is to test two random ballot styles. Scan ballots following the functionality test voting pattern.

4.3.3 Test Closing Procedures

- Perform end of day polling place activities as on election day.
- Gather media (including redundant (back-up) media if applicable) with results and upload to the election management system and generate the consolidated result reports. It is a good practice to use redundant media on election day whenever possible. Ensure that the redundant media is also included in testing.
- Document testing results as you would the official results.
- Retain and seal all pre-election testing materials.
- Prepare machines for election day use:
 - Clear totals.
 - Clear the results on the tabulator.

- Insert new printing tapes.
 - Lock and seal the devices.
 - Shut the machine down.
- Review the seals and locks once again and document the validation. The best practice is to have one person prepare the machine and then have one or two reviewers review the seals and locks.
 - Any discrepancies noted during the L & A testing must be evaluated in detail to identify the root cause of the problem.
 - If the problem is isolated to a specific machine, that machine must be marked and must not be used on election day.
 - Explain clearly to observers if any discrepancies are noted to ensure that everyone present completely understands the process and conclusion.

4.4 CENTRAL COUNT SCANNERS

Is this what will be tested on 10/27?

Test central scanners used at the election office. Jurisdictions using precinct and central scanners can rescan the ballots used for precinct scanner testing on central scanners to test the central scanners.

4.4.1 Machine Setup and Preparation

- Set each voting machine to be tested in “election mode” rather than “test mode.”
- Review and confirm that the prepared test decks contain all the applicable test cases suggested in “tabulation test voting variation”.
- Load each central scanner with the pre-labeled memory cards and prepare them for scanning as you would on election day.
- Perform all the actions that would happen at the beginning of the central scanner use on election night.
 - Be sure the tabulator is set for the correct election.
 - Open the polls and validate the accuracy of the information displayed on the screens.
 - Print zero reports and validate the reports – Check the date and time, precinct polling place details, election, and that contest totals are zero.
- Once the polls are “open” and a zero tape is generated, the bipartisan team should sign the zero tape to identify the officials participating in the test for each precinct scanner.

4.4.2 Test Deck Scanning

- The bipartisan team must then begin scanning the ballots on each central scanner in exactly the same manner as on election day.
- Batch ballots as you would on election day and prepare them for scanning. Reuse the same ballots marked for precinct scanner testing.
- Fold several marked absentee/mail-in ballots to ensure that the folds do not interfere with the scanning.
- Once all ballots from the test deck have been scanned into an individual machine, the team must “close” the polls and run a totals report.
- The team should compare the results reported by the voting system to the expected results, confirm the accuracy of or discrepancies in the results, and determine if the system has passed

or failed the test. Any discrepancies indicating a failure must be investigated, resolved, and the system must then be re-tested.

- If a test deck is run and the pre-determined vote count is different than the voting system's tabulated results, the test team should document the problem, and then compare the unique voting variation (test plan) with the test deck pattern to ensure that the test deck was made correctly and that all ballots were scanned.
- Any corrections to the test deck itself, or to the casting of the test deck, should be made, and the test deck should be re-run until two error-free test results are produced. If the tested voting system fails to produce two error-free results, the system should not be used in any election until the problem is resolved and a new round of pre-election testing is successfully completed.
- The pre-election test results reports should be signed by the test team and placed in secure storage for any record retention periods the jurisdiction may require. After all voting systems for which a particular ballot style is valid have been tested, the test deck should be similarly stored with all corresponding reports, audit trails and log sheets.
- The test should be documented by the testing team on a log created specifically for this purpose. The log shall include but is not limited to:
 - The date the test was executed.
 - The names of the persons who performed the test and recorded the results.
 - The serial number of the machine on which the test was executed.
 - The machine's protective counter number as it appeared both at the beginning and conclusion of testing.
 - The name or description of the test performed.
 - The version number of the software under test.
 - The test result –either “pass” if the results match the expected results exactly or “fail” if there is even one discrepancy.

4.4.3 Test Closing Procedures

- Perform the end-of-central-scanning activities as on election day.
- Gather media (including redundant (back-up) media if applicable) with results and upload to Election Management system and generate consolidated result reports. It is a good practice to use redundant media on election day whenever possible. Ensure that the redundant media is also included in testing.
- Document the testing results as you would the official results.
- Retain and seal all pre-election testing materials.
- Prepare machines for election day use:
 - Clear totals.
 - Clear the results on the tabulator.
 - Insert new printing tapes.
 - Lock and seal the devices.
 - Shut the machine down.
- Review the seals and locks once again and document the validation.
- Any discrepancies noted during the L & A testing must be evaluated in detail to identify the root cause of the problem.

- If the problem is isolated to a specific machine, that machine must be marked and must not be used on election day.
- Explain clearly to observers if any discrepancies are noted to ensure that everyone present completely understands the process and conclusion.
- Ensure that there is a mix of all types of ballots used by the jurisdiction for the election.

4.5 HYBRID DEVICE CHECK

Hybrid devices must be tested for both the ballot marking device functionality and the scanning and tabulation functionality. Jurisdictions using hybrid devices must follow the below guidelines for performing L & A testing

4.5.1 Machine Setup

- Set each voting machine to be tested in “election mode” rather than “test mode.”
- Review and confirm that the prepared test decks contain all the applicable test cases suggested in “tabulation test voting variation”.
- Load each precinct scanner with the pre-labeled memory cards specific to each election day precinct.
- Perform all the actions that would take place on election day. The goal is to test all actions as they would happen on election day.
- Be sure the tabulator is set for the correct election.
- Open the polls and validate the accuracy of the content displayed on screens and public counters.
- Print zero reports and validate the reports. Check the date and time, precinct polling place details, election, and that contest totals are zero.
- Once the polls are “open” and a zero tape is generated, the bipartisan team should sign the zero tape to identify the officials participating in the test for each precinct scanner.

4.5.2 Test Deck Scanning

- The bipartisan team must then begin marking and scanning the ballots on each voting system for which a given ballot style is valid.
- The team should follow the ballot instructions while marking and processing ballots to ensure that the instructions are clear.
- The testing staff should include marking of at least one ballot using any feature intended to provide voting system access for persons with disabilities. While one team member is marking and casting ballots, the other team member should monitor the equipment to ensure that the scanner and ballot counter is functioning properly.
- The team must review and confirm that all configured error messages display properly.
- Once all ballots from the test deck have been voted into an individual machine, the team must “close” the polls and run a totals report.
- The team should compare the results reported by the voting system to the expected results, confirm the accuracy of or discrepancies in the results, and determine if the system has passed or failed the test. Any discrepancies indicating a failure must be investigated, resolved, and the system must then be re-tested.

- If a test deck is run and the pre-determined vote count is different than the voting system's tabulated results, the test team should document the problem, and then compare the unique voting variation (test plan) with the test deck pattern to ensure that the test deck was made correctly and that all ballots were scanned.
- Any corrections to the test deck itself, or to the casting of the test deck, should be made and the test deck should be re-run until two error-free test results are produced. If the tested voting system fails to produce two error-free results, the system should not be used in any election until the problem is resolved and a new round of pre-election testing is successfully completed.
- The pre-election test results reports should be signed by the test team and placed in secure storage for any record retention periods the jurisdiction may require. After all voting systems for which a given ballot style is valid have been tested, the test deck should be similarly stored with all corresponding reports, audit trails and log sheets.
- The test should be documented by the testing team on a log created specifically for this purpose. The log shall include but is not limited to:
 - The date the test was executed.
 - The names of the persons who performed the test and recorded the results.
 - The serial number of the machine on which the test was executed.
 - The machine's protective counter number as it appeared both at the beginning and conclusion of testing.
 - The name or description of the test performed.
 - The version number of the software under test.
 - The test result – either "pass" if the results match the expected results exactly or "fail" if there is even one discrepancy.
- Jurisdictions must test and prepare any hybrid devices intended to be used as back up devices. Since it is hard to predict where the device could be used, the best approach is to test two random ballot styles. Scan ballots following the functionality test voting pattern.

4.5.3 Test Closing Procedures

- Perform the end-of-day polling place activities as on election day.
- Gather media (including redundant media if applicable) with results and upload to Election Management system and generate consolidated result reports. It is a good practice to use redundant media on election day whenever possible. Ensure that the redundant media is also included in testing.
- Document testing results as you would the official results.
- Retain and seal all pre-election testing materials.
- Prepare the machines for election day use:
 - Clear totals.
 - Clear the results on the tabulator.
 - Insert new printing tapes.
 - Lock and seal the devices.
 - Shut the machines down.
- Review the seals and locks once again and document the validation. The best practice is to have one person prepare the machine and then have one or two reviewers review the seals and locks.

- Any discrepancies noted during the L & A testing must be evaluated in detail to identify the root cause of the problem.
- If the problem is isolated to a specific machine, that machine must be marked and must not be used on election day.
- Explain clearly to observers if any discrepancies are noted to ensure that everyone present completely understands the process and conclusion.
- Ensure that there is a mix of all types of ballots used by the jurisdiction for the election.

4.6 VOTE TABULATION SOFTWARE CHECK

Test the result tabulation software by loading and generating summary reports of all test votes.

- Gather all the media used for vote capture from precinct scanners/hybrid devices and central scanners (including redundant media if applicable) with results and upload to the election management system and generate the consolidated result reports and compare them to the expected results.
- It is a good practice to use redundant media on election day whenever possible. Ensure that the redundant media is also included in testing. Document testing results as you would the official results.

4.7 ELECTION NIGHT REPORTING (ENR)

- Generate the ENR files for reporting to Department of State and publishing to your county's website.
- Test the SURE portal file upload and validate the results on the SURE portal. If the SURE portal testing timeline doesn't align with the L & A testing timeline, safely store the extract file and upload it during the assigned testing window.

4.8 ELECTRONIC POLL BOOKS (EPBs)

The county board of elections must test electronic poll books being used at the polling place as part of the L & A testing.

- Load the required voter data onto the electronic poll books and ensure that the configuration meets the approval conditions from the Secretary of the Commonwealth.
- Ensure the accuracy of the voter data on each device.
- Test all election day check-in activity workflows on all the devices.
- Once complete, print any reports as you would do on election night and validate the results.
- Test any check-in activity workflows that would take place on election day – e.g. regular check-in, ID verification, absentee/mail-in voter, provisional voter, etc.
- Test the ballot spoiling procedures if the electronic poll book is being used to track the number of ballots spoiled.
- Test the connectivity between two devices assigned to a polling place and ensure that check-in data is synced between the devices.
- Prepare electronic poll books for election day use:
 - Clear test data.

- Lock and seal the devices.
- Review the seals and locks once again and document the validation. The best practice is to have one person prepare the machine and then have one or two reviewers review the seals and locks.

5 MAINTAINING L & A TESTING RESULTS

- All documentation and test decks and any test data, including but not limited to copies of ballot programming used for required maintenance tests, shall be maintained in secure locked storage for the requisite records retention schedule. Gather all reports and ballots as you would for official elections and file them along with the test deck used. Note any corrections and explanations and retain and seal all artifacts from pre-election testing.
- The Department recommends maintaining a file for the life cycle of each voting machine component, starting with acceptance testing when you purchase the equipment. Document important events that take place during the voting machine life cycle, including but not limited to acceptance testing, trusted build validation, upgrade acceptance testing, each election L & A testing, and election use. The document must provide a complete history of the voting machine components.

EXHIBIT 12

**Posted Return Sheets for Delaware County
Upper Darby
Precincts 3, 4, 5
– with vDrive serial number increment**

Upper Darby 3-3

DELAWARE COUNTY - RETURN SHEET
PRIMARY
TUESDAY MAY 17, 2022

Attach Machine
Tape Here

POLL OPENING - CERTIFICATE 1

Before you open the polls, record these numbers from the equipment and the tapes.
Verify all "Zero Report Tapes" show zero votes cast. Call warehouse if incorrect.

ELECTION EQUIPMENT	BLUE Seal Number vDrive Compartment <i>Use for Poll Closing</i>	Serial Number from Machine Tape	Lifetime Counter from Machine Tape
Verity Ballot Scanner	0011334	5191357112	757
Verity TouchWriter	0011335	01913432511	40

RED Seal # on Cage: 004481 BLUE Seal # Back of TouchWriter: 0011336

POLL CLOSING - CERTIFICATE 2

After you close the polls, record these numbers from the equipment, tapes, and numbered lists of voters.

ELECTION EQUIPMENT	BLUE Seal Number vDrive Compartment <i>Seal when Repacking</i>	BALLOT COUNTER from Machine Tape	Lifetime Counter from Machine Tape
Verity Ballot Scanner	0012891	247	1004
Verity TouchWriter	0012892		

RED Seal # on Cage: 0005826 BLUE Seal # Back of TouchWriter: 0012893

TOTAL # VOTERS: # PROVISIONAL VOTERS:
From carbonless list From carbonless list

PAPER BALLOT AUDIT - CERTIFICATE 3

Fill out at poll closing with all paper ballot numbers. Record seal numbers used for the live ballots where indicated below.

	DEMOCRATIC	REPUBLICAN	THIRD PARTY
Total ballots received in cage (printed on paper ballot box)	300	350	
Additional ballots from County	0	0	
Ballots printed in precinct (See TouchWriter poll close report)	0	0	
Total of unused ballots (Count remaining at poll close)	194	208	
Total spoiled ballots (Refer to spoiled ballot envelope)	1	0	
You must record these security seal numbers. Print numbers clearly.			
Scanner Ballot Bag Seal # Contains all scanned paper ballots	20801167		
Blue Poll Bag Seal # Contains all cast provisional votes	00003328		

We, the undersigned Election Officials, certify that we have followed all procedures prescribed by law, before and after the Election.

POSITION	PRINTED NAME	SIGNATURE
Judge of Elections	Dante Flamminio	<i>[Signature]</i>
Majority Inspector	Gregory F. Adams	<i>[Signature]</i>
Minority Inspector	Zeb P. Stokes	<i>[Signature]</i>
Machine Operator	Maria Moscuillo-Powell	<i>[Signature]</i>
Clerk	Ronald Grace	<i>[Signature]</i>

RETURN SHEET COPY

1 - Verity Ballot Scanner
ATTACH: Verity Ballot Scanner
FILE-M: Verity Ballot Scanner

2 - Minority Inspector
ATTACH: Verity TouchWriter
FILE-M: Verity TouchWriter

3 - Precinct
ATTACH: Verity Ballot Scanner
FILE-Precinct: Verity Ballot Scanner

Notes on discrepancies:

- United States Senator (11) Alex Khalil: 3
- (12) Conor Lamb: 27
- (13) Malcolm Kenyatta: 11
- (15) John Fetterman: 62
- Write-ins: 1
- Undervotes: 1
- Overvotes: 0
- Governor (21) Josh Shapiro: 99
- Write-ins: 2
- Undervotes: 4
- Overvotes: 0
- Legislative Governor (31) Austin Davis: 47
- (32) Ray Sosa: 15
- (33) Brian Sims: 40
- Write-ins: 1
- Undervotes: 2
- Overvotes: 0
- Representative in Congress 3rd District (41) Mary Gay Scanlon: 83
- Write-ins: 1
- Undervotes: 11
- Overvotes: 0
- Senate in the General Assembly 3rd District (51) Tim Keaney: 98
- Write-ins: 1
- Write-ins: 6
- Write-ins: 0
- Write-ins: 102
- Write-ins: 0
- Write-ins: 3
- Write-ins: 0
- Overvotes: 91
- Write-ins: 66
- (71) Jennifer Traft: 62
- (72) Michael Diaz: 62
- Write-ins: 62

DELAWARE COUNTY - RETURN SHEET
PRIMARY
TUESDAY MAY 17, 2022

POLL OPENING - CERTIFICATE 1
Before you open the polls, record these numbers from the equipment and the tapes.
Verify all "Zero Report Tapes" show zero votes cast. Call warehouse if incorrect.

ELECTION EQUIPMENT	BLUE Seal Number vDrive Compartment	Serial Number from Machine Tape	Lifetime Counter from Machine Tape
Verity Ballot Scanner	0011347	5190319660	517
Verity TouchWriter	0011348	W1913456811	38

RED Seal # on Cage: 0004487 BLUE Seal # Back of TouchWriter: 0011349

POLL CLOSING - CERTIFICATE 2
After you close the polls, record these numbers from the equipment, tapes, and numbered lists of voters.

ELECTION EQUIPMENT	BLUE Seal Number vDrive Compartment	BALLOT COUNTER from Machine Tape	Lifetime Counter from Machine Tape
Verity Ballot Scanner	0012897	100	617
Verity TouchWriter	0012898		0012898 39

RED Seal # on Cage: 0005885 BLUE Seal # Back of TouchWriter: 0012899

TOTAL # VOTERS: From carbonless list
PROVISIONAL VOTERS: From carbonless list

PAPER BALLOT AUDIT - CERTIFICATE 3
Fill out at poll closing with all paper ballot numbers. Record seal numbers used for the live ballots where indicated below.

	DEMOCRATIC	REPUBLICAN	THIRD PARTY
Total ballots received in cage (printed on paper ballot box)	200	200	
Additional ballots from County	0	0	
Ballots printed in precinct (See TouchWriter poll close report)	1	0	
Total of unused ballots (Count remaining at poll close)	152	166	
Total spoiled ballots (Refer to spoiled ballot envelope)	3	0	

You must record these security seal numbers. Print numbers clearly.

Scanner Ballot Bag Seal # Contains all scanned paper ballots	20801080
Blue Poll Bag Seal # Contains all cast provisional votes	00003290

We, the undersigned Election Officials, certify that we have followed all procedures prescribed by law, before and after the Election.

POSITION	PRINTED NAME	SIGNATURE
Judge of Elections	Jonathan T. Sullivan	[Signature]
Majority Inspector	Gail Ruetz	[Signature]
Minority Inspector	Kyra Raphaelidis	[Signature]
Machine Operator		
Clerk		

Election Header
General Primary
Election Date 5/17/2022
Delaware County Pennsylvania
UPPER DARBY TWP DISTRICT 05
PRECINCT 04
Election Day Voting

Verity Scan
S/N 51903196610
Version 2.3.1
Ballot Counter 100
Lifetime Counter 617

Tally Report By Precinct
Date & Time Printed: 05/17/2022 8:12 PM
City Pct/Spits Included: 1

Republican Party
UPPER DARBY TWP DISTRICT 05 PRECINCT 04
Member of Republican State Committee
4th District
(Vote for not more than Two)
4 Year Term
Write In Votes = 1

Democratic Party
UPPER DARBY TWP DISTRICT 05 PRECINCT 04
United States Senator
(11) Alex Knall 2
(12) Conor Lamb 15
(13) Malcolm Kenyatta 26
(15) John Fetterman 23
Write-ins 0
Undervotes 0
Overvotes 0

Governor
(21) Josh Shapiro 65
Write-ins 0
Undervotes 1
Overvotes 0

Lieutenant Governor
(31) Austin Davis 29
(32) Ray Sosa 2
(33) Brian Sims 34
Write-ins 0
Undervotes 1
Overvotes 0

Representative in Congress 5th District
(41) Mary Gay Scanlon 62
Write-ins 0
Undervotes 4
Overvotes 0

Senator in the General Assembly 26th District
(51) Tim Kearney 65
Write-ins 0
Undervotes 1
Overvotes 0

Representative in the General Assembly 16th District
(61) Mike Zabel 64
Write-ins 0
Undervotes 2
Overvotes 0

Member of Democratic State Committee
(Vote for not more than Thirteen)
4 Year Term
(71) Jennifer Toof 62
(72) Michael Diaz 54
(73) Emilio Buitrago 52
(74) Colleen Kennedy 27

Official Signatures
[Signatures]

Upper Darby 4-9

DELAWARE COUNTY - RETURN SHEET
PRIMARY
TUESDAY MAY 17, 2022

POLL OPENING - CERTIFICATE 1
Before you open the polls, record these numbers from the equipment and the tapes.
Verify all "Zero Report Tapes" show zero votes cast. Call warehouse if incorrect.

ELECTION EQUIPMENT	BLUE Seal Number vDrive Compartment <i>Unseal at Poll Closing</i>	Serial Number from Machine Tape	Lifetime Counter from Machine Tape
Verity Ballot Scanner	0011331	51903188910	466
Verity TouchWriter	0011332	22013633201	40
RED Seal # on Cage:	0004484	BLUE Seal # Back of TouchWriter:	001333

POLL CLOSING - CERTIFICATE 2
After you close the polls, record these numbers from the equipment, tapes, and numbered lists of voters.

ELECTION EQUIPMENT	BLUE Seal Number vDrive Compartment <i>Seal when Repacking</i>	BALLOT COUNTER from Machine Tape	Lifetime Counter from Machine Tape
Verity Ballot Scanner	0012894	98	564
Verity TouchWriter	0012895		40
RED Seal # on Cage:	0005887	BLUE Seal # Back of TouchWriter:	0012896
TOTAL # VOTERS: From carbonless list	98	# PROVISIONAL VOTERS: From carbonless list	0

PAPER BALLOT AUDIT - CERTIFICATE 3
Fill out at poll closing with all paper ballot numbers. Record seal numbers used for the live ballots where indicated .

	DEMOCRATIC	REPUBLICAN	THIRD PARTY
Total ballots received in cage (printed on paper ballot box)	<input checked="" type="checkbox"/> 150	<input checked="" type="checkbox"/> 150	<input checked="" type="checkbox"/>
Additional ballots from County	0	0	
Ballots printed in precinct (See TouchWriter poll close report)	0	0	<input checked="" type="checkbox"/>
Total of unused ballots (Count remaining at poll close)	91	105	
Total spoiled ballots (Refer to spoiled ballot envelope)	4	2	
You must record these security seal numbers. Print numbers clearly.			
Scanner Ballot Bag Seal # Contains all scanned paper ballots	20801136		
Blue Poll Bag Seal # Contains all cast provisional votes	00003302		

We, the undersigned Election Officials, certify that we have followed all procedures prescribed by law, before and after the Election.

POSITION	PRINTED NAME	SIGNATURE
Judge of Elections	TERRI A. ANBY	<i>Terrin A. Anby</i>
Majority Inspector	ANDU THOMAS	<i>Andu Thomas</i>
Minority Inspector	EDWARD KELLY	<i>Edward Kelly</i>
Machine Operator		
Clerk	Anthony Flaminio	<i>Anthony Flaminio</i>

Election Header

General Primary
Election Date: 5/17/2022
Election: Delaware County, Pennsylvania
UPPER DARBY TWP DISTRICT 04
PRECINCT 09
Election Day Voting
Election: Verity Scan
S/N: 51903188910
Version: 2.3.1
S/N: S10
Version: Ballot Counter: 98
Lifetime Counter: 564
Ballot Cx
Lifetime Counter: 40

Write In Report By Precinct

Date & Time Posted: 05/17/2022 8:08 PM
Date & Time: 05/17/2022
City Precincts Included: 1

Democratic Party
UPPER DARBY TWP DISTRICT 04 PRECINCT 09

Dem
UPPER DISTRICT
Write In Votes = 1

(11) Alex
Write in

(12) Co
Accept

(13) Ma
Committee Member
Write In Votes = 3

(15) Jo
Write in
Undervote
Overvote
Covering
Accept

(21) Jos
Write in
Undervote
Overvote
Lieutenant
Accept

(31) Aust
Write in
Accept

(32) Ray
Write in
Accept

(33) Brian
Write in
Undervote
Overvotes

Republican
UPPER DARBY TWP DISTRICT 04 PRECINCT 09

United States Senate
Write In Votes = 1

Write in
Undervotes
Overvotes
Accept

Senator in the General Assembly
20th District
(51) Tim Ke
Write in
Undervotes
Overvotes
Accept

Representative General Assembly
164th District
(61) Gina H
Write in
Undervotes
Overvotes
Accept

Lieutenant Governor
Write In Votes = 1

Write in
Undervotes
Overvotes
Member of the State Council
(Vote for not a Third Term)
4 Year Term
(71) Jennifer T
Write In Votes = 1

(72) Michael D
Write in
Accept

(73) Emilio B
Write in
Accept

(74) Colleen K
Write in
Accept

(75) Thomas J
Write in
Accept

(76) Robert Y
Write in
Accept

(77) Lisa Gold
Write in
Accept

(78) Malcolm J
Write In Votes = 1

(79) Shyquan D

DELAWARE COUNTY - RETURN SHEET
PRIMARY
TUESDAY MAY 17, 2022

POLL OPENING - CERTIFICATE 1

Before you open the polls, record these numbers from the equipment and the tapes.
Verify all "Zero Report Tapes" show zero votes cast. Call warehouse if incorrect.

ELECTION EQUIPMENT	BLUE Seal Number vDrive Compartment	Serial Number from Machine Tape	Lifetime Counter from Machine Tape
Verity Ballot Scanner	0011344	51903194810	1015
Verity TouchWriter	0011345	W2013623501	40
RED Seal # on Cage: 0004486		BLUE Seal # Back of TouchWriter: 0011346	

POLL CLOSING - CERTIFICATE 2

After you close the polls, record these numbers from the equipment, tapes, and numbered lists of voters.

ELECTION EQUIPMENT	BLUE Seal Number vDrive Compartment Seal when Repacking	BALLOT COUNTER from Machine Tape	Lifetime Counter from Machine Tape
Verity Ballot Scanner	0012822	125	740
Verity TouchWriter	0012823		40
RED Seal # on Cage: 0005877		BLUE Seal # Back of TouchWriter: 0012824	
TOTAL # VOTERS: 125		# PROVISIONAL VOTERS: 2	
From carbonless list		From carbonless list	

PAPER BALLOT AUDIT - CERTIFICATE 3

Fill out at poll closing with all paper ballot numbers. Record seal numbers used for the live ballots where indicated below.

	DEMOCRATIC	REPUBLICAN	THIRD PARTY
Total ballots received in cage (printed on paper ballot box)	300	100	
Additional ballots from County	0	0	
Ballots printed in precinct (See TouchWriter poll close report)	0	0	
Total of unused ballots (Count remaining at poll close)	197	70	
Total spoiled ballots (Refer to spoiled ballot envelope)	8	1	
You must record these security seal numbers. Print numbers clearly.			
Scanner Ballot Bag Seal # Contains all scanned paper ballots	20801178		
Blue Poll Bag Seal # Contains all cast provisional votes	00003304		

We, the undersigned Election Officials, certify that we have followed all procedures prescribed by law, before and after the Election.

POSITION	PRINTED NAME	SIGNATURE
Judge of Elections	Terris A. Ambrose	<i>Terris A. Ambrose</i>
Majority Inspector	Katherine R. Goodrich	<i>Katherine R. Goodrich</i>
Minority Inspector	Cheryl Pruitt	<i>Cheryl Pruitt</i>
Machine Operator	Charles Amstutz	<i>Charles Amstutz</i>
Clerk		

Attach
Tape

Election Header

General Primary
Election Date: 5/17/2022

Delaware County, Pennsylvania
UPPER DARBY TWP DISTRICT 05
PRECINCT 05

Election Day Voting

RETU
Please check b
sheet this is. F

1 - Voting Machine
ATTACH- Tally
FILE-Machine V

Verity Scan
S/N 51903194810
Version 2.3.1

2 - Minority In
ATTACH- Tally
FILE-Minority I

Ballot Counter 125
Lifetime Counter 740

3 - Precinct P
ATTACH- Tally
FILE-Precinct
be visible from
precinct.

Tally Report By Precinct

Date & Time Printed
05/17/2022 8:10 PM

Qty Pcts/Spits Included 1

Democratic Party

UPPER DARBY TWP
DISTRICT 05 PRECINCT
05

United States Senator

(11) Alex Khali 9

(12) Conor Lamb 24

(13) Malcolm Kenyatta 26

(15) John Fetterman 34

Write-ins 0

Undervotes 3

Overvotes 0

Governor

(21) Josh Shapiro 90

Write-ins 0

Undervotes 6

Overvotes 0

Landshear Governor

(31) Austin Davis 41

(32) Ray Sosa 11

(33) Brian Sims 27

Write-ins 0

Undervotes 7

Overvotes 0

Representative in Congress 5th District

(41) Mary Gay Scanlon 87

Write-ins 0

Undervotes 9

Overvotes 0

Senator in the General Assembly 20th District

(51) Tim Kearney 81

Write-ins 1

Undervotes 14

Overvotes 0

Representative in the General Assembly 16th District

(61) Gina H. Curry 91

Write-ins 0

Undervotes 5

Overvotes 0

Member of Democratic State Committee

Write for not more than Turnover & Year Term

(71) Jennifer Taub 91

(72) Michael Diaz 71

(73) Emilio Butrage 61

(74) Colleen Kennedy 85

(75) Thomas J. DeLuca Jr 25

(76) Robert Yanczak 85

EXHIBIT 13

Return Sheets for Delaware County L&A Testing – with vDrive serial number increment

<https://in.reuters.com/article/usa-election-pennsylvania-machines/exclusive-philadelphias-new-voting-machines-under-scrutiny-in-tuesdays-elections-idINKBN2382D2>



NEWS

Candidates sue after hundreds of ballots sent to wrong addresses

By Rich Calder

October 30, 2021 | 1:03pm | Updated



Republican Delaware County Council candidates Frank Agovino and Joseph Lombardo are suing after a vendor delivered 670 ballots to the wrong voters.

Facebook

MORE ON:
ELECTIONS

The Post's endorsements for NY

Two candidates running for elected office in Pennsylvania are suing after a vendor delivered 670 mail ballots for Tuesday's election to the wrong voters, according to a published report.

MORE ON:
ELECTIONS

The Post's endorsements for NY state Senate

Dark Knight rises: New York county appoints 'Batman' to co-lead board of elections

Arrest made in burglary of Dem Arizona gov. candidate's campaign office

How long will Dem voters continue to allow themselves to be treated like fools?

Two candidates running for elected office in Pennsylvania are suing after a vendor delivered 670 mail ballots for Tuesday's election to the wrong voters, according to a published report.

Michael Puppio, a lawyer representing Republican Delaware County Council candidates Frank Agovino and Joseph Lombardo, has requested an emergency hearing to find out how widespread the problem is, arguing the slip ups have put "the integrity of the municipal election ... at stake," [The Philadelphia Inquirer reported Friday](#).

The county acknowledged the flawed ballots were mailed out Oct. 25 to addresses that failed to match the voter information on the ballot inside, which led to people getting another person's ballot. It is trying to remedy the issue by identifying the flawed ballots and mailing out new ones, the newspaper reported.

The lawsuit alleges ElectionIQ, the Akron-based vendor the county hired to deliver the ballots, hasn't been "forthcoming ... regarding the extent of their errors," the Inquirer reported.

"If an immediate hearing is not held to determine the extent... " of the errors "the validity of the municipal election on November 2, 2021 is in jeopardy," says the lawsuit.

Delaware County Director of Elections James Allen told the Inquirer the county is aware of the lawsuit and plans to respond.

ElectionIQ did not immediately return messages.

FILED UNDER [ELECTIONS](#), [MAIL](#), [PENNSYLVANIA](#), [VOTING](#), [10/30/21](#)

EXHIBIT 14

**2022 General Election Mail Ballot Requests from
UNVERIFIED (ineligible / unqualified voters) according
to Pennsylvania Department of State
for Delaware County
as of October 28th, 1030 hrs (10:30am) US EST**

NOTE: This is a dynamic, real time report that must be created using the parameters included in the exhibit, resulting in the report, also included in this Exhibit

<https://data.pa.gov/d/uhfm-zhus/visualization>

Configure Visualization

Filters (2) [Close]

[Add Filter](#) [Clear All](#)

CountyName
DELAWARE [v]

⋮

MailApplicationType
2 selected [v]

MailApplicationType IS [v]

Search all values

SELECTED VALUES

- OLMAILNV [x]
- OLMAILV [x]

VALUE MOST COMMON TO LEAST COMMON

(No value)

MAILIN

OLREGV

[Remove](#) [Reset](#) [Apply](#)

Preview of 2022 General Election Mail Ballot Requests Department of State

Count...	Party	Dateof...	MailA...	Appls...	Appre...	Ballot...	Ballot...	Legis...	Senate	Congr...	Latitud...	Longit...	Georef...
DELAWARE	D	03/25/1973	OLMAILNV	06/15/2022	06/15/2022			168TH LE...	17TH SEN...	5TH CONG...	39.916578...	-75.40627...	POINT (-7...
DELAWARE	D	06/27/1949	OLMAILV	08/16/2022	08/16/2022			166TH LE...	17TH SEN...	5TH CONG...	39.916578...	-75.40627...	POINT (-7...
DELAWARE	R	10/01/1940	OLMAILNV	04/11/2022	04/11/2022			166TH LE...	17TH SEN...	5TH CONG...	39.916578...	-75.40627...	POINT (-7...
DELAWARE	NF	08/10/1983	OLMAILNV	06/21/2022	06/21/2022			168TH LE...	17TH SEN...	5TH CONG...	39.916578...	-75.40627...	POINT (-7...
DELAWARE	D	03/15/1981	OLMAILNV	07/18/2022	07/18/2022			159TH LE...	9TH SEN...	5TH CONG...	39.916578...	-75.40627...	POINT (-7...
DELAWARE	D	07/17/1939	OLMAILNV	06/15/2022	06/15/2022			166TH LE...	17TH SEN...	5TH CONG...	39.916578...	-75.40627...	POINT (-7...
DELAWARE	D	05/01/1984	OLMAILNV	07/15/2022	07/15/2022			159TH LE...	9TH SEN...	5TH CONG...	39.916578...	-75.40627...	POINT (-7...
DELAWARE	D	03/03/1945	OLMAILNV	07/14/2022	07/14/2022			166TH LE...	17TH SEN...	5TH CONG...	39.916578...	-75.40627...	POINT (-7...
DELAWARE	D	08/14/1949	OLMAILNV	06/29/2022	06/29/2022			160TH LE...	9TH SEN...	5TH CONG...	39.916578...	-75.40627...	POINT (-7...
DELAWARE	D	07/11/1937	OLMAILNV	02/10/2022	02/10/2022			165TH LE...	26TH SEN...	5TH CONG...	39.916578...	-75.40627...	POINT (-7...
DELAWARE	R	10/16/1948	OLMAILNV	02/08/2022	02/08/2022			165TH LE...	26TH SEN...	5TH CONG...	39.916578...	-75.40627...	POINT (-7...
DELAWARE	D	11/14/1969	OLMAILNV	06/14/2022	06/14/2022			160TH LE...	9TH SEN...	5TH CONG...	39.916578...	-75.40627...	POINT (-7...
DELAWARE	D	07/25/1987	OLMAILNV	02/08/2022	02/08/2022			166TH LE...	17TH SEN...	5TH CONG...	39.916578...	-75.40627...	POINT (-7...
DELAWARE	D	08/17/1975	OLMAILNV	02/10/2022	02/10/2022			164TH LE...	26TH SEN...	5TH CONG...	39.916578...	-75.40627...	POINT (-7...
DELAWARE	D	03/30/1989	OLMAILNV	07/26/2022	07/26/2022			160TH LE...	9TH SEN...	5TH CONG...	39.916578...	-75.40627...	POINT (-7...
DELAWARE	D	01/29/1990	OLMAILNV	07/26/2022	07/26/2022			160TH LE...	9TH SEN...	5TH CONG...	39.916578...	-75.40627...	POINT (-7...
DELAWARE	D	12/13/1988	OLMAILNV	07/15/2022	07/15/2022			166TH LE...	17TH SEN...	5TH CONG...	39.916578...	-75.40627...	POINT (-7...

< Previous Next >

Showing rows 1 to 17 out of 18,359

EXHIBIT 15

**Social Security Administration (SSA) Weekly Data for
Help America Vote Verification (HAVV) Transactions
by State
Filtered for Pennsylvania
as of October 28th, 1440 hrs (2:40pm) US EST**

NOTE: This is a dynamic, real-time report that must be viewed at the link below to retrieve the most up to date data

<https://www.ssa.gov/open/havv/havv-weekly-2022-10-15.html>

State/ Territory	Total Transactions	Unprocessed Transactions	Total Non Matches	Total Matches	Single Match Alive	Single Match Deceased	Multiple Matches Alive	Multiple Matches Deceased	Multiple Matches Mixed
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Week Ending 08 OCT 22

Pennsylvania	59,207	0	4,833	54,374	54,360	6	4	0	4
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Week Ending 15 OCT 22

Pennsylvania	66,092	0	5,263	60,829	60,817	6	5	0	1
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The following list describes the types of data in the HAVV dataset.

1. **Total Transactions:** The total number of verification requests made during the time period.
2. **Unprocessed Transactions:** The total number of verification requests that could not be processed because the data sent to us was invalid, (e.g., missing, not formatted correctly).
3. **Total Non Matches:** The total number of verification requests where there is no match in our records on the name, last four digits of the SSN or date of birth.
4. **Total Matches:** The total number of verification requests where there is at least one match in our records on the name, last four digits of the SSN and date of birth.
5. **Single Match Found - Alive:** The total number of verification requests where there is only one match in our records on name, last four digits of the SSN and date of birth, and the number holder is alive.
6. **Single Match Found - Deceased:** The total number of verification requests where there is only one match in our records on name, date of birth, and last four digits of the SSN, and the number holder is deceased.
7. **Multiple Matches Found - All Alive:** The total number of verification requests where there are multiple matches on name, date of birth, and last four digits of the SSN, and each match indicates the number holder is alive.
8. **Multiple Matches Found - All Deceased:** The total number of verification requests where there are multiple matches on name, date of birth, and the last four digits of the SSN, and each match indicates the number holder is deceased.
9. **Multiple Matches Found - At least one alive and at least one deceased:** The total number of verification requests where there are multiple matches on name, date of birth, and the last four digits of the SSN, and at least one of the number holders is alive and at least one of the number holders is deceased.

EXHIBIT 16

Media “Fact Check” and Defendant Press Releases regarding Curation of Spoiled Ballots

(Note that the number of ballots (6,000) is omitted and instead replaced with “some”)

<https://www.reuters.com/article/uk-factcheck-video-election-workers-ball/fact-check-video-does-not-show-election-workers-fraudulently-completing-ballots-in-delaware-county-pa-idUSKBN27M2PM>

<https://www.delcopa.gov/publicrelations/releases/2020/ballotvideoresponse.html>

EVERYTHINGNEWS NOVEMBER 6, 2020 / 2:37 PM / UPDATED 2 YEARS AGO

Fact check: Video does not show election workers fraudulently completing ballots in Delaware County, PA

By Reuters Staff

3 MIN READ



Social media users have been sharing various video from Delaware County, Pennsylvania, claiming they show poll workers filling in blank ballots and as such this is evidence of voter fraud. This claim is false, as the workers are filling in ballot papers to replace damaged ballots, in the presence of observers.



One video from Delaware County's live streams makes this claim, showing a woman in a black sweater, in wider shots sitting opposite a woman in a red sweater, [here](#) , [here](#) .

The video is a cropped clip from the livestream provided by Delaware County in Pennsylvania (same tables and carpet), which can be seen delcopa.gov/vote/stream.html .

The Delaware County Bureau of Elections told Reuters via email that the original video shows "the election worker at a table with other coworkers in a room full of people with bipartisan observers a few feet away at each end of the table, closely observing the worker from approximately 6 feet away." The observers and other workers have been deceptively cropped out.

The Bureau explained that ballots are opened by a machine extractor during processing and some ballots had been damaged during this process and could not be scanned.

They added that Hart, the scanner manufacturer, advises that the best practice for damaged ballots is to transcribe votes from the damaged ballots to a clean ballot and scan it.

"In accordance with that guidance, the Chief Clerk of the Delaware County Bureau of Elections instructed elections staff to manually transcribe the damaged ballots," said the spokesperson. "As ballots were being transcribed, the original damaged ballots were directly beside the new ballots and bipartisan observers witnessed the process at close range."

The Bureau confirmed that the damaged ballots have been preserved.

VERDICT

False. The video shows elections staff filling in new ballots with matching information to replace ballots that were damaged by a processing machine. This process occurred in the presence of observers.

This article was produced by the Reuters Fact Check team. Read more about our fact-checking work [here](#) .

Our Standards: [The Thomson Reuters Trust Principles](#).

Search Delco [Go]



Delaware County Pennsylvania

ELECTED OFFICIALS COURTS A TO Z PUBLIC ACCESS STAY INFORMED LIVE, WORK, & PLAY

Delaware County's response to video circulating of ballots

Home / Departments / Public Relations Releases / Delaware County's response to video circulating of ballots

Released: November 6, 2020

Manipulated video has been circulating online purporting to show Delaware County election staff fraudulently filling in blank ballots. The video was taken from the official live stream provided by Delaware County, however, the circulated video is zoomed in to crop out the surrounding area, including the bipartisan observers who were not more than six feet away and does not give the full picture of the process.

The cropped video portrays an election worker, seemingly alone at a table, marking a ballot. The actual video shows the election worker at a table with other coworkers in a room full of people with bipartisan observers a few feet away at each end of the table, closely observing the worker from approximately 6 feet away. This arrangement was agreed upon between the Election Bureau and the former Republican Chairman of Delaware County Council, acting in his capacity as counsel for the Delaware County Republican Party.

During the processing of ballots, a machine extractor opens the ballots. Some ballots were damaged by the extractor during this process in such a way that the ballots could not be scanned successfully. According to the scanner manufacturer, Hart, the best practice to deal with damaged ballots that cannot be scanned is to transcribe the votes on each ballot to a clean ballot and scan the clean ballot. In accordance with that guidance, the Chief Clerk of the Delaware County Bureau of Elections instructed elections staff to manually transcribe the damaged ballots. As ballots were being transcribed, the original damaged ballots were directly beside the new ballots and bipartisan observers witnessed the process at close range. Damaged ballots have been preserved.

The Delaware County Bureau of Elections has been offering a live-streaming of the counting of ballots, which began on Nov. 3. The video allows residents to watch the process in real-time and offers a transparent view of the process. Unfortunately, some residents have altered the video and are making false accusations, which baselessly and wrongly attacks the integrity of the election staff and the completely transparent process by which votes are being counted in Delaware County.

PUBLIC RELATIONS NAVIGATION

- > Press Releases
- > County Newsletter
- > Use of County Facility Form

Questions about COVID-19 vaccines? Please call the COVID-19 Call Center: 484-276-2100.

Adrienne Marofsky, Director
Government Center, 226A
201 W. Front St.
Media, PA 19063
Phone: 610-891-4943
delcopr@co.delaware.pa.us

EXHIBIT 17

**Commonwealth of Pennsylvania Department of State
Press Release**

**“Department of State Corrects Information About
“Unverified Ballots”**

Dated October 27th, 2022

**Contradicts own Directive “Guidance Concerning Civilian
Absentee and Mail-In Ballot Procedures”
(Exhibit 18)**



FOR IMMEDIATE RELEASE
Oct. 27, 2022

Department of State Corrects Misinformation About “Unverified Ballots”

There are not 240,000+ “unverified ballots,” as certain lawmakers are claiming. That is misinformation. Any mail-in or absentee ballot from a voter whose identification cannot be verified by the sixth day after the election is not counted.

It’s important to note that this discussion about “verification” relates to ballot applications; we are not talking about ballots. This misinformation incorrectly conflates an application for a mail ballot and an approved mail ballot.

For your understanding, according to the requirements of the Election Code, county election offices are required to provide a mail-in or absentee ballot to any registered voter who requests one regardless of whether they provide proper ID at the time they request their ballot. It’s important to know that the vast majority of voters do provide proper ID at that time. In the event a voter’s ID cannot be verified during the application process, the voter has the ability to submit proper ID for their ballot until the sixth day after the election.

Within the system counties use to process mail-in and absentee ballot applications, some applications are marked as “NV,” meaning “not verified,” which tell the system the voter’s identification needs to be verified. This security feature ensures that the system will require these applications to be submitted for verification before the ballot can be approved by the county. In other words, the NV designation in the application type field is a systematic assurance that before county users are able to approve them these applications will go through the ID verification process. After the verification process occurs, only those voters whose identification could not be verified will be required to submit valid ID before the sixth day after the election. Currently, that number of voters stands at approximately 7,600.

For example, a ballot application would be marked with NV if it is a new application that comes in and the provided ID was not able to be immediately verified. Or, for another example, a ballot application would be marked as NV if it is from a voter on the permanent mail-in or absentee list who requested a mail ballot for both the primary and general elections, and their ID needs to be verified again for the general election.

###

EXHIBIT 18

Commonwealth of Pennsylvania Department of State Guidance Concerning Civilian Absentee and Mail-In Ballot Procedures



GUIDANCE CONCERNING CIVILIAN ABSENTEE AND MAIL-IN BALLOT PROCEDURES

Updated: September 26, 2022

Version: 2.0

2.2 IN-PERSON (OVER THE COUNTER) REQUESTS

The Pennsylvania Election Code allows voters to request and cast an absentee or mail-in ballot over the counter in advance of Election Day. After ballots are finalized by a county, voters may apply at a County Election Office (CEO) during established business hours to receive and cast a mail-in or absentee ballot in person while the voter is in the office. Voters may also apply for or update a voter registration in-person at a CEO. If a voter submits a voter registration application and an absentee or mail-in ballot request separately, the county should process the voter registration application first. A voter who wishes to register and vote by mail-in ballot may also decide to submit the combined Voter Registration Application and Mail-in Ballot Request form in-person at a CEO. Please refer to the *Mail-in Options on Paper Voter Registration Applications Job Aid* for details on how to process this combined form in SURE.

Once the voter is determined to be **qualified** and the application for an absentee or mail-in ballot is approved, the county board of elections **must promptly present** the voter with the voter's mail-in or absentee ballot. Under Section 1305 of the Election Code, 25 P.S. § 3146.5, a county board of elections may not deny the eligible voter's request to have the ballot presented to the voter while the voter is at the office unless there is a bona fide objection to the absentee or mail-in ballot application. Voters still need to provide proof of identification (as defined in the Election Code) to be verified by county boards of elections to vote an absentee or mail-in ballot. Proof of identification for civilian absentee and mail-in voting include a valid driver's license number, the last four digits of the voter's social security number or other valid photo identification listed in Section 102 of the Election Code, 25 P.S. 2602(z.5)(3).

Voters who receive a mail-in or absentee ballot in person must be provided an opportunity to privately and secretly mark their ballot. **Note:** *The marking of the ballot in secret does not have to take place in the election offices. It can be provided in a nearby location.*

2.3 ONLINE REQUESTS

A voter may submit either an absentee or mail-in ballot request online via the Department's online portal at PA Voter Services.

Online applications must be processed according to the same statutory requirements as an application submitted by-mail or in person, **including the proof of identification** requirements defined in the Election Code.

Pre-canvass and Canvass Procedures

At the pre-canvass or canvass, as the case may be, the county board of elections should:

- Segregate the unopened ballots of voters whose applications were challenged by the challenge deadline (5:00 PM on the Friday before the election).
 - These ballots must be placed in a secure, sealed container until the board of elections holds a formal hearing on the challenged ballots.
 - **Ballot applications can only be challenged on the basis that the applicant is not qualified to vote.**
- Set aside the ballot of any voter who was deceased before election day.
- Set aside any ballots without a signed declaration envelope. However, ballots that are undated or dated with an incorrect date shall not be set aside if they have been received by 8:00 PM on Election Day.
- Set aside any ballots without the secrecy envelope and any ballots in a secrecy envelope that include text, mark, or symbol which reveals the identity of the voter, the voter's political affiliation (party), or the voter's candidate preference.

The Election Code does not permit county election officials to reject applications or voted ballots based solely on signature analysis.

No challenges may be made to mail-in or absentee ballot applications after 5:00 pm on the Friday before the election.

No challenges may be made to mail-in and absentee ballots at any time based on signature analysis.

Additionally, the county board of elections should not open or count any absentee or mail-in ballots pending ID verification as follows:

- **If proof of identification for an absentee or mail-in voter was not received or could not be verified, the ballot should not be counted unless the elector provided proof of identification, that can be verified by the county board, by the sixth calendar day following Election Day.**

EXHIBIT 19

**PA Title 25 Sec § 1305 “Delivering or Mailing Ballots;”
and § 1302-D “Application for Official Mail In Ballots;”
as Amended by “Act 77” of 2019**

<https://www.legis.state.pa.us/WU01/LI/LI/US/PDF/1937/0/0320..PDF>

Section 1305. Delivering or Mailing Ballots.—

(a) The county board of elections upon receipt and approval of an application filed by any elector **qualified** in accordance with the provisions of section 1301, subsections (a) to (h), inclusive, shall not later than fifty days prior to the day of the primary or not later than seventy days prior to the day of the election commence to deliver or mail to such elector who has included with said application a statement that he or she is unable to vote during the regular absentee balloting period by reason of living or performing military service in an extremely remote or isolated area of the world, and not later than forty-five days prior to the day of the primary or election commence to deliver or mail to all other such electors as provided for in section 1301, subsections (a) to (h), inclusive, official absentee ballots or special write-in absentee ballots as prescribed by subsection (d) of section 1303 when official absentee ballots are not yet printed; as additional applications of such electors are received, the board shall deliver or mail official absentee ballots or special write-in absentee ballots when official absentee ballots are not yet printed to such additional electors within forty-eight hours after approval of their application. If the calling of a special election would make it impossible to comply with the forty-five day delivery or mailing requirement of this section, then the county board of elections shall mail absentee ballots or special write-in absentee ballots within five days of the county board's receipt of the information necessary to prepare said ballots.

(b) (1) The county board of elections upon receipt and approval of an application filed by any elector **qualified** in accordance with the provisions of section 1301, subsections (i) to (l), inclusive, shall commence to deliver or mail official absentee ballots as soon as a ballot is certified and the ballots are available. While any proceeding is pending in a Federal or State court which would affect the contents of any ballot, the county board of elections may await a resolution of that proceeding but in any event, shall commence to deliver or mail official absentee ballots not later than the second Tuesday prior to the primary or election. For those applicants whose proof of identification was not provided with the application or could not be verified by the board, the board shall send the notice required under section 1302.2(d) with the absentee ballot. As additional applications are received and approved after the time that the county board of elections begins delivering or mailing official absentee and mail-in ballots, the board shall deliver or mail official absentee ballots to such additional electors within forty-eight hours.

(2) Notwithstanding any other provisions of this act and notwithstanding the inclusion of a mailing address on an absentee or mail-in ballot application, a voter who presents the voter's own application for an absentee or mail-in ballot within the office of the county board of elections during regular business hours may request to receive the voter's absentee or mail-in ballot while the voter is at the office. This request may be made orally or in writing. Upon presentation of the application and the making of the request and upon approval under sections 1302.2 and 1302.2-D, the county board of elections shall promptly present the voter with the voter's absentee or mail-in ballot. If a voter presents the voter's application within the county board of elections' office in accordance with this section, a county board of elections may not deny the voter's request to have the ballot presented to the voter while the voter is at the office unless there is a bona fide objection to the absentee or mail-in ballot application.

((b) amended Oct. 31, 2019, P.L.552, No.77)

(c) Notwithstanding the provisions of this section, a qualified absentee elector shall not be required to provide proof of identification if the elector is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (Public Law 99-410, 100 Stat.

924) or by an alternative ballot under the Voting Accessibility for the Elderly and Handicapped Act (Public Law 98-435, 98 Stat. 1678).

(1305 amended Mar. 14, 2012, P.L.195, No.18)

Section 1302-D. Applications for official mail-in ballots.

(a) General rule.--A **qualified** elector under section 1301-D may apply at any time before any primary or election for an official mail-in ballot in person or on any official county board of election form addressed to the Secretary of the Commonwealth or the county board of election of the county in which the **qualified** elector's voting residence is located.

(b) Content.--The following shall apply:

(1) The **qualified** elector's application shall contain the following information:

(i) Date of birth.

(ii) Length of time a resident of voting district.

(iii) Voting district, if known.

(iv) Party choice in case of primary.

(v) Name.

(2) A **qualified** elector shall, in addition, specify the address to which the ballot is to be sent, the relationship where necessary and other information as may be determined by the Secretary of the Commonwealth.

(3) When an application is received by the Secretary of the Commonwealth it shall be forwarded to the proper county board of election.

(c) Signature required.--Except as provided in subsection (d), the application of a **qualified** elector under section 1301-D for an official mail-in ballot in any primary or election shall be signed by the applicant.

(d) Signature not required.--If any elector entitled to a mail-in ballot under this section is unable to sign the application because of illness or physical disability, the elector shall be excused from signing upon making a statement which shall be witnessed by one adult person in substantially the following form:

I hereby state that I am unable to sign my application for a mail-in ballot without assistance because I am unable to write by reason of my illness or physical disability. I have made or have received assistance in making my mark in lieu of my signature.

(Mark)

(Date)

(Complete Address of Witness)

(Signature of Witness)

(e) Numbering.--The county board of elections shall number, in chronological order, the applications for an official mail-in ballot, which number shall likewise appear on the official mail-in ballot for the **qualified** elector. The numbers shall appear legibly and in a conspicuous place but, before the ballots are distributed, the number on the ballot shall be torn off by the county board of election. The number information shall be appropriately inserted and become a part of the Registered Absentee and Mail-in Voters File provided under section 1302.3.

(f) Form.--Application for an official mail-in ballot shall be on physical and electronic forms prescribed by the Secretary of the Commonwealth. The application shall state that a voter who applies for a mail-in ballot under section 1301-D shall not be eligible to vote at a polling place on election day unless the elector brings the elector's mail-in ballot to the elector's polling place, remits the ballot and the envelope containing the declaration of the elector to the judge of elections to be spoiled and signs a statement subject to the penalties under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) to the same effect. The physical application forms shall be made freely available to the public at county board of elections, municipal buildings and at other locations designated by the Secretary of the Commonwealth. The electronic application forms shall be made freely available to the public through publicly accessible means. No written application or personal request shall be necessary to receive or access the application forms. Copies and records of all completed physical and electronic applications for official mail-in ballots shall be retained by the county board of elections. ((f) amended Mar. 27, 2020, P.L.41, No.12)

(g) Permanent mail-in voting list.—

(1) Any **qualified** registered elector may request to be placed on a permanent mail-in ballot list file at any time during the calendar year. A mail-in ballot application shall be mailed to every person otherwise eligible to receive a mail-in ballot application by the first Monday in February each year or within 48 hours of receipt of the request, whichever is later, so long as the person does not lose the person's voting rights by failure to vote as otherwise required by this act. A mail-in ballot application mailed to an elector under this section, which is completed and timely returned by the elector, shall serve as an application for any and all primary, general or special elections to be held in the remainder of that calendar year and for all special elections to be held before the third Monday in February of the succeeding year.

(2) The Secretary of the Commonwealth may develop an electronic system through which all **qualified** electors may apply for a mail-in ballot and request permanent mail-in voter status under this section, provided the system is able to capture a digitized or electronic signature of the applicant. A county board of elections shall treat an application or request received through the electronic system as if the application or request had been submitted on a paper form or any other format used by the county.

(3) The transfer of a **qualified** registered elector on a permanent mail-in voting list from one county to another county shall only be permitted upon the request of the **qualified** registered elector.

((g) amended Mar. 27, 2020, P.L.41, No.12)

(1302-D added Oct. 31, 2019, P.L.552, No.77) Section 1302.1-D. Date of application for mail-in ballot.

(a) General rule.--Applications for mail-in ballots shall be received in the office of the county board of elections not earlier than 50 days before the primary or election, except that if a county board of elections determines that it would be appropriate to the county board of elections' operational needs, any applications for mail-in ballots received more than 50 days before the primary or election may be processed before that time. Applications for mail-in ballots shall be processed if received not later than five o'clock P.M. of the first Tuesday prior to the day of any primary or election.

(b) Early applications.--In the case of an elector whose application for a mail-in ballot is received by the office of the county board of elections earlier than 50 days before

the primary or election, the application shall be held and processed upon commencement of the 50-day period or at such earlier time as the county board of elections determines may be appropriate.

(1302.1-D added Oct. 31, 2019, P.L.552, No.77) Section 1302.2-D. Approval of application for mail-in ballot.

(a) Approval process.--The county board of elections, upon receipt of any application of a **qualified** elector under section 1301-D, shall determine the qualifications of the applicant by verifying the proof of identification and comparing the information provided on the application with the information contained on the applicant's permanent registration card. The following shall apply:

(1) If the board is satisfied that the applicant is **qualified** to receive an official mail-in ballot, the application shall be marked "approved."

(2) The approval decision shall be final and binding, except that challenges may be made only on the grounds that the applicant was not a **qualified** elector. ((2) amended Mar. 27, 2020, P.L.41, No.12)

(3) Challenges must be made to the county board of elections prior to five o'clock p.m. on the Friday prior to the election: Provided, however, That a challenge to an application for a mail-in ballot shall not be permitted on the grounds that the elector used an application for a mail-in ballot instead of an application for an absentee ballot or on the grounds that the elector used an application for an absentee ballot instead of an application for a mail-in ballot. ((3) amended Mar. 27, 2020, P.L.41, No.12)

(4) When approved, the registration commission shall cause a mail-in voter's record to be inserted in the district register as prescribed by the Secretary of the Commonwealth. ((4) amended Mar. 27, 2020, P.L.41, No.12)

(5) ((5) deleted by amendment Mar. 27, 2020, P.L.41, No.12)

(b) Duties of county boards of elections and registration commissions.--The duties of the county boards of elections and the registration commissions with respect to the insertion of the mail-in voter's record shall include only the applications as are received on or before the first Tuesday prior to the primary or election. ((b) amended Mar. 27, 2020, P.L.41, No.12)

(c) Notice.--In the event that an application for an official mail-in ballot is not approved by the county board of elections, the elector shall be notified immediately with a statement by the county board of the reasons for the disapproval. For applicants whose proof of identification was not provided with the application or could not be verified by the board, the board shall send notice to the elector with the mail-in ballot requiring the elector to provide proof of identification with the mail-in ballot or the ballot will not be counted.

(d) Temporary registration card.--((d) deleted by amendment Mar. 27, 2020, P.L.41, No.12)

(1302.2-D added Oct. 31, 2019, P.L.552, No.77)

EXHIBIT 20

Rights of Certified Poll Watchers



RIGHTS OF WATCHERS, CANDIDATES & ATTORNEYS

Watchers, Candidates and Attorneys at Sessions of the County Board

Section 310 of the Election Code (Code), 25 P.S. § 2650, outlines the rights of watchers, candidates and attorneys as they relate to sessions of the county board of elections. (Such sessions include the computation, tabulation or canvassing of unofficial election returns on the night of the primary or election and the official computation and canvass that begin on the third day following the primary or election.)

- Any party, political body or body of citizens entitled to have watchers at any primary or election is also entitled to appoint watchers to represent the party, political body or body of citizens at public sessions of the county board. (Such watchers must be qualified electors of the county.) *Section 310(a)*
- Qualified watchers at sessions of the county board may exercise the same rights as poll watchers. *Section 310(a)*

Rights of Poll Watchers

Section 417 of the Code, 25 P.S. § 2687, outlines the rights of duly appointed poll watchers.

- Watchers allowed in the polling place are permitted to keep a list of voters. *Section 417(b)*
- Watchers allowed in the polling place are entitled to challenge the qualifications of voters in accordance with the provisions of section 1210(d) of the Code (25 P.S. § 3050(d)). *Section 417(b)*
- Watchers allowed in the polling place are entitled to inspect the voting check list and either of the two numbered lists of voters during those intervals when voters are not present in the polling place, provided that the watcher does not mark upon or alter any of these official records. (The judge of election must either personally supervise or delegate supervision of such inspection of the list or lists.) *Section 417(b)*

Certified Poll Watcher Rights

- The county board of elections may limit the number of watchers present at any one time to no more than three for each party, political body or body of citizens. *Section 310(a)*
- Each candidate whose candidacy may be affected by matters pending before the county board, including any computation, canvass, recount or recanvass of returns, is entitled to be present and participate in the proceeding in person or by his or her duly authorized attorney. *Section 310(b)*

Appointment of Poll Watchers

Section 417 of the Pennsylvania Election Code, 25 P.S. § 2687, provides for the appointment of watchers. Under section 417(a), “[e]ach candidate for...election at any election shall be entitled to appoint two watchers for each election district in which such candidate is voted for.” In addition, “[e]ach political party and each political body which has nominated candidates...shall be entitled to appoint three watchers at any general...election for each election district in which the candidates of such party or political body are to be voted for.” 25 P.S. § 2687(a).

**PENNSYLVANIA DEPARTMENT OF STATE
AUGUST, 2008**

Act 2004-97 amended section 417(b) of the Code to read as follows:

Each watcher so appointed must be a qualified registered elector *of the county* in which the election district for which the watcher was appointed is located. Each watcher so appointed shall be authorized to serve in the election district for which the watcher was appointed and, when the watcher is not serving in the election district for which the watcher was appointed, in any other election district *in the county* in which the watcher is a qualified registered elector.... It shall not be a requirement that a watcher be a resident of the election district for which the watcher is appointed.

25 P.S. § 2687(b) (emphasis added).

Thus, under section 417(a) of the Code, a candidate, political party or political body is entitled to appoint as a watcher in any election district of a county *any registered qualified elector of that county*, without regard to the election district in which the watcher is a registered qualified elector within the same county.

And as amended by Act 97, any watcher appointed under section 417(a) of the Code is authorized to serve *in any other election district in the same county* when he or she is not serving in the election district for which the watcher was appointed.

Rights of Poll Watchers

Section 417 of the Code, 25 P.S. § 2687, outlines the rights of duly appointed poll watchers.

- Watchers allowed in the polling place are permitted to keep a list of voters. *Section 417(b)*
- Watchers allowed in the polling place are entitled to challenge the qualifications of voters in accordance with the provisions of section 1210(d) of the Code (25 P.S. § 3050(d)). *Section 417(b)*
- Watchers allowed in the polling place are entitled to inspect the voting check list and either of the two numbered lists of voters during those intervals when voters are not present in the polling place, provided that the watcher does not mark upon or alter any of these official records. (The judge of election must either personally supervise or delegate supervision of such inspection of the list or lists.) *Section 417(b)*

Certified Poll Watcher Right to Inspect the Returns

Public Inspection of Returns

- The general returns, which are returned **unsealed** by the various election districts, are open to public inspection as soon as they are received from the judges of election. None of the sealed election materials returned by the election officers may be opened by any person, unless ordered to do so by the return board or the court of common pleas. *Section 1402(a), 25 P.S. § 3152.*

Please note that none of the statutory provisions outlined in this document permit watchers, candidates or their attorneys to interfere with, hinder or unlawfully delay a district election board or the county board of elections in the conduct of its duties. Neither do any of these provisions permit watchers, candidates or attorneys to harass or intimidate voters or election officials. Therefore, a county board of elections may issue reasonable regulations, not inconsistent with law, regarding the conduct of its duties and the duties of its local election boards.

EXHIBIT B

Copying Prohibited

NICHOLE MISSINO, LEAH HOOPES

And

GREGORY STENSTROM, *ALL PRO SE*

Petitioners

v.

DELAWARE COUNTY BOARD OF ELECTIONS

And,

DELAWARE COUNTY BUREAU OF ELECTIONS,

And,

DELAWARE COUNTY

And,

IN THEIR OFFICIAL CAPACITIES

JAMES M. PARKS,

And

JOHN P. MCBLAIN

And

JAMES P. ALLEN,

And

ROBERT WRIGHT,

And

WILLIAM F. MARTIN,

And,

ASHLEY LUNKENHEIMER,

IN THE DELAWARE COUNTY COURT
OF
COMMON PLEAS, PENNSYLVANIA

No.: CV-2022-008091

CIVIL ACTION, CIVIL LAW, ELECTION
LAW

AMENDED COMPLAINT

DISCOVERY REQUESTED

EVIDENTIARY HEARING REQUESTED

JURY TRIAL REQUESTED

And,

SCOTT ALBERTS,

And,

CHRISTINE REUTHER,

And,

MONICA TAYLOR,

And,

ELAINE P. SCHAEFER,

And,

KEVIN M. MADDEN,

And,

RICHARD R. WOMACK, JR

Respondents

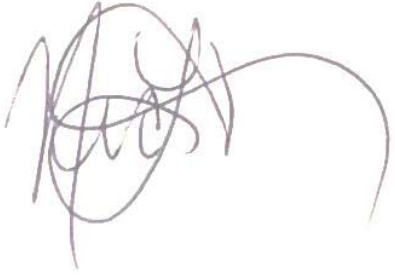
AMENDED COMPLAINT

1. For the reason enumerated in previously submitted ANSWER TO DEFENDANTS' PRELIMINARY OBJECTIONS, Plaintiffs dutifully amend their Complaint by adding as named Defendants: Delaware County, James P. Allen, Robert Wright, James M. Parks, William F. Martin, John P. McBlain, Ashley Lunkenheimer, Scott Alberts, Christine Reuther, Monica Taylor, Elaine P. Schaefer, Kevin M. Madden, and Richard Womack, Jr.
2. The added Defendants named in their persons, are so named in their official capacities as government representatives, officials and named agents of the corporate bodies of the other Defendants, all with specific nexus to the complaint.
3. During three injunctive hearings related to the complaint, and 15.5 hours of

testimony, statements were elicited from, and presented by, witnesses that the newly named Defendants gave explicit orders, or were directly aware of, or collaborated in said orders, to their subordinate employees of the County, subordinate contractors, and other outside agents, to commit violations of law.

4. Specifically, Laureen Hagan, Delaware County Clerk of Elections, testified during the injunctive hearing of November 21st, 2022, that she had received orders from James P. Allen, Director of Elections; and, Robert Wright, County IT Director; and “the solicitors” while looking toward Defendants’ table, to break federal and state laws regarding sending mail in ballots to unverified voters, and the recording of same. Presiding Judge Dozor immediately sustained Defendants’ objection to Plaintiffs’ immediate follow-up question to name said solicitors, hence the necessity to name all of the presumed solicitors in this amendment pending further proceedings.
5. James P. Allen, Director of Elections, testified of committing further election law violations, that he either made unilaterally, or at the direction of newly named Defendants..
6. Plaintiffs can only presume that “the solicitors,” who are subordinates of the Board of Elections Executive Members, who are, in turn, subordinates of the Delaware County Council, must have, or should have, provided orders and direction to violate federal and state laws with the knowledge and consent of their respective chains of command, hence the addition of their names, in person, in their official capacities.
7. Among multiple matters related to the cause of action, for further discovery, deposition, and evidentiary hearings will be the examination of Delaware County Fiduciary Bond contracts and requirements, which presumably include that no knowing violations of laws be made, or caused to be made, by authorized agents of the County without notice, communication, legal opinion, correspondence with, or approval by, County Fiduciary Bonding agents and Bond holders.

Respectfully submitted:



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GREGORY STENSTROM

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VERIFICATION

We, Nichole Mission, Leah Hoopes and Gregory Stenstrom, hereby verify the statements made in the foregoing pleadings are true correct to the best of our knowledge, information, and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa. C.S. section 4904 relating to unsworn falsification to authorities.

Respectfully submitted:



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