



United States Senate Rules Committee

May 19, 2022 Hearing on Administration of Elections

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Thank you to Chairwoman Klobuchar, Ranking Member Blunt, and other esteemed members of the Senate Rules Committee for allowing me to offer remarks regarding the state of elections administration in Pennsylvania.

I am Leigh Chapman, Acting Secretary of the Commonwealth of Pennsylvania. I was appointed by Governor Tom Wolf on January 8, 2022. As Pennsylvania's Chief Election Officer my role is to ensure that elections are secure and accessible and that every eligible voter in Pennsylvania can register, cast their ballot, and have it counted.

As you know, Pennsylvania's primary was this Tuesday, May 17, 2022. Pennsylvania has 8.7 million registered voters. For the May 2022 primary, approximately 900,000 mail-in ballots were requested, and as of the morning of Election Day, May 17, 2022, counties reported nearly 650,000 ballots returned—about 70 percent of the requested ballots. Polls

closed at 8 pm on Election Day, at which time counties were able to begin the process of receiving and canvassing returns from polling locations. In Pennsylvania, counties cannot begin pre-canvassing mail ballots until 7 a.m. on Election Day, which coincides with their busiest days of the year. We expect to have unofficial results for all races in the next few days.

You should know that Pennsylvania has made significant strides to modernize its election systems and election administration processes in the past several years and that 2020 was an unprecedented year in Pennsylvania elections. First, all counties implemented new voting systems that maintain a voter-verifiable paper record of each vote cast. The General Assembly, in a bipartisan effort, enacted legislation—Act 77 of 2019—that provided up to \$90 million in funding for the new voting systems so Pennsylvania could join the majority of states that had already implemented voting systems that are capable of meaningful post-election audits and that provide a verifiable paper record to confirm the accuracy of election outcomes. Second, along with funding for the new voting systems, Act 77 also enacted sweeping election reforms that gave Pennsylvanians more voting options and expanded access to the ballot. The 2020 Primary was the first election where millions of Pennsylvanians were given the option to vote by mail without having to provide an excuse. Adding this voting option

turned out to be very well-timed, and almost prescient, as the commonwealth and nation were gripped by a global pandemic in March 2020. No-excuse mail-in voting provided voters with a safer alternative to voting in person during the pandemic. As a result, demand for the new mail-in voting option increased quickly and dramatically.

Since then, the Department of State has continued efforts to modernize and improve its election systems and processes. The Department recently implemented an enhancement to the Pennsylvania Statewide Uniform Registry of Electors (SURE) system to support walk-in ballot requests, also known as counter-voting transactions, in response to concerns voiced by county election offices. This update allows county staff to use a small single label printer to immediately print a unique ballot label for a voter who requests an absentee ballot or mail-in ballot in person and directly issue them a ballot, rather than requiring the ballot to be processed in a batch and printed on a standard desktop printer. This cuts down on voters' wait time when applying for a mail ballot in person.

Additionally, the Department is moving forward with a full replacement of the SURE system. This modernization effort will not only provide additional functionality that will assist counties and voters in the process, but also adds a variety of measures that will enhance the security

of the SURE Registry, including, but not limited to, multifactor authentication of users and the ability to immediately deliver routine software patches to users' systems. Part of the first phase of the new SUREVote system, a revamped election night reporting module, was beta tested during the primary election on Tuesday. Phase 1 is election-night reporting (ENR) and election management. The Department has been testing the new SUREVote system alongside the existing legacy SURE system as we work to implement Phase 1 of transitioning to the new system. In late February, the Department tested the election management module with the assistance of seven counties: Bradford, Dauphin, Erie, Lancaster, Lehigh, Lycoming, and Philadelphia. Phase 2 of SURE modernization includes the voter registration and voter list maintenance functions, and Phase 3 includes updates to election management and voting by absentee and mail-in ballot. Finally, Phase 4 will include campaign finance and lobbying disclosure functions. We are currently expecting all four phases of modernization to be complete by 2023.

Despite the significant progress we have made to modernize Pennsylvania elections, election administrators in the state still face significant threats and challenges. One of the biggest threats to our elections and to democracy in general is misinformation and disinformation.

Whether intentional or unintentional, both reduce voters' confidence in the electoral process, and in turn, discourage participation. Let's use the example of drop boxes.

As stated earlier, the state legislature enacted bipartisan election reforms to the Pennsylvania Election Code in 2019 when it added no-excuse mail-in voting as an option for voters to cast a ballot. Voters are permitted to return a mail ballot by mail or by hand delivering it to the county board of elections. To facilitate the mass return of mail ballots, counties established secure drop boxes at designated locations for the convenience of voters that cannot reach their county board of elections office during normal business hours. Under current Pennsylvania law, only the voter is permitted to hand-deliver their voted mail ballot to the county board of elections, with an exception for voters with a disability who can designate an agent in writing to return their ballot. As with many significant legislative changes, the public needs - and will continue to need - ongoing education regarding the technical requirements for mail-in voting, especially as the process differs from traditional, in-person voting.

Although mail-in voting started as a bipartisan effort, it has become a partisan flash point. Rather than acknowledge the possibility of voter confusion and the need for additional education, some have attributed voter

error to malicious, intentional attempts to subvert the integrity of the electoral process—voter fraud. Thus, there are some, even some of those who voted to enact the reform, that say mail-in voting, and more recently drop boxes, are a vehicle to promote voter fraud and cannot be trusted. I disagree. Drop boxes are a secure way to drop off a mail ballot into the custody of county election officials. To be clear, there is no evidence that mail-in ballots or drop boxes promote voter fraud.¹ In each of the federal and state actions challenging the outcome of the 2020 Presidential election in Pennsylvania, the first general election where millions of Pennsylvanians voted by mail, courts wholly rejected the allegations of widespread irregularities because those allegations lacked any evidence. The November 2020 election was free, fair and secure, with no widespread voter fraud.

When there are allegations of voter fraud, the Department refers those to the appropriate law enforcement agency for investigation. While the Department does not investigate fraud, our procedures for mail-in voting incorporate protections designed to identify irregularities before

¹ In her 2009 book, *The Myth of Voter Fraud*, University of Rutgers-Camden Professor Lorraine Minnite defines the terms as the “intentional, deceitful corruption of the electoral process by voters.” Voter fraud is impersonation a voter, ineligible voters registering to vote, double voting, tampering with ballots. Voter error is not fraud.

ballots are counted. These protections are effective. The outside envelope of each mail-in ballot is assigned a unique barcode which is connected to the specific voter's file. Further, once a mail ballot has been submitted, the barcode is scanned, and it goes through an initial review process, all of which occurs before any mail ballots are removed from their secrecy envelopes for counting. During this initial review process, county election officials review the voter information on the mail ballot envelope and ensure the voter is on the list of absentee and mail-in voters. The names of voters who request a mail-in ballot are moved to the back of poll books and those entries include indicia noting that the voter either requested a mail ballot or returned their voted ballot, as the case may be. While we do have a process for those who have applied to vote by mail to vote in person; that process requires them to either surrender their unvoted mail ballot and outer envelope at their polling location or vote provisionally. When the department is made aware of any allegations of voter fraud the department refers them to the appropriate law enforcement agency. The Department of State does not investigate or prosecute voter fraud. We have not been presented with any credible evidence of "ballot trafficking" or "ballot harvesting."

Voter error requires additional public education regarding what is still a relatively new process for many of the millions of Pennsylvania voters.

The public discourse surrounding these drop boxes, under the guise of preventing voter fraud, raises concerns that voters will be deterred, or even intimidated, while exercising their lawful right to cast a ballot. For example, one county's district attorney announced that he will have detectives surveil drop box locations because security video from the 2021 election purportedly showed hundreds of voters dropping off more than one ballot. The District Attorney has acknowledged to the press and to me personally that there was no evidence that the drop boxes have been used to tamper with votes or cast fraudulent ballots. I have been in communication with the DA and expressed my concerns that the presence of law enforcement in this context could deter voters from lawfully casting a ballot. We support measures to secure drop boxes to prevent tampering and destruction of ballots and have provided guidance to the counties on the best practices for managing drop boxes. We will not support actions that cause voters to doubt the election systems in place or actions that interfere with eligible voters exercising their right to vote.

While there are several reforms that the Department would propose to modernize our election laws, I'll focus on a few. One reform that would

go a long way towards squelching disinformation about mail-in balloting is also consistently requested by county election officials for administrative reasons: the ability to pre-canvass mail-in and absentee ballots ahead of Election Day. During pre-canvassing, officials compare the voter information on the outer ballot envelope to ensure that the voter is on the list of absentee and mail-in voters and verify that the voter signed and dated the outer envelope and then they remove the secrecy envelope from the outer envelope. Under current law, pre-canvassing cannot begin until 7 am on Election Day—which even before widespread mail-in voting, was the busiest day of the year for election workers. In 2020, the nation waited days for Pennsylvania’s results. That delay created an opportunity for speculation and conjecture regarding the process, including accusations of fraud or other nefarious activities. Extending the pre-canvassing period increases the likelihood that election officials can post election results as close to the close of the polls as possible. This reform also alleviates the pressure experienced by county and local election officials on Election Day as they are trying to pre-canvass thousands of mail-in ballots while in-person voting is underway throughout their counties.

Other reforms that the Department of State identified as areas of possible improvement include: a process by which voters can cure minor

technical deficiencies in ballots. Again, as mail-in voting becomes part of the culture of voting in Pennsylvania, voters still make technical mistakes. The requirements for completing a mail-in ballot are nonetheless important and, if not followed, could result in a voter's ballot being invalidated. For instance, under current legal precedent, voters must sign and date the declaration on the outside envelope which contains the voters' information, and if they do not, the ballot will not be counted. In its current form, the Election Code does not set forth a process for qualified voters to cure these minor errors.

Finally, and most significantly, counties consistently express another need: adequate, consistent funding from the state and federal government. In Pennsylvania, counties bear virtually all the cost to run elections at every level. While counties have long needed more support, the circumstances of 2020 exposed the gaping flaws in the current funding model. In addition to the pandemic, new threats and new election law required counties to upgrade their systems and machines.

The federal government recognized the urgent need for resources in election administration and in March 2020, Congress passed the CARES Act, which included \$400 million in emergency election funding, of which \$14.2 million was allocated to Pennsylvania. The Department distributed \$6

million of CARES Act fund to the counties through block grants, which were allocated based on the number of registered voters as of April 13, 2020. Pennsylvania counties received an additional \$1.1 million for return postage on mail in ballots for 2020 general election, except for 2 counties that did not participate. The Department used remaining funds for an outreach and education campaign, and personal protective equipment and supplies to be used at polling places for the 2020 primary election. Much of the CARES Act funding was spent in advance of the November 2020 General Election.

In addition to the CARES Act funding, many counties had received funding from the Help America Vote Act (HAVA). Although the funds were to last into 2022, many counties expended those funds prior to the November 2020 General Election.

Nonprofits stepped in at the eleventh hour, providing grants to the state and making grants available to any county interested in applying for additional funds. In the case of the Department of State, we vetted grants to the Department using established procedures and statutory requirements. County officials from both major parties have acknowledged that those grants filled a critical gap which if not filled, could have proven

disastrous. Although the Department made all counties aware of this opportunity and encouraged them to apply, not all counties chose to do so.

The efforts of these third-party non-profit organizations to ensure that the public could safely access the ballot in 2020 has become another point of contention, as two bills pending in the state legislature would ban such funding in the future. In hearings and in media reports discussing the legislation, counties indicated that the third-party funds permitted them to acquire PPE for public-facing staff, increase poll worker pay, hire additional staff needed to process mail-in ballots, and acquire capital needed to process the thousands of mail-in ballots that voters returned to counties. As a current Philadelphia Commissioner, Seth Bluestein, a Republican, testified to the state legislature regarding Philadelphia's purchase of equipment using the CTCL funds: "These technological enhancements will enable the [election] department to more affordably produce, maintain, and count mail-in ballots for years to come as we continue implementing the unfunded mandate of Act 77." The Philadelphia City Commissioners estimate that they saved Philadelphia taxpayers thousands, if not millions of dollars, by making investments in election infrastructure.

On almost every occasion that the Department or county elections officials have appeared before the General Assembly of Pennsylvania to

discuss elections, we have testified that the commonwealth desperately needs a new model for funding election administration—one in which federal and state governments share in the cost that counties bear to administer the process that selects leaders on both state and federal levels. In the Department's most recent budget proposal for the upcoming fiscal year, we proposed adding 21 new positions to our elections team, several of which will provide direct support to counties in administering elections.

Today, the Department reiterates its request that federal and state legislatures share the cost of administering state and federal elections. We do acknowledge that the Department recently received an additional \$2 million dollars of HAVA funds this year, which we will use for, among other things, security and technology enhancements, training, voter education, and subgrants to the counties for hardware and equipment related to modernization of the SURE system. While that funding is needed and appreciated, we know that there is still great need at both the state and county level. Thus, we ask that members of this committee support the President's new proposal to infuse \$15 billion dollars into elections, including \$10 billion dollars to go directly to states, and \$5 billion dollars to improve postal delivery of mail ballots.

Thank you for the opportunity to participate in this important conversation. I welcome any questions that you may have.