COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE

December 17, 2020

Honorable Representative Seth Grove, 196th District
Interim Chairman, House State Government Committee
7 East Wing
Harrisburg, PA 17120-2196

Dear Interim Chairman Grove:

This letter is to serve as the Department's formal response to your letter dated November 19, 2020.

BACKGROUND

Act 77 of 2019 and Act 12 of 2020 made the most extensive changes in more than 80 years to how voters vote and how we run elections in Pennsylvania, including longer voter registration periods, no-excuse mail in voting, permanent mail-in voter lists, changed deadlines for casting mail-in and absentee ballots, in-person early voting by mail ballot, elimination of straight party ticket voting, and more.

Local and state election officials implemented all these changes in the face of a global pandemic, delivery delays acknowledged by the United States Postal Service itself, and an unprecedented amount of litigation and challenges brought throughout the year.

Despite all these challenges, and thanks to the bilingual broad-scale public education campaigns and guidance the Department of State (DOS) distributed throughout 2020, Pennsylvanians registered and voted in record numbers in the 2020 General Election. Approximately 9.1 million Pennsylvanians are registered to vote, more than 300,000 more voters than have ever previously been registered. And turnout in the November election included more than 6.9 million voters - 800,000 more Pennsylvanians than voted in any prior election in our history. The November 3, 2020 General Election was safe, secure, and accessible, no matter how eligible voters chose to vote.

Throughout 2020, DOS provided uniform guidance to all county boards of elections regarding election reforms. DOS provided updates to county boards of elections and voters as courts resolved a number of litigation disputes directed at election administration. Multiple courts involved in this litigation favorably noted the Department of State's guidance and cited it in support of their decisions.

In both Pennsylvania and across the country, frivolous litigation around the 2020 General Election along with baseless allegations of fraud and other conspiracy theories have been repeatedly rejected by federal, state, and local courts. Additionally, the Elections Infrastructure Government Coordinating Council and the Election Infrastructure Sector Coordinating Executive Committees stated the following about the General Election:

> The November 3rd election was the most secure in American history. . . . There is no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised. . . . While we know there are many unfounded claims and opportunities for misinformation about the process of our elections, we can assure you we have the utmost confidence in the security and integrity of our elections, and you should too. When you have questions, turn to elections officials as trusted voices as they administer elections.

This Council includes the U.S. Department of Homeland Security Cybersecurity and Infrastructure Security Agency (CISA), the National Association of Secretaries of State, National Association of State Election Directors, the Election Assistance Commission, and many other agencies involved in elections.

Over the last several months, CISA also created a #PROTECT2020 Rumor vs. Reality website, working to debunk common unfounded disinformation and rumors about the 2020 General Election, recognizing that "[m]is- and disinformation can undermine public confidence in the electoral process, as well as in our democracy. Elections are administered by state and local officials who implement numerous safeguards to protect the security of your vote pursuant to various state and federal laws and processes." *See* https://www.cisa.gov/rumorcontrol

Concerns about fraud in the 2020 General Election were also rebutted by United States Attorney General William Barr, who stated that, "to date, we have not seen fraud on a scale that could have effected a different outcome in the election."

In 2020, as in years prior, Pennsylvania continues to be a purple state, with voters splitting their tickets between Republicans and Democrats in statewide races.

- In 2020, there were four statewide races in 2020. Two Republicans won and two Democrats won. The Democratic candidate won the presidential race by over 80,000 votes or about 1.2 percent.
- In 2016, there were five statewide races. Three Democrats and two Republicans won. The Republican candidate won the presidential race by 44,292 votes or about 0.7 percent.
- In 2012, there were five statewide races. Five Democrats won. The Democratic candidate won the presidential race by 309,840 votes or about 5.4 percent.

- In 2008, there were four statewide races One Republican and three Democrats won. The Democratic candidate won the presidential race by 620,478 votes or about 10.35 percent.

IT QUESTIONS

1. ***At the beginning of October, several state agencies faced a server failure from a contracted vendor. My understanding is the server outage impacted the voter registration data for the Commonwealth. Can you provide documentation on what happened and if any data was lost, changed or removed from the server?***

   Due to an equipment failure at a facility managed by Unisys for the Commonwealth, multiple Commonwealth agencies, including the Department of State, experienced an outage of many online services from late Saturday October 3, 2020, that ended early Monday morning on October 5, 2020.

   The Pennsylvania Office of Administration (OA) worked around the clock with the vendor to bring services back online as quickly as possible. Investigations by OA were conducted, and corrective measures employed. There was no evidence of malicious interference. All data was backed up and no data was lost.

   Many of the Department of State's election-related and professional licensing services were among the applications affected, including online voter registration and the online application for mail-in ballots.

   Nevertheless, the votespa.com site was still accessible throughout and Pennsylvanians were still able to download and print paper voter registration and mail-in ballot applications, as well as other election-related forms and applications. Additionally, voters continued to have the option to call the DOS toll-free voter hotline, 1-877-VOTESPA (1-877-868-3772), and request that an application be mailed to them.

   Counties were still able to process registrations and mail-in and absentee applications and ballots via alternative, non-online processes, and continued to be able to generate reports and export data for other continuing election processing.

   No additional issues occurred following this isolated incident.

   For more information, please see the DOS's two press releases regarding this matter:

   - https://www.media.pa.gov/pages/state-details.aspx?newsid=408
   - https://www.media.pa.gov/pages/state-details.aspx?newsid=407

2. Northampton County had serious software issues in November 2019, what were these and how were they resolved? Did this impact continuance of certification for this system with the state?

Northampton County officials and the voting system vendor Election Systems & Software (ES&S) have confirmed to the Secretary that in 2019 the two election day issues with their voting system were caused by 1) human error in programming the details of the election into the system; and 2) imprecise factory configuration of limited numbers of machines.

The first issue caused an error in the end-of-night tally report but did not impact the paper votes or voting system screens. The second issue caused some machines to have some buttons that were difficult to select.

The situation underscored the importance of having a paper record of each ballot cast, as the county was able to re-scan every paper record of votes cast. Because the Northampton County voting systems included voter-verified, auditable paper records of the votes, the County was able to successfully recount the votes and avoid the need for a new election.

To our knowledge, Northampton County has not had issues with its voting systems since that time

3. Did any other counties experience server issues? If so, what happened and how long did it take to resolve?

This question does not provide sufficient clarity or details as to the source and/or meaning of the question. Please feel free to provide more specifics or details.

SURE SYSTEM QUESTIONS

We believe these questions below reflect a misunderstanding of what the Statewide Uniform Registry of Electors (SURE) system is, and the fact that SURE is independent and serves a different purpose from both the Election Night Reporting (ENR) website and the unofficial informational dashboard.

The SURE system is the statewide database used by county election officials to maintain data related to elections and voters. Each county board of elections is responsible for ensuring the accuracy of the data that it enters into SURE.

The ENR website provides unofficial results, based on spreadsheets regularly submitted by the counties to the Department, as the counties continue to canvass their ballots. These numbers

change as the counties count and report in-person, mail-in, absentee, and provisional ballots. All official results must be certified by the counties to the Department.

The unofficial informational dashboard tracks generally the different types of ballots already counted and approximately what number remained to be counted, as reported by the counties, for approximately two weeks on and after Election Day. As counties were finishing counting and certifying their results to DOS, the unofficial dashboard ceased to be updated.

1. What is the platform on which the SURE system is operating?

In January 2017, the Department of Homeland Security (DHS) designated the infrastructure used to administer the Nation's elections as critical infrastructure. Also, Congress created the Protected Critical Infrastructure Information Program (PCII). For more information on the critical infrastructure designation and on the PCII program, please see the links below:

- https://www.cisa.gov/election-security
- https://www.cisa.gov/how-pcii-protected

Protection of critical infrastructure information is and has been one of the most essential security protocols recommended by security experts at every level. This means that information such as system configuration and architecture and other types of information related to critical infrastructure, such as that asked here, should, under no circumstances, be shared with anyone other than those with an absolute need to know in the performance of their homeland security duties.

2. Why was the data in the SURE system inconsistent with county data?

This question does not provide sufficient clarity or details as to the source and/or meaning of the question but seems to suggest the type of confusion indicated in the opening to this section. Please feel free to provide more specifics or details.

3. The SURE system reflected several "uncounted mail-in ballots" that is inaccurate and believed to be the number of deficient mail-in ballots. Observers of this data understand this number to mean a block of mail-in ballots remain to be counted. Is this an accurate understanding and if so, why is the data reported/reflected in such a manner?

This question does not provide sufficient clarity or details as to the source and/or meaning of the question. Please feel free to provide more specifics or details.

For your information, each of the 67 counties enter data separately into SURE, and that data is a point-in-time representation of county processing. Counties count and report in-

person, mail-in, absentee, and provisional ballots over time. All official results must be certified by the counties to the Department.

4. Will the SURE system be updated in the form of a new machine, similar to the new voting machines PA purchased in 2019? If so when?

First, the SURE system is not a machine, it is a database that houses election and voter data. With that said, the project to replace the statewide voter registration database and election-management system is expected to begin in 2021 and the counties will be trained and granted access when the system becomes operational.

5. How does the system in fact work – in particular, for counties?

Each of the 67 counties enter data separately into SURE, and that data is a point-in-time representation of county processing. Counties work on secure systems approved by the Department of State, and only authorized county individuals may access the system. Counties count and report in-person, mail-in, absentee, and provisional ballots over time. All data is backed up regularly. All official results must be certified by the counties to the Department.

6. Explain its use from start to finish, meaning from the time someone registers to vote and to the time a ballot is recorded and counted.

Each of the 67 counties enter data separately into SURE, and that data is a point-in-time representation of county processing. Counties work on secure systems approved by the Department of State and only authorized county individuals may access the system. Counties enter voter registration information, check the eligibility of the applicant, and once they are approved as a qualified voter based on the extensive requirements[1], if a ballot is cast, that ballot must be matched to and entered into the voter record.

Additionally, each return envelope used by the voter contains a bar code unique to the voter whose application was properly processed and verified. These bar codes serve to prevent a voter from submitting more than one ballot.

[1] For example, in order to vote by mail (whether "mail-in" or "absentee"), a qualified Pennsylvania voter must request a ballot from the Secretary or his or her county board of elections. See 25 Pa. Cons. Stat. §§ 3146.2(a), 3150.12(a). In doing so, the voter must provide, among other information, his or her name, date of birth, voting district (if known), length of time a resident in the voting district, and party choice in case of a primary. See id. §§ 3146.2(b), 3150.12(b). Additionally, voters must provide proof of identification in the form of the voter's driver's license number, or, in the case of a voter who has not been issued a current and valid driver's license number, the last four digits of the voter's Social Security number, or, in the case of a voter who has not been issued a current and valid driver's license or Social Security number, a copy of another form of approved identification. See 25 P.S. § 2602(z.5)(3)

Counties count and report in-person, mail-in, absentee, and provisional ballots over time following the close of polls. All data is backed up regularly.

7. When was it started, what was the contract, have there been updates, who did the work, etc.? Does the DOS keep backups? If so, how often do they back up the system and how long do they keep it?

DOS facilitates the requirements of Act 2002-3, 25 Pa.C.S. §§ 1101 *et seq.*, imposed upon county voter registration commissions through SURE. The SURE system, which was created to implement this Act is the first statewide system into which all county legacy systems were migrated.

Backups are performed regularly, and updates are made as deemed necessary. However, details about the backup system and updates are considered critical infrastructure information and may not be disclosed.

8. How do counties put information into SURE? Once information is entered, who is responsible for ensuring its accuracy?

Counties enter data into SURE via secure systems approved by the Department, and only authorized county personnel may access the system. Each county board of elections is responsible for ensuring the accuracy of the data that it enters into SURE.

For more information, please see: 25 Pa.C.S. §§ 1203, 1204 and 1222.

9. How do they make corrections if the information is wrong (e.g., the 28,000 ballots in Allegheny County, other issues with absentee/mail-in)?

The counties correct any errors in their SURE data directly. The 28,000 ballots in Allegheny County referenced in the question above were not related to an issue with SURE; rather the mail vendor, Midwest Direct, made an error that affected those ballots. The ballots containing the error were cancelled and could not be voted. New ballots were issued.

Counties select vendors to assist with printing and/or mailing ballots if they choose, and those vendors have the responsibility to work with the county to ensure that the ballots produced match the voting system ballot specifications. Midwest Direct made errors with Ohio ballots as well.

For more information, please see the following news reports:

- https://www.wkyc.com/article/news/politics/elections/midwest-direct-removes-trump-2020-flag/95-0742c98f-8101-4e79-adcb-7203b31f8c67

- https://www.post-gazette.com/news/politics-local/2020/10/14/Election-ballots-mail-in-absentee-incorrect-allegheny-county-pittsburgh-voters/stories/202010140139

10. There were counties that mentioned more votes uploaded than cast. Can you explain the difference in calculations and was that issue ever resolved? If so, how?

This question does not provide sufficient clarity or details as to the source and/or meaning of the question. Please feel free to provide more specifics or details.

It is worth noting that there is no instance in which a county certified results in any race in excess of the number of votes cast

See above distinctions between different election and vote reporting systems.

Each of the 67 counties separately enter data into SURE, and that data is a point-in-time representation of county processing. These unofficial numbers change as counties count and report in-person, mail-in, absentee, and provisional ballots over time. All official results must be certified by the counties to the Department.

11. There were reports that some ballots could not be processed if the selection were made using marker pens, such as Sharpies. Did DOS receive any information about that? How was the issue resolved?

There was no such issue in Pennsylvania. Whenever any ballot is unable to be read by a scanner for any reason, counties centrally count those ballots utilizing bipartisan teams.

The Department addressed this issue during a press conference on November 4, 2020. The pertinent comment can be found at approximately the 18-minute mark at the link below:

- https://pacast.com/m?p=18380

Please see an excerpt below from the Rumor Control Site published by the U.S. Department of Homeland Security, Cybersecurity and Infrastructure Security Agency (CISA):

…

ELECTION DAY

✔ **Reality: Election officials provide writing instruments that are approved for marking ballots to all in-person voters using hand-marked paper ballots.**

✘ Rumor: Poll workers gave specific writing instruments, such as Sharpies, only to specific voters to cause their ballots to be rejected.

Get the Facts: Election jurisdictions allow voters to mark ballots with varying types of writing instruments, based on state law and other considerations such as tabulation system requirements. Poll workers are required to provide approved writing devices to voters.

Although felt-tip pens, like Sharpies, may bleed through ballots, some election officials have stated that ballot tabulation equipment in their jurisdictions can still read these ballots. Many jurisdictions even design their ballots with offset columns to prevent any potential bleed through from impacting the ability to easily scan both sides of ballots.

If a ballot has issues that impact its ability to be scanned, it can be hand counted or duplicated, or adjudicated by election officials, who use defined procedures such as chain of custody to ensure protect ballot secrecy and integrity. Many states additionally have "voter intent" laws that allow for ballots to be counted even when issues such as bleed-throughs or stray marks are present, as long as the voter's intent can still be determined.

Useful Sources

- After the Voting Ends: The Steps to Complete an Election, NCSL,
- Ballot Duplication blog series, Council of State Governments Overseas Voting Initiative
- Your local or state election officials. EAC state-by-state directory

….

- https://www.cisa.gov/rumorcontrol

12. Was the DOS made aware of any instance where a ballot was cast, or someone attempted to cast a ballot on behalf of someone who was deceased? What if any checks are made for mail-in or absentee ballots to determine whether the voter is alive?

Yes, DOS was made aware of a few isolated incidents of individuals attempting to apply for or cast a ballot on behalf of a deceased relative. These were caught by the county elections offices thanks to the extensive checks that exist in Pennsylvania which prevent such applications from being processed or ballots from being counted. All such attempts we are aware of have been referred appropriately to law enforcement for investigation and prosecution as warranted. For more information, please see the link below:

- https://www.timesleader.com/news/806981/forty-fort-man-charged-with-signing-deceased-mothers-name-on-absentee-ballot-application

13. ***It has been reported that voter registrations or applications for ballots included birthdates that were impossible or highly doubtful (such as 1-1-1900).***

The Department is aware that some voter registration records contain "placeholder" date-of-birth (DOB) information, such as 1/1/1900 or 1/1/1800. The DOBs on some of these records are entered as 1/1/1900 to enable counties to comply with the Address Confidentiality Program as mandated by Act 2004-188. This program requires agencies to mask or obscure from public view the name, address and date of birth for victims of domestic violence who are enrolled in the Address Confidentiality Program.

Most of the remaining records that contain placeholder dates are the result of incomplete data or validation limitations that resided in counties' legacy voter registration systems. Voter list maintenance efforts continue to reduce the number of these records and the department will continue to work directly with counties to ensure these legacy system issues are not carried over into the next iteration of the SURE system.

a. How could that happen and why was the registration or application accepted?

See above.

14. ***How are dates of birth used in the voter eligibility verification process?***

Dates of birth are used for validating that the voter is at least 18 years of age, or will be by the date of the next election. The identification numbers from the Department of Transportation and the Social Security Administration are used to verify a voter's identification.

15. ***What are the requirements for determining the voter's correct date of birth?***

Pennsylvania's voter registration law – Act 2002-03 – requires county voter registrars to determine 4 things upon receipt of a voter registration application:

1. Whether the application is complete;
2. Whether the applicant is a qualified elector;
3. Whether the applicant has an existing registration record; and
4. Whether the applicant is entitled or qualified to receive the requested transfer or change, if applicable. (*See* 25 Pa.C.S. § 1328(a).)

The applicant's stated date of birth is one of the elements used to determine if an applicant meets the qualifications to be registered, in conjunction with other processes. It is also one of the elements used in verifying identification (driver's license # or last 4 digits of SSN) provided by an applicant on her application, in conjunction with other procedures.

There is no separate requirement to verify a voter's date of birth. The date of birth is to ensure the voter is 18 years of age or older.

Each county is responsible for processing voter registration applications. *See* 25 Pa.C.S. 1328.

16. Would an incorrect date of birth increase the likelihood that a person with the same name could vote on behalf of another?

Though an incorrect DOB might make it difficult or more time-consuming to verify a registered voter's identity when conducting data analysis, it would not increase the likelihood that someone with the same name could vote on that voter's behalf. The Department has not been notified that such incidents have occurred.

As required by Act 2002-3, every voter with a record in SURE is assigned a unique ID number that distinguishes that voter record from every other voter record in the system. Even when a voter transfers to another county, the unique ID remains and only the county suffix on the ID changes.

17. Have you run into any difficulties with your own agency firewall and server given the volume of information uploaded to it?

The DOS did not experience any difficulties with the firewall. Before and after the primary election, we expanded the server space and capacity to ensure the SURE system could adequately handle high-volume county processing for this election.

a. If so, how did you become aware of it and how was it resolved*?*

Not applicable

18. What was the process for sending postcards (i.e., information) about mail-in ballots to voters? Where was the list generated? How often is the list updated? Were all registered voters sent information or were they randomly selected or otherwise chosen by some other method?

A postcard was sent to all eligible primary voter households before the June 2 primary informing them of the new date for the primary election, important deadlines, and information about eligibility to vote by mail. This postcard was sent to households of all registered Republicans and Democrats in Pennsylvania in the SURE database. Prior to the General Election, the Department sent a postcard to all individual voters statewide who had requested a mail-in or absentee ballot but not yet returned it by mid- October, reminding them of the return deadline.

ISSUES ELECTION DAY AND BEYOND:

1. ***How did counties implement Department of State guidance related to resolving apparent irregularities such as ballots returned without secrecy envelopes, ballots that were sent with the wrong information/district, or ballots that weren't signed, or had any other defect?***

   In preparation for the November 2020 General Election, which was the first General Election conducted after the enactment of Act 77, the Department of State issued numerous guidance documents with regard to canvassing and counting of mail-in and absentee ballots. Such guidance included, among other things, instructions regarding the requirements for counting or setting aside ballots depending on whether they met certain requirements in the Election Code pertaining to signatures, dates, and other envelope requirements as well as the use of provisional ballots. Such guidance was sent to each of the 67 county boards of election and made available to the public through the Department of State's public website.

   - https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Pages/Election-Adminstration-Tools.aspx

2. ***Did all counties handle these the same way? If not, why?***

   The Department of State issued the uniform guidance to all 67 counties. How counties implemented the guidance has been reviewed in litigation related to the election, and specific questions are best directed to county election officials.

3. ***Were these ballots segregated? If not, why?***

   This question is best directed to county election officials.

4. ***How were voters contacted about ballot defects?***

   This question is best directed to county election officials.

5. ***The Pennsylvania Supreme Court determined signatures should not be required for mail-in voting. Signature requirements are an integrity policy to verify the individual voting. The signature requirement was still valid for in-person voting an absentee voting. What other integrity provision was provided to verify mail in ballots?***

   This is not accurate; it was the General Assembly which determined that signatures are "not required for mail-in voting." As Judge Nicholas Ranjan (appointed by President

Trump in 2019) noted in his decision in *Trump v. Boockvar*, which was issued prior to the Pennsylvania Supreme Court decision referenced in the question above:

> ". . .Plaintiffs request this Court to impose a requirement—signature comparison—that the General Assembly chose not to impose. [The Election Code] does not mention or require signature comparison. The Court will not write it into the statute."

See Donald J. Trump for President, Inc. v. Boockvar, No. 2:20-cv-966 (W.D. Pa.)

The Election Code directs that in order to apply for a mail-in ballot, a qualified elector must fill out and return an application form with the elector's name, address, date of birth, voting district, and length of time residing in that voting district. *See* 25 P.S. § 3150.12(a), (b)(1)-(2).[2]

The application form includes a declaration that must be completed by the applicant verifying his or her eligibility to vote and the truthfulness of the information supplied on the application, unless the elector is unable to sign due to illness or physical disability. *See* 25 P.S. § 3150.12(d). The signed declaration exposes the applicant to criminal penalties if the representations made are false. 25 P.S. § 3502; 25 P.S. § 3527.

Upon receipt of a completed application, the county board of elections must determine the qualifications of the applicant by verifying certain specifically designated "proof of identification" and by comparing "the information provided on the application with the information contained on the applicant's permanent registration card. 25 P.S. § 3150.12b(a).

"Proof of identification" for purposes of applications to vote by absentee or mail-in ballot is defined in the Election Code as the elector's driver's license number, the last four digits of the elector's Social Security Number, a valid-without-photo driver's license or identification card or other specified form of identification. 25 P.S. § 2602(z.5)(3)

a. Did this court ruling provide a disparate treatment of in person voters and absentee voters?

The question appears to be calling for a legal conclusion as to which the Supreme Court of Pennsylvania is certainly the most authoritative body in the Commonwealth. Worth noting, again, is that the United States District Court for the Western District of

[2] The procedures for applying for and voting absentee ballots are similar and are set forth in separate provisions in the Election Code. *See* 25 P.S. § 3146.2 (Applications for official absentee ballots); 25 P.S. § 3146.2b (Approval of application for absentee ballot); 25 P.S. § 3146.6 (Voting by absentee electors). For convenience, only the mail-in ballot provisions are cited in the body of this application.

Pennsylvania came to the same conclusion prior to the ruling by the Pennsylvania Supreme Court. In particular, Judge Ranjan reviewed these claims extensively in *Donald J. Trump for President, Inc. v. Boockvar*, and concluded that "the inherent differences and opportunities afforded to in-person voters compared to mail-in and absentee voters provides sufficient reason [for the Election Code] to treat such voters differently regarding signature comparison. The Court concludes that the lack of signature comparison for mail-in and absentee ballots is neither arbitrary, nor burdens Plaintiffs' equal-protection rights."

See Donald J. Trump for President, Inc. v. Boockvar, No. 2:20-cv-966 (W.D. Pa.)

6. *When counties process provisional ballots, are they required to live-stream these operations?*

There is no requirement in the Election Code that counties provide a live-stream of the processing of provisional ballots.

a. Must they provide the opportunity for individuals to observe this process?

The Election Code provides that:

"One authorized representative of each candidate in an election and one representative from each party shall be permitted to remain in the room in which deliberation or determination of [challenges are] being made." 25 P.S. § 3050(a.4)(5)(iii).

7. Do you have an overall number of mail in ballots printed, mailed, and used?

The following have been reported by the counties:

Number of mail-in ballots sent by counties to voters: 2,686,804
Number of absentee ballots sent by counties to voters: 444,342
Number of cast and counted mail-in ballots: 2,264,625
Number of cast and counted absentee ballots: 372,107 (including overseas and military)

8. We received an overwhelming number of calls from voters who received mail-in ballots who insist they did not request one. The counties are adamant that those voters checked the box to receive mail-in ballots annually.

a. Do you know how many voters checked this box?

There are currently 2,178,440 voters identified as annual mail-in voters. These individuals will receive a mailing from their county every February asking if they wish to vote by mail

that year, or choose not to. If any individual wishes to remove themselves permanently from this list, they can submit the form available at the link below to their county:

- https://www.votespa.com/Resources/Documents/PADOS_PermStatusCancellationForm.pdf

b. Have counties or the state cross-referenced the annual mail-in ballot voters in the SURE system with the initial mail-in ballot application?

This question is best directed to county election officials who receive and process applications for mail-in ballots.

VOTING MACHINES

1. As this was the first election cycle for many counties where new voting procedures and mandated machines were used, how are you objectively measuring whether they were an improvement or not?

The most objective measure of the success of these new procedures and systems is simply the fact that Pennsylvanians have embraced them in record numbers. Turnout in the Nov. 3 election exceeded turnout in every presidential election since at least 1960, with more than 6.9 million Pennsylvanians voting by mail ballot or in person at the polls.

The election also apparently broke a record for highest percentage of participation by Pennsylvania's voting-age population – 70.93 percent. This exceeded the previous record of 70.3 percent in 1960. By comparison, 6.115 million Pennsylvanians voted in the 2016 presidential election, the next highest turnout figure, when 61 percent of the voting age population voted.

Moreover, Pennsylvania broke another record in October when voter registration topped 9 million for the first time. This level of engagement certainly reflects interest in the races on the ballot in November, but also clearly indicates that Pennsylvanians have overwhelmingly embraced the new voting methods introduced by Act 77 and Act 12.

In terms of new voting machines, over the past two years, the Department of State certified nine new voting systems that provide a paper record of each vote cast, meet the latest standards of security and accessibility, and can be thoroughly audited. All counties implemented new voting systems in 2019 or by the 2020 primary.

Every new voting system and paper ballot must include plain text that voters can read to verify their choices before casting their ballot, and every system has successfully completed penetration testing, access-control testing and testing to ensure that every

access point, software and firmware are protected from tampering. Many other important recommendations by national security and cybersecurity experts are also in place in Pennsylvania, including mandatory pre-election testing of all voting equipment before every election.

Thanks to the new voting systems and paper ballots, the Department has been able to conduct risk limiting audit pilots which are used to confirm the accuracy of election outcomes. Direct Recording Electronic (DRE) voting systems, which were previously in use in most counties, do not allow for such advanced election security and integrity measures. Additionally, the old voting systems in use in Pennsylvania were at the end of their useful life, and most of their software and hardware were about to be unsupported by manufacturers, so would not have been able to continue for recommended use by voters.

There were fewer significant voting system issues reported by counties and voters in this year's elections than in many comparable elections, and most feedback has been very positive.

2. What changes are you planning to better ensure future elections are both accurate and timely? What legislative changes do you anticipate will be needed?

Since March, Secretary Boockvar, each of Pennsylvania's 67 counties, and the County Commissioner Association of PA have strongly urged the Legislature to pass a law allowing counties to start pre-canvassing mail-in ballots weeks before Election Day. This is the single most important factor to allow counties to promptly and accurately canvass and count the ballots.

3. Prior to the election, there were lawsuits relating to voting machines themselves (i.e., Philadelphia). Have these been resolved and if so, how?

Since 2016, two lawsuits have been filed related to the voting machines used in the Commonwealth. The first lawsuit, *Stein v. Cortes*, was initially in reference to the old DRE voting systems that were used, and later evolved into a challenge to the ExpressVote XL.

The second lawsuit, *NEDC v. Boockvar*, is challenging the use of the ExpressVote XL. Both lawsuits are discussed below.

- *Stein v. Cortes*, 16-cv-06287, U.S. District Court for the Eastern District of Pa.

  After the 2016 General Election, Presidential Candidate Jill Stein and individual voters filed suit against the Commonwealth challenging the Commonwealth's voting machines that were used at the time. In 2016, the Commonwealth used Direct Recording Electronic (DRE) machines to record the vote. These machines

did not leave a paper trail of the vote. After almost two years of litigation, the parties entered into a Settlement Agreement on November 29, 2018, in which the Secretary of the Commonwealth agreed to certify only new voting systems for use in Pennsylvania if the system had a ballot on which each vote is recorded on paper, the machine produced a voter-verifiable record of each vote; and, the machine were capable of supporting a robust pre-certification process. The Secretary emphasized that in agreeing to the settlement, DOS was simply implementing the decision it had made well before the litigation to replace the aging voting equipment in the Commonwealth with modern machines that will include a paper record the voter could review.

As agreed to in the settlement, the Secretary continued to direct each of the 67 counties of the Commonwealth to purchase and use these new voting machines by the 2020 primaries. The Secretary certified nine systems, six of which were purchased by the counites for use in the 2020 Primary Election and 2020 General Election. The Secretary also decertified the previously used DRE's pursuant to 25 P.S. § 3031.5.

- https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Pages/Voting-Systems.aspx

In January of this year, Jill Stein filed a motion to enforce the settlement agreement, seeking to force the Secretary to rescind the certification of the ExpressVote XL for use in the Commonwealth. After an evidentiary hearing, the court found that the ExpressVote XL met the terms of the settlement agreement. The court found Jill Stein's expert not to be credible and that no credible evidence had been introduced to even suggest that these machines could be hacked. The court did not order the Secretary to decertify the ExpressVote XL. Furthermore, the court found the allegations contained within the Motion to Enforce the Settlement Agreement to be baseless and irrational and that the motion was pointless.

- *NEDC v. Boockvar*, 674 MD 2019, Commonwealth Court

A lawsuit was filed in Commonwealth Court on December 12, 2019, challenging the Secretary's certification of the ExpressVote XL electronic voting machine. Oral argument on the Secretary's preliminary objections was held before a panel of Commonwealth Court Judges on October 15, 2020. This matter is currently pending before the Commonwealth Court.

4. New questions have arisen about the Department's certification of voting system hardware and software – in particular, Dominion Voting Systems. We would appreciate information related to the vetting and selection of Dominion as a certified vendor.

Copies of the Secretary of the Commonwealth's certification report and other certification documents for the Dominion Democracy Suite 5.5A are posted on the Department's website here:

- https://www.votespa.com/About-Elections/Pages/Dominion-Democracy-Suite-55A.aspx

You can also find a copy of the Department of State's voting system security standards here:

- https://www.dos.pa.gov/VotingElections/Documents/Voting%20Systems/Directives/Conduct%20Directive%20Att%20E%20-%20PA%20Voting%20System%20Security%20Standard%20v06122018.pdf

In addition, this voting system has been independently reviewed and certified by the federal Election Assistance Commission. Extensive information about the EAC's certification of this system is available at:

- https://www.eac.gov/voting-equipment/democracy-suite-55-modification

5. Many issues were identified with the Dominion Suite 5.5 voting system that Texas denied certification of the system for use in their state-wide elections. Why did Texas not certify the Dominion Suite 5.5 and Pennsylvania did?

Every state has different standards for its certifications, and every state has different versions of the voting systems they are considering. We cannot speak to Texas's. All new voting systems in Pennsylvania were subject to the highest standards of security and accessibility testing, including successful completion of penetration testing and testing to ensure that access points, software, and firmware are protected from tampering, as well as all having auditable and voter-verifiable paper ballots.

Any voting system selected by a county must be certified by the U.S. Election Assistance Commission (EAC) and the Pennsylvania Secretary of State. As noted, information about the EAC's certification of this system is available at:

- https://www.eac.gov/voting-equipment/democracy-suite-55-modification

In 2018, Pennsylvania developed more stringent standards of security and accessibility that manufacturers must meet to achieve state certification. Nine voting systems from five manufacturers met those standards. Information on those security standards can be found here:

- https://www.dos.pa.gov/VotingElections/Documents/Voting%20Systems/Directives/Conduct%20Directive%20Att%20E%20-%20PA%20Voting%20System%20Security%20Standard%20v06122018.pdf

You can read each voting system's federal and state certification documents here:

- https://www.votespa.com/About-Elections/Pages/New-Voting-Systems.aspx

CONTRACTOR/VENDOR ISSUES:

1. It has been reported that some counties in the western part of the state had problems with their ballot printing vendor.

a. Which counties experienced vendor issues?

In Allegheny county the vendor responsible for printing the mail-in ballots sent out incorrect ballots to around 28,000 voters.

Westmoreland County, which used the same vendor, had delays in sending out its ballots.

Armstrong County also had some delays in finalizing its mail-in ballots. Once the ballots were finalized and the printing process started there were no issues.

b. How did DOS participate in resolving these issues?

DOS worked with Allegheny County to ensure that they had the data that is required to resend the ballots. There was no additional requirement from DOS since the data extracted from the SURE system was correct. DOS had multiple check-ins with all counties during the time leading up to the election to ensure that the counties were receiving timely responses to any questions or requests for support needed from any of the teams at DOS. The counties also had the option to voice any of their concerns to DOS.

2. Please provide a comprehensive list of the vendors contracted by counties to implement the mail-in voting system.

To the best of DOS knowledge, below is a list of vendors some counties contracted with relating to mail-in voting:

- David A. Smith Printing
- ElectionIQ
- Gors printing
- Kutco Printing
- Single Point Sourcing
- MER Michigan Election Resources
- MidWest Direct
- NPC Integrated Print & Digital Solutions
- Phoenix Graphics
- Pittsburgh Mailing
- Reliance Graphics

PROCESS ISSUES

1. When will provisional ballots be certified and how can someone "track" their provisional ballot?

Provisional ballots are already part of the certified vote totals. A provisional ballot may be tracked by an individual online at the link provided below or via phone by calling (1-877-VOTESPA (1-877-868-3772)). A voter may check the status of their provisional ballot after Election Day until the county certifies the election and activates the next election. Once the next election has been activated by the county, the voter can no longer look up the status of their provisional ballot and will need to contact the county directly.

Voters can track their provisional ballots here:

- https://www.pavoterservices.pa.gov/pages/ProvisionalBallotSearch.aspx

2. How does the tracking system for mail-in and absentee ballots function?

The tracker for absentee and mail-in ballots utilizes data maintained by the counties in the SURE system to provide a snapshot of the voter's ballot status as counties are updating information in SURE. Therefore, the tracker cannot capture the status of the ballot as it travels through the mail stream. Until the General Assembly provides funding for election administration that will enable either DOS or the counties to utilize mail tracking software, the tracker will have to rely on data entry in SURE.

a. For example, in describing the Allegheny County vendor error, it was stated that some mistaken ballots were awaiting delivery to the post-office at the time that the error was discovered on October 9th, but that these ballots showed in the tracking system as having been mailed on October 3rd or October 5th. What is the explanation for this discrepancy, and is it widespread?

As noted above, the tracker for absentee and mail-in ballots is reliant on input into SURE by the counties. The Department of State became aware that depending on when and how the counties update the ballot and mailing information in SURE, the mail-in ballot tracker at votesPA.com/mailballotstatus and the publicly available lists of absentee and mail-in voters may not have been reflecting precise information. For example, a county would print batches of ballot labels or export ballot label data on a certain date that updates the 'Date Mailed' field on the voter record, but the ballots themselves would not be mailed out until several days later. On August 28, the DOS added to SURE an Update Date Mailed utility that enabled counties to update the 'Date Mailed' field on voter records to more accurately reflect when ballots were actually mailed, but again, relies on county input. This utility would also serve as the trigger for email notifications to voters letting them know that their ballots had been mailed.

3. What if an elector votes at a polling place? Can they track the acceptance of that ballot?

There is no online tool that tracks the direct acceptance of an individual's ballot when they vote at the polling place. The pollbooks are the primary record of voting for in-person voting at a polling place, and after the election, counties update the voter histories from the pollbooks, at which time it becomes part of the voter's record.

4. What is the procedure for opening mail-in ballots? What is done with each envelope?

Prior to the General Election, the Department published a series of videos designed to explain this process to voters in an effort to alleviate confusion. They can be found here:

- The full video: https://www.youtube.com/watch?v=BQdwFq8zKSU&list=PLPptG_EW3WhR5sVIC_dENWvNqfSN6w7MV&index=1
- Part 1 – What happens when you return your mail ballot: https://www.youtube.com/watch?v=byeYAoZWEmU&list=PLPptG_EW3WhR5sVIC_dENWvNqfSN6w7MV&index=2
- Part 2 – How are mail ballots canvased: https://www.youtube.com/watch?v=Uw_9s55dC_A&list=PLPptG_EW3WhR5sVIC_dENWvNqfSN6w7MV&index=3
- Part 3 – How to return your mail ballot: https://www.youtube.com/watch?v=0kg68wPIjj0&list=PLPptG_EW3WhR5sVIC_dENWvNqfSN6w7MV&index=4

FUNDING BREAKDOWNS

1. How much state funding was spent in the 2020 General Election:

a. Voting advertisements? (i.e., vote advertisements that included "paid for with taxpayer dollars" in footer)

The Department engaged in a voter education campaign that included postcards to all registered voters on voting options in PA; postcards to remind voters requesting a mail-in ballot of the deadline to return and other instructions on returning their individual ballot; television, radio, outdoor postings (such as billboards and transit), print and digital media (including the design and production of education material) on voting options, how to apply for a mail-in ballot, mail-in ballot returns, and assistance on how to determine a voter's polling place; and text messages to voters with reminders for Election Day and returning ballots by the deadline. In addition, the Department provided voters an Election Day Hotline to assist with questions or issues on Election Day. The Department utilized funding from a non-federal grant from a nonprofit 501(c)(3) entity to cover these voter education communications. The statement "paid for with taxpayer dollars" was included on all educational material.

b. Postage?

The Department allocated funds from the federal CARES Act issued by the U.S. Election Assistance Commission to reimburse counties for pre-paid postage costs for voters to return absentee and mail-in ballots. Thirty-five counties opted to utilize the Department's Qualified Business Reply Mail account for direct payment of all return ballot postage. Other counties chose to affix postage to all ballots via meter or stamp prior to being sent out or utilized their own Qualified Business Reply Mail account to cover costs that are reimbursable through the CARES Act. Two counties opted to not participate.

c. Breakdown by counties? (server issues)

This question does not provide sufficient clarity or details as to the source and/or meaning of the question. Please feel free to provide more specifics or details.

Note that counties fund their own elections in the Commonwealth pursuant to Pennsylvania law, 25 P.S. § 2645. The Department has provided sub-grants to counties this year, through federal grants, not state. The link for county distribution can be found on the counties website here:

- https://www.dos.pa.gov/VotingElections/Pages/2020-Federal-Grants.aspx.

d. Emergency staff?

This question does not provide sufficient clarity or details as to the source and/or meaning of the question. Please feel free to provide more specifics or details.

Note that the DOS utilized funding from a non-federal grant award to provide additional staff to assist with the increased call volume surrounding the General Election. Cost of the additional staff totaled $183,584.45.

DEPARTMENT OF STATE WORKGROUPS:

1. After passage of Act 77 in 2019, you established several work groups – including an Act 77 work group and a post-election audit work group.

a. What is the status of these work groups?

Throughout 2020, DOS staff held frequent teleconferences with the Act 77 workgroup members to discuss the technical updates to SURE and the associated guidance that would be necessary to implement successfully the requirements of Act 77 and subsequently Act 12 of 2020. Initially, meetings of Act 77 workgroup were conducted weekly and sometimes multiple times a week to obtain input and feedback from county officials on updates to SURE, updates to forms and instructions, and updates to relevant DOS guidance.

b. Have there been any reports or minutes from these meetings available to review other than the December 2019 Initial Report from the Post-Election Audit Workgroup?

Please see the following links:

- https://www.media.pa.gov/Pages/State-Details.aspx?newsid=366
- https://www.media.pa.gov/pages/state-details.aspx?newsid=395

2. What is the Election Security and Preparedness Workgroup?

The Pennsylvania Interagency Election Security and Preparedness Workgroup is composed of the Pennsylvania Office of Homeland Security, Pennsylvania Emergency Management Agency, Pennsylvania State Police, Pennsylvania Department of Military and Veterans Affairs, the PA National Guard, the Pennsylvania Inspector General, DOS, and OIT. The workgroup also works closely with the United States Department of Homeland Security, the FBI, and the Center for Internet Security.

a. How is it funded? What are its total expenditures?

The Interagency Election Security and Preparedness Workgroup is not funded by DOS, each participating agency funds its own activities.

b. What are its responsibilities?

This team of key agencies meets regularly and collaborates on increasing election security training, support, assessment, information, preparedness, and defenses, to implement best practices to respond to and mitigate continuously evolving security threats.

We have collaborated with these state and federal partners to provide tabletop exercises to counties and partners, modeled after common military and law enforcement techniques, to train election, information technology, and security personnel in incident response and preparation, simulating scenarios that could impact voting operations.

Beginning in the 2019 primary, we began to more closely integrate our election-day operations. To strengthen our security and responsiveness and enhance our collaboration and coordination, the Commonwealth's election experts, security teams, call center, cybersecurity experts, law enforcement, and state emergency personnel share information and closely monitor developments throughout the day. Our election, security, and preparedness professionals also participate across the state and across the country in real-time information-sharing on cyber issues, as well as on-the-ground circumstances that could impact voting.

We also work with state and federal partners such as the U.S. Department of Homeland Security and the Pennsylvania National Guard to additionally offer vulnerability and cyber assessments to the counties, and ensure the counties are aware of the tools available to them to combat any threats or vulnerabilities.

In 2020, we added additional briefings and monitoring in the weeks leading up to the November election, as well as any issues in the days following Election Day, with partners at the state, county, and federal levels. These partners were closely involved in monitoring any issues, threats, or concerns in the lead up to, on, and after November 3.

c. Are all the members state employees?

See above.

d. If not, who else is represented and how are they selected?

See above.

POST-ELECTION AUDITS

1. Would you walk us through the procedures both the Department and the counties follow in doing a post-election audit?

As currently required statutorily, as part of the computation and canvass of returns, counties must complete the statistical sample required by 25 P.S. § 3031.17. This provision requires the county board of elections to conduct a statistical recount of a random sample of at least two percent (2%) of the ballots cast or two thousand (2,000) ballots, whichever number is fewer.

Counties typically either randomly select and recount a number of precincts that gets them to the 2,000 ballot threshold or they randomly select and recount 2,000 ballots.

In 2019 and 2020, DOS began to pilot additional risk-limiting audits at the county level and across the Commonwealth, to begin to test models and best practices for enhanced post-election audits that are scientifically designed to strengthen election security and integrity, confirm the accuracy of election outcomes, and provide confidence to voters that their votes are being counted accurately.

2. Late December 2019, the Department's Post-Election Audit Workgroup issued its initial report. Have there been any follow up reports since the December 2019 Initial Report?

No. DOS plans to convene the workgroup again in early 2021, and at that time to review the pilot audits conducted so far and assess recommendations for implementing these audits and any legislative suggestions.

3. A stated goal of the Workgroup is to "work with the legislature for any suggested legislative enhancements."

a. What are the Workgroups legislative recommendations?

In the first report, the Workgroup preliminarily recommended that certain amendments to the Election Code would be helpful in ensuring that best practices for audits are put in place across the Commonwealth. These recommendations involved the following:

- Repeal Section 1117-A of the Election Code, 25 P.S. § 3031.17;
- Replace this Section's current 2%/2,000 ballot audit with a new law requiring all counties and the state to implement enhanced post-election audits, conducted after every election and before the results are certified, that utilize a Department of State-approved audit method that confirms to a reasonable degree of statistical certainty that the election outcome is correct.

  - All Department-approved audit methods should be consistent with best practices in the field and may include but are not limited to risk-limiting audits.
- Require that if the outcome of an audited race cannot be confirmed by the enhanced post-election audit, a full recount of that race should be completed, in accordance with Pennsylvania law.

By early 2021, most if not all counties will have participated in at least one pilot risk limiting audit, and once DOS reviews these experiences, it will also review any changes to the initial legislative recommendations. After this assessment by the counties, DOS would seek to meet with legislators regarding these proposed modifications.

4. Who are the entities providing technical support or expertise for the workgroup?

Expert members of the Workgroup include Brennan Center Democracy Program Counsel Liz Howard and Verified Voting Senior Science and Technology Policy Officer Mark Lindeman. For the initial 2019 pilots in Mercer and Philadelphia counties, the counties received guidance and support from experts from the U.S. Election Assistance Commission, the University of Michigan, the Brennan Center for Justice at NYU School of Law, the Democracy Fund, VotingWorks, and Verified Voting, in addition to the Department of State. For the 2020 pilots, VotingWorks, Verified Voting, and Brennan Center have continued to support the counties, in addition to the Department of State.

5. How is the work group and pilot programs funded?

Funding for the Voting Works platform was made possible through the 2020 federal HAVA Election Security Grant. However, besides this expense, there have been no additional expenses for activities of the Workgroup itself.

CONCLUSION

Pennsylvania held a free, fair, and secure election. Millions of Pennsylvanians of every political party complied with the rules established by the General Assembly and confirmed by the courts. No patterns of attempted fraud or illegal activity have been demonstrated, and in fact, state and federal courts have repeatedly debunked and dismissed unfounded allegations of fraud. These baseless attacks are nothing more than disinformation intended to undermine our democracy and our faith in our elections. Those who continue to repeat such disinformation in the face of evidence dismissing these repeatedly, are undemocratic, anti-American, and must be rejected.

Election officials at the state and local levels, Republican and Democrat alike, worked tirelessly amid a pandemic so that voters could decide this election. Counties administered the election

with the highest degree of transparency, several with a 24/7 livestream of the ballot-counting process available for anyone to watch, in addition to the bipartisan teams of election officials, party officials, and other observers of the process.

The most significant change necessary to ensure even greater efficiency of our election administration is that the counties be permitted to pre-canvass mail-in and absentee ballots ahead of Election Day, like the 46 other states that permit the same.

The Department of State and the counties will continue to fight for our democracy, to ensure that the vote of every qualified voter is counted securely and accurately.

If you have any other questions, please do not hesitate to reach out,

Sincerely,

Kathy Boockvar,
Secretary of the Commonwealth