



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE

January 15, 2021

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

Dear Chairman Grove:

This letter is to serve as the Department of State's formal response to your second letter requesting information on the 2020 General Election, dated November 30, 2020.

Pennsylvania had a secure, free, and fair election on November 3, 2020, with record voter engagement. Pennsylvania election officials worked tirelessly to ensure that all citizens could exercise our fundamental right to vote and have faith that our system is safe, secure, and accurate. These same county and local election workers live and work in our communities, are our neighbors and friends, and work harder than almost anyone I know. The Department and the counties will continue to fight for our democracy, and ensure that the vote of every qualified voter is cast and counted securely and accurately.

Election Day Data – Please Provide in an Excel File

- 1. Please provide, by county and precinct, how many total people were registered to vote on Election Day, how many total people voted, and breakdown of how people voted: Mail In, Absentee, In Person, Emergency Absentee, Provisional, or Absentee Military/Overseas***

The statistics for certified voter registration statistics provided by the counties may be found here:

<https://www.dos.pa.gov/VotingElections/OtherServicesEvents/VotingElectionStatistics/Pages/Voter-Registration-Statistics-Archives.aspx>

- 2. Please provide the number of people voting as a percentage of total registered voters on election day by county and precinct.***

DOS is able to provide the number of certified registered voters as of November 3rd as broken down by county and precinct and the number of ballots cast broken down by county and precinct. This information is contained in the files that were sent by email along with this reply.

- 3. Please provide a time log of votes by precinct from the time they were first reported on Election Day to the Department to when the final votes were reported to the Department by county and by precinct.***

The SURE system and the election management software that is a component of SURE do not capture this data. Therefore, the Department is unable to provide a response to this request.

Mail In Ballots

- 1. Please provide how many mail in ballots were mailed out to voters and returned by voters for each day for the Commonwealth and by county.***

Please refer to the attached excel files that were sent to the Committee by email.¹

- 2. Who was responsible for maintaining mail in ballot mailing lists the Department or the counties?***

Pennsylvania's Election Code stipulates that counties must maintain and disseminate a list of individuals who request an absentee and/or a mail-in ballot upon request. To promote transparency and administrative efficiency, the Department also provides a statewide extract that lists the individuals who have requested absentee or mail-in ballots. The individual counties enter this data into the SURE system.

- 3. Did counties maintain ballot outer envelopes as part of the chain of custody? If not, which counties did not?***

¹ Please note that when recording the date a ballot is mailed SURE defaults to the date on which the county generates the mailing label for the outgoing absentee and mail-in ballot. When recording a returned absentee and mail-in ballot, SURE captures the date on which the county scans the unique barcode on the declaration envelope of the returned absentee or mail-in ballot. Ballots received late were not counted.

The Department is not aware of any county that did not maintain their outer (declaration) envelopes as required by Sections 1309 and 1307-D of the Election Code, 25 P.S. §§ 3146.9 and 3150.17.

The Department sent an email to all county election directors on November 2, 2020, reminding them of their statutory obligation to maintain these records for two years after the date of the November election.

4. *Did counties keep their mail in ballot outer envelopes with their corresponding ballot? If not, which counties did not?*

The Pennsylvania Constitution mandates secrecy of the vote. Consequently, ballots are separated from their outer envelopes before being counted so that no one can determine how the voter votes. Pa. Const. art. VII, § 4.

SURE System

1. *Who or what entities have access to the SURE System?*

Access to SURE is provided only to authorized county elections personnel, Department of State personnel, Commonwealth IT support staff (Office of Administration – IT), and contracted IT support vendors, as necessary for their job duties. Department and county end user access is governed by a SURE User and Equipment Use policy. An end user must be authorized by designated Department of State executive or senior staff before they are provided with credentials.

2. *At any time was access to the SURE system granted to a third party or nongovernmental entity?*

a. If so, what level of access did they have to the SURE System?

Access is limited to authorized individuals only, as described above.

Please note that 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. It is for this reason, as the Committee should be aware based on our response to the letter dated November 19, that information about our election, 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.

Election Machines

- 1. Date and time of any software updates prior to the election. (a) Reason for the software update.***

There were no software updates to existing systems in 2020. There were several counties that upgraded to new systems that were certified by the Department.

- 2. What machines were updated by county and precinct?***

N/A

- 3. Were any of the election machines recertified after the software update?***

The new system certified in 2020 was: Election Systems & Software's EVS 6.0.3.0

- 4. Date and time of any software updates after the election. (a) Reason for the software update.***

N/A

- 5. What machines were updated by county and precinct?***

N/A

- 6. It was reported that Philadelphia had a break in where voting machine thumb drives used to program voting machines and a laptop from an employee from the machines' manufacturer where stolen at an election-staging area.***

The Department of State worked with election officials, the voting system vendor, and law enforcement to gather details on the alleged theft of the laptop and memory sticks. ES&S confirmed that the laptop and the memory sticks had multiple layers of encrypted

security, the laptop was not used to program the election, and it did not contain sensitive data.

ES&S provided the following details below:

Upon learning of the theft of an employee's laptop and election-related USBs in Philadelphia, ES&S immediately began working with the City and the Philadelphia Police Department. ES&S is confident that this incident will not in any way compromise the integrity of the election.

The laptop did not hold any sensitive data related to elections. It was not used to program the election or interact with USBs used in elections. The USBs are encrypted and contain multiple levels of security. Upon learning of the theft, ES&S immediately changed the employee's corporate network user account and the device address was blocked and passwords changed.

We urge anyone with information on this to contact Philadelphia Police at 215-686-TIPS.

ES&S employee laptops:

- *Require passwords with a minimum of 12 characters and the use of complex characters*
- *Hold Windows 10 Enterprise security features – a strong set of controls to ensure that if a laptop is lost or stolen it cannot be accessed and the data on it cannot be retrieved*
- *Contain two types of antivirus/malware protection*
- *Force users to change passwords every 60 days, and users cannot re-use the 25 previous passwords*
- *Lock after five failed login attempts*
- *Lock after 5 minutes*
- *Utilize two-factor authentication via DUO, meaning if a device were lost or stolen, it is highly unlikely a hacker would be able to have the device's user name, password, and the cell phone containing the user's DUO app to complete access*
- ***Are not used to program customer election hardware***

ES&S election USB devices:

- *There are multiple layers of encrypted security on the data, including unique encryption keys for every election.*
- *Upon programming, these encryption keys "marry" the USB with the machine and if placed in another machine, it will cause an error and the machine will not work.*
- *ES&S customers use only industrial-grade USB flash drives made in the U.S. by a US-based company. They are the same quality of flash drives used by the U.S. military and aeronautics industries.*
- *The USB flash drives (and ES&S voting machines, by the way) contain a unique 256-bit encryption key to ensure that only information specific to that election may be loaded on the machine. **This encryption is so powerful; it would take the world's fastest supercomputer millions of years to crack.***
- *All voting machines are protected with locks and seals, preventing access to the USB during an election. If there is any indication of attempted tampering, the machine and flash drive are taken out of service.*

Because there are still active investigations ongoing, we are not able to provide further information at this time.

7. *Butler County was one of the last counties in the Commonwealth to certify their elections. There was a vote count issue between the SURE System and Butler County's ES&S software. The ES&S software was subtracting votes.*

Butler County and ES&S reported two issues during the reconciliation of vote totals, and the following determinations have been reported:

- They were missing results from a USB media with 481 ballots. This was determined to have happened because of how a user responded to a system message. The user was prompted with a message on the election management software asking whether the results from a previously tabulated USB media should be removed during the process of preparing another USB media to tabulate ballots. The user agreed to the prompt, which removed the vote totals from the previously tabulated media, as later became apparent when there were fewer vote totals.

The Department will be asking ES&S to make system prompts clearer so that users understand messages better, hopefully preventing similar issues in the future.

- Some provisional ballot vote totals were not properly uploaded to the Election Management System. When the county attempted to upload these totals which were contained on a single USB media, they didn't realize that the EMS server was switched off. As a result, the county began receiving error messages indicating that the election database could not be found.

Ultimately, despite these issues, the county was able to confirm the accurate numbers for their certification through reconciliation of vote totals. Butler is the only county that reported this experience.

Butler County is included in the post-election audit pilot, has uploaded its ballot manifest, and is in the process of pulling its randomly-selected ballots.

The Department has urged all counties to participate in the pilot and the great majority of the counties have already taken the next steps in the process.

Data Retention

1. For each type of record retained after an election, please provide the length of time it is retained by DoS and each county.

Records are retained in accordance with relevant federal and state laws.

The United States Code requires election officers to retain all records and papers pertaining to any application, registration or other act requisite to voting for a period of 22 months. In addition, the Department has directed counties to retain any ballot images (cast vote records) from a federal election for 22 months.

Pursuant to the Election Code, counties must retain most records from an election for a period of 11 months, including:

- Election officer oaths
- Ballot preparation workpapers
- Voting system inventory lists, voting system custodian certifications, voting system reports, etc.
- Specimen ballots
- Legal memoranda
- Numbered lists of voters
- Challenge affidavits
- Records of assisted voters
- Tally papers
- General return sheets
- Canvass workpapers
- Election certification affidavits

The district registers (poll books) must be retained for a period of 5 years.

Records relating to absentee and mail-in ballots must be retained for a period of two years, including applications, official ballots, and the declaration envelopes signed by voters.

The contents of Election Day ballot boxes, including any miscellaneous records, must be retained for a period of four months.

Election returns and minutes of election board meetings must be retained permanently.

2. For each type of record retained after an election, please provide a description of the process for retaining these records.

Records are retained in accordance with relevant federal and state laws.

Questions about how counties maintain their records would be best directed to the individual counties.

Information Request

1. *The following information at the precinct level:*

a. How many people were registered to vote on election day.

9,090,962 voters were certified by county election officials as eligible for the 2020 General Election.

b. How many people voted on election day.

- 4,216,030 ballots were cast in person on Election Day, as reported by county election officials.
- 2,637,065 absentee and mail-in ballots were cast and counted, as reported by county election officials through the SURE system.
- 105,456 provisional ballots were counted, as reported by county election officials through the SURE system.
 - 97,982 fully counted
 - 7,474 partially counted

c. The Administrator logs for the EMS Election Event Designer (EED) and EMS Results Tally & Reporting (RTR) Client Applications.

The Department does not have access to the EMS Election Event Designer (EED) and EMS Results Tally & Reporting (RTR) Client Applications. These are Dominion products that are purchased, owned and managed by the counties.

d. XML and XSLT, and any additional data logs/databases used by the software/hardware for the:

- i. Tabulators*
- ii. Result Pair Resolution*
- iii. Result Files*
- iv. Provisional Votes*
- v. RTMLogs*

Similar to the response provided for question c. above, the Department does not have access to these items.

e. Rejected Ballots Report by Reason Code

To the extent that this question seeks a log of ballots rejected by the individual voting systems, those voting systems are purchased, owned and maintained by the individual counties. The Department would not have access to those records.

f. Identity of anyone accessing the domain name Admin.enr.dominionvoting.com

g. Identity of anyone accessing the Windows software log

h. Windows event log and Windows security log of the server itself that is hosted at Admin.enr.dominionvoting.com.

i. Access logs and DNS logs.

j. Internal admin.enr.dominionvoting.com logs

k. Ranked Contests and the change history of the Audit Trail logs

l. FTP Transfer Points Log

In response to f. through l. above, the Department does not have access to these items. The Committee would need to contact the individual counties to obtain answers to these questions.

2. The following records would be required from the service provider(s):

a. Daily and Cumulative Voter Records for those who voted with sufficient definition to determine:

- i. Registered voters name and address***
- ii. Address to for correspondence***
- iii. Date of Birth***
- iv. Voter ID number***
- v. What process each voter used to vote (mail in, in-person early, in person on election day, absentee or provisional)***
- vi. Where each voter voted***
- vii. Date each voter voted***

- viii. Party affiliation of each voter*
- ix. Ballot by mail or absentee request date for each voter*
- x. Ballot by mail or absentee sent date for each voter*
- xi. Ballot by mail or absentee voted date for each voter*
- xii. Ballot by mail, absentee, or provisional cancelled date for each voter*
- xiii. RAW, HTML, XHTML, and SVG files*

The information requested in questions i. through viii. above, is contained in the full voter export file that can be found here:

<https://www.pavoterservices.pa.gov/Pages/PurchasePAFULLVoterExport.aspx>

With respect to the information requested in questions ix. through xii., this information is included in the PDF attachment that the Department is sending along with this reply.

3. Please place a hold on the following from being changed, deleted, or destroyed until March 2021:

a. Any removable media (such as thumb drives, USB, memory cards, PCMCIA cards, etc.) used to transfer ballots to central counting from voting locations.

b. Access or control of all routers, tabulators, or combinations thereof.

c. Any key, authorization key, & yubikey used in the election.

d. Any printing, ballot storage, voter, poll, poll worker or observer records.

e. Any logs or records of public employees' or officers' presence from November 2 to November 16 in each precinct or any location ballots,

f. Ballot records, voting equipment, hardware or software was stored during the same period and up to the date of delivery of the response to this request.

g. Outer envelopes of mail in ballots.

With respect each request, a. through g. above, all records required to be maintained in the office of the Secretary of the Commonwealth are to be preserved for a period of two years. 25 P.S. §§ 2622, 2623.

All records required to be maintained in the office of the county board of elections shall be preserved for a period of at least eleven months and all official ballots and the contents of ballot boxes shall be preserved for a period of at least four months, unless

otherwise directed in writing by the district attorney of the county or by a judge of a court of record, to preserve said papers and contents of ballot boxes for a longer period of time. 25 P.S. §§ 2648, 2649, 2971.

All official absentee and mail-in ballots, files, applications for such ballots and envelopes on which the executed declaration appear, and associated information are designated and declared to be public records, and shall be kept for two years, except that no proof of identification shall be made public. 25 P.S. §§ 3146.9, 3150.17

For a period of twenty-two months, from the date of any general, special, or primary election of which candidates for the office of President, Vice President, Member of the Senate, Member of the House of Representatives, all records and papers which come into the possession of every officer of election. 52 U.S.C. § 20701.

The Department does not have access to the individual items requested here. Requests would have to be made to the individual counties in order to obtain these items.

Funding Breakdowns – FOLLOW-UP

- 1. For a., b., and c. the Department did not provide any actual dollar figures. Please provide specific dollars.***

a., Who is the 501(c)3? Please provide a detailed cost allocation plan for the voter education campaign, along with any contracts and emails between the Department and the vendors who provided the services.

The Department's voter education initiatives for the 2020 General Election were funded by a non-federal grant provided by the non-profit 501(c)3 organization Center for Election Innovation and Research. Costs associated with this endeavor totaled \$12,842,915.66.

Contracts and emails will be produced when available.

b. What was the final cost for the Department to pay for postage?

As of January 12, 2021, \$1,106,069.51 has been spent on return ballot postage and associated account permit fees for the 2020 General Election. Federal dollars from the CARES Act grant were used to cover these expenses. This amount may change as the postal service delays have resulted in periodic delivery of late ballots, and though the ballots are not being counted, we will still reimburse the counties for their expenditures.

c. How did the counties utilize the sub-grants?

The Department allocated to all 67 counties proportionally from two federal grants: a) \$7 million from the 2020 Federal Election Security Grant and b) \$6 million from the Federal CARES Act, from the funds provided to Pennsylvania from the U.S. Election Assistance Commission. Counties are permitted to use federal dollars for each grant in the following ways:

Election Security:

- Increased personnel, equipment, and/or other approved expenditures related to the expansion of the provision and administration of election services and opportunities granted to Pennsylvania voters under Act 77 of 2019 (Act 77), historic bipartisan legislation providing the most comprehensive improvements to Pennsylvania's elections in more than 80 years;
- Ransomware, DDOS Protections, and other cyber security measures;
- Increased security of voting systems and ballots; and/or
- Increased expenditures to expand vote by mail and other voter services.

CARES Act:

- Increased election expenses arising due to COVID-19 including but not limited to voter notifications and education, increased costs related to mail-in and absentee voting, supplies to mitigate the spread of COVID-19, and increased equipment, staffing, training, or other needs permissible under the Act.

d. What entity provided the "non-federal grant?"

As stated above, the grant was provided by the Center for Election Innovation and Research.

Conclusion

As has been stated before, Pennsylvania had a free, fair, and secure election. Almost seven million Pennsylvanians cast their votes consistent with Pennsylvania's Election Code, as provided for by the General Assembly and as upheld in a multitude of decisions issued by both our federal and state courts. Court after court repeatedly dismissed one baseless lawsuit after another, finding no evidence supporting any of the spurious allegations.

Disinformation is a direct attack on our democracy. Those who continue to peddle false narratives are simply trying to subvert the will of the voters, and undermine faith in our

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elections. This propagation of disinformation in the face of clear evidence to the contrary, is un-American and unpatriotic, and against the ideals we stand for in this country.

We are confident in Pennsylvania's election administration, and the dedication, diligence, and professionalism of the county election officials across the Commonwealth. We continue to urge the legislature to pass the most significant change that would further improve the effective administration of our elections , a change that both the Department and the counties have championed since March 2020: to permit counties to pre-canvass mail-in and absentee ballots in the weeks leading up to Election Day, consistent with the practice of 46 of our sister states.

Sincerely,

A handwritten signature in black ink that reads "Kathy Boockvar". The signature is written in a cursive, flowing style.

Kathy Boockvar,
Secretary of the Commonwealth