



VOTE

Prepared by Mayor Michael A. Nutter's Election Day Fact-Finding Team

Election Day Fact-Finding Report

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EXHIBITS:

EXHIBIT A Timeline

EXHIBIT B List of Interviews

EXHIBIT C Provisional Ballot Map Analysis

EXHIBIT D Letter from City Commissioners to Mayor Nutter

EXHIBIT E Opinion from the City’s Law Department

Executive Summary

The hallmark of American democracy is that all citizens have an equal voice in electing the government leaders who affect their lives. The primary vehicle by which they make their voices heard is the vote. Voting is not just a privilege. It is a fundamental American right – the right that guarantees all others. That is why disenfranchised groups have struggled, in some instances sacrificing their lives, to obtain and exercise their right to vote. If voters cannot freely exercise the most important of our fundamental rights, the solemn concept of “We the People...” loses meaning and becomes a hollow platitude.

Voters in the City of Philadelphia have a justified expectation that on Election Day they can walk into a polling place, cast their votes and that their votes will be counted that night. During the General Election of November 6, 2012, that expectation was jeopardized as many Philadelphia voters encountered obstacles to voting. These hurdles included long lines, names missing from voter rolls, calls to the voter hotline ringing unanswered and confusion about the Voter ID law at polling places across the city.

Because of these issues, Philadelphia voters cast more provisional ballots in the November 2012 election than in the last two presidential elections combined.¹ Philadelphia also used more provisional paper ballots than any other county in the Commonwealth. In fact, Philadelphians were 8 times more likely to have to use a provisional ballot than voters in the rest of the state.²

Provisional ballots are an important safety net to catch voters who fall through the registration processing cracks. But those cracks indicate system failures that keep us from having confidence that our votes will be counted timely and accurately.

The result of so many provisional ballots is that thousands of voters had a poor voting experience -- and in some cases, this experience actually interfered with their right to vote.

For many Americans, voting is a habit. A good voting experience increases the likelihood of future turnout and a bad experience, conversely, makes one less likely to come back and try again. This is why incidences of properly registered Philadelphia voters in November 2012 being confused about their polling location, waiting in long lines, not being listed on voter rolls, getting no answer when calling the voter hotline and being required to vote by provisional paper ballot are of great concern and worthy of an independent study.

Provisional Ballots Cast In Philadelphia

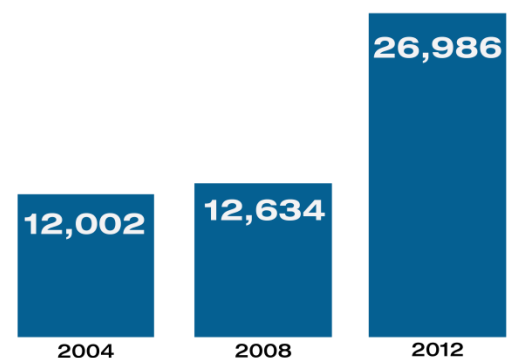


Figure 1

¹ According to the Pennsylvania Department of State 26,986 provisional ballots were cast in 2012; 12,634 in 2008; 12,002 in 2004.

² Pennsylvania Department of State election data.

The confusion and system failures on Election Day were not a result of a single cause. Several factors combined to contribute to a difficult and discouraging election for many Philadelphia voters. These factors include:

1. A significant backlog of voter registration applications meant election processing continued past the state's regulatory deadline and concluded just four days before Election Day;
2. The official list of voters at polling places omitted the names of thousands of properly registered voters, contributing to the unusually high number of provisional ballots;
3. Poorly communicated polling place changes created confusion for voters and meant nearly 7,000 voters showed up the wrong polling place;
4. Unanswered phones at the election hotline hindered Election Day poll workers trying to get help with inoperable voting machines and proper provisional ballot procedure; and,
5. Poll worker training sessions may have been well attended, but delivered inconsistent and ineffective preparation to the several thousand frontline election workers.

These factors point to gaps in the management of the city's Election Day apparatus. The City Commissioners, the City's official election administrators, are tasked with making decisions around budgeting, use of resources, and staff deployment. Included in this report is a comparison of Election offices for several comparable counties, which highlights potential issues and suggests that Philadelphia needs to do better in comparison to similarly situated counties. The November 2012 election was led by a City Commission that included two newly elected City Commissioners, relying on staff placed in new senior management roles, facing a major national election, a new Voter ID law, and a significant weather event (Superstorm Sandy) in close proximity to the election. The events of November 6, 2012 appear to have led to the City Commissioners to replace their Chairperson the day after Election Day.

In sum, the citizens of Philadelphia encountered a complex combination of problems on Election Day. Many of these issues are not new and could be addressed through: 1.) better managing of time, resources and personnel by the City Commissioners, 2.) addressing the Election Day problems directly by incorporating the recommendations submitted in this report, and 3.) implementing many of the best practices outlined in the "Vote Philadelphia Transition Committee Report," produced by a committee assembled by newly-elected Commissioners Singer and Schmidt and presented to all three City Commissioners in February 2012.³

Significantly, more than a year and a half later, many of the recommendations made in the Transition Report have yet to be implemented. That report, along with this one, point to challenges that can be met through better planning, stronger management, and more effective coordination by the City Commissioners with the Pennsylvania Department of State and City government. The public discord among the City Commissioners themselves has raised concerns about the overall stability of the City Commissioners Office, the level of coordination among the elected officials tasked with administering our elections, and its potential impact on the most recent November election. In this report, the Fact Finding Team seeks to determine the root

³ Vote Philadelphia Transition Committee Report, February 15, 2012, http://www.pilcop.org/wp-content/uploads/2012/04/Vote_Philadelphia_Report_final_final_02.15.20121.pdf.

cause of the challenges faced on Election Day and to propose remedies to ensure that citizens in Philadelphia can exercise their right to vote in future elections freely, easily, and with confidence in our election system.

Section 1 – Fact-Finding Process

On December 7, 2012, Mayor Nutter established this Fact-Finding Team (the “Team”) to identify problems and propose potential solutions to the issues that occurred on Election Day. In Philadelphia, the three independently-elected City Commissioners are responsible for elections operations. Under the City Charter, the Mayor does not run the elections process and is limited in his ability to directly ensure that elections run smoothly and properly. However, Mayor Nutter, acting in response to the significant number of problems reported at polling places across the city and out of a concern about the impact those problems had on voting, asked this Team to fully explore the challenges our election officials and voters faced on Election Day.

The Mayor tasked the Team with finding out what happened and why so many voters in Philadelphia had difficulty voting, including the extraordinary number of voters who were forced to use provisional ballots. Specifically, he asked the group to focus on assessing the accuracy and integrity of the voter rolls; the voter registration process and system; the technological interaction between the state and City voter databases; production of the printed voter lists; provisional ballot use, supply and delivery; poll worker training; and election day communication and coordination.

The Team would have liked, but did not receive, the assistance of the City Commissioners in conducting this review. During the December 7 announcement of the Team, Mayor Nutter thanked the three City Commissioners Anthony Clark, Al Schmidt and Stephanie Singer for standing beside him to announce this effort and for pledging their full cooperation with the Team’s work. Then, on January 14, 2013, after the Team shared its work plan with the Commissioners, they sent a letter (*see Exhibit D*) to the Mayor stating that they would not participate in the fact-finding process. As a result, this Team proceeded with its work using other sources for its data and information. It is the Team’s belief that had the City Commissioners been willing to contribute their information, perspective and expertise to this process, we would have produced a collaborative report that would have included a joint approach to implementing the recommendations.

The high-profile nature of problems on Election Day resulted in a variety of inquiries and analyses, including by the Commonwealth, the City Controller, and this Team. The City Commissioners also received a post-election “Report to the City Commissioners” prepared by Greg Irving, Acting Voter Registration Administrator for the City Commissioners Office (“the Irving Report”).⁴ Commissioner Singer produced a separate post-election analysis, entitled, “Improving Provisional Ballot Procedures in Philadelphia” (“the Singer Report”).⁵ Where

⁴ Gregory Irving, “Report to the City Commissioners: General Election 2012,” December 5, 2012, http://www.seventy.org/Downloads/Report_to_the_City_Commissioners,12.5.12.pdf.

⁵ Stephanie Singer, “Improving Provisional Ballot Procedures in Philadelphia,” December 18, 2012, http://www.patransparency.org/files/5713/5585/9853/Improving_Provisional_Ballot_Procedures_in_Philadelphia.pdf.

appropriate, the Team used the data and analysis included in those reports as it compiled information and conducted its own external review.

Throughout its review, the Team conducted almost 30 interviews with individuals who had first-hand information or involvement relating to the November election and/or expertise on Philadelphia's election processes in general (*See Exhibit B*). The Team held two public hearings – the first, on February 6, 2013 at City Hall and the second, on February 28, 2013 at Bright Hope Baptist Church – where voters provided information and submitted facts directly to the Team. Those hearings were broadcast on Channel 64 – the City's cable TV channel. More than a dozen people provided comments at those hearings, including some who spoke on behalf of organizations and coalitions representing hundreds of affected voters.

The Team also established a dedicated web site (www.phila.gov/election2012) and a dedicated phone number (267.209.FACT), urging the public to use them to leave messages, send texts, and to submit emails describing details of their Election Day experiences. Social media was also utilized to solicit input and inform the public on hearing dates and the various avenues for public input. More than 40 people contacted the Team using these tools. Members of the Team also reached out to more than 100 individual voters who had registered complaints with partisan and non-partisan voter registration and Get Out The Vote organizations.

The findings and recommendations offered within this report are intended to provide a starting point for a plan to restore faith and confidence in Philadelphia's election systems and voting processes.

Section 2 – Timeline

The following timeline highlights the critical events, deadlines, and management decisions leading up to Election Day 2012. A more detailed review of the timeline is listed in *Exhibit A*.

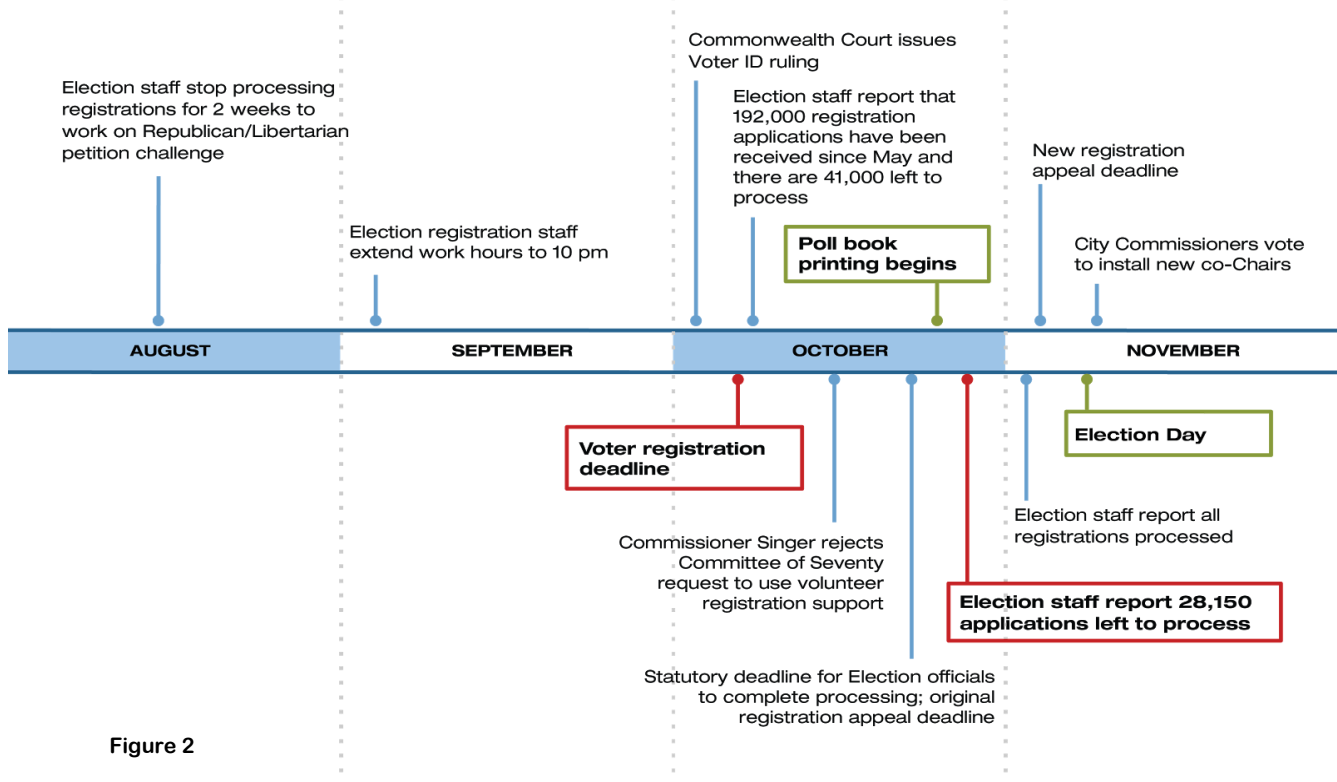


Figure 2

Section 3 – Registration and Provisional Ballots

On Election Day, November 6, 2012, 690,032 total voters came out to vote in Philadelphia.⁶ Of those, 26,986 voters cast their vote using a provisional ballot.⁷

Philadelphia used more provisional ballots than any other county in the Commonwealth. Four percent of all votes in Philadelphia were cast with a provisional ballot, while all other counties had, on average, 0.5 percent of their voters using a provisional ballot.⁸ This means Philadelphians were eight times more likely to have to use a provisional ballot than voters in the rest of the state.

Not only did Philadelphia voters use more provisional ballots than every other county in Pennsylvania, more voters used provisional ballots in 2012 than in the previous two presidential elections combined.

⁶ Pennsylvania Department of State, 2012 General Election Turnout and Elections Results Report for President, http://www.dos.state.pa.us/portal/server.pt/community/departments_of_state/12405.

⁷ Pennsylvania Department of State election data.

⁸ *Id.*

Every one of those provisional ballots represents someone who thought he or she was properly registered to vote, showed up to vote, but who, for some reason, poll workers considered ineligible to vote that day. (*See Maps, Exhibit C*) Some of these voters were never registered at all. Others showed up at the wrong polling location. But some were, in fact, registered, but were incorrectly either not listed or not found on the voter rolls on Election Day. It is this last case, of voters who were properly registered, but were considered ineligible to vote on Election Day that caused confusion, frustration and widespread concern about the accuracy of the voter rolls.

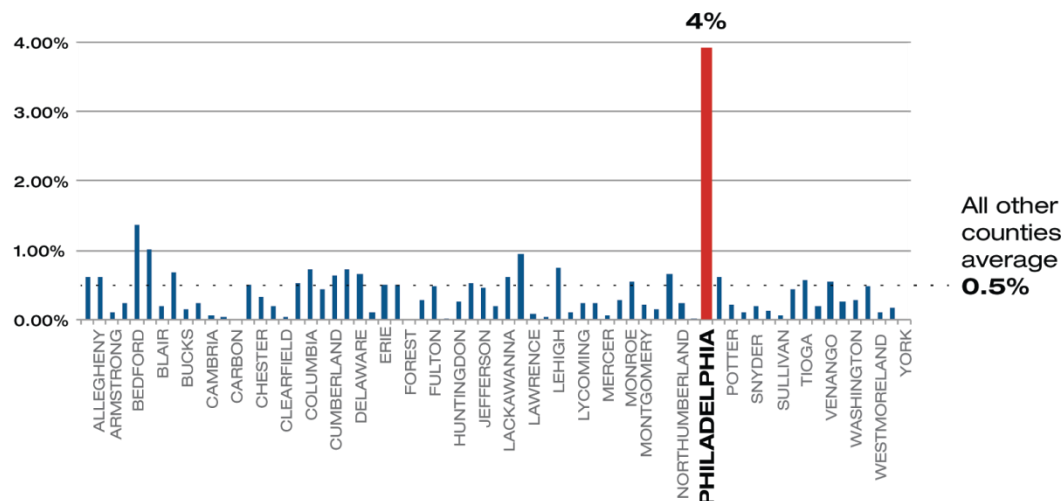
Provisional Ballots: Provisional ballots are used to record a vote when there is a question regarding a voter's eligibility. A voter must vote using a provisional ballot instead of casting their ballot on the voting machine if their name does not appear on the printed voter rolls or he or she is newly registered at a voting division and does not have the necessary identification. This provisional ballot is a paper version of that ballot posted on the machines. Voters select candidates with a pen, seal the ballot in an envelope and sign the envelope, which is also signed by both a Judge of Elections and a Minority Inspector. Each provisional vote is examined within seven days of Election Day and is counted if a voter is deemed eligible or rejected if the voter is determined to be ineligible. If a voter casts a provisional ballot in a polling location outside of the division in which they live, his or her provisional vote may be "partially counted," which means that election officials only count the votes cast for candidates whose districts that voter lives in and is eligible to vote for. For instance, a voter's choice for U.S. President or Governor would count but his or her vote for a state representative would not because the voter lives outside that representative's district.

Specifically, in November's election and the previous two presidential elections, roughly the same number of unregistered voters attempted to vote and correctly filled out a provisional ballot. What was different about 2012 was that more than double the number of properly registered voters were asked to vote by provisional ballot. The section below describes the processes that guide voter registration and printing of the poll book and assess the challenges that may have led properly registered voters to be asked to vote by provisional ballot.

Voters were 8 times more likely to have to vote on a provisional ballot in Philadelphia than in the rest of PA's counties

Figure 3.

Thirty-four counties are labeled here but all 67 counties are included in this graph and accounted for in the statewide average.



3.1 Inaccurate Voter Rolls

On Election Day November 2012, 12,294 voters voted by provisional ballot but should have been permitted to vote on a machine.⁹ These voters were properly registered, showed up at the correct polling place and should have voted on the machine. In other words, **half of those who used provisional ballots should not have had to.**

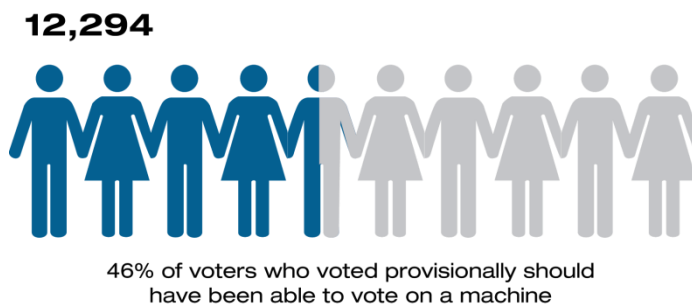


Figure 4

According to the available State data, 19,132 properly registered voters voted provisionally on Election Day. Of those correctly registered voters, state records indicate that 6,838 showed up at the wrong polling place and voted in the wrong division, leaving 12,294 voters who did everything right, but still were kept from voting on a machine.

Voters eligible to vote on Election Day are listed in one of two sources used by the Board of Elections at their proper polling place. The primary source is the “poll book,” which is the bound book used by poll workers in each division to verify each registered voter and is the official register of eligible voters. These books are produced by an outside vendor, Barton & Cooney, LLC, on contract with the City to print each poll book. Each poll book includes the names of every eligible voter in each division whose registration application was processed by October 23, the date that the voter file was sent for printing.¹⁰

The secondary source is the “supplemental sheets.” These are lists of the registered voters who submitted his or her registration applications on time but they were not processed until after the poll book was printed. These sheets are printed in-house by the City Commissioners Office and are delivered to each Judge of Elections separately from the poll book. In the case of the November 2012 Election, voters listed on the supplemental sheets included those whose applications arrived by midnight on the October 9 deadline, but which the City Commissioners’ Office had not processed completely by October 23, when the poll book needed to go to print.¹¹

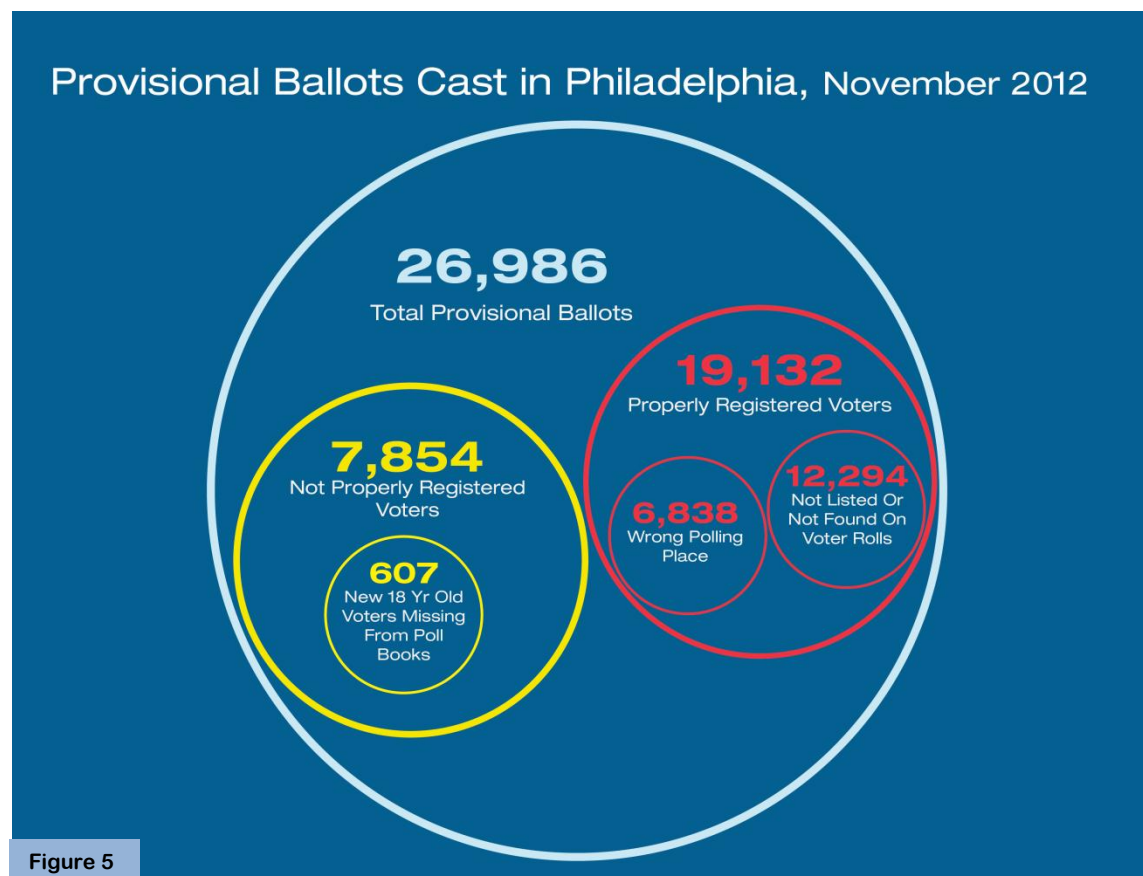
These two voter roll sources are significant because these two groups of voters seemed to have very different experiences on Election Day. Specifically, properly registered voters who were supposed to be listed on the supplemental sheets were nearly 18 times more likely to have to vote by provisional ballot than those who were supposed to be in the poll book.¹²

⁹ Pennsylvania Department of State.

¹⁰ City Commissioners Meeting Minutes November 2, 2012, p. 31.

¹¹ *Id.*

¹² The Department of State indicates that of the 19,132 properly registered voters who had to vote by provisional ballot, there were 12,595 whose registration records indicate they should have been in the printed poll book and 6,537 voters whose records indicate they should have been in the supplemental poll sheets. Eighteen percent is derived by taking the 6,537 provisional voters out of approximately 28,150 names on the supplemental sheets, divided by 12,595 provisional voters out of 1,029,279 total registered voters in the poll book.



3.2 Registration Backlog and Duplicate Applications

Pennsylvania regulation mandates that every registration must be processed within two weeks of receipt by the County Election Commission.¹³ With a registration deadline of October 9, every application should have been processed – either accepted or rejected and sent back to the registrant for more information or appeal – by October 23. The City Commissioners were unable to meet this deadline. In fact, on October 23, they had approximately 28,150 applications yet to process. Moreover, registration processing didn’t conclude until just four days before Election Day.¹⁴ This backlog created a cascading effect that increased the number of voters who did not receive voter registration cards before Election Day, did not know if they were properly registered, had insufficient time to appeal if his or her application was missing information, and were more likely to be listed on the highly problematic supplemental sheets.

The backlog of registrations is partially caused by the large influx of registration forms submitted by voters and voter registration organizations just before the registration deadline. However, it was compounded by voters who registered multiple times (known as “duplicate” registrations). According to the Department of State, in Philadelphia last year, the City Commissioners Office received 47,121 duplicate new registrations.¹⁵ Philadelphia processed more duplicate new applications than any other county in Pennsylvania - more than triple the number of duplicates that Allegheny County processed, accounting for 32 percent of all the duplicate new applications

¹³ 4 Pa. Code § 183.7.

¹⁴ City Commissioners Meeting Minutes October 24, 2012, p. 10.

¹⁵ Pennsylvania Department of State election data.

in the state.¹⁶ Some of these duplicates were likely submitted by registrants who filled out more than one application with the hope that it would better ensure their successful registration and may include voters who registered through several voter registration organizations.

However, it is also likely that many of these duplicate registrants registered again because they had not received a voter registration card within the mandated two-week period or perhaps lacked confidence in the process and decided to submit another application as a backup. Because new registrants have no way to easily confirm that their application had been received or is being processed they are confused and frustrated. In addition, this likely creates more work for City Commission staff tasked with processing duplicate applications.

Recommendation: It should be the clear goal of the City Commissioners to eliminate the voter registration backlog before both the registration deadline and the poll book print date. To do this, City Commissioners should adhere to the state regulation requiring that registration applications be processed within 14 days of receipt by the county. City Commissioners should also institute a clearer confirmation process for voters submitting new registration applications. If registrations get processed more timely and voters can confirm (online or via phone) that their application was received, City Commissioners will better serve their customers, reduce the unnecessary burden that duplicate registrations cause their staff, and help eliminate one contributor to the backlog problem.

3.3 Supplemental Sheet Discrepancies

Supplemental sheet voters are a small set of the city's overall voters but represent a significant proportion of registered voters who were forced to vote via provisional ballot and not on the machine in November 2012. Voters caught in the voter registration backlog, described above, make up, in part, the universe of voters who should have been listed on the supplemental sheets. According to data from the Department of State, 6,537 voters who should have appeared on these sheets ultimately voted by provisional ballot on Election Day.

This means that one out of every five properly registered voters whose registration was processed after October 23, walked into a polling place and ended up voting by provisional ballot. This high proportion of supplemental list voters voting provisionally suggests real challenges with the printing, distribution and use of these supplemental sheets.

Registrants who file their paperwork at or near the end of the registration deadline are at a significant disadvantage, with the strong likelihood that their name will not properly appear in the poll book. Supplemental sheets can be easily overlooked by poll workers on Election Day since they are often delivered separately from the poll book. In the case of the November 2012 election, however, a major factor that led so many supplemental sheet voters having to vote provisionally, was that their names were never listed on the supplemental lists in the first place.

If you were supposed to be on the
supplemental sheets
you were **18x**
more likely to
vote by provisional ballot

¹⁶ According to the Pennsylvania Department of State, total statewide duplicate new registrations totaled 145,325 in 2012.

According to the Department of State, the specific cause of these missing names was that the City Commissioners may have used the wrong search criteria – or parameters – when compiling the names of voters to print each division’s supplemental sheets. These database records may have also been overlooked because of data entry errors by city election officials during voter registration processing, such as possibly failing to enter a proper date indicating when an application arrived. In the months since November’s election, the Department of State reported that it has assisted the City Commissioners in reconstructing these errors and is working with the Commissioners to prevent them from happening again.

Jessica Wong (46th Ward, 2nd Division) registered to vote and reports that she was sent two separate voter registration cards in the mail before Election Day. When she showed up to vote, she was not on voter rolls and was forced to vote provisionally. State records show that she was properly registered and should have been listed on the supplemental sheets. Correctly, her provisional vote was ultimately counted.

One example of how these outsized supplemental sheet problems impacted voting on Election Day was in Center City’s 8th Ward, where 192 voters who should have been listed in the poll book voted provisionally but a surprising 548 voters who should have been in the supplemental sheets had to vote provisionally.¹⁷ More specifically, in the 8th Ward, 9th Division, 36 voters who should have been on the supplemental sheets had to vote provisionally, while only eight people in the entire poll book were required to vote provisionally. The City Commissioners acknowledge that there may have been challenges across the city with election workers failing to check their supplemental sheets to see if a voter was registered.¹⁸ Testimony from one Judge of Elections, however, suggests that poll workers in her division, the 8th Ward, 9th Division, did consult their supplemental sheets, but that the supplemental sheets they were provided did not seem to accurately include all of the names of recently registered voters in that division. Examples from across the city, confirmed by the Team, include properly registered voters who should have been on the supplemental sheets but who were asked to vote provisionally.

Brendan Mulvihill (18th Ward, 2nd Division) submitted a voter registration change of address and his partner registered for the first time through a voter registration organization. Weeks before the election, he received his voter registration card in the mail, then a few days before the election he received a second, identical card. His partner never received a voter registration card. On Election Day, Mr. Mulvihill’s name could not be found in the poll book or the supplemental sheets. And he remembers helping poll workers double check. The Judge of Elections asked Mr. Mulvihill to use his smart phone to check if his name was in the state’s SURE system, which confirmed his updated registration in Philadelphia. The Judge of Elections then called an official associated with the City Commissioners who said he was still registered in Montgomery County and that he should vote there. Unable to travel to Montgomery County, he voted by provisional ballot. State records indicate that he was registered in Philadelphia and should have appeared in the supplemental sheets. His provisional ballot was ultimately counted. His partner was told her name was neither in the poll book nor the supplemental sheets, but Mr. Mulvihill pointed out to poll workers that remembered seeing her name in the supplemental sheets. After, locating her name on the supplementals, poll workers then permitted her to vote on the machine.

¹⁷ Pennsylvania Department of State election data.

¹⁸ The Irving Report, pg 13.

Overall, voters whose records indicate they should have been on supplemental sheets represented over 20 percent of all provisional ballots cast on Election Day, a very large proportion, given that the supplemental lists this year accounted for just three percent of all registered voters.

Recommendation: City Commissioners must implement project management reforms that will reduce the overall number of voters listed on supplemental sheets by eliminating the registration backlog before the poll book print date, setting the poll book print date as late as possible, and reducing the number of duplicate registrations. City Commissioners must correct the supplemental sheet printing process by instituting new training and clear quality control processes guidelines for City Commission staff who input registration data and involved in supplemental sheet printing. City Commissioners should also provide clearer reminders and improve training for poll workers to ensure they remember to consult the supplemental sheets on Election Day.

3.4 Poll Book Discrepancies

The printed poll book was also a source of errors, omission, and misuse by poll workers. Of the 19,132 correctly registered provisional voters, 6,838 were determined to have voted in the wrong division. Department of State data also indicates that there were 12,595 provisional voters whose records indicate they should have been listed in the poll book. That means there were as many as 5,757 voters who should have been in the poll book and who showed up at the correct polling location, but were still asked to vote provisionally. Either these voters were listed in the poll book and just were not found by the poll worker or their names were not listed in the poll book.

At the right, is one example, confirmed by the Team, of a properly registered voter, who should have been listed in the poll book, reporting that she was at the correct polling place location but was asked to vote provisionally.

The Irving Report and the Singer Report both suggest that there were two possible reasons a voter's name might not have appeared in the poll book or supplemental sheets. One was a subset that included 17 year olds who turned 18 after registering to vote and therefore were eligible to vote. These 607 first-time voters should have voted by machine on Election Day and the City Commissioners Office acknowledges that they failed to run the database program to activate these particular voters before Election Day. This oversight accounted for a relatively small number of voters – 607 new 18 year olds – who had to vote by provisional ballot.¹⁹ Although this number of voters is small overall, the fact that hundreds of first-time voters potentially had a negative voting experience as they tried to vote the first time, undermines voter confidence in a new generation of voters in a way that can have lasting effects.

April Herring (27th Ward, 22nd Division) described that on Election Day, her name was one of several consecutive records missing from the poll book. It seemed to her and the poll workers helping her that several records of voters with last names beginning with the letter “H” were all missing from the poll book.

The second reason suggested by the City Commissioners was a technical glitch that occurred during the “extraction” of data used to print the poll book and/or the supplemental sheets. As

¹⁹ Pennsylvania Department of State election data.

discussed above, the City Commissioners may have used the wrong parameters in their attempt to print the supplemental lists.²⁰ To understand the cause of any potential problem with the poll books, it is important to note that the data that populates the poll books is extracted by the state and sent directly to the poll book vendor. There are several checks put in place by the printer, Barton & Cooney, to ensure that the extraction is correct. For example, a representative from Barton & Cooney explained that they match the total number of voters in each “batch” of wards sent to get printed. If the number the State sends does not match the number of voters Barton & Cooney receives, they search to find the error. Additionally, a Barton & Cooney representative sends the City Commissioners, not the State, an advance copy of several poll books for the City to check for errors before proceeding with printing the remainder of the books. According to Barton & Cooney, and confirmed by an email obtained by the Team, in the November 2012 printing process, there was one clerical error identified and corrected before printing began.

Barton & Cooney has a policy of deleting the records used to create the poll books after the election is certified, but retains a sample of those records for any further analysis that may be necessary. This sample, which included just two of the city’s 1,687 voting divisions, was not large enough to perform a meaningful analysis. Only the City Commissioners have access to the full set of 2012 poll books to analyze.

Recommendation: If the City Commissioners believe that there was, in fact, a technical glitch that impacted the integrity of the poll book, we recommend they do a full analysis of each division to see if the 12,595 voters who were supposed to be in the poll book were actually printed in the poll book.

Section 4 - Polling Place Relocations

One reason that some voters voted provisionally is that they showed up at the wrong polling place. According to a Department of State analysis of all the provisional ballots cast, 6,838 properly registered voters cast provisional ballots because they were registered in a different election division than the location where they attempted to vote. These voters may not have ever known where their correct polling place was located or voted in a wrong location consciously. Many of these provisional voters, though, were victims of changed polling places, unaware that their polling location was moved and lacking clear information about where to vote.

In November 2012, a total of 99 polling places were moved. Some of the polling places were moved due to Philadelphia County’s 2009 settlement agreement with the Department of Justice to meet American Disability Act standards for handicapped accessibility.²¹ Other places were moved because some location owners refused to continue hosting polling places. The Irving Report acknowledged that many voters had difficulty adjusting to the changes in polling places. Many voters, especially seniors, get accustomed to voting at the same polling place for decades.

In preparation for the 2012 General Election, City Commissioner staff reported they posted notices about the proposed polling place changes and held public hearings. This gave voters an opportunity to voice support or opposition to the location changes. However, it is unclear how

²⁰ Pennsylvania Department of State.

²¹ According to the Committee of Seventy, 357 polling places have changed since the 2011 Primary Election.

well publicized these hearings were and how many members of the public showed up to voice opinions. According to City Commissioners meeting transcripts, at the September 26, 2012 City Commissioners meeting, Polling Material Supervisor Gary Ferris explained that hearings for 75 polling locations were scheduled for the next day at the Delaware Avenue offices. At the October 3, 2012 meeting, Mr. Ferris reported that no decisions were made on the polling place changes from the prior week. The City Commissioners approved or denied about 30 changes at the October 10 meeting and three more at the October 17 meeting.

City Commissioners reported that after the polling place changes were complete, a postcard was sent to every affected household informing them of the changes, even though this is not required by law. City Commissioners and staff reported that signs were hung on all of the old and new polling places to inform registered voters about the changes, but there were multiple complaints regarding poor signage, or no signage at all. Polling place changes are likely to continue to be an issue in future elections due to potential school closures. Thirteen schools that are proposed to close under the Philadelphia School District's consolidation plan would affect 27 divisions.²²

Recommendation: The City Commissioners should review their outreach methods to consider whether other methods of communicating with voters about polling place moves may be more effective than the ones currently in use. They should better publicize the hearings for changes and make relocation decisions well in advance of an election. For example, door hangers or leaflets, more effective mail communications, robo-calls, emails (to voters who sign up for notices), direct outreach to civic associations, and increased neighborhood signage (not just at the old and new polling places) leading up to the election may alert voters to the change. In addition, effective use of technology, including mobile technology and social media, should be utilized to enhance communications. Poll workers should be provided a list of all the polling place changes, including the old and new voting locations, to assist voters in finding their polling place.

Section 5 – Management of Resources

5.1 Staffing

The Mayor, City Council and the public must be confident in the City Commissioners' management of staff resources, as they discuss budget needs and requests for future funding for election staff, poll workers, training and materials. The City Commissioners Office, with an \$8.8 million annual budget appears to have more staff per-voter than other large counties in Pennsylvania.²³ The City of Philadelphia's Finance and Payroll records indicate that 109 full time employees work in the City Commissioners Office. There are also 239 part-time election and voter registration aides who were provided W-2 forms for at least \$85 in wages earned in 2012. The gross total of the wages earned by these aides was \$612,385.50. The Team was not able to determine exactly when during the course of the year the 239 part-time aides worked, but the comparison with other counties is instructive:

²² Committee of Seventy assessment.

²³ City of Philadelphia, Office of Finance.

Allegheny County, which serves about 925,000 registered voters on a \$5 million budget, has 39 full-time permanent election staff.²⁴ Allegheny County's total population is 1.2 million and 622,745 voters cast a ballot in November's election.²⁵ In comparison, Philadelphia serves about 1,029,279 registered voters and had 690,032 voters in November.²⁶ Philadelphia did receive and process many more new voter registration forms than Allegheny County in 2012, but both counties serve a comparable number of total voters.

Montgomery County has 554,870 registered voters and 408,133 voted on November 6.²⁷ According to Montgomery County officials, it operates a full-time staff of 16 and various part-time staff with a \$2.1 million budget. Since it was a presidential election, the county paid a little more than \$60,000 in part-time wages in 2012, but plan to spend only half of that for 2013.

Neither Allegheny County nor Montgomery County experienced unusual issues with large registration backlogs, duplicate applications, poll book or supplemental sheet irregularities, or abnormally high provisional ballot use. However, as the county comparison graphic depicts on the next page, Philadelphia's election administration budget and staff vastly outmatches the two other large counties in Pennsylvania. This suggests, among other things, that Philadelphia could more effectively utilize staffing resources in the weeks leading up to and during Election Day.

Better management of staff would help address challenges such as reducing the registration backlog before the poll book print deadline to cut down on supplemental sheets and making sure the troubleshooting hotline on Election Day adequately served the needs of voters and poll workers. Improved planning would help the City Commissioners better anticipate late surges in registration forms, so that last-minute crises (like Hurricane Sandy) do not cause the system to potentially fall apart. Direct training of City Commissioners Office personnel tasked with voter registration by Pennsylvania Department of State officials would also ensure that those handling and processing voter registrations have been prepared personally by state elections officials.

Proper human resource management affects how quickly voter registration forms are processed. For example, the Irving Report stated that two weeks of staff time were used to work on a Republican/Libertarian petition dispute that arose instead of crucial voter registration processing in late August. Because of the City Commissioners' decision not to cooperate with this Team's work, it is unclear why management made the decision to stop processing voter registrations and devote the entire staff to that effort. It would be helpful to better understand that management decision to help inform other critical human resource decisions that must be made in the future.

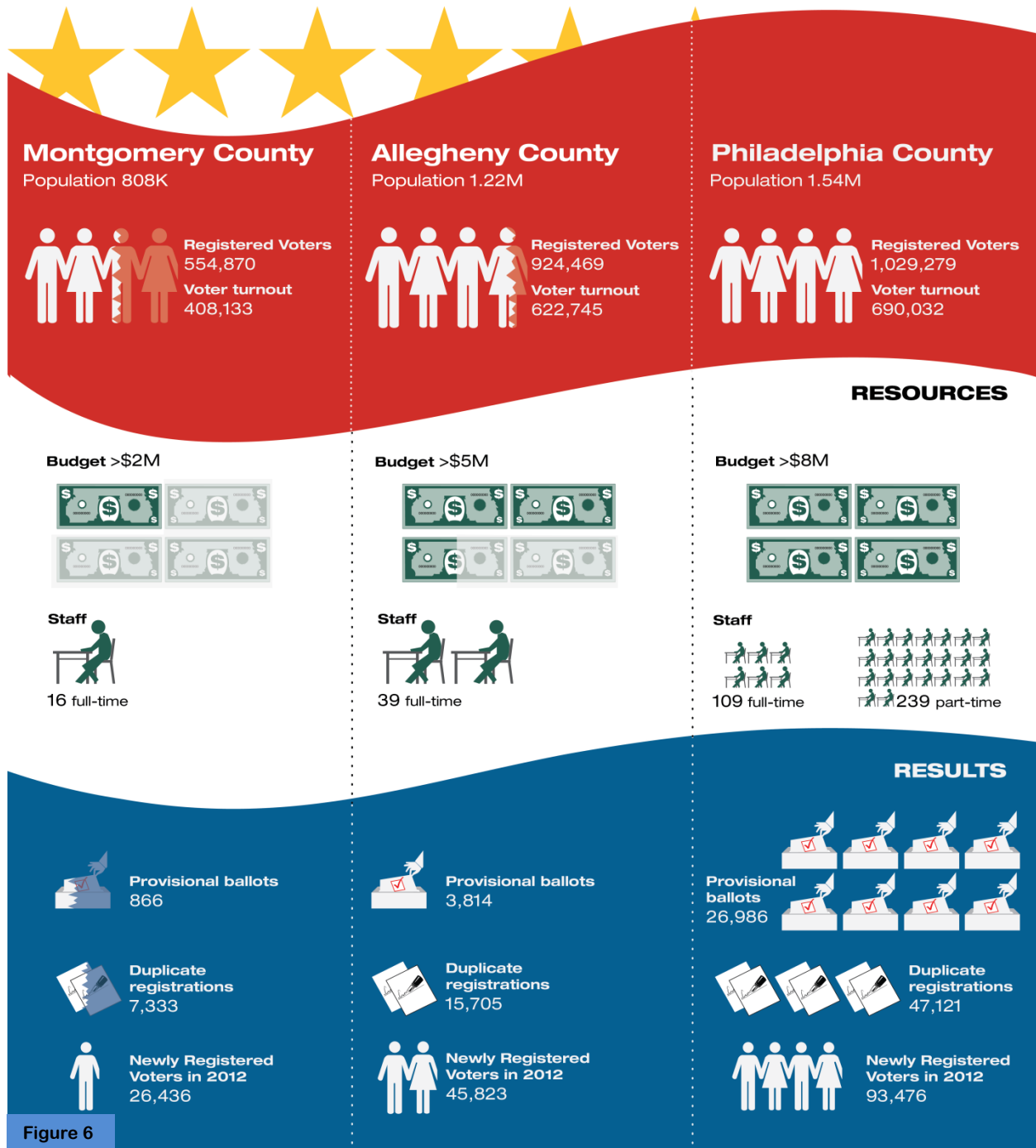
²⁴ Allegheny County, 2012 Comprehensive Fiscal Plan, page 44,
http://www.county.allegheny.pa.us/budget/2012/FiscPlan2012_1.pdf.

²⁵ Population data from the United States Census Bureau; Voters for the 2012 found on the Pennsylvania Department of State website,
http://www.dos.state.pa.us/portal/server.pt/community/departement_of_state/12405.

²⁶ Pennsylvania Department of State, 2012 General Election Turnout and Elections Results Report for President,
http://www.dos.state.pa.us/portal/server.pt/community/departement_of_state/12405.

²⁷ Pennsylvania Department of State, 2012 General Election Turnout and Elections Results Report for President,
http://www.dos.state.pa.us/portal/server.pt/community/departement_of_state/12405.

A Tale of Three Counties



If other large Pennsylvania counties, like Allegheny County, can run elections twice a year with far less staff and funding, we need to better understand the situation in Philadelphia.

Recommendation: The City Commissioners should undertake a thorough analysis of staff resources by the City and the City Commissioners Office, to determine whether staff tasked with processing voter registration applications are being trained, managed and deployed in the most effective way. This analysis should include relevant comparisons

with other large counties and municipalities, inside and outside of Pennsylvania. It is also important that the City Commissioners make use of officials at the Pennsylvania Department of State to directly train their voter registration personnel.

5.2 Election Boards and Training

The Team found multiple reports of poll workers confused about how to properly: 1.) Implement recent changes to the Voter ID law; 2.) Address voters who are registered in the State's SURE database but are not in the poll book; 3.) Consult the supplemental sheets for voters not in the poll book; and 4.) Troubleshoot voting machine problems before calling for a mechanic.

This uneven application of processes led to a great deal of confusion. With a reported 75 percent poll workers attending training, the City Commissioners seem somewhat effective at getting poll workers to show up to training, but it is less clear how many trainees actually stay through the entire training and are fully prepared for Election Day.

As the frontline election administrators, poll workers must be trained to confidently execute their duties and be provided the resources to effectively solve problems as they arise on Election Day. An analysis of the City Commissioners' poll worker training program and problems reported on Election Day suggest critical challenges in the administration of effective poll worker preparation.

Jennifer Yuan (8th Ward, 2nd Division), Acting Judge of Elections, reported that voter ID confusion was considerable on Election Day 2012. Ms. Yuan was instructed not to allow anyone to vote on the machines if they were not in the poll books, and that she had to watch every provisional ballot that was signed. She felt the provisional process would have proceeded more smoothly if the voters had been given privacy. She was unable to reach the City Commissioners Office all day to verify voter registration indicating that the phone would simply ring and ring without an answer. Without clear guidance from the City Commissioners, she began looking up voters in the Commonwealth's SURE online search system as verification, until receiving instructions to stop.

The City Commissioner's Office offers several training opportunities for the more than 6,500 poll workers. Beginning in September, the City Commissioners host 16 separate one-hour training sessions at 9 different locations throughout the City. According to training supervisor Penny Murchison's reports, 4,966 poll workers, or 75 percent, showed up to training in the weeks prior to the November election.²⁸

The content of the training consists of reviewing the Election Day procedures detailed in the newsprint election worker information guide and voting machine training for machine inspectors and other Election Board members who want it.

The City Commissioners Office provides a \$20 added financial incentive to encourage poll workers to attend training. Any poll worker who signs in at arrival to the training is paid the extra \$20, regardless of how long they remain at training or how well they understand the training material.

²⁸ City Commissioners' meetings from September to November 7, 2012.

Despite these training efforts, on Election Day, some poll workers still appeared to be confused, uninformed, and under-prepared for Election Day. Examples confirmed by the Team include:

The Irving Report indicates that the City Commissioners prepared the Election Boards for the possible full implementation of the Voter ID law. On October 2, Pennsylvania Commonwealth Court Judge Robert Simpson's ruling required Election Boards across the state to ask for identification but allowed voters to vote without showing identification (unless they were first time voters in a new division). As a result, the City Commissioners and their staff noted that they

Matthew Allen (36th Ward, 34th Division) went to his polling place at Broad and Federal Streets at approximately 7:45 a.m. to vote and found five people in front of him at the registration table. As he waited in line, he noted that the voting machines were still closed and covered. When it was his turn to sign in, he was informed by a poll worker that he would have to vote by paper or provisional ballot because the poll workers did not have anyone there who knew how to get the machines up and running. He was also told that someone had been called and the machines would be fixed shortly. Rather than casting a provisional ballot, Mr. Allen left the polling location, then returned during his lunch break around 12:30 p.m., and was able to vote using the machine.

Margaret Grace (15th Ward, 3rd Division) went to her regular voting place at approximately 7:15 a.m. The poll worker asked her for identification, but she did not have any with her. Ms. Grace knew the changes to the voter ID law and understood that she could vote at her regular polling place without ID. The worker and the Judge of Elections told her she could not vote without ID. The Judge of Elections then suggested that she run home down the street and obtain her ID so that she could vote; Ms. Grace refused. Other voters in the line started chiming in and attempting to educate the poll workers about the law. The Judge of Elections then instructed Ms. Grace to fill out a provisional ballot, which she refused to do. The Judge of Elections asked Ms. Grace to step aside while he called someone to verify her date of birth and address. After some delay, she was then allowed to vote on the machine.

had to retrain Election Board members who had already been given information on the full implementation of the law.

Philadelphia is made up of 66 wards, divided into a total of 1,687 divisions. Each division is run by an Election Board that consists of the following: Judge of Elections, a Majority Inspector, a Minority Inspector, a Clerk, and at least one Machine Inspector. Each board member has a specific role that ensures that each voter is verified as properly registered, determined eligible to vote, and that their votes are accurately reported at the end of the day. The poll workers are elected or appointed, ultimately report to the City Commissioners and can be unseated by the City Commissioners. Members of each Election Board are paid for their work on Election Day, including, for instance, Judges of Elections, who are paid \$95 for the time worked on Election Day plus the additional \$20 for signing in for training.

Mandating training or increasing the training attendance stipend are not simple solutions. The Election Code may allow counties to mandate poll worker training, but includes very few

enforcement tools. Additionally, according to an opinion from the City's Law Department, dated March 22, 2013, the state Election Code sets minimum pay of \$75 and a maximum of \$200 for Judges of Elections and limits training pay to \$5 for all Election Board members (*See Exhibit E*). In practice, however, the training stipend in Philadelphia is \$20 to encourage attendance. The base pay could be increased but the Code doesn't seem to allow for more than \$5 for training.

Before any discussion of increased pay for poll workers, however, there should be a concerted plan to adjust that incentive to not only drive attendance, but also encourage full participation and promote information retention, which should lead to better Election Day performance and increased voter confidence.

Philadelphia Court of Common Pleas President Judge Pamela Dembe convened a bipartisan group following the election to consider the significant challenges of and critical need to improve poll worker training. Judge Dembe explained that many members of the Elections Boards refuse to use the provided cell phones and many are unwilling to learn about and comply with changes in election law.

Poll workers are the City and State's representatives to the general electorate on Election Day and are vital to ensuring a fair election takes place. They must be provided effective tools and training to guarantee that voters are well served and feel confident in the election administration process. At a minimum, and in light of updates to the Election Code and new Voter ID law, these materials and training content must be continually updated. In the "Vote Philadelphia Transition Committee Report", a section dedicated to training improvements lays out a number of clear recommendations for how to improve the work of frontline Election Day officials. It is also the understanding of this Team that an updated training program was developed and nearly implemented last Fall.

Recommendation: The City Commissioners should update training materials to not only reflect changes in state law and the Election Code, but also to ensure they are easier to use on Election Day. The City Commissioners should re-think the incentives to attend training to help encourage poll workers to not only show up, but to stay through the training sessions. The City Commissioners should implement new training programs that have already been developed and explore holding separate voting machine-focused training sessions for machine inspectors. Commissioners should also make available the poll worker training videos developed by the State and posted online.

Section 5.3 Telephones

Indications of ineffective lines of communication on Election Day between poll workers and the City Commissioner staff created added confusion and frustration on Election Day. As voters waited, poll workers had trouble connecting to a knowledgeable elections official to help answer questions and troubleshoot problems. Poll workers are instructed to call the City Commissioners Office to report machine problems, clarify how to apply certain procedures, and request any needed materials. There were numerous reports of poll workers attempting to get help from the City Commissioners Office, but callers consistently got a busy signal or the phone rang unanswered.

The City's Office of Innovation and Technology confirmed that before Election Day the City Commissioners requested six dedicated day phone lines for the Delaware Avenue location to field Election Day calls. The Election Day poll worker guide indicates that there is no single trouble-shooting hotline, but instead multiple different phone numbers for poll workers to call for different types of issues.

City Commissioners provide polling place officials with a cell phone to specifically use in case problems or questions arise on Election Day. The City's Office of Innovation and Technology (OIT) confirms that the cost of those cell phones – \$100,000 in Fiscal Year 2013 – is paid for out of the OIT department's budget, not by the City Commissioners Office.

Poll workers cannot perform their jobs if they do not receive prompt technical and administrative support from the election headquarters. Providing free cell phones and adding phone lines at the Delaware Avenue headquarters are steps toward opening channels for poll workers to communicate problems. However, providing these tools without ensuring phone calls are answered in a timely fashion by election call-center personnel is a waste of resources and a lost opportunity to support poll workers.

Recommendation: The City Commissioners and the City (Office of Innovation and Technology and Office of Public Property) should determine whether there are sufficient phone lines in place at the Delaware Avenue headquarters and appropriate number of personnel staffing those lines to effectively manage intake of trouble-shooting calls on Election Day. If increased phone support is determined to be needed, the City Commissioners may be able to utilize the City's 311 System as a tool for voters and poll workers to more easily communicate. The City must evaluate the value of paying for cell phones for poll workers if they do not serve their purpose to connect poll workers to an effectively staffed Election Day hotline.

5.4 Voting Machines

Non-functioning voting machines cause polling locations to open late, create long lines that turn voters away, and erode confidence in the election system. In Philadelphia, we use voting machines that are over 10 years old, and were made by a company called Danaher that no longer manufactures or services voting machines. Danaher provided the City with a 10-year warranty on the machines. Since that warranty ran out, the City amended an existing contract with Electec to provide the same type of service for \$285,000 per year.

The Election Code stipulates that if 50 percent or more of the electronic voting machines are not functioning in a polling place, poll workers are instructed to offer voters the option to wait to vote on the machine, or cast their ballot using an "emergency paper ballot". Emergency paper ballots are to be treated by election officials as if they were machine ballots and are to be counted the night of the election. These emergency paper ballots however are almost identical to the provisional ballot, which should only be utilized when there is a question regarding a voter's eligibility, and are counted in the days following an election, after a voter's eligibility has been confirmed. In the course of a busy Election Day, these two types of ballots are easily mistaken

for each other, resulting in poll workers incorrectly treating emergency ballots as provisional ballots.

During Election Day 2012, there were multiple reports of only one working machine in a polling place; one or several other machines not lighting up when votes were cast; and one or several other machines available, but functioning intermittently. The example to the right illustrates voting machine problems on Election Day 2012 and how a voter tried to cast her vote but was unable to properly.

In the late 1990s, City Council and then-Mayor Rendell worked together to bring electronic voting machines to Philadelphia. The City Commissioners at the time resisted the new technology. However, City Council, working with the Mayor, passed legislation and found financing to invest in the new machines. The new machines have successfully cut back on reports of tampering, which historically had been the cause of many election complaints by voters. However, more than ten years later, a fresh look at the available resources and a modernization effort must be undertaken if we are to avoid increasing mechanical issues with voting machines.

Voter “J.T.” (36th Ward, 34th Division) voted at the P.E.P. building on South Broad Street. Her name was in the registration book, and she signed in. However, she was then handed a paper “emergency” ballot because the poll workers said that the voting machines were not working. She was directed to sit at a table with others and reportedly given no privacy to fill out the ballot. Unknown to her, poll workers mistakenly filed her emergency ballot as a provisional ballot. During the week of January 31, 2013, she received a letter from the Voter Registration Office informing her that her ballot was not counted because she had signed the book, indicating (incorrectly) that she had voted already on the machine.

Recommendation: The Mayor, City Council and City Commissioners should establish a working group to evaluate the current state of voting machines. The working group should assemble data on Election Day breakdowns, repair needs, maintenance costs, and the estimated future life of the system. This effort should study the best way to maximize the machines’ functionality and should study new technologies in other jurisdictions to determine how to update or replace the voting infrastructure in Philadelphia.

5.5 Language Access

Philadelphia is growing significantly and becoming more of an international city. The latest U.S. Census data shows an increase in the immigrant and multicultural population. Between 2000 and 2011 the foreign-born population grew by 54,493 or 40 percent.²⁹ In 2000 foreign-born made up 9% of the population compared to 12% in 2011.³⁰ At times, these new citizens experience particular barriers to exercising their fundamental right to vote. The lack of language assistance combined with the steady increase in the multicultural population of Philadelphia

²⁹ United States Census Bureau / American FactFinder. “DP-2: Profile of Selected Social Characteristics: 2000 Census 2000 Summary File 3 (SF 3) Sample Data” U.S. Census Bureau, 2000.Web. 10 June 2013.

³⁰ United States Census Bureau / 2011 American Community Survey 1-Year Estimates. “DP02: SELECTED SOCIAL CHARACTERISTICS IN THE UNITED STATES” U.S. Census Bureau, 2011.Web. 29 April 2013.

underscores the need to evaluate language accessibility at Philadelphia polling locations in order to ensure an equitable voting experience for all citizens of Philadelphia.

Broadly, language access advocates have raised the following concerns about the lack of language assistance at Philadelphia election polls:

- A shortfall of interpreters and bilingual individuals to serve at polling places. It is unclear how the City Commissioners recruit for these positions and advocates claim that the list is stale and there is a need to identify more qualified individuals.
- Enhanced training of poll workers is required and to address the special challenges involved in servicing a changing global community.
- The Consent Decree obtained as a result of the 2007 lawsuit governing language access has expired, according to the Latino Voter ID Workgroup. As a result, the list of polling places that need language assistance may need to be updated from the list in the Consent Decree.
- Notifications of polling place changes should be disseminated in languages other than English.

During the course of the Team's review and during meetings with numerous constituent groups, several problems regarding language access for minorities at Philadelphia polling places were discovered. For example, the failure to maintain an adequate pool of interpreters, as well as the lack of bilingual poll workers, along with the failure to properly advertise a language assistance hotline, resulted in conditions that created problems for non-English speakers. Reports indicate that these conditions resulted in voters leaving the polls without casting a ballot because of their frustration at the lack of language assistance at the polls.

Voter "Bui" (48th Ward, 13th Division) registered to vote several months before Election Day but never received any notification in the mail. On Election Day, he went to at least three different poll sites to try to cast his vote but was unsuccessful. He did not have a Vietnamese-speaking interpreter to help him find his correct poll site. Mr. Bui was not able to vote.

Additionally, many polling locations in neighborhoods with a significant number of Asian citizens did not have sufficient, if any, Asian language interpreters. Prior to the November 2012 election the Asian American Legal Defense and Education Fund confirmed that only three Asian language interpreters were trained to work the election polls that day. This resulted in eligible voters experiencing difficulty voting or not voting at all.

The issue of missing or misspelled names is one that particularly affects multicultural voters, whose names are often inverted; that is, a voter's first name is listed as the last name, or their middle name or family surname is listed and vice versa. In many instances, poll workers turned voters away or told them to register instead of offering them provisional ballots.

An exit poll conducted by the Asian American Legal Defense and Education Fund counted several instances of missing or misspelled names. In addition, there were specific reports of several Asian American voters being turned away when their name was not found in the registration rolls.

These are cases where the safety net provisional ballots provide is important. The Help America Vote Act (HAVA) requires that poll workers provide provisional ballots to voters who are determined not eligible to vote on the voting machine due to some discrepancies in their registration.

Philadelphia has a continuing obligation to comply with the language minority provisions of the Voting Rights Act and needs to take necessary steps to ensure language access at the polls now and into the future.

Voter “Tran’s” (36th Ward, 29th Division) name was missing from the voter rolls at his South Philadelphia polling place. Mr. Tran was not offered a provisional ballot and was not permitted to vote despite the fact that he was properly registered and showed up at the correct polling place.

As Philadelphia’s global community continues to grow, the City Commissioners should be proactive on this issue. Philadelphia’s newest citizens should not have to force compliance through litigation and court mandated consent decrees.

Recommendation: Assistance for Philadelphia’s growing multicultural community needs to be realized and actions should be proactively taken to remove barriers from voting for these groups, such as: 1) identification of interpreters and bilingual poll workers to assist these groups; 2) proper training of poll workers to address concerns raised; 3) updated list of election sites that require language assistance; 4) the dissemination of polling place relocations in various languages; and, 5) more effective use of the City’s language hotline. Also, in March of 2013, Mayor Nutter created the Office of Immigrant and Multicultural Affairs to help new citizens better connect with the government. The City Commissioners should coordinate efforts and work with the new office to address many of these concerns and prevent these issues from hindering Philadelphia’s growth as a global city.

Summary of Findings and Recommendations

The following is a summary of the findings and recommendations detailed in this report. It also provides proposed areas where the Mayor's Administration can help support the implementation of these recommendations.

- I. **FINDING: Voter registration application processing.** The significant backlog of voter registration applications yet to be processed by both the October 9 registration deadline and the October 24 poll book print date contributed to the unusually high number of provisional ballots cast on Election Day. Because voters did not receive confirmation of their registration, many felt the need to submit a second, duplicate application.

RECOMMENDATIONS:

- City Commissioners should adhere to the state regulation (4 Pa. Code § 183.7) requiring that registration applications be processed within 14 days of receipt by the county. This regulation exists to ensure that applications are processed in a timely fashion and voters are notified of the status of their application in time to correct any discrepancies. Following this regulation would also help to ensure that the fewest possible voters are included on the supplemental sheets.
- City Commissioners should focus staff resources on eliminating the application backlog ahead of the voter registration deadline, in preparation for the increased volume of new registration applications that are submitted by voters and voter registration organizations at the deadline.
- City Commissioners should create a clearer registration application confirmation process, either online or via phone, so that voters can more easily check on the status of their application and reduce the volume of duplicate applications and to reduce the unnecessary burden that duplicate applications cause elections registration staff.

Potential Administration Role: To assist in reducing the volume of last minute applications submissions, the Mayor can marshal resources to publicize registration deadlines and help communicate to voter registration organizations how to best submit collected applications.

- II. **FINDING: Supplemental Sheets.** Voters who were supposed to be listed on supplemental sheets represented over 20 percent of all provisional ballots cast on Election Day and were nearly 18 times more likely to have to vote by provisional ballot than those who were listed in the poll book. Any registrations successfully processed and accepted after the time the poll book was sent to print on October 23, would have to be included in the supplemental sheets. Of the approximately 28,150 voters who were processed after this date, 6,537 ended up having to vote by provisional ballot.

RECOMMENDATIONS:

- City Commissioners need to implement management reforms that will reduce the overall number of voters listed on supplemental sheets by eliminating the registration backlog before the poll book print date, setting the poll book print date as late as possible, and reducing the number of duplicate registrations.

- City Commissioners must correct the supplemental sheet printing process by instituting clear quality control guidelines for City Commission staff to ensure that both data entry is accurate and complete and that the data parameters they use to extract records from the system to print the supplemental sheets are correct and don't omit properly registered voters.
- City Commissioners should ensure that Pennsylvania Department of State SURE database officials are directly training all City data entry and registration processing staff, not just their managers.
- City Commissioners should improve training for poll workers to ensure they remember to consult the supplemental sheets as they verify voters' eligibility.
- To fully verify who was listed on the supplemental sheets and what errors led to omissions, the City Commissioners will need to continue working with the State to reconstruct the process they used to print the supplemental sheets and compare them with state records.

Potential Administration Role: The Records Department evaluated the feasibility of printing the poll books in house and indicated that, while possible, it would be a significant burden on Central Duplicating. If it would allow for the poll book to be printed at a later date, the City could provide a more complete assessment from the Records Department and assist with a management review of this process.

- III. **FINDING: Polling place changes.** Despite the City Commissioners' efforts to notify voters with postcards and signs regarding polling place changes, many voters showed up at the wrong location. In fact, 6,838 voters were properly registered but voted by provisional ballot because they showed up at the wrong polling place. Many of these voters struggled to find the proper polling site because poll workers could not effectively direct them to their proper polling location. Changes in polling locations will continue to be an issue in future elections.

RECOMMENDATIONS:

- The City Commissioners should review their outreach and communication methods to consider whether other or additional approaches may be more effective, such as updated direct mail, emails, robo-calls, engaging civic associations, more strategically located neighborhood signage, and social media alerts and website updates.
- Poll workers on Election Day must be provided a list of all polling place changes, including both old and new voting locations to enable them to assist voters in finding their polling place.

Potential Administration Role: The City's 311 Mobile App provided easy access to accurate information about polling place locations during the November 2012 Election and can be more fully publicized in future elections. The 311 call takers can be prepared to field calls and provide polling place information for future elections as well.

IV. **FINDINGS: Management of Resources**

Staffing: Philadelphia has more staff per voter paid to perform voter registration compared to the two other large Pennsylvania counties, neither of which had major Election Day

challenges in November 2012. Questions remain regarding the City Commissioners hiring of permanent and temporary voter registration staff, including how many personnel are on staff, how their of their time is used, and how they are trained.

RECOMMENDATIONS:

- The City Commissioners, working with the Administration, should undertake a thorough analysis of staff resources, in particular for staff tasked with voter registration. City Commissioners may need to position and deploy staff earlier in the registration process and prioritize their work in a different way.
- The City Commissioners should make use of elections officials at the Pennsylvania Department of State to directly train all of their voter registration personnel.

Training: City Commissioners reported that nearly 5,000 of the almost 6,500 poll workers attended training last Fall. Despite the high attendance rate, confusion at polling places was pervasive and possibly could have been mitigated by poll workers who were more fully informed about the proper procedures.

RECOMMENDATIONS:

- Enhance poll worker training by updating the existing training materials, instituting newly developed training curriculum and utilizing the state's online training videos.
- Rethink the way that the \$20 financial incentive for poll workers is provided, to encourage poll workers to not only show up, but remain for the duration of the training.
- Provide separate training for machine inspectors.

Potential Administration Role: Share training resources from other public-facing City departments and offer customer service training to poll workers through the use of City resources.

Telephones: Poll workers are instructed to call the City Commissioners if there are machine problems or questions about verifying voter eligibility or any other procedure. On Election Day, there are numerous reports of poll workers attempting to report problems and get help from the City Commissioners, but their calls to the hotline ringing unanswered. The City Commissioners set up six dedicated phone lines at their Delaware Avenue headquarters for Election Day. Judges of Election each received a dedicated Election Day cell phone for use in reporting problems, paid for by the City's Office of Innovation and Technology.

RECOMMENDATIONS:

- City Commissioners need to determine whether there are sufficient phone lines in place at the Delaware Avenue headquarters and an appropriate number of are on staff to effectively handle the potential high volume of calls.
- The City must evaluate the value of paying for cell phones for poll workers if, when used, they do not serve their purpose to connect poll workers to an effectively staffed Election Day hotline.

Potential Administrative Role: If increased phone lines are determined to be needed, OIT can evaluate what it would require to improve the phone infrastructure to match

those needs. City Commissioners can explore how to effectively utilize 311 as a tool for both voters and poll workers.

Voting machines: Philadelphia voting machines are currently 10 years old, include aging and increasingly obsolete voting technology, and were made by a company that no longer manufactures or services voting machines. Non-functioning voting machines cause polling locations to open late, create long lines to vote and, when half of the machines inoperable, leads to voters using emergency paper ballots to cast their vote. There were several cases on Election Day of machine problems leading to voters using emergency ballots, including incidences of those emergency ballots incorrectly being treated as provisional ballots.

RECOMMENDATION:

- The Mayor, City Council and the City Commissioners should establish a working group who can obtain data on machine break-downs and determine whether the City should explore investment in new technologies and voting infrastructure within the confines of existing budgetary constraints.

Language Access: There is an inadequate pool of interpreters and bilingual poll workers and a failure to properly advertise or make available a language assistance hotline for Spanish, dialects of Chinese and a variety of other languages. Reports indicate that these conditions resulted in many voters leaving the polls without casting a ballot because of their frustration at the lack of language assistance at the polls. The issue of missing or misspelled names is one that particularly impacts multicultural voters, whose names are often inverted. Therefore, the list of polling places that need language assistance needs to be updated.

RECOMMENDATION:

- Assistance for Philadelphia's growing multicultural community needs to be realized and actions should be proactively taken to remove barriers from voting for these groups, such as: 1) identification of interpreters and bilingual poll workers to assist these groups; 2) proper training of poll workers to address concerns raised; 3) updated list of election sites that require language assistance; and, 4) the dissemination of polling place relocations in various languages.

Potential Administration Role: In March of 2013, Mayor Nutter created the Office of Immigrant and Multicultural Affairs to help new citizens better connect with the government. The City Commissioners should coordinate efforts and work with the new office to address many of these concerns and prevent these issues in the future.

Exhibit A – Timeline

On or about August 16, 2012: Election registration staff stop working on voter registrations for two weeks to assist in the review of the Republican Party/Libertarian Party petition challenge. *[Source: Irving Report, p. 5.]*

September 4, 2012: City Commissioner staff begin working 2.5 hours longer each day to process registration applications, extending the work day until 7:30 p.m. *[Source: Commissioner Singer letter to Zack Stalberg of the Committee of Seventy, dated October 12, 2012.]*

September 9, 2012: City Commission staff begin working an additional 2.5 hours each day, extending the work day until 10 p.m. *[Source: Commissioner Singer letter to Zack Stalberg of the Committee of Seventy, dated October 12, 2012.]*

September 19, 2012: At the public City Commissioners meeting, then-Documents Specialist, Tim Dowling (responsible for unit that date stamps the applications upon receipt) reports the office received 104,084 applications since the Primary Election. Acting Voter Registration Administrator Greg Irving (responsible for the unit that processes the applications) reports that 71,000 paper voter registration applications and 18,000 electronic PennDOT applications were processed. *[Source: City Commissioners meeting transcripts, September 19, 2012.]*

September 26, 2012: At the public City Commissioners meeting, Mr. Dowling reports the office received 122,156 voter registration applications since the Primary Election. Mr. Irving reports that his unit is working on applications from September 12. *[Source: City Commissioners meeting transcripts, September 26, 2012.]*

September 27, 2012: City Commissioners begin hearings for changes to at least 75 in polling place locations to ensure ADA compliance. *[Source: City Commissioners meeting transcripts, September 26, 2012, pg. 5.]*

October 3, 2012: At the public City Commissioners meeting, Mr. Dowling reports the office received 148,885 voter registration applications since the Primary Election. Mr. Irving reports that there are 27,000 backlogged applications and they are currently processing applications received on September 17 and 18. *[Source: City Commissioners meeting transcripts, October 3, 2012.]*

October 9, 2012 – Voter registration deadline

October 10, 2012: At the public City Commissioners meeting, Mr. Dowling reports the office received roughly 192,000 voter registration applications since the Primary Election. Mr. Irving reports his unit is working on processing applications that were received by the office on September 23 – 17 days after receipt. (Mr. Irving did not state at this meeting the amount his unit still had to process.) Committee of Seventy offers to send volunteers to help but Mr. Irving states this would cause union problems. *[Source: City Commissioners meeting transcripts, October 10, 2012.]*

October 11, 2012: City Revenue Department employees begin working overtime to process voter registrations. *[Source: City Revenue employees.]*

Committee of Seventy sends Commissioner Singer a letter suggesting the use of volunteers to help process registration applications to assist with the backlog. *[Source: Committee of Seventy.]*

Committee of Seventy asks Mayor and City Council to provide funds to hire temporary workers because of the backlog of applications. *[Source: Committee of Seventy.]*

October 12, 2012: Commissioner Singer letter to the Committee of Seventy states that each person who submitted a voter registration form with a valid address, but whose form needs to be corrected will be sent notice no later than Friday, October 26. Commissioner Singer also states they cannot accept volunteers from the Committee of Seventy because “it is not appropriate to entrust mission critical work to volunteers.” Commissioner Singer explains that the backlog is normal compared to 2004 and 2008 and provides the number of registration forms submitted on the deadline day for 2004, 2008 and 2012 but does not provide the number of backlogged applications that existed prior to the deadline for those years. *[Source: Committee of Seventy.]*

October 17, 2012: At the public City Commissioners meeting, Mr. Dowling reports the office received a total of 196,764 voter registration applications since the Primary Election. Mr. Irving reports that they are processing 5,500 applications per day and have 41,000 left to process for this election. He also reported his unit is working on applications received on October 3. *[Source: City Commissioners meeting transcripts, October 17, 2012, pg. 17]*

October 22, 2012: This marks 15 days before the election; statutory deadline, 25 Pa. C.S.A. § 1328, for applicants to correct their registration application discrepancies in order to be properly registered. *[Source: City Commissioners meeting transcripts, October 10, 2012, pg. 43.]*

October 23, 2012: This marks 14 days after the registration deadline. All voter registration applications should have been processed, 4 Pa. Code § 183.7. State’s SURE manager electronically sends the poll book files to be printed by City’s vendor, Barton & Cooney (Mr. Irving is copied on email). *[Source: Email from State’s Frederick Umayam to Barton & Cooney representatives, October 23, 2012, 9:45 a.m.]*

October 24, 2012: At the public City Commissioners meeting, Mr. Dowling reports the office received a total of 197,525 voter registration applications since the Primary Election. Mr. Irving reports that his unit has 28,150 applications left to process for this election. Mr. Irving reports his unit is working on processing applications that were received by the office on the deadline, October 9. *[Source: City Commissioners meeting transcripts, October 24, 2012.]*

October 29 and 30, 2012: Hurricane Sandy closes City offices, but City Commissioners report staff work continued work.

October 31, 2012: City Commissioners meeting postponed.

November 2, 2012: At the public City Commissioners meeting, Mr. Irving reports that all voter registration applications that were submitted in a timely manner were processed. Commissioner Singer confirms that a registered voter whose application was processed after October 23 should be in the supplemental sheets. Commissioner Singer and Mr. Dowling announce that the original October 22 deadline for correcting registration applications had been extended to Saturday, November 3. Mr. Irving also announces that boxes were being delivered to police districts today. Mr. Irving says that for judges who pick up their boxes on Friday, that he arranges for those judges to receive the supplemental lists at home. Staff member announces that all households received a postcard if their polling place changed and staff were hanging signs. *[Source: City Commissioners meeting transcripts, November 2, 2012.]*

November 3, 2012: Deadline for the voters to submit any changes to the discrepancies in their registration application. *[Source: City Commissioners meeting transcripts, November 2, 2012.]*

(November 3 through 5, 2012: Possible printing by City Commissioners and delivering of supplemental lists – not able to ascertain exactly when the lists were printed.)

November 6, 2012: Election Day

November 7, 2012: Commissioners Schmidt and Clark vote to replace Commissioner Singer as Chair and name themselves co-chairs. *[Source: City Commissioners meeting transcripts, November 7, 2012.]*

EXHIBIT B

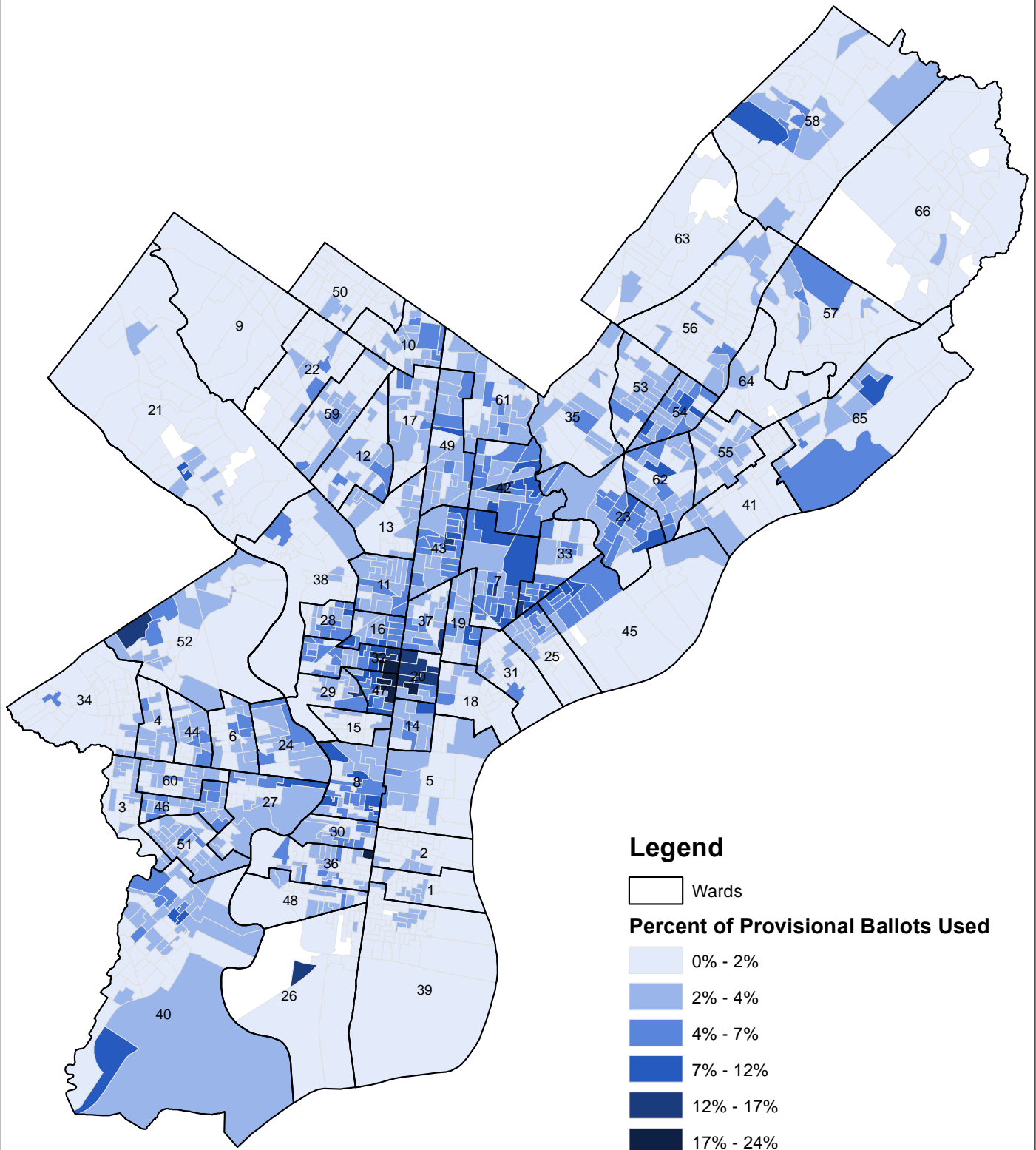
LIST OF NAMES OF INTERVIEWEES

The following includes the list of people interviewed by the Team. The Team would like to extend a special thank you to them for contributing their knowledge and expertise to this Report.

1. Brian Abernathy, City of Philadelphia
2. Robert Aversa, City Solicitor's Office
3. Peter Berson, District Attorney's Office
4. Adam Bonin, Obama for America courtroom attorney
5. David Burgess, Pennsylvania Department of State
6. Linda Busillo, City Solicitor's Office
7. Daniel Cantu-Hertzler, City Solicitor's Office
8. Vito Canuso, Republican City Committee of Philadelphia
9. Stephanie L. Costa, Duane Morris
10. Honorable Pamela P. Dembe, President Judge, Court of Common Pleas of Philadelphia
11. Patrick M. Doyle, Owner of Barton & Cooney, printing vendor
12. Mario L. Fratangeli, Barton & Cooney
13. Jonathan Goldstein, Republican State Committee attorney
14. Will Gonzalez, Latino Voter ID Workgroup
15. Ellen Mattleman Kaplan, Committee of Seventy
16. Russ Klenet, Klenet & Associates
17. Noam Kugelmass, former staff of City Commissioner Stephanie Singer
18. Jonathan Marks, Elections and Legislation Pennsylvania Department of State
19. Michael Meehan, Republican City Committee of Philadelphia
20. Matthew Nelson, Election System and Software, a voting machine vendor
21. David Robinson, Montgomery County Solicitor's Office
22. Jorge Santana, former staff of City Commissioner Stephanie Singer
23. Marian Schneider, Advancement Project, Voter Protection Program
24. Zack Stalberg, Committee of Seventy
25. Emma Tramble, Wiser Strategies/The League of Women Voters
26. Stella Tsai, Obama for America courtroom attorney
27. Lauren Vidas, Obama for America

EXHIBIT C

Percent of Voters Casting Provisional Ballots by Division



Percent of Each Division's Provisional Ballots Cast By Voters Supposed to be Listed on Supplemental Sheets

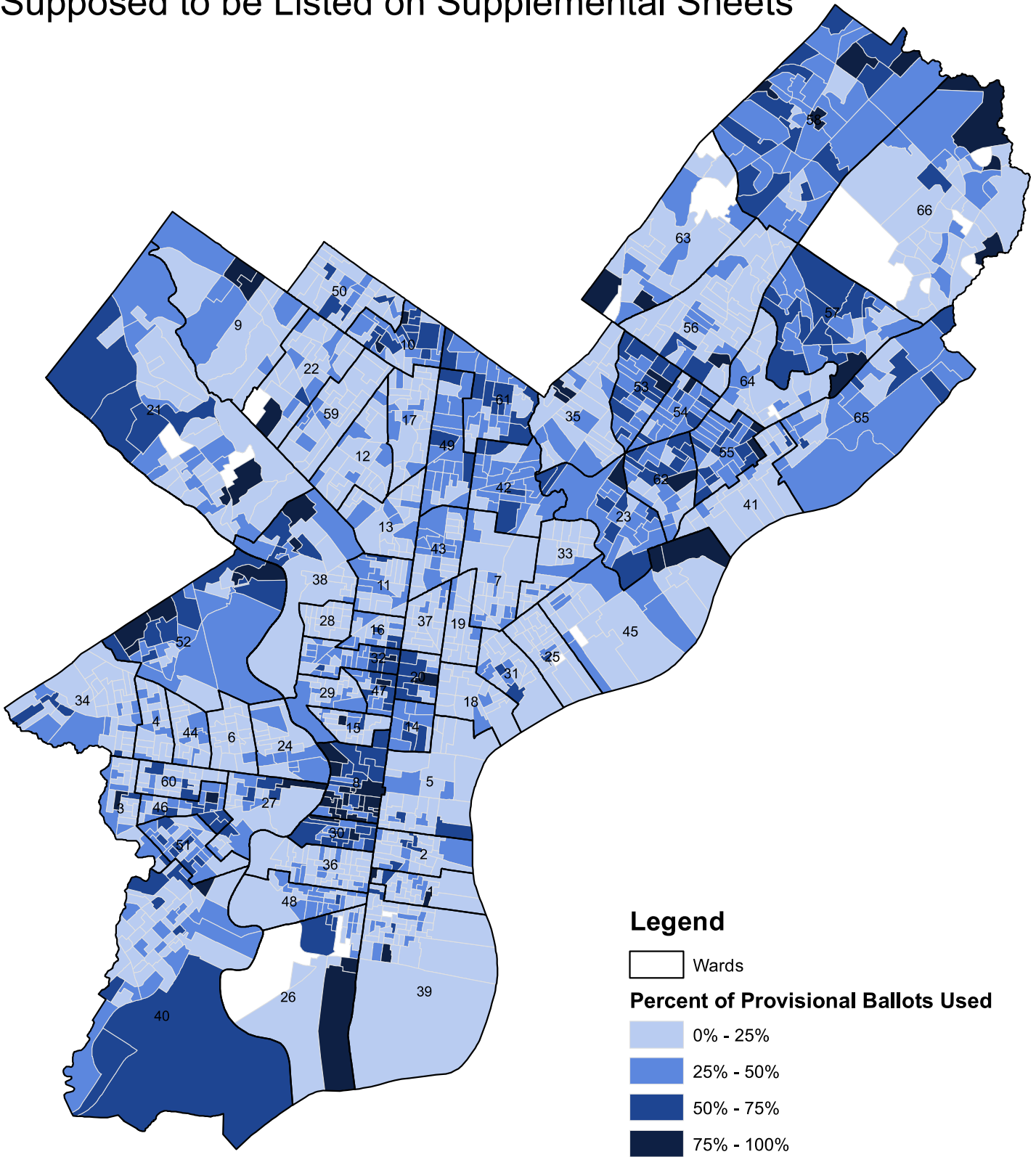


EXHIBIT D

Letter from the City Commissioners to Mayor Nutter



CITY COMMISSIONERS OFFICE

Commissioner Anthony Clark, Chair
Commissioner Al Schmidt
Commissioner Stephanie Singer

January 14, 2012

The Honorable Michael A. Nutter
Mayor
Office of the Mayor
215 City Hall
Philadelphia, PA 19107

Dear Mayor Nutter:

Thank you for your commitment to our shared interest in elections in Philadelphia.

Election Day 2012 witnessed a number of unprecedented challenges, including, but not limited to, the uncertain status of the Voter Photo ID Law; a lengthy challenge to statewide petitions that the Commonwealth Court chose to adjudicate at the Philadelphia Board of Election; six hundred polling place changes since the last Presidential Election complying with the City's settlement agreement with the Department of Justice to improve handicapped accessibility; and a hurricane that struck just days before Election Day.

Nevertheless, the City Commissioners overcame these external challenges and mitigated the negative impact these events could have had on the experience of voters on Election Day.

As has been widely reported, this election also saw an increase in the use of provisional ballots. Of the 27,000 provisional ballots that were cast, more than 7,000 were cast by individuals not registered to vote in Philadelphia; more than 9,600 were cast by voters attempting to vote at a polling place other than their own; and more than 4,800 were cast by voters who showed up at the correct polling place and whose names were contained in the alphabetical poll books or on the supplemental sheets, but were not properly located by the Election Boards.

Voter Registration Administrator Irving's report, completed immediately following our certification of the election results, and a report prepared by the Office of Commissioner Singer identified a significant cause of increased provisional ballot use distinguishing this election from others— approximately 4,600 voters affected by a problem extracting voter information from

the Statewide Uniform Registry of Electors database (SURE) which caused some individuals who should have been printed on the supplemental sheets to be excluded.

As you know, the City Controller has begun an audit of this very issue. Actionable recommendations contained in Mr. Irving's and Commissioner Singer's reports have helped us to better understand the cause of this problem extracting voter registration data from the Department of State's database so that we may work with the Department of State to prevent it from reoccurring in the future.

We saw the invitation to participate in your Election Day Working Group as a possible opportunity to further improve elections. Accordingly, we responded in good faith. After speaking with your staff and reviewing the scope and methodology materials provided to our office, which were formulated entirely without our participation or input, we have growing concerns about the integrity of the fact-finding process and the value of its eventual recommendations. Consequently, we reached out to your working group and expressed our interest in playing a more collaborative and constructive role. Our offer was denied. Regrettably, we must now decline to participate.

Sincerely,



Anthony Clark

City Commissioner, Chair



Al Schmidt

City Commissioner



Stephanie Singer

City Commissioner

EXHIBIT E

Opinion from the City's Law Department

Memorandum

TO: Rich Negrin, Managing Director

FROM: Richie Feder, Chief Deputy City Solicitor /rf

DATE: March 22, 2013

SUBJECT: Election Board Training

CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION

You have asked for advice regarding what options are available to the County Board of Elections (in Philadelphia, the City Commissioners) to address the failure of members of the various district election boards to attend mandatory training sessions prior to each election cycle.

Each district election board consists of “a judge of election, a majority inspector of election and a minority inspector of election, assisted by clerks and machine inspectors in certain cases.” Act of 1937, P.L. 1333, art. IV, § 401, *as amended*, 25 P.S. § 2671. The judge, the majority inspector and minority inspector are elected by the voters of the district, while the assisting clerks and machine inspectors are appointed by the district election board and the County Board of Elections. *Id.* § 2674. The compensation of the members of each district board and their assistants is set by the County Board of Elections (the City Commissioners), within a specified statutory range. *Id.* § 2682.2.¹

Members of district election boards are required to attend such training as the County Board deems appropriate.

¹ In all counties regardless of class, the compensation of judges of election, inspectors of election, clerks and machine operators shall be fixed by the county board of elections for each election in accordance with the following:

Election Officers	Minimum Compensation	Maximum Compensation
Judges of election	\$75	\$200
Inspectors of election	\$75	\$195
Clerks and machine operators	\$70	\$195

For the purpose of giving such instructions [on the members' duties with respect to voting machines], the county boards shall call such meeting or meetings of election officers as shall be necessary. Each judge, inspector and machine inspector shall, upon notice, attend such meeting or meetings called for his instruction and receive such instruction as shall be necessary for the proper conduct of the primary or election with voting machines[.]

Id. § 2684. Unfortunately, the Election Code, after requiring attendance at these training meetings, then goes on to set out the specific consequences to a member of an election board of attending or not attending.

[A]s compensation for the time spent in receiving such instruction, each judge, inspector and machine inspector who shall qualify for and serve at such primary or election, shall receive the sum of five (\$5.00) dollars. No judge, inspector or machine inspector shall serve at any primary or election at which a voting machine is used, unless he shall have received such instructions, shall have been found qualified to perform his duties in connection with the machine, and shall have received a certificate to that effect from the county board or one of the custodians appointed by them: Provided, however, That this shall not prevent the appointment of a judge or inspector of election or machine inspector to fill a vacancy arising on the day of election or on the preceding day.

Id.

Thus, any election board member who attends training is to be paid five dollars for his or her time; and any election board member who does not attend training can be removed from his or her position. In discussions with your staff, we posited the possibility of withholding some or all of a board member's pay if she or he does not attend training, but I do not believe the foregoing statutory scheme would allow for such a remedy. Where the General Assembly has set out with such specificity the compensation for attending training and the consequences for not attending training, I do not believe the City is authorized to establish practices that vary from the terms set forth in the Election Code. Thus, for example, I do not believe we are authorized to provide a financial carrot or stick valued at any more than five dollars, because that is the dollar amount expressly provided by statute.

Notably, the Election Code does provide a means by which the County Board of Elections can remedy a lack of training on the part of election officials -- refusal to seat the member at the polls. As a practical matter, however, such a remedy only has value if the City Commissioners believe there are available substitute district election officials who are prepared to accept the training.²

² The method of appointing substitute election officials is beyond the scope of your request as I understand it. *See generally* 25 P.S. § 2675 (vacancies in election boards are generally to be filled by appointments made by the Court of Common Pleas, with exceptions).