

TABLE OF CONTENTS

	Page
INTRODUCTION	1
PROCEDURAL BACKGROUND.....	2
ARGUMENT.....	4
I. THE PENNSYLVANIA SUPREME COURT’S ORDER MOOTS PLAINTIFFS’ MOTION.....	4
II. PLAINTIFFS’ MOTION IS PROCEDURALLY IMPROPER.	5
III. PLAINTIFFS’ CLAIMS REMAIN NON-JUSTICIABLE BY THIS COURT.	8
IV. PLAINTIFFS ARE NOT ENTITLED TO A PRELIMINARY INJUNCTION.	12
A. Plaintiffs Are Not likely To Be Successful on the Merits.	12
1. Plaintiffs Do Not Have a Reasonable Probability of Demonstrating There Will Be Federal Constitutional Violations.	13
2. The Secretary’s Guidance is Consistent with the Election Code and Does Not Violate Commonwealth Law.....	16
B. Plaintiffs Will Not Suffer Irreparable Harm Absent the Requested Relief.	19
C. It Is Not Inequitable to Deny Plaintiffs’ Requested Relief.	20
CONCLUSION.....	20

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Am. Express Travel Related Servs., Inc. v. Sidamon-Eristoff</i> , 669 F.3d 359 (3d Cir. 2012).....	12
<i>Bennett v. Yoshina</i> , 140 F.3d 1218 (9th Cir. 1998)	14
<i>Bush v. Gore</i> , 531 U.S. 98 (2000).....	15
<i>Citizen’s Bank, N.A. v. Baker</i> , 2020 WL 1248657 (W.D. Pa. Mar. 16, 2020)	6
<i>Clapper v. Amnesty Int’l USA</i> , 568 U.S. 398 (2013).....	9
<i>DaimlerChrysler Corp. v. Cuno</i> , 547 U.S. 332 (2006).....	9
<i>Fuente v. Cortes</i> , 207 F. Supp. 3d 441 (M.D. Pa. 2016).....	6
<i>Hennings v. Grafton</i> , 523 F.2d 861 (7th Cir. 1975)	13, 14
<i>Holland v. Rosen</i> , 895 F.3d 272 (3d Cir. 2018).....	12, 20
<i>Lexmark Int’l, Inc. v. Static Control Components, Inc.</i> , 572 U.S. 118 (2014).....	9
<i>Lujan v. Defs. of Wildlife</i> , 504 U.S. 555 (1992).....	9
<i>PennEnvironment v. PPG Indus., Inc.</i> , 2019 WL 4860940 (W.D. Pa. Oct. 2, 2019)	6, 7
<i>Pennhurst State Sch. & Hosp. v. Halderman</i> , 465 U.S. 89 (1984).....	10, 11
<i>PG Publ’g Co. v. Aichele</i> , 705 F.3d 91 (3d Cir. 2013).....	16

Pierce v. Allegheny Cty. Bd. of Elections,
324 F. Supp. 2d 684 (W.D. Pa. 2003).....6, 15

Samuel v. V.I. Joint Bd. of Elections,
2013 WL 842946 (D.V.I. Mar. 7, 2013).....14

Shambach v. Bickhart,
845 A.2d 793 (Pa. 2004).....18

Snowden v. Hughes,
321 U.S. 1 (1944).....13, 15

Summers v. Earth Island Inst.,
555 U.S. 488 (2009).....10

Statutes

25 Pa. Cons. Stat. § 260212, 18, 19

25 Pa. Cons. Stat. § 264118

25 Pa. Cons. Stat. § 264518

25 Pa. Cons. Stat. § 272616

25 Pa. Cons. Stat. § 305517

25 Pa. Cons. Stat. § 306217

25 Pa. Cons. Stat. § 306317

25 Pa. Cons. Stat. § 3146.2a7

25 Pa. Cons. Stat. § 3146.617, 18

25 Pa. Cons. Stat. § 3146.812, 19

25 Pa. Cons. Stat. § 3150.12a7

25 Pa. Cons. Stat. § 3150.1617, 18

25 Pa. Cons. Stat. § 351118

42 Pa. Cons. Stat. § 7263

Other Authorities

Richard H. Fallon, Jr. et al., *Hart and Wechsler’s the Federal Courts and the
Federal System* (6th ed. 2015)10

U.S. Const. amend. XI2, 8, 10, 11

INTRODUCTION

Plaintiffs' motion to modify the existing stay order and for broad preliminary injunctive relief is a thinly-veiled—and meritless—request for reconsideration of this Court's well-reasoned opinion abstaining from this dispute. Just 10 days ago, this Court issued a detailed order explaining why the critical interests of comity and federalism demanded that this federal Court allow the Commonwealth's own courts to first resolve important state-law issues of first impression. Since that time, Plaintiffs failed to exhaust (or even explore) the avenues recommended by the Court to pursue their relief in state court. Instead, through the present motion, Plaintiffs return to this Court seeking relief that would require the Court to do precisely what it has already declined to do: issue an advisory opinion regarding unsettled aspects of state law that are best resolved by Pennsylvania state courts in the first instance. The Court should again decline Plaintiffs' invitation.

Crucially for purposes of this motion, just yesterday, the Supreme Court of Pennsylvania granted Secretary of the Commonwealth Kathy Boockvar's application and exercised its extraordinary jurisdiction over the parallel Commonwealth Court case raising substantially identical election law issues as this case. The court further set an expedited briefing schedule with supplemental briefs due early next week. Thus, even if Plaintiffs' present motion were appropriate when it was filed—and it was not—intervening events have made clear that this Court should defer to the Supreme Court's forthcoming interpretation of state Election Code issues. Put simply, the Pennsylvania Supreme Court's exercise of its extraordinary jurisdiction along with its invitation for expedited supplemental briefing confirms the correctness of the Court's abstention order, provides comfort that the Pennsylvania Supreme Court will resolve the disputed issues of state law, and defeats Plaintiffs' renewed request for intrusive federal injunctive relief.

But Plaintiffs' motion suffers from yet additional flaws. First, the same justiciability and constitutional limits on this Court's jurisdiction and power set forth by the Secretary and several

other Defendants and Intervenors as part of the original motion to dismiss briefing—including lack of standing, lack of ripeness, and Eleventh Amendment issues—prevent this Court from granting Plaintiffs’ requested relief. Although the Court expressly declined to resolve those issues in its abstention order, it would have to do so in order to grant Plaintiffs’ newly requested relief.

Moreover, although the Court need not—and should not—reach the merits of Plaintiffs’ motion, Plaintiffs are simply not entitled to the injunctive relief they seek: their barebones allegations do not demonstrate a reasonable probability that they will prevail on the merits of their claims; they fail to establish that they will be irreparably harmed at this stage by election-related activities that remain several weeks, if not months, away; and the balance of harms and public interest favor the Secretary and other Defendants, not Plaintiffs.

The Court should deny Plaintiffs’ requested relief and leave undisturbed its prior order abstaining from this dispute.

PROCEDURAL BACKGROUND

Plaintiffs filed their original complaint on June 29. *See* ECF No. 4. Plaintiffs did not seek preliminary injunctive relief at that time, but later moved for expedited discovery and a declaratory judgment hearing, which this Court partially granted, scheduling a speedy hearing and allowing for certain limited discovery. ECF No. 123.

The Secretary and other Defendants and Intervenors promptly moved to dismiss the original complaint. *See, e.g.*, ECF Nos. 184-85. Rather than oppose, Plaintiffs filed an amended complaint (“Am. Compl.,” ECF No. 234), but again did not seek preliminary injunctive relief. The Secretary and others again promptly moved to dismiss, raising a host of jurisdictional issues, highlighting substantial Eleventh Amendment problems with Plaintiffs’ claims, and requesting abstention in favor of ongoing Commonwealth Court proceedings addressing similar issues, among other arguments. *See, e.g.*, ECF Nos. 263-64.

While the motions to dismiss were pending, the Secretary took two critical actions:

First, in recognition of the unsettled nature of certain state-law questions at issue in this dispute and a parallel proceeding in Commonwealth Court—*Pennsylvania Democratic Party v. Boockvar*, No. 407 MD 2020—on August 16, the Secretary asked the Supreme Court of Pennsylvania to invoke its “[e]xtraordinary [j]urisdiction” pursuant to 42 Pa. Cons. Stat. § 726 and resolve this “issue[] . . . of immediate public importance.” ECF No. 388-1 at 3-4. The Secretary notified this Court of her application the next day. ECF No. 388.

Second, in accordance with her statutory and fiduciary responsibilities to plan for the upcoming General Election (and as previously disclosed was her intent in motion-to-dismiss briefing and discovery), on August 19, the Secretary issued two sets of guidance—one outlining procedures for county boards of elections to collect absentee and mail-in ballots (including at secure ballot return receptacles, commonly referred to as “drop-boxes”) and one regarding the treatment of ballots lacking inner secrecy envelopes (*i.e.*, “naked” ballots). *See* Exs. 1-2. The Secretary disseminated both sets of guidance to all county boards of elections and on its website, *see* Ex. 3, and, although Plaintiffs already had access to it, formally produced the guidance to Plaintiffs with Bates numbers on the morning of August 21.

On August 23, the Court issued its 37-page opinion abstaining from this case pending state-court adjudication of the state Election Code issues at the heart of this dispute. ECF No. 409 (“Op.”). Among other things, the Court observed that “[h]ow the state courts interpret the unsettled state-law questions will dramatically alter the nature and scope of the federal-constitutional claims” asserted in this case and found that charging forward “would risk issuing a decision that is at odds with the state court’s interpretation of the [E]lection [C]ode or is an advisory opinion.” *Id.* at 14. In doing so, the Court identified three alternate routes for Plaintiffs to pursue speedier

relief or contest the Court’s abstention ruling, including, (1) seeking to expedite the pending state-court litigation involving many of the same parties and issues, (2) filing a new case in state court asserting the same state-law claims, or (3) appealing the abstention order to the Third Circuit. *See id.* at 31-33. After failing to pursue any of these avenues in the week following the Court’s decision, Plaintiffs filed the present motion on August 28 (“Mot.,” ECF No. 414).

Yesterday, September 1, the Supreme Court of Pennsylvania issued an Order exercising jurisdiction over the pending state-court proceeding and inviting additional briefing to be filed early next week. *See* ECF No. 418 (notifying this Court of Order and providing copy of same).

ARGUMENT

I. THE PENNSYLVANIA SUPREME COURT’S ORDER MOOTS PLAINTIFFS’ MOTION.

The Supreme Court of Pennsylvania’s Order exercising its extraordinary jurisdiction over the parallel Commonwealth Court case moots Plaintiffs’ motion and should be the beginning and end of the matter. As presented in their motion, Plaintiffs’ theory of constitutional harm is that certain Pennsylvania counties will count “illegally cast” ballots, thereby diluting “lawfully cast” votes, and that counties will resolve ambiguities in the Election Code differently, thereby treating ballots unequally. Mot. at 2-3. And although the Secretary recently issued guidance precisely to cure any confusion and ensure uniformity across the Commonwealth, *see* Exs. 1-2, Plaintiffs contend (without support) that certain counties will ignore that clear guidance, causing confusion and inconsistency in the upcoming General Election. Mot. at 2-3.

The Pennsylvania Supreme Court’s exercise of its extraordinary jurisdiction moots any such concern (however unfounded). That court—the highest court in Pennsylvania—exercised jurisdiction to authoritatively construe the Election Code as it relates to Plaintiffs’ concerns, resolving whether certain ballots will be “illegally cast” and providing binding and uniform

interpretations. Plaintiffs offer no suggestion (nor could they) that counties will ignore the Supreme Court's forthcoming decision, therefore creating the sort of inconsistencies that underlie the concerns set forth in their motion.

Moreover, the Supreme Court has committed to acting quickly: its order accepting the case requested that any supplemental briefs or affidavits be filed by 5:00 p.m. next Tuesday. ECF No. 418-3 at 3. Accordingly, there is simply no need for this federal Court's involvement at this time and the Court should deny the motion as moot.

II. PLAINTIFFS' MOTION IS PROCEDURALLY IMPROPER.

Plaintiffs' motion also fails because it is nothing more than an improper motion for reconsideration of the Court's abstention order, which is particularly unwarranted now. In a thoughtful opinion spanning 37 pages, the Court determined to abstain and await state-court guidance on the disputed Election Code issues. *E.g.*, Op. at 2-4. In doing so, the Court provided clear guidance to Plaintiffs for how to proceed if they disagreed with this Court, *id.* at 32 & n.8, or if they wanted a more expedient answer from Commonwealth courts, *id.* at 31-32. Plaintiffs, however, charted a premature course back to this Court, and the Court should reject their latest procedural maneuver.

While claiming to "understand the Court's decision to abstain," and insisting they "do not seek to challenge that decision in this Motion," Mot. at 19, Plaintiffs' motion necessarily "challenge[s]" the Court's abstention holding and is another attempt to make this Court, and not the state courts, the first to lend its interpretation of Pennsylvania law. Indeed, to issue a preliminary injunction, the Court would have to decide whether Plaintiffs are likely to succeed on the merits of their claims. While Plaintiffs have not stated viable constitutional claims under any interpretation of the Election Code, *see infra* Part IV.A, this would nonetheless require this Court

to issue an advisory interpretation of the very same Election Code provisions now under review by the Pennsylvania Supreme Court.

That Plaintiffs are now seeking preliminary injunctive relief does not change things. As this Court recognized, “Plaintiffs intentionally opted to forgo seeking any preliminary provisional relief” originally, Op. at 33, and that “deliberate choice on how to proceed obviate[d] the Court’s need to take any immediate action,” *id.* at 33-34. Plaintiffs cannot change course now that the Court has abstained. While some courts have granted injunctive relief *contemporaneously* with a decision to abstain on *Pullman* grounds, *see Pierce v. Allegheny Cty. Board of Elections*, 324 F. Supp. 2d 684, 704 (W.D. Pa. 2003); *Fuente v. Cortes*, 207 F. Supp. 3d 441, 453 (M.D. Pa. 2016), Plaintiffs cite no precedent that allows them to seek a preliminary injunction *after* the Court has abstained and stayed a case, as here. *See* Op. at 33 (“True, if Plaintiffs had filed a motion for a preliminary injunction, the Court would have likely been required to rule on it before abstaining.”).

Plaintiffs’ motion is therefore better viewed as an artfully pleaded motion for reconsideration of the Court’s abstention decision. As an initial matter, while clear doctrines exist allowing parties to move to modify preliminary injunctions, no such doctrine exists for requests to modify abstention orders. *See Citizen’s Bank, N.A. v. Baker*, 2020 WL 1248657, at *2 (W.D. Pa. Mar. 16, 2020). In any event, Plaintiffs have not identified any basis for reconsideration, and such motions should be sparingly granted anyway. *See PennEnvironment v. PPG Indus., Inc.*, 2019 WL 4860940, at *1 (W.D. Pa. Oct. 2, 2019) (“[W]hile ‘[a] court has the power to revisit prior decisions of its own or of a coordinate court in any circumstance, . . . as a rule courts should be loath[] to do so in the absence of extraordinary circumstances such as where the initial decision was clearly erroneous and would make a manifest injustice.’” (second & third set of brackets and ellipsis in original) (citations omitted)). To justify reconsideration, Plaintiffs must demonstrate

either: “(1) an intervening change in the controlling law; (2) the availability of new evidence . . . ; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice.” *Id.* at *2. Plaintiffs do not allege any change in controlling law or need to correct a clear legal or factual error, instead relying on supposed “new evidence” to explain the need to modify the Court’s order. *See* Mot. at 2 n.1, 5. Plaintiffs cite, for instance, the fact that “ballot designs may be certified and available as early as September 14, 2020 and ballots may start being delivered at any point thereafter.” *Id.* at 15. Plaintiffs claim to have chosen September 14 because that is when counties must begin processing absentee and mail-in *applications*, *id.* at 12; *see also* 25 Pa. Cons. Stat. §§ 3146.2a, 3150.12a, but notably, that provision of the Election Code has not changed since Plaintiffs initiated this case, and it has no relevance for when ballots will be *collected*. Nor did the Secretary’s issuance of certain guidance on August 19 (four days *before* the Court’s abstention order) change anything. In fact, as explained below, the guidance serves to ensure uniformity and conformance with the Election Code statewide; it is by no means grounds for reconsideration. Put simply, Plaintiffs have not demonstrated a change of circumstances that would justify modifying the Court’s order. And, if anything, the Pennsylvania Supreme Court’s decision to exercise jurisdiction confirms that this Court correctly abstained.¹

¹ The Court should also reject Plaintiffs’ gambit in light of their failure to exhaust—or even seriously engage in—any of the alternate avenues suggested by the Court for obtaining clarity regarding the disputed issues of state statutory construction. To be sure, the Pennsylvania Supreme Court has now exercised its jurisdiction over the state-court proceedings over Plaintiffs’ objection. But prior to that Order, Plaintiffs made no effort to (a) appeal this Court’s abstention order to the Third Circuit, which would have had the power to certify Plaintiffs’ questions of state law to the Pennsylvania Supreme Court, *see* Op. at 32, (ii) initiate a state court proceeding seeking a definitive interpretation of the relevant state Election Code provisions, *see* Op. at 32, (iii) attempt to expedite any of the existing state court proceedings, *see* Op. at 31, or (iv) even notify any of the relevant Commonwealth courts of the abstention order. To the contrary, prior to this Court’s abstention order, Plaintiffs opposed the Secretary’s application for the Supreme Court to exercise its extraordinary jurisdiction (ECF No. 418-1), and they took no action following the abstention order to withdraw that opposition before the application was granted over their opposition.

III. PLAINTIFFS' CLAIMS REMAIN NON-JUSTICIABLE BY THIS COURT.

The Court should also deny the motion because Plaintiffs' underlying claims remain non-justiciable and the Court lacks authority to grant Plaintiffs relief premised on alleged violations of state law. The Secretary and other Defendants/Intervenors previously explained why Plaintiffs' claims are not justiciable, including because Plaintiffs have not alleged a legally cognizable injury; certain of their claims are unripe; and the Eleventh Amendment bars state-law claims against consenting states in federal court. *See generally, e.g.*, ECF Nos. 263-64, 336. In its abstention order, the Court expressly declined to address those critical limitations. *Op.* at 12 n.3 (“Because the Court is abstaining based on *Pullman*, it need not address these other issues.”); *see also* Order (ECF No. 410) at 1-2 (“Because the Court is abstaining under *Pullman*, it has not reached a determination on any other arguments raised in Defendants' and Intervenors' motions, and therefore holds the remaining aspects of those motions in abeyance.”). Plaintiffs' latest motion, however, runs headlong into those very limits on federal judicial power, including whether the Court has the authority to fashion the requested preliminary injunctive relief. For the same reasons set forth in the prior briefing, the Court does not.

Plaintiffs fail to assert cognizable injury and therefore lack standing. Although Plaintiffs' theory of injury has evolved through this litigation, Plaintiffs have failed at any stage to articulate a viable theory of Article III injury. At this point in the litigation, it is clear that Plaintiffs are simply unhappy with the Secretary's interpretation of the Election Code and seek to transform that disagreement into a federal constitutional violation and compel compliance with their own interpretation of the Code. Plaintiffs claim, among other things, that: (1) the implementation of mail-in voting (including through formal guidance issued by the Secretary) “will . . . lead[] to vote dilution”; and (2) “inconsistent implementation of the Election Code and Secretary Boockvar's

guidance . . . [will] violate Plaintiffs' federal and state equal protection and other constitutional rights." Mot. at 3. None of these theories articulates cognizable, non-speculative harm.

Plaintiffs' vote-dilution theory (*i.e.*, that "illegally cast" votes will dilute legally cast votes) is the very definition of a generalized grievance. Individual litigants simply do not have a legally cognizable interest in the proper enforcement of the laws. *See, e.g., Lexmark Int'l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 127 n.3 (2014) (explaining the Court's "reluctance" to entertain suits "claiming only harm to [the plaintiff's] and every citizen's interest in proper application of the Constitution and laws, and seeking relief that no more directly and tangibly benefits him than it does the public at large." (quoting *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 573-74 (1992))); *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 344 (2006) (holding that litigants lack standing when allegations mean only that they "suffer[] in some indefinite way in common with people generally" (citation omitted)). Plaintiffs' failure to articulate a particularized injury deprives them of standing and this Court of jurisdiction.

Even if the Court thought Plaintiffs had alleged something more than a generalized grievance, Plaintiffs' claimed injuries continue to be speculative at best, and do not satisfy the requirements of Article III that the claimed injury be "certainly impending." *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 409-10 (2013). Indeed, Plaintiffs' vote-dilution theory depends on election officials violating state law and counting illegally cast ballots, even after the Pennsylvania Supreme Court interprets the Election Code. And Plaintiffs' equal-treatment claim is even worse off today than it was when Plaintiffs opposed the Secretary's motion to dismiss the amended complaint: the Secretary has since issued statewide guidance clarifying and unifying procedures for absentee and mail-in ballot drop-boxes and treatment of "naked" ballots, *see* Exs. 1-2, and the Pennsylvania Supreme Court has effectively agreed to determine whether that guidance is

consistent with the Election Code (*see* ECF No. 418-3). There is therefore no legitimate, non-speculative risk of unequal treatment across counties.

Certain of Plaintiffs' claims remain unripe. Although seemingly not at the core of their motion, part of Plaintiffs' requested relief seeks to move up the date by which the Court's stay shall be lifted as to "all settled state-law issues," Mot. at 2, 19, which the Secretary interprets to include Plaintiffs' challenge to the Commonwealth's requirement that poll watchers reside in the county in which they will watch polls. This claim, which is based on nothing more than an unsupported assertion that Plaintiffs will be unable to locate sufficient poll watchers, remains premature, and Plaintiffs continue to lack standing to bring it. *See, e.g., Summers v. Earth Island Inst.*, 555 U.S. 488, 497-99 (2009) (rejecting "probabili[stic]" standing over dissent). Rather than cure this pleading deficiency, Plaintiffs instead seek modification of this Court's stay order without justification, paradoxically attempting to *accelerate* the adjudication of their unripe poll-watcher challenge. But the proper course should be to dismiss Plaintiffs' unripe claims outright, not to grant extraordinary preliminary relief to press this issue sooner.

Plaintiffs' claims are barred by the Eleventh Amendment. Plaintiffs' claims are also barred by the Eleventh Amendment, which prohibits this Court from providing injunctive or declaratory relief based on "a claim that state officials violated state law in carrying out their official responsibilities." *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 121 (1984); *see* Richard H. Fallon, Jr. et al., *Hart and Wechsler's the Federal Courts and the Federal System* 935-37 (6th ed. 2015) (discussing *Pennhurst's* holding). Thus, at the very outset, because Counts III, V, VII, and VIX in the Amended Complaint are based purely on state law, they plainly must be dismissed. *See* ECF No. 264 at 11.²

² Plaintiffs previously suggested their state-law claims could somehow survive because they assert

But even for those claims to which Plaintiffs affix a federal constitutional label (Counts I, II, IV, VI, and VIII), the Court should look past that misnomer and recognize that Plaintiffs' entire lawsuit is simply an attempt to force Commonwealth officials to abide by Plaintiffs' own interpretation of the Election Code, masquerading as a federal constitutional violation. This case therefore continues to present the precise circumstance the Eleventh Amendment exists to guard against: Commonwealth officials have been hauled into federal court against their will to litigate (under the guise of a federal constitutional violation) whether they are complying with Plaintiffs' preferred interpretation of the state law. *See Pennhurst*, 465 U.S. at 116-17. This is particularly clear in light of the Secretary's recently issued guidance designed to ensure equal treatment of drop-boxes and "naked" ballots across the Commonwealth as well as the Pennsylvania Supreme Court's decision to exercise jurisdiction over the legal issues contained therein. Those material developments further obviate Plaintiffs' remaining theories of constitutional harm, confirming this entire dispute is based on state law, not the federal constitution.

Indeed, the absurdity of Plaintiffs' position at this stage is underscored by the fact that the Court could not order certain of the relief Plaintiffs seek without directing state officials to violate the Election Code. Specifically, Plaintiffs ask this Court to order state officials to "segregate and maintain intact all cast absentee and mail-in ballots that . . . lack an inner secrecy envelope or contain marks, text, or symbols thereon," and to "refrain from pre-canvassing or canvassing all cast absentee and mail-in ballots that . . . lack an inner secrecy envelope or contain marks, text, or symbols thereon" Mot. at 1, 18. But identifying which ballots "lack an inner secrecy

related federal law claims, advancing a sort of supplemental jurisdiction theory of jurisdiction. *See* ECF No. 320 at 41-42. But that is not the law. *Pennhurst* could not have been clearer: "[N]either pendent jurisdiction nor any other basis of jurisdiction may override the Eleventh Amendment. A federal court must examine each claim in a case to see if the court's jurisdiction over that claim is barred by the Eleventh Amendment." 465 U.S. at 121 (footnote omitted).

envelope” (*i.e.*, which ballots are “naked”) requires opening the outer envelopes of those ballots, which is not permitted until the Election Code-mandated pre-canvass begins no earlier than 7:00 a.m. on Election Day (here, November 3, 2020). *See* 25 Pa. Cons. Stat. §§ 2602(q.1), 3146.8(g)(1.1). To comply with such an order, election officials would be compelled to open the outer envelopes to identify “naked” ballots, in clear violation of the Election Code. This extraordinary aspect of Plaintiffs’ request confirms they are urging this Court to improperly wade into and re-write the statutory scheme that controls canvassing of mail-in ballots.

IV. PLAINTIFFS ARE NOT ENTITLED TO A PRELIMINARY INJUNCTION.

For all the reasons set forth above, the Court need not even approach the merits of Plaintiffs’ motion—but even if it did, Plaintiffs have not met their burden of establishing they are entitled to preliminary injunctive relief. In fact, Plaintiffs fail on each aspect of the test for such relief: they are not likely to be successful on the merits of their claims, they will not suffer irreparable harm absent an injunction, and the balance of the equities do not favor intrusive injunctive relief issued by a federal court based on a tentative construction of state law. *See, e.g., Am. Express Travel Related Servs., Inc. v. Sidamon-Eristoff*, 669 F.3d 359, 366 (3d Cir. 2012).

A. Plaintiffs Are Not likely To Be Successful on the Merits.

Plaintiffs do not remotely meet their burden of demonstrating a “reasonable probability” that they will succeed on the merits of their claims. Mot. at 19. The Third Circuit has made clear that this is no small hurdle, requiring movants to show a “*significantly* better than negligible” chance of prevailing on the merits of its claims in order to obtain the “extraordinary remedy” of a preliminary injunction. *Holland v. Rosen*, 895 F.3d 272, 285-86 (3d Cir. 2018) (emphasis added) (citations omitted). Notwithstanding this substantial burden (which Plaintiffs alone bear), they seemingly take it for granted, devoting a mere three paragraphs to explaining their so-called likelihood of success. *See* Mot. ¶¶ 39-41. Plaintiffs do not even identify which claims (state or

federal) they believe they are likely to succeed on and under what theories, let alone why they believe they are likely to succeed. But whether cast as federal constitutional or state Election Code violations, Plaintiffs' claims are uniformly likely to fail.

1. Plaintiffs Do Not Have a Reasonable Probability of Demonstrating There Will Be Federal Constitutional Violations.

Plaintiffs are unable to establish that they are likely to be successful on the merits of their federal constitutional claims, whether based on a theory of vote dilution or alleged violations of equal protection. With regard to alleged vote dilution, as pleaded in Plaintiffs' motion, Plaintiffs' claim of vote dilution depends entirely on their assertion that some "illegally cast" votes might be counted, thereby diluting validly cast votes. A necessary premise of that argument, however, is that "naked" ballots or ballots returned via drop-boxes are "illegally cast" under the Election Code, which is highly doubtful (and again would require this Court to intrude on the Pennsylvania Supreme Court's authority to construe the Election Code), *see infra* Part IV.A.2. And, contrary to Plaintiffs' theory of constitutional harm, an incorrect implementation of the Election Code by state officials is *not* a federal constitutional violation. *Hennings v. Grafton*, 523 F.2d 861, 864 (7th Cir. 1975) ("Mere violation of a state statute by an election official, for example," will not "give rise to a constitutional claim and an action under section 1983." (citing *Snowden v. Hughes*, 321 U.S. 1, 11 (1944))). If it were, any litigant could force state election officials to litigate the meaning of state election codes in federal court, at any time. That is not the law. Instead, recognizing the limited role of federal courts in policing state election procedures, courts have recognized "[i]nfringements of voting rights" only upon exceptional circumstances such as "dilution of votes by reason of malapportioned voting districts or weighted voting systems; purposeful or systematic discrimination against voters of a certain class, geographic area, or political affiliation; election frauds; and other wilful conduct which undermines the organic processes by which candidates are

elected.” *Id.* (citations omitted). Nothing of the sort is at issue here, and the federal constitution does not concern itself with such “garden variety” election code issues. *Samuel v. V.I. Joint Bd. of Elections*, 2013 WL 842946, at *7 (D.V.I. Mar. 7, 2013) (collecting cases); *see also Bennett v. Yoshina*, 140 F.3d 1218, 1226 (9th Cir. 1998) (“In general, garden variety election irregularities do not violate the Due Process Clause, even if they control the outcome of the vote or election.”).

Plaintiffs’ speculative equal protection theory fares no better. Here, Plaintiffs’ argument boils down to a prediction (i) that counties will treat “naked” ballots differently, (2) that some counties may not employ ballot drop-boxes while others will, and (3) that some counties will accept in-person delivery of ballots by someone other than non-disabled voters, in contradiction to the guidance provided by the Secretary and, eventually, the construction of the law to be provided by the Pennsylvania Supreme Court. But an equal protection violation is not likely:

First, with respect to “naked” ballots, Plaintiffs cite to practices employed by some counties during the June 2020 primary election of counting such ballots, while others set those ballots aside. *See* Am. Compl. ¶¶ 157-58; Mot. at 9-10. But as Plaintiffs themselves recognize, the Secretary recently issued guidance to every county explaining how “naked” ballots should be handled (they should uniformly be counted as valid votes). *See* Ex. 2. And the Pennsylvania Supreme Court is soon expected to provide a binding interpretation. Plaintiffs only rejoinder is to hypothesize that some counties will not follow the law uniformly and some votes may be unequally treated across the Commonwealth. To the extent that Plaintiffs have standing to assert that purely speculative theory (they do not, *see supra* Part III), the federal constitution does not turn every mistaken instance of unequal treatment into an equal protection violation. “The unlawful administration by state officers of a state [election] statute fair on its face, resulting in its unequal application to those who are entitled to be treated alike, is not a denial of equal protection unless

there is shown to be present in it an element of intentional or purposeful discrimination.” *Snowden*, 321 U.S. at 8. Absent willful misconduct and an election lacking “fundamental fairness,” *see Bush v. Gore*, 531 U.S. 98, 109 (2000) (per curiam), there is no federal constitutional violation.

The same goes for Plaintiffs’ specious predictions that some counties will accept ballots delivered in-person by someone other than the voter or an authorized agent to the extent that practice is permitted by the Code: the Secretary has already made clear that counties must not do so. For instance, as part of the General Assembly-mandated report she issued on August 1, 2020 regarding the June 2020 Primary Election, the Secretary acknowledged the acceptance of certain such ballots during the primary election, noting that although a single county (Lycoming) “reported that it allowed approximately 20 ballots to be delivered by the voters’ spouses,” the county had already “taken steps to ensure that its staff does not accept this type of delivery in the future.” *See* Ex. 4 at 38-39. This is consistent with the Secretary’s August 19 guidance regarding return of absentee and mail-in ballots, which makes clear in the opening sentence that “[u]nder Pennsylvania law, in addition to using the mail, voters may return *their own* voted absentee or mail-in ballot in-person.” Ex. 1 at 2 (emphasis added). Once again, Plaintiffs’ equal protection theory is premised on a prediction that counties will ignore the law and treat ballots differently.

The present situation stands in stark contrast to the challenge in *Pierce*, which was brought just days before the election (an October 31 challenge to a November 4 election) and at a time when it was clear that one county (Allegheny) was going to deploy ballot-counting procedures that differed from another (Philadelphia). *See* 324 F. Supp. 2d at 688-89, 698. Here, Election Day remains two months away and the Secretary’s recent guidance—to say nothing of the forthcoming ruling expected from the Pennsylvania Supreme Court—alleviates the sort of concerns regarding lack of uniformity apparent in *Pierce* (which did not concern an issue for which there was a

controlling Supreme Court decision). To that end, Plaintiffs' reliance on practices deployed in certain counties during the June primary is misplaced, as the primary obviously pre-dated the recent formal Secretarial guidance and forthcoming Pennsylvania Supreme Court decision.

Second, with respect to ballot drop-boxes, Plaintiffs' motion raises a concern found nowhere in their Amended Complaint. In the motion, Plaintiffs state that, "even if a state court were to determine that drop-boxes were proper, the fact that not all counties employ them raises a constitutional concern." Mot. ¶ 41. But Plaintiffs offer no such allegation in the Amended Complaint, instead limiting their allegations to the contention that use of drop-boxes is illegal—full-stop—without any assertion that the use of drop-boxes by some counties (but not others) violated equal protection or other rights. And even if Plaintiffs had alleged in their Amended Complaint that the use of drop-boxes by some counties rose to the level of a federal constitutional violation, such claim would fail. Pennsylvania has long vested discretion in county boards of elections to tailor and establish election procedures for each jurisdiction (including the number and location of polling places), *see, e.g.*, 25 Pa. Cons. Stat. § 2726, and it is long-settled that such local distinctions do not create federal constitutional concerns. *Cf. PG Publ'g Co. v. Aichele*, 705 F.3d 91, 114-16 (3d Cir. 2013). Plaintiffs have not explained why variation as to the use of drop-boxes would constitute a federal constitutional violation, nor have they put forward any judicially manageable standards governing what degree of similarity must exist across counties. Thus, Plaintiffs are not likely to succeed on the merits of their equal treatment claims.

2. The Secretary's Guidance is Consistent with the Election Code and Does Not Violate Commonwealth Law.

Plaintiffs also do not establish a reasonable probability of success on their allegations that Defendants' future actions will violate the Election Code. Even if the Court were to un-abstain and issue a tentative construction of the Pennsylvania Election Code in the context of Plaintiffs'

motion for preliminary injunctive relief—and it should not, particularly in light of the Pennsylvania Supreme Court’s recent order—the Secretary’s existing guidance is entirely consistent with the Election Code on the issue of both “naked” ballots and drop-boxes. While the Secretary does not exhaustively delve into these issues of state law statutory interpretation at this stage, the Secretary’s guidance related to both “naked” ballots and drop-boxes is uniform and statutorily sound, such that there is no need for this Court to change course even in the absence of a decision of the Pennsylvania Supreme Court.

“Naked” ballots are not void. The Secretary has issued guidance directing that naked ballots uniformly be counted and not voided. While the Election Code states that absentee and mail-in voters “shall” enclose their ballots in secrecy envelopes, *see* 25 Pa. Cons. Stat. §§ 3146.6(a), 3150.16(a), the Code provides no authority to void naked ballots. The lack of authority to void naked ballots stands in contrast to other provisions that explicitly direct when a certain defect will render a ballot void. *See, e.g., id.* § 3063 (“What ballots shall be counted; manner of counting; defective ballots”); *see also id.* § 3055(d) (directing that ballots that do not comply with a certain numbering requirement “shall be void and shall not be counted”); *id.* § 3062(c) (directing that ballots that do not comply with the ban on stickers or labels “shall be void and may not be counted”).³ Put simply, the General Assembly has not been shy in identifying disqualifying ballot deficiencies, and the Election Code’s silence with respect to voiding “naked”

³ Section 3063 of the Election Code is especially relevant because the following language was added to it in Act 77: “In districts in which paper ballots or ballot cards are electronically tabulated, stickers or labels may not be used to mark ballots. A vote cast by means of a sticker or label affixed to a ballot or ballot card *shall be void and may not be counted.*” *Id.* (emphasis added). The October 2019 General Assembly therefore specifically knew how to ensure that certain deficient ballots are not counted. The very same lawmakers who enacted the mail-in voting laws chose to include a directive to void ballots containing a sticker or label, but did not direct that naked absentee or mail-in ballots “shall be void and may not be counted.”

mail-in ballots must thus be read against this pattern of legislative clarity. Coupling that pattern with the well-settled presumption against disenfranchisement, *see Shambach v. Bickhart*, 845 A.2d 793, 798-99 (Pa. 2004) (collecting cases), it becomes clear that Plaintiffs’ claim that counting naked ballots is “illegal” is not likely to carry the day in Commonwealth courts.

The Election Code permits ballot drop-boxes. The use of ballot drop-boxes for the return of absentee or mail-in ballots is entirely consistent with the Election Code, which requires merely that such ballots be “deliver[ed]” “in person” to the county board of elections. 25 Pa. Cons. Stat. §§ 3146.6(a), 3150.16(a) (requiring that absentee and mail-in ballot envelopes not sent through the mail “shall . . . be securely sealed and the elector shall . . . deliver it in person to said county board of election”). Crucially, a county board of elections is a body, not a place. *Id.* § 2641; *see also id.* § 2602 (“The words ‘county board’ or ‘board’ shall mean the county board of elections of any county herein provided for.”). Thus, ballots must be delivered to that body—wherever such body authorizes it—not a specific place or office. In fact, the Election Code refrains from demanding that ballots be returned to a specific office or address; whereas the Code uses the phrase “received in the office of the county board” in several places, it does not use that phrasing when referring to where the “deliver[y]” of absentee or mail-in ballots “in person” must occur, instead referring only to “deliver[y]” to the “county board of election,” not the “office” of said board. *Id.* §§ 3146.6(a), 3150.16(a).⁴ The Code also authorizes counties to establish additional board of elections locations “as may be necessary.” *See id.* § 2645(b). The use of mail-in drop-boxes does not conflict with the Election Code, as the Commonwealth courts will likely conclude.

⁴ Again, the General Assembly knew how to specify that delivery must be to “the address” of the office of the county board of elections, as contrasted with the county board of elections (*i.e.*, the body). Specifically, a military-overseas ballot is counted only if it is returned to “*the address* that the appropriate county election board has specified.” *Id.* § 3511(a) (emphasis added).

B. Plaintiffs Will Not Suffer Irreparable Harm Absent the Requested Relief.

Plaintiffs cannot carry their burden of establishing that they will suffer irreparable harm if this Court fails to intervene at this time, particularly in light of the Pennsylvania Supreme Court's exercise of jurisdiction over the relevant state-law issues and invitation for expedited supplemental briefing. ECF No. 418-3. Plaintiffs' basis for requesting injunctive relief is that "the window for action to protect Plaintiffs' constitutional rights is closing fast" because "at least one county" has "announced plans to install" ballot drop-boxes by October 1, and ballots may be comingled and canvassed thereafter. *Id.* But the exhibit Plaintiffs cite (a 7-month old email chain) for their supposed announcement that a single county (Delaware County) is going to introduce drop-boxes by October 1 does not support that claim. *See* Mot. ¶ 22 (citing App. Ex. I (ECF No. 415-33)). For example, Plaintiffs request an injunction prohibiting the pre-canvassing and canvassing of certain ballots. *See* Mot. at 1, 18 (Req. (b)). But pursuant to the Election Code, pre-canvassing cannot begin until the morning of November 3, 2020—more than two months away—making it obvious that Plaintiffs will not suffer irreparable harm if that relief is not ordered prior to the October 5 date set forth in the existing abstention order. *See* 25 Pa. Cons. Stat. §§ 2602(q.1), 3146.8(g)(1.1). And once again, it is likely the Pennsylvania Supreme Court will issue a decision interpreting the relevant Election Code provisions before ballot collection and canvassing begin.

But perhaps most glaring, Plaintiffs' sudden claim of irreparable injury rings hollow in light of Plaintiffs' failure to pursue the state-court avenues this Court advised in its abstention order, *see* Op. at 31-32. Plaintiffs did not initiate a state-court proceeding seeking definitive interpretation of the relevant state Election Code provisions, nor did they take action to attempt to expedite action in any of the existing state-court proceedings. To the contrary, Plaintiffs left in place their filed opposition to the Secretary's petition for extraordinary jurisdiction before the Pennsylvania Supreme Court. If Plaintiffs truly feared irreparable harm, they would have

advocated swift resolution in Commonwealth courts, not opposed it. Plaintiffs' own foot-dragging belies the need for urgency now.

C. It Is Not Inequitable to Deny Plaintiffs' Requested Relief.

Finally, the equities do not justify the intrusive relief Plaintiffs seek. As this Court recognized, "Plaintiffs intentionally opted to forgo seeking any preliminary provisional relief" at the outset of this case and before this Court opted to abstain. Op. at 33. Furthermore, when given the opportunity (indeed, the direction) to pursue resolution of the relevant state-law questions in state court, Plaintiffs sat on their hands, instead returning to federal court. The Pennsylvania Supreme Court has now agreed to hear this case, and the public interest would be disserved by allowing Plaintiffs' blatant forum shopping and having this Court enter the fray at this stage. *See Holland*, 895 F.3d at 285-86 (3d Cir. 2018). Finally, a grant of the relief at this juncture would risk substantial voter confusion and uncertainty as to whether their votes will be counted (or counted in a timely manner) as well as imposing unnecessary administrative burdens on county boards of elections as they busily prepare for the upcoming General Election. The public interest is best served by this Court staying the course and denying Plaintiffs' requested relief.

CONCLUSION

For the foregoing reasons, the Court should deny Plaintiffs' motion and leave the Court's abstention order in place.

Dated: September 2, 2020

Respectfully submitted,

KIRKLAND & ELLIS LLP

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CERTIFICATE OF SERVICE

I hereby certify that on September 2, 2020, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties who have appeared in this action via the Court's electronic filing system. Parties may access this filing through the Court's system.

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EXHIBIT 1

TLP: WHITE



Pennsylvania

Absentee and Mail-in Ballot Return Guidance

Date: August 19, 2020

Version: 1.0

PENNSYLVANIA ABSENTEE AND MAIL-IN BALLOT RETURN GUIDANCE

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BACKGROUND

Under Pennsylvania law, in addition to using the mail, voters may return their own voted absentee or mail-in ballot in-person. The ballot may be returned to each county election board’s primary office as well as to other offices and locations designated by the board to receive ballots (hereinafter referred to as “Ballot Return Sites”), including secure ballot return receptacles (commonly referred to as “drop-boxes”) that are easily identifiable.

This document provides guidance on how each county should establish a ballot return and collection plan for their county prior to each election.

Guidance Contents

1	Establishing a Ballot Return and Collection Plan	3
1.1	Ballot Return Sites.....	3
1.2	Location of Ballot Return Sites.....	3
1.2.1	Location of Ballot Return Sites.....	3
1.2.2	Hours of Operation	3
1.3	Providing Notice of Location of County Election Offices and Ballot Return Sites	4
1.4	Confirmation of Plan Readiness.....	4
2	Ballot Return Site Design and Requirements	4
2.1	Types of Ballot Return Sites	4
2.2	Secure Receptacles (“Drop-Boxes”).....	5
2.3	Signage	5
2.4	Accessibility of Ballot Return Sites.....	6
2.5	Security	6
3	Ballot Collection and Chain of Custody Procedures	7
3.1	Ballot Collection at Ballot Return Sites	7
3.2	Transport and Receipt of Retrieved Ballots to the Board of Elections	7
3.3	Election Day and Post-Election Procedures	8
4	Processing of Collected Ballots	8

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1 ESTABLISHING A BALLOT RETURN AND COLLECTION PLAN

1.1 BALLOT RETURN SITES

For each election, county boards of elections should establish a plan and adopt procedures for how voters in their county may return their own voted absentee and mail-in ballots to the county board of elections. The initial plan should be submitted to the Department of State on or before 45 days prior to the election.

County boards of elections may establish multiple ballot return locations where voters may return their own voted ballot. At these sites, the county may provide voters with access to a secure ballot return receptacle for this purpose.

1.2 LOCATION OF BALLOT RETURN SITES

1.2.1 Location of Ballot Return Sites

Sites may include, but are not limited to, city and municipal facilities, public libraries, county facilities, or other locations designated by the board to receive ballots. When choosing a location, counties should consider, at a minimum, the following:

- locations that serve heavily populated urban/suburban areas, as well as rural areas.
- locations near heavy traffic areas such as commercial corridors, large residential areas, major employers and public transportation routes.
- locations that are easily recognizable and accessible within the community.
- locations in areas in which there have historically been delays at existing polling locations, and areas with historically low turnout.
- proximity to communities with historically low vote by mail usage.
- proximity to language minority communities.
- proximity to voters with disabilities.
- proximity to communities with low rates of household vehicle ownership.
- proximity to low-income communities.
- access to accessible and free parking.
- the distance and time a voter must travel by car or public transportation.

1.2.2 Hours of Operation

Business hours for sites do not have to be limited to weekdays or normal business hours. Counties are encouraged to offer business hours outside of these time frames, including weeknights or weekend hours to enable maximum flexibility and convenience to voters.

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1.3 PROVIDING NOTICE OF LOCATION OF COUNTY ELECTION OFFICES AND BALLOT RETURN SITES

A list of the ballot return sites and county election offices, including the dates and hours they are open, should be made public as early as possible. At least 7-10 days after submission of the plan to the Department of State, the county board of elections should provide notice of the county's ballot return plan by posting a notice in the county elections office and in a highly visible location on the county's website. The board may also post copies of the notice at such other locations it deems appropriate for the efficient notification of voters. The notification should also be included in absentee and mail-in voting materials sent to voters. At a minimum, the notice should include the following:

- ballot return deadline.
- list of county election offices and ballot return sites, including building names and street address.
- days and hours of operation, including election day hours.
- contact information for the county board of elections.
- accessibility information.

The list posted on the county's website should be in a format that is accessible for people with disabilities. In the event of any changes to site location operations, the county board of elections should post the updated information on the official election website within 24 hours.

1.4 CONFIRMATION OF PLAN READINESS

A county's initial absentee and mail-in ballot return plan should be submitted to the Department of State, Bureau of Election Security and Technology ("BEST") no later than 45 days before an election. If the Bureau of Election Security and Technology requests modifications to a plan, the county election office should submit a modified plan within 7 days of the request. If the county board of elections determines that it is in the best interest of their voters to alter their plan or increase/decrease the number of ballot return sites they may submit a supplemental plan to BEST no later than 25 days before the election with notice to the public within 5 days of submission.

2 BALLOT RETURN SITE DESIGN AND REQUIREMENTS

2.1 TYPES OF BALLOT RETURN SITES

County boards of elections may establish sites where voters may return their own voted ballot. The site should provide voters access to a ballot return receptacle that is secure.

All return sites should be accessible at least during regular business hours beginning not less than 30 days before the day of the election, and on the day of the election. Return sites should have the same features, and be of substantially similar design, color scheme, and signage to facilitate identification by the public.

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2.2 SECURE RECEPTACLES (“DROP-BOXES”)

Each ballot return site should have a secure receptacle that permits voters to return their own voted ballot. A postage stamp is not needed on the return envelope when depositing a ballot at a ballot return site. The receptacle should be designed to function as follows:

- hardware should be operable without any tight grasping, pinching, or twisting of the wrist.
- hardware should require no more than 5 lbs. of pressure for the voter to operate.
- receptacle should be operable within reach-range of 15 to 48 inches from the floor or ground for a person utilizing a wheelchair.

Other design requirements include:

- The drop-box should provide specific points identifying the slot where ballots are inserted. The drop-box may have more than one ballot slot (e.g. one for drive-by ballot return and one for walk-up returns).
- To ensure that only ballot material can be deposited and not be removed by anyone but designated county board of election officials, the opening slot of a drop-box should be too small to allow tampering or removal of ballots.
- The opening slot should also minimize the ability for liquid to be poured into the drop-box or rainwater to seep in.

The county boards of election should determine receptacle size based on the use and needs of the location. The receptacle should be securely fastened to a stationary surface, to an immovable object, or placed behind a counter.

2.3 SIGNAGE

In determining the design and functions of ballot return sites, county boards of elections should design them in such a way that they are official and secure. To this end, the county board of elections must ensure each return site is marked with official signage (“Official Ballot Return Site” or “Official Ballot Return.”) Counties should not display traditional “Vote Here” signs at designated ballot return sites. Signage should adhere to the following:

- Signage should be in all languages required under the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10503).
- Signage should display language stating that counterfeiting, forging, tampering with, or destroying ballots is a second-degree misdemeanor pursuant to sections 1816 and 1817 of the Pennsylvania Election Code (25 P.S. §§ 3516 and 3517).
- Signage should also provide a statement that third-party return of ballots is prohibited unless the person returning the ballot is rendering assistance to a disabled voter or an emergency absentee voter. Such assistance requires a declaration signed by the voter and the person rendering assistance.

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- Signage should provide a statement requesting that the designated county elections official should be notified immediately in the event the receptacle is full, not functioning, or is damaged in any fashion, and should provide a phone number and email address for such purpose.

2.4 ACCESSIBILITY OF BALLOT RETURN SITES

County boards of elections should ensure that ballot return sites are accessible to voters with disabilities, and should also ensure the following:

- If a site has only one ballot return receptacle, the design and placement of that site should meet the accessibility requirements.
- At a site with multiple drop-boxes, if not all drop-boxes meet the accessibility requirements outlined in this subdivision, then each inaccessible return site should have directional signage indicating the location of an accessible drop-box.

2.5 SECURITY

County boards of election must ensure the following when establishing ballot return sites:

- Only personnel authorized by the county board of elections should have access to the ballots inside of a drop-box.
- Drop-boxes should be secured in a manner to prevent their unauthorized removal.
- All drop-boxes should be secured by a lock and sealed with a tamper-evident seal. Only authorized election officials designated by the county board of elections may access the keys and/or combination of the lock.
- Drop-boxes should be securely fastened in a manner as to prevent moving or tampering, such as fastening the drop-box to concrete or an immovable object.
- During the hours when the staffed return site is closed or staff is unavailable, the drop-box should be placed in a secure area that is inaccessible to the public and/or otherwise safeguarded.
- The county boards of election should ensure adequate lighting is provided at all ballot return sites when the site is in use.
- When feasible, ballot return sites should be monitored by a video security surveillance system, or an internal camera that can capture digital images and/or video. A video security surveillance system can include existing systems on county, city, municipal, or private buildings. Video surveillance should be retained by the county election office through 60 days following the deadline to certify the election.
- To prevent physical damage and unauthorized entry, the drop-box at a ballot return site located outdoors should be constructed of durable material able to withstand vandalism, removal, and inclement weather.

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3 BALLOT COLLECTION AND CHAIN OF CUSTODY PROCEDURES

The county board of elections should develop ballot collection and chain of custody procedures for ballots returned to a county election office or a ballot return site. These procedures may not be inconsistent with Pennsylvania law or Department of State directives.

3.1 BALLOT COLLECTION AT BALLOT RETURN SITES

- Ballots should be collected from ballot return sites only by personnel authorized by the county board of elections and at times determined by the board of elections, at least every 24 hours, excluding Saturdays and Sundays.
- The county board of elections should designate at least two election officials to collect voted ballots from a ballot return site. Each designated election official should carry identification or an official designation that identifies them as an election official authorized to collect voted ballots.
- Election officials designated to collect voted ballots by the board of elections should sign a declaration declaring that he or she will timely and securely collect and return voted ballots, will not permit any person to tamper with a ballot return site or its contents, and that he or she will faithfully and securely perform his or her duties.
- The designated election officials should retrieve the voted ballots from the ballot return site and place the voted ballots in a secure ballot transfer container.
- The designated election officials should note on *Ballot Return Site Collection Forms* the site and unique identification number of the ballot return site and the date and time of retrieval.

3.2 TRANSPORT AND RECEIPT OF RETRIEVED BALLOTS TO THE BOARD OF ELECTIONS

- Ballots collected from any ballot return site should be immediately transported to the county board of elections.
- Upon arrival at the office of the county board of elections, the county board of elections, or their designee(s), should note the time of arrival on the same form, as described above.
- The seal number should be verified by a county election official or a designated representative.
- The county board of elections, or their designee(s), should inspect the drop-box or secure ballot transfer container for evidence of tampering and should receive the retrieved ballots by signing the retrieval form and including the date and time of receipt. In the event tampering is evident, that fact must be noted on the retrieval form.
- The completed collection form should be maintained in a manner prescribed by the board of elections to ensure that the form is traceable to its respective secure ballot container.
- The county elections official at the county election office or central count location should note the number of ballots delivered on the retrieval form.

PENNSYLVANIA ABSENTEE AND MAIL-IN BALLOT RETURN GUIDANCE

TLP: WHITE

3.3 ELECTION DAY AND POST-ELECTION PROCEDURES

- The county board of elections should arrange for authorized personnel to retrieve ballots on election night and transport them to the county board of elections for canvassing of the ballots.
- Authorized personnel should be present at ballot return sites immediately prior to 8:00 p.m. or at the time the polls should otherwise be closed.
- At 8:00 p.m. on election night, or later if the polling place hours have been extended, all ballot return sites, and drop-boxes must be closed and locked.
- Staff must ensure that no ballots are returned to ballot return site after the close of polls.
- After the final retrieval after the closing of the polls, the drop-box must be removed or locked and/or covered to prevent any further ballots from being deposited, and a sign shall be posted indicating that polling is closed for the election.

4 PROCESSING OF COLLECTED BALLOTS

Any ballots collected from a return site should be processed in the same manner as mail-in ballots personally delivered to the central office of the county board of elections official by the voter and ballots received via the United States Postal Service or any other delivery service.

###

Version History:

Version	Date	Description	Author
1.0	8.19.2020	Initial document release	Bureau of Election Security and Technology

EXHIBIT 2

TLP: WHITE



Pennsylvania
Guidance for Missing Official Election Ballot Envelopes
("Naked Ballots")

Date: August 19, 2020

Version: 1.0

PENNSYLVANIA GUIDANCE FOR MISSING INNER SECRECY ENVELOPES (“NAKED BALLOTS”)

TLP: WHITE

“Naked Ballot” is the term used when a voter fails to insert their ballot in the inner secrecy envelope before casting their mail-in or absentee ballot.

It is the Department’s position that naked ballots should be counted pursuant to the Pennsylvania Election Code, furthering the Right to Vote under the Pennsylvania and United States Constitutions. The failure to include the inner envelope (“Secrecy Envelope”) does not undermine the integrity of the voting process. For these reasons, no voter should be disenfranchised for failing to place their ballot in the official election ballot envelope before returning it to the county board of elections.

In order to promote consistency across the 67 counties, the county board of elections should develop a process for counting naked ballots that are discovered during the pre-canvass or canvass. Such a process should include placing and sealing the naked ballot into an empty official election ballot envelope (“Secrecy Envelope”) and then placing the secured ballot with the other removed official election ballot envelopes so that it may be tabulated.

###

Version History:

Version	Date	Description	Author
1.0	8.19.2020	Initial document release	Bureau of Election Security and Technology

EXHIBIT 3

From: Mathis, Jessica <jesmathis@pa.gov>
Sent: Wednesday, August 19, 2020 5:25 PM
To: Mathis, Jessica <jesmathis@pa.gov>
Subject: PA DOS Email: Ballot Return and Naked Ballot Guidance
Importance: High

Dear County Election Directors,

Attached you will find the Department's updated guidances on Ballot Return and Naked Ballots.

We are updating the designated agent forms and will circulate shortly.

Thank you as always for the work you do for elections in PA.

Jess

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EXHIBIT 4



Pennsylvania 2020 Primary Election
Act 35 of 2020 Report

Date: August 1, 2020

www.dos.pa.gov

Contents

Introduction	4
Voter Registration Statistics	6
Registered Voters as of June 2, 2020	6
Voter Registration Applications Received by County Election Offices Fewer than 30 Days Before the 2020 Primary Election.	7
Voter Registration Applications Fewer than 15 Days before Primary Election	8
Total Number of Voters in 2020 Primary Election	9
Total Mail-in and Absentee Ballots Cast in 2020 Primary Election	10
Absentee Ballot Statistics	11
Absentee Ballot Applications Received for the 2020 Primary Election regardless of how the application was processed.	11
Absentee Ballot Applications Approved for the 2020 Primary Election.	12
Absentee Ballots Voted in the 2020 Primary Election.	13
Absentee Ballot Applicants Who Voted a Provisional Ballot in the 2020 Primary Election.	14
Absentee Ballot Applications Filed Prior to Receipt of Voter Registration in the 2020 Primary Election.	15
Total Absentee Ballots Reported by Counties as Challenged in the 2020 Primary Election.	16
Absentee Ballots Successfully Challenged in the 2020 Primary Election.	17
Challenged Absentee Ballots Not Canvassed in the 2020 Primary Election.	18
Mail-in Ballot Statistics	19
Mail-in Ballot Applications Received for the 2020 Primary Election regardless of how the application was processed.	19
Mail-in Ballot Applications Approved for the 2020 Primary Election.	20
Mail-in Ballots Voted in the 2020 Primary Election.	21
Mail-in Ballot Applicants Who Voted a Provisional Ballot in the 2020 Primary Election.	22
Mail-in Ballot Applications Filed Prior to Receipt of Voter Registration in the 2020 Primary Election.	23
Total Mail-in Ballots Reported by Counties as Challenged in the 2020 Primary Election.	24
Mail-in Ballots Reported by Counties as Successfully Challenged in the 2020 Primary Election.	25
Challenged Mail-in Ballots Not Canvassed in the 2020 Primary Election.	26
Absentee Ballot and Mail-in Ballot Statistics	27
Ballots Sent to Wrong Individual or Wrong Address in the 2020 Primary Election.	27
Ballots Voted by Individual Other than Voter in the 2020 Primary Election.	28
Ballots Returned Not by Mail or In Person in the 2020 Primary Election.	29

Act 12 of 2020 Statistics30

 Election Officers Appointed in Districts Outside District of Residence for the 2020 Primary Election.30

 Number of Polling Places Consolidated that did Not Require DOS Approval for the 2020 Primary Election.....31

 Polling Place Consolidation Requiring DOS Approval for the 2020 Primary Election.32

 Polling Places Located Subject to Section 1803-B during the 2020 Primary Election.33

Polling Places Located in a School34

 Polling placed located in schools for the 2020 Primary Election.34

Pre-Canvassing and Canvassing Statistics35

 Date and Time of Pre-Canvass Meeting.....35

 Date and Time of Canvass Meeting for the 2020 Primary Election.36

 Last Date County Reported Completing its Ballot Canvass for the 2020 Primary Election.37

Review of Actions Taken.....38

Issues or Incidents Involving Voting Machines40

Conclusions42

Introduction

On June 2, 2020, Pennsylvania held a primary election under unprecedented conditions. Prior to the primary, significant changes were implemented to the voting processes in Pennsylvania.

First, all Pennsylvanians voted on new, more accessible, auditable, and secure voting systems providing a voter-verifiable paper ballot. All 67 counties debuted their new voting systems in 2019 or the 2020 primary, completing a two-year initiative to bring these new systems with augmented election security and integrity to all Pennsylvanians.

Second, the Commonwealth for the first time in over 80 years significantly increased voting options, thanks to bipartisan support of Act 77 of 2019, which granted Pennsylvania voters enhanced options to participate in our democracy. One of those options provided that all eligible voters could now choose to vote by mail-in ballot.

Though unknown at the time, the timing of passage of Act 77 and mail-in voting was essential due to a third change: the spread of COVID-19. Due to the pandemic and stay-at-home orders implemented to stop the spread of the virus, Pennsylvanians embraced mail-in voting in impressive numbers. Nearly 1.5 million voters cast their vote by mail-in or absentee ballot, 17 times the number that voted absentee in the 2016 primary, when approximately 84,000 absentee ballots were cast.

And fourth, circumstances changed even further just days before our primary election, when we experienced civil unrest nationally and in regions throughout the Commonwealth in response to the tragic death of George Floyd, leading to curfews, travel restrictions, and office closures.

Yet, despite the changes and challenges, Pennsylvanians voted safely and peacefully in the primary, embracing the new mail-in voting option, and the new voting systems performed well. Reports of significant incidents were fewer than reported in many comparable prior elections, and our overall turnout was far higher than in 2012, the last time a presidential primary was not contested on both sides of the aisle. In addition to the nearly 1.5 million people who voted by mail, over 1.3 million Pennsylvanians voted in person on June 2.

We also learned some valuable lessons from the primary that we can use to ensure an even smoother voting experience in the general election in November.

In March 2020, Act 12 of 2020 was enacted, changing the date of the Primary from April 28 to June 2. Temporary changes, including allowing counties the ability to more quickly and easily appoint and staff polling places, were part of what allowed the 2020 Primary to be conducted safely and efficiently in the middle of a pandemic. While some of these Act 12 changes were temporary and expired after the primary, the Department of State and the county election offices agree that several of these temporary provisions relating to poll workers would be valuable and should be made permanent.

Other principal goals are to make it easier for counties to distribute and count mail-in ballots. The sheer volume of these ballots delayed some primary results in several counties. Our top priority is and has always been the accurate count of the ballots, and we know every voter shares this commitment. In addition, we also want to help the counties canvass these ballots as quickly and efficiently as possible.

The single most important change to accomplish this is a legislative change: We hope to work with the General Assembly to allow counties to begin pre-canvassing ballots in the weeks before Election Day. The counties overwhelmingly support this reform, and we hope the legislature shares this priority and will pass this amendment before counties finalize and begin sending ballots in early September.

Additionally, the Department is working with the counties to develop timelines and best practices, to map out the most effective processes before November, including recommendations on additional equipment, staffing, and schedules necessary to effectively process the high volume of mail-in ballots expected in November.

This report represents the fullest collection of data relating to the 2020 Primary Election, which may be helpful in mapping additional changes to Pennsylvania's Election Code that would be useful prior to the November Election. It includes some data not requested pursuant to Act 35, in order to provide more context for and a more complete presentation of the data.

The data referenced and presented in this report was obtained from two sources: The Statewide Uniform Registry of Electors (SURE), which is the statewide database used by county election officials to maintain elections and voter data, and the responses to uniform surveys that the Department sent to each county election director. Each county board of elections is responsible for ensuring the accuracy of the data that it enters into SURE and for its own responses to the Department's surveys. The Department has no ability to independently verify or guarantee the accuracy of the data received solely from the county boards of elections.

Voter Registration Statistics

Registered Voters as of June 2, 2020¹

County	Registered Voters
ADAMS	67,695
ALLEGHENY	898,944
ARMSTRONG	42,128
BEAVER	110,663
BEDFORD	32,237
BERKS	256,863
BLAIR	75,535
BRADFORD	36,324
BUCKS	461,310
BUTLER	129,783
CAMBRIA	83,182
CAMERON	2,987
CARBON	44,339
CENTRE	109,015
CHESTER	359,265
CLARION	23,239
CLEARFIELD	46,523
CLINTON	20,811
COLUMBIA	38,035
CRAWFORD	53,613
CUMBERLAND	178,406
DAUPHIN	187,621
DELAWARE	404,732
ELK	19,223
ERIE	195,467
FAYETTE	77,316
FOREST	3,385
FRANKLIN	94,623
FULTON	9,124
GREENE	21,704
HUNTINGDON	26,687
INDIANA	49,874
JEFFERSON	30,256
JUNIATA	13,633
LACKAWANNA	142,575

County	Registered Voters
LANCASTER	331,820
LAWRENCE	54,204
LEBANON	86,963
LEHIGH	234,842
LUZERNE	211,276
LYCOMING	69,008
McKEAN	24,098
MERCER	70,706
MIFFLIN	25,283
MONROE	109,981
MONTGOMERY	574,403
MONTOUR	13,299
NORTHAMPTON	212,972
NORTHUMBERLAND	53,985
PERRY	28,054
PHILADELPHIA	1,076,764
PIKE	40,955
POTTER	10,687
SCHUYLKILL	85,526
SNYDER	22,180
SOMERSET	46,659
SULLIVAN	4,416
SUSQUEHANNA	25,516
TIOGA	25,221
UNION	24,050
VENANGO	31,048
WARREN	30,486
WASHINGTON	145,882
WAYNE	33,353
WESTMORELAND	239,997
WYOMING	17,209
YORK	291,334
Total	8,599,294

Table 1: Data obtained from the SURE system.

¹ Data not requested by Act 35 but included for informational purposes.

Voter Registration Statistics

Voter Registration Applications Received by County Election Offices Fewer than 30 Days Before the 2020 Primary Election.

In other words, this represents voter registration applications received between May 4, 2020 and June 2, 2020.

County	Applications Received 5/4/20 – 6/2/20
ADAMS	1,522
ALLEGHENY	23,248
ARMSTRONG	951
BEAVER	2,676
BEDFORD	655
BERKS	6,589
BLAIR	1,998
BRADFORD	768
BUCKS	10,976
BUTLER	3,254
CAMBRIA	1,891
CAMERON	62
CARBON	1,061
CENTRE	2,882
CHESTER	9,515
CLARION	568
CLEARFIELD	1,430
CLINTON	614
COLUMBIA	1,057
CRAWFORD	1,259
CUMBERLAND	4,383
DAUPHIN	4,892
DELAWARE	10,611
ELK	444
ERIE	4,454
FAYETTE	1,891
FOREST	65
FRANKLIN	2,310
FULTON	205
GREENE	434
HUNTINGDON	615

County	Applications Received 5/4/20 – 6/2/20
INDIANA	1,042
JEFFERSON	779
JUNIATA	294
LACKAWANNA	3,561
LANCASTER	8,666
LAWRENCE	1,226
LEBANON	2,185
LEHIGH	6,780
LUZERNE	4,945
LYCOMING	1,698
McKEAN	636
MERCER	1,665
MIFFLIN	692
MONROE	2,629
MONTGOMERY	16,778
MONTOUR	348
NORTHAMPTON	5,222
NORTHUMBERLAND	1,362
PERRY	696
PHILADELPHIA	31,678
PIKE	941
POTTER	225
SCHUYLKILL	2,036
SNYDER	538
SOMERSET	1,067
SULLIVAN	83
SUSQUEHANNA	474
TIOGA	513
UNION	596
VENANGO	788
WARREN	417
WASHINGTON	3,463
WAYNE	659
WESTMORELAND	5,514
WYOMING	382
YORK	7,131
Total	220,989

Table 2: Data obtained from the SURE system.

Voter Registration Statistics

Voter Registration Applications Fewer than 15 Days before Primary Election

Voter Registration Applications Received by County Election Offices Fewer than 15 Days Before the 2020 Primary Election. In other words, this represents voter registration applications received between May 19, 2020 and June 2, 2020.

County	Applications Received 5/19/20 – 6/2/20
ADAMS	553
ALLEGHENY	9,063
ARMSTRONG	355
BEAVER	961
BEDFORD	222
BERKS	2,339
BLAIR	773
BRADFORD	269
BUCKS	4,257
BUTLER	1,213
CAMBRIA	725
CAMERON	18
CARBON	368
CENTRE	1,058
CHESTER	3,330
CLARION	169
CLEARFIELD	513
CLINTON	225
COLUMBIA	382
CRAWFORD	423
CUMBERLAND	1,613
DAUPHIN	1,775
DELAWARE	4,316
ELK	161
ERIE	1,535
FAYETTE	659
FOREST	23
FRANKLIN	917
FULTON	64
GREENE	173
HUNTINGDON	213

County	Applications Received 5/19/20 – 6/2/20
INDIANA	361
JEFFERSON	278
JUNIATA	102
LACKAWANNA	1,077
LANCASTER	3,023
LAWRENCE	487
LEBANON	735
LEHIGH	2,451
LUZERNE	1,753
LYCOMING	616
McKEAN	247
MERCER	611
MIFFLIN	248
MONROE	1,072
MONTGOMERY	6,570
MONTOUR	109
NORTHAMPTON	2,054
NORTHUMBERLAND	455
PERRY	228
PHILADELPHIA	12,892
PIKE	346
POTTER	77
SCHUYLKILL	704
SNYDER	177
SOMERSET	396
SULLIVAN	30
SUSQUEHANNA	122
TIOGA	177
UNION	195
VENANGO	241
WARREN	137
WASHINGTON	1,303
WAYNE	214
WESTMORELAND	2,037
WYOMING	123
YORK	2,611
Total	82,924

Table 3: Data obtained from the SURE system.

Total Number of Voters in 2020
Primary Election²

County	Votes
ADAMS	21,656
ALLEGHENY	316,376
ARMSTRONG	15,513
BEAVER	38,330
BEDFORD	11,342
BERKS	78,851
BLAIR	25,741
BRADFORD	11,827
BUCKS	157,090
BUTLER	47,129
CAMBRIA	30,151
CAMERON	1,114
CARBON	12,835
CENTRE	32,986
CHESTER	121,902
CLARION	9,351
CLEARFIELD	17,811
CLINTON	7,781
COLUMBIA	12,028
CRAWFORD	15,602
CUMBERLAND	60,260
DAUPHIN	67,118
DELAWARE	138,838
ELK	7,932
ERIE	59,698
FAYETTE	23,093
FOREST	1,274
FRANKLIN	33,806
FULTON	3,060
GREENE	7,878
HUNTINGDON	9,551
INDIANA	17,355
JEFFERSON	11,912
JUNIATA	5,256
LACKAWANNA	53,141
LANCASTER	104,382

County	Votes
LAWRENCE	17,862
LEBANON	28,292
LEHIGH	70,409
LUZERNE	65,634
LYCOMING	24,709
McKEAN	8,101
MERCER	21,564
MIFFLIN	8,320
MONROE	28,454
MONTGOMERY	218,034
MONTOUR	3,517
NORTHAMPTON	63,310
NORTHUMBERLAND	15,871
PERRY	11,277
PHILADELPHIA	345,591
PIKE	10,331
POTTER	4,384
SCHUYLKILL	31,118
SNYDER	8,108
SOMERSET	17,877
SULLIVAN	1,724
SUSQUEHANNA	9,131
TIOGA	9,835
UNION	8,577
VENANGO	11,061
WARREN	7,934
WASHINGTON	48,440
WAYNE	12,025
WESTMORELAND	85,164
WYOMING	6,598
YORK	87,277
Total	2,880,499

Table 4: Data obtained from the SURE system.

² Data not requested by Act 35 but included for informational purposes.

Total Mail-in and Absentee
Ballots Cast in 2020 Primary
Election³

County	Votes
ADAMS	10,492
ALLEGHENY	213,873
ARMSTRONG	4,985
BEAVER	18,603
BEDFORD	3,840
BERKS	39,339
BLAIR	10,241
BRADFORD	3,443
BUCKS	78,798
BUTLER	19,779
CAMBRIA	11,873
CAMERON	538
CARBON	5,603
CENTRE	19,112
CHESTER	74,469
CLARION	2,987
CLEARFIELD	5,401
CLINTON	2,898
COLUMBIA	4,964
CRAWFORD	5,653
CUMBERLAND	31,745
DAUPHIN	34,109
DELAWARE	59,405
ELK	2,778
ERIE	29,651
FAYETTE	9,952
FOREST	604
FRANKLIN	12,505
FULTON	740
GREENE	3,241
HUNTINGDON	3,143
INDIANA	7,301
JEFFERSON	3,584
JUNIATA	1,639
LACKAWANNA	29,453

County	Votes
LANCASTER	52,273
LAWRENCE	8,003
LEBANON	13,031
LEHIGH	39,769
LUZERNE	40,038
LYCOMING	7,543
McKEAN	2,575
MERCER	8,312
MIFFLIN	3,012
MONROE	14,813
MONTGOMERY	126,843
MONTOUR	1,710
NORTHAMPTON	36,867
NORTHUMBERLAND	4,708
PERRY	3,792
PHILADELPHIA	174,472
PIKE	5,572
POTTER	1,108
SCHUYLKILL	11,044
SNYDER	2,695
SOMERSET	5,818
SULLIVAN	625
SUSQUEHANNA	3,605
TIOGA	3,271
UNION	3,687
VENANGO	3,963
WARREN	3,094
WASHINGTON	22,220
WAYNE	5,050
WESTMORELAND	40,437
WYOMING	2,824
YORK	40,040
Total	1,459,555

Table 5: Data obtained from the SURE system.

³ Data not requested by Act 35 but included for informational purposes.

Absentee Ballot Statistics

Absentee Ballot Applications Received for the 2020 Primary Election regardless of how the application was processed.

County	Applications Received
ADAMS	2,071
ALLEGHENY	46,229
ARMSTRONG	989
BEAVER	4,166
BEDFORD	695
BERKS	7,138
BLAIR	2,000
BRADFORD	767
BUCKS	21,979
BUTLER	4,740
CAMBRIA	2,255
CAMERON	82
CARBON	1,306
CENTRE	4,386
CHESTER	19,163
CLARION	689
CLEARFIELD	1,252
CLINTON	468
COLUMBIA	1,169
CRAWFORD	1,429
CUMBERLAND	6,746
DAUPHIN	7,362
DELAWARE	18,691
ELK	494
ERIE	5,895
FAYETTE	2,536
FOREST	102
FRANKLIN	2,440
FULTON	161
GREENE	874
HUNTINGDON	633
INDIANA	1,238
JEFFERSON	558
JUNIATA	319
LACKAWANNA	6,072
LANCASTER	10,915

County	Applications Received
LAWRENCE	1,961
LEBANON	2,620
LEHIGH	8,944
LUZERNE	5,513
LYCOMING	1,667
McKEAN	459
MERCER	2,170
MIFFLIN	549
MONROE	4,709
MONTGOMERY	34,317
MONTOUR	402
NORTHAMPTON	8,227
NORTHUMBERLAND	1,411
PERRY	685
PHILADELPHIA	52,258
PIKE	1,788
POTTER	226
SCHUYLKILL	2,626
SNYDER	505
SOMERSET	1,258
SULLIVAN	134
SUSQUEHANNA	829
TIOGA	529
UNION	563
VENANGO	878
WARREN	780
WASHINGTON	5,386
WAYNE	1,238
WESTMORELAND	8,600
WYOMING	562
YORK	9,906
Total	349,709

Table 6: Data obtained from the SURE system.

Absentee Ballot Statistics

Absentee Ballot Applications Approved for the 2020 Primary Election.

County	Applications Approved
ADAMS	1,837
ALLEGHENY	41,269
ARMSTRONG	945
BEAVER	3,862
BEDFORD	661
BERKS	6,182
BLAIR	1,790
BRADFORD	704
BUCKS	19,396
BUTLER	4,273
CAMBRIA	2,108
CAMERON	53
CARBON	1,175
CENTRE	4,019
CHESTER	17,251
CLARION	640
CLEARFIELD	1,181
CLINTON	420
COLUMBIA	1,049
CRAWFORD	1,339
CUMBERLAND	6,094
DAUPHIN	6,745
DELAWARE	16,197
ELK	454
ERIE	5,512
FAYETTE	2,385
FOREST	92
FRANKLIN	2,259
FULTON	146
GREENE	839
HUNTINGDON	565
INDIANA	1,228
JEFFERSON	499
JUNIATA	273
LACKAWANNA	5,695
LANCASTER	9,809

County	Applications Approved
LAWRENCE	1,790
LEBANON	2,388
LEHIGH	7,972
LUZERNE	4,886
LYCOMING	1,476
McKEAN	427
MERCER	1,908
MIFFLIN	487
MONROE	4,067
MONTGOMERY	29,704
MONTOUR	364
NORTHAMPTON	7,418
NORTHUMBERLAND	1,298
PERRY	634
PHILADELPHIA	48,938
PIKE	1,556
POTTER	210
SCHUYLKILL	2,427
SNYDER	471
SOMERSET	1,172
SULLIVAN	123
SUSQUEHANNA	749
TIOGA	464
UNION	515
VENANGO	815
WARREN	734
WASHINGTON	5,034
WAYNE	1,121
WESTMORELAND	7,940
WYOMING	525
YORK	8,629
Total	315,188

Table 7: Data obtained from the SURE system.

Absentee Ballot Statistics

Absentee Ballots Voted in the 2020 Primary Election.

County	Ballots Voted
ADAMS	1,338
ALLEGHENY	28,494
ARMSTRONG	781
BEAVER	3,197
BEDFORD	540
BERKS	4,841
BLAIR	1,451
BRADFORD	535
BUCKS	13,642
BUTLER	3,310
CAMBRIA	1,732
CAMERON	43
CARBON	965
CENTRE	3,366
CHESTER	13,400
CLARION	525
CLEARFIELD	956
CLINTON	323
COLUMBIA	807
CRAWFORD	965
CUMBERLAND	4,878
DAUPHIN	5,546
DELAWARE	11,215
ELK	380
ERIE	4,579
FAYETTE	1,936
FOREST	80
FRANKLIN	1,706
FULTON	112
GREENE	712
HUNTINGDON	449
INDIANA	1,060
JEFFERSON	329
JUNIATA	230
LACKAWANNA	4,776
LANCASTER	7,631
LAWRENCE	1,470

County	Ballots Voted
LEBANON	1,935
LEHIGH	6,162
LUZERNE	3,630
LYCOMING	1,071
McKEAN	328
MERCER	1,323
MIFFLIN	401
MONROE	3,109
MONTGOMERY	22,027
MONTOUR	306
NORTHAMPTON	5,813
NORTHUMBERLAND	898
PERRY	516
PHILADELPHIA	35,009
PIKE	1,262
POTTER	173
SCHUYLKILL	1,885
SNYDER	383
SOMERSET	872
SULLIVAN	108
SUSQUEHANNA	595
TIOGA	370
UNION	440
VENANGO	643
WARREN	555
WASHINGTON	3,935
WAYNE	959
WESTMORELAND	6,632
WYOMING	423
YORK	5,977
Total	236,040

Table 8: Data obtained from the SURE system.

Absentee Ballot Statistics

Absentee Ballot Applicants Who Voted a Provisional Ballot in the 2020 Primary Election.

County	Provisional Ballots Voted
ADAMS	40
ALLEGHENY	1,079
ARMSTRONG	25
BEAVER	74
BEDFORD	10
BERKS	176
BLAIR	47
BRADFORD	33
BUCKS	938
BUTLER	219
CAMBRIA	37
CAMERON	0
CARBON	22
CENTRE	62
CHESTER	448
CLARION	12
CLEARFIELD	36
CLINTON	11
COLUMBIA	16
CRAWFORD	28
CUMBERLAND	159
DAUPHIN	221
DELAWARE	966
ELK	5
ERIE	125
FAYETTE	49
FOREST	1
FRANKLIN	61
FULTON	9
GREENE	16
HUNTINGDON	17
INDIANA	11
JEFFERSON	35
JUNIATA	3
LACKAWANNA	138

County	Provisional Ballots Voted
LANCASTER	301
LAWRENCE	21
LEBANON	42
LEHIGH	243
LUZERNE	155
LYCOMING	82
McKEAN	12
MERCER	107
MIFFLIN	11
MONROE	142
MONTGOMERY	1,092
MONTOUR	1
NORTHAMPTON	152
NORTHUMBERLAND	38
PERRY	1
PHILADELPHIA	657
PIKE	37
POTTER	10
SCHUYLKILL	42
SNYDER	9
SOMERSET	56
SULLIVAN	2
SUSQUEHANNA	17
TIOGA	21
UNION	11
VENANGO	23
WARREN	19
WASHINGTON	88
WAYNE	16
WESTMORELAND	161
WYOMING	14
YORK	435
Total	9,147

Table 9: Data obtained from the SURE system.

Absentee Ballot Statistics

Absentee Ballot Applications Filed Prior to Receipt of Voter Registration in the 2020 Primary Election.

County	Applications Filed
ADAMS	0
ALLEGHENY	4
ARMSTRONG	0
BEAVER	0
BEDFORD	0
BERKS	1
BLAIR	0
BRADFORD	0
BUCKS	0
BUTLER	0
CAMBRIA	0
CAMERON	0
CARBON	0
CENTRE	0
CHESTER	3
CLARION	0
CLEARFIELD	0
CLINTON	0
COLUMBIA	0
CRAWFORD	0
CUMBERLAND	1
DAUPHIN	1
DELAWARE	0
ELK	0
ERIE	0
FAYETTE	0
FOREST	0
FRANKLIN	0
FULTON	0
GREENE	0
HUNTINGDON	0
INDIANA	1
JEFFERSON	0
JUNIATA	0
LACKAWANNA	0
LANCASTER	0

County	Applications Filed
LAWRENCE	0
LEBANON	0
LEHIGH	0
LUZERNE	2
LYCOMING	0
McKEAN	0
MERCER	0
MIFFLIN	0
MONROE	0
MONTGOMERY	2
MONTOUR	0
NORTHAMPTON	1
NORTHUMBERLAND	0
PERRY	0
PHILADELPHIA	3
PIKE	0
POTTER	0
SCHUYLKILL	0
SNYDER	0
SOMERSET	0
SULLIVAN	0
SUSQUEHANNA	0
TIOGA	0
UNION	0
VENANGO	0
WARREN	0
WASHINGTON	0
WAYNE	0
WESTMORELAND	0
WYOMING	0
YORK	0
Total	19

Table 10: Data obtained from the SURE system.

Absentee Ballot Statistics

Total Absentee Ballots Reported by Counties as Challenged in the 2020 Primary Election.

County	Ballots Challenged
ADAMS	0
ALLEGHENY	0
ARMSTRONG	0
BEAVER	0
BEDFORD	0
BERKS	0
BLAIR	0
BRADFORD	0
BUCKS	0
BUTLER	0
CAMBRIA	0
CAMERON	0
CARBON	0
CENTRE	0
CHESTER	0
CLARION	0
CLEARFIELD	0
CLINTON	0
COLUMBIA	0
CRAWFORD	0
CUMBERLAND	0
DAUPHIN	0
DELAWARE	0
ELK	0
ERIE	0
FAYETTE	0
FOREST	0
FRANKLIN	0
FULTON	0
GREENE	0
HUNTINGDON	0
INDIANA	0
JEFFERSON	0
JUNIATA	0
LACKAWANNA	0
LANCASTER	0
LAWRENCE	0

County	Ballots Challenged
LEBANON	0
LEHIGH	0
LUZERNE	0
LYCOMING	0
McKEAN	0
MERCER	0
MIFFLIN	0
MONROE	0
MONTGOMERY	0
MONTOUR	0
NORTHAMPTON	0
NORTHUMBERLAND	0
PERRY	0
PHILADELPHIA	0
PIKE	0
POTTER	0
SCHUYLKILL	0
SNYDER	0
SOMERSET	0
SULLIVAN	0
SUSQUEHANNA	0
TIOGA	0
UNION	0
VENANGO	0
WARREN	0
WASHINGTON	0
WAYNE	0
WESTMORELAND	0
WYOMING	0
YORK	0
Total	0

Table 11: Data obtained from each county via a uniform survey requesting the data required pursuant to Act 35.

Absentee Ballot Statistics

Absentee Ballots Successfully Challenged in the 2020 Primary Election.

County	Ballots Challenged
ADAMS	0
ALLEGHENY	0
ARMSTRONG	0
BEAVER	0
BEDFORD	0
BERKS	0
BLAIR	0
BRADFORD	0
BUCKS	0
BUTLER	0
CAMBRIA	0
CAMERON	0
CARBON	0
CENTRE	0
CHESTER	0
CLARION	0
CLEARFIELD	0
CLINTON	0
COLUMBIA	0
CRAWFORD	0
CUMBERLAND	0
DAUPHIN	0
DELAWARE	0
ELK	0
ERIE	0
FAYETTE	0
FOREST	0
FRANKLIN	0
FULTON	0
GREENE	0
HUNTINGDON	0
INDIANA	0
JEFFERSON	0
JUNIATA	0
LACKAWANNA	0
LANCASTER	0
LAWRENCE	0

County	Ballots Challenged
LEBANON	0
LEHIGH	0
LUZERNE	0
LYCOMING	0
McKEAN	0
MERCER	0
MIFFLIN	0
MONROE	0
MONTGOMERY	0
MONTOUR	0
NORTHAMPTON	0
NORTHUMBERLAND	0
PERRY	0
PHILADELPHIA	0
PIKE	0
POTTER	0
SCHUYLKILL	0
SNYDER	0
SOMERSET	0
SULLIVAN	0
SUSQUEHANNA	0
TIOGA	0
UNION	0
VENANGO	0
WARREN	0
WASHINGTON	0
WAYNE	0
WESTMORELAND	0
WYOMING	0
YORK	0
Total	0

Table 12: Data obtained from each county via a uniform survey requesting the data required pursuant to Act 35.

Absentee Ballot Statistics

Challenged Absentee Ballots Not Canvassed
in the 2020 Primary Election.

County	Ballots Not Canvassed
ADAMS	0
ALLEGHENY	0
ARMSTRONG	0
BEAVER	0
BEDFORD	0
BERKS	0
BLAIR	0
BRADFORD	0
BUCKS	0
BUTLER	0
CAMBRIA	0
CAMERON	0
CARBON	0
CENTRE	0
CHESTER	0
CLARION	0
CLEARFIELD	0
CLINTON	0
COLUMBIA	0
CRAWFORD	0
CUMBERLAND	0
DAUPHIN	0
DELAWARE	0
ELK	0
ERIE	0
FAYETTE	0
FOREST	0
FRANKLIN	0
FULTON	0
GREENE	0
HUNTINGDON	0
INDIANA	0
JEFFERSON	0
JUNIATA	0
LACKAWANNA	0
LANCASTER	0

County	Ballots Not Canvassed
LAWRENCE	0
LEBANON	0
LEHIGH	0
LUZERNE	0
LYCOMING	0
McKEAN	0
MERCER	0
MIFFLIN	0
MONROE	0
MONTGOMERY	0
MONTOUR	0
NORTHAMPTON	0
NORTHUMBERLAND	0
PERRY	0
PHILADELPHIA	0
PIKE	0
POTTER	0
SCHUYLKILL	0
SNYDER	0
SOMERSET	0
SULLIVAN	0
SUSQUEHANNA	0
TIOGA	0
UNION	0
VENANGO	0
WARREN	0
WASHINGTON	0
WAYNE	0
WESTMORELAND	0
WYOMING	0
YORK	0
Total	0

Table 13: Data obtained from each county via a uniform survey requesting the data required pursuant to Act 35.

Mail-in Ballot Statistics

Mail-in Ballot Applications Received for the 2020 Primary Election regardless of how the application was processed.

County	Applications Received
ADAMS	11,846
ALLEGHENY	255,281
ARMSTRONG	5,077
BEAVER	18,817
BEDFORD	4,079
BERKS	43,844
BLAIR	11,293
BRADFORD	4,094
BUCKS	88,393
BUTLER	21,946
CAMBRIA	12,265
CAMERON	586
CARBON	5,906
CENTRE	19,097
CHESTER	79,624
CLARION	2,943
CLEARFIELD	5,564
CLINTON	3,335
COLUMBIA	5,318
CRAWFORD	6,768
CUMBERLAND	32,854
DAUPHIN	34,857
DELAWARE	75,180
ELK	2,945
ERIE	30,414
FAYETTE	10,036
FOREST	602
FRANKLIN	13,364
FULTON	824
GREENE	3,037
HUNTINGDON	3,328
INDIANA	6,984
JEFFERSON	4,431
JUNIATA	1,740
LACKAWANNA	29,414
LANCASTER	57,550

County	Applications Received
LAWRENCE	8,202
LEBANON	13,676
LEHIGH	43,579
LUZERNE	51,135
LYCOMING	9,151
McKEAN	2,974
MERCER	10,140
MIFFLIN	3,235
MONROE	15,143
MONTGOMERY	142,881
MONTOUR	1,780
NORTHAMPTON	39,744
NORTHUMBERLAND	5,794
PERRY	3,957
PHILADELPHIA	182,074
PIKE	5,687
POTTER	1,209
SCHUYLKILL	11,446
SNYDER	2,773
SOMERSET	6,069
SULLIVAN	584
SUSQUEHANNA	3,682
TIOGA	3,653
UNION	3,823
VENANGO	4,231
WARREN	3,208
WASHINGTON	23,532
WAYNE	4,856
WESTMORELAND	41,716
WYOMING	2,914
YORK	49,257
Total	1,615,741

Table 14: Data obtained from the SURE system.

Mail-in Ballot Statistics

Mail-in Ballot Applications Approved for the 2020 Primary Election.

County	Applications Approved
ADAMS	11,142
ALLEGHENY	238,504
ARMSTRONG	4,863
BEAVER	17,835
BEDFORD	3,910
BERKS	41,120
BLAIR	10,488
BRADFORD	3,913
BUCKS	81,907
BUTLER	20,281
CAMBRIA	11,820
CAMERON	562
CARBON	5,475
CENTRE	17,816
CHESTER	72,525
CLARION	2,831
CLEARFIELD	5,277
CLINTON	3,153
COLUMBIA	4,932
CRAWFORD	6,369
CUMBERLAND	30,987
DAUPHIN	33,096
DELAWARE	69,247
ELK	2,781
ERIE	28,984
FAYETTE	9,628
FOREST	583
FRANKLIN	12,780
FULTON	772
GREENE	2,930
HUNTINGDON	3,155
INDIANA	6,964
JEFFERSON	4,226
JUNIATA	1,614
LACKAWANNA	28,087
LANCASTER	53,426

County	Applications Approved
LAWRENCE	7,719
LEBANON	13,031
LEHIGH	39,601
LUZERNE	48,105
LYCOMING	8,632
McKEAN	2,833
MERCER	9,378
MIFFLIN	3,069
MONROE	13,840
MONTGOMERY	129,168
MONTOUR	1,627
NORTHAMPTON	36,497
NORTHUMBERLAND	5,351
PERRY	3,791
PHILADELPHIA	176,003
PIKE	5,155
POTTER	1,174
SCHUYLKILL	11,022
SNYDER	2,632
SOMERSET	5,855
SULLIVAN	561
SUSQUEHANNA	3,466
TIOGA	3,427
UNION	3,639
VENANGO	3,998
WARREN	3,061
WASHINGTON	22,250
WAYNE	4,598
WESTMORELAND	39,290
WYOMING	2,769
YORK	45,426
Total	1,510,951

Table 15: Data obtained from the SURE system.

Mail-in Ballot Statistics

Mail-in Ballots Voted in the 2020 Primary Election.

County	Ballots Voted
ADAMS	9,154
ALLEGHENY	185,379
ARMSTRONG	4,204
BEAVER	15,406
BEDFORD	3,300
BERKS	34,498
BLAIR	8,790
BRADFORD	2,908
BUCKS	65,156
BUTLER	16,469
CAMBRIA	10,141
CAMERON	495
CARBON	4,638
CENTRE	15,746
CHESTER	61,069
CLARION	2,462
CLEARFIELD	4,445
CLINTON	2,575
COLUMBIA	4,157
CRAWFORD	4,688
CUMBERLAND	26,867
DAUPHIN	28,563
DELAWARE	48,190
ELK	2,398
ERIE	25,072
FAYETTE	8,016
FOREST	524
FRANKLIN	10,799
FULTON	628
GREENE	2,529
HUNTINGDON	2,694
INDIANA	6,241
JEFFERSON	3,255
JUNIATA	1,409
LACKAWANNA	24,677
LANCASTER	44,642
LAWRENCE	6,533

County	Ballots Voted
LEBANON	11,096
LEHIGH	33,607
LUZERNE	36,408
LYCOMING	6,472
McKEAN	2,247
MERCER	6,989
MIFFLIN	2,611
MONROE	11,704
MONTGOMERY	104,816
MONTOUR	1,404
NORTHAMPTON	31,054
NORTHUMBERLAND	3,810
PERRY	3,276
PHILADELPHIA	139,463
PIKE	4,310
POTTER	935
SCHUYLKILL	9,159
SNYDER	2,312
SOMERSET	4,946
SULLIVAN	517
SUSQUEHANNA	3,010
TIOGA	2,901
UNION	3,247
VENANGO	3,320
WARREN	2,539
WASHINGTON	18,285
WAYNE	4,091
WESTMORELAND	33,805
WYOMING	2,401
YORK	34,063
Total	1,223,515

Table 16: Data obtained from the SURE system.

Mail-in Ballot Statistics

Mail-in Ballot Applicants Who Voted a Provisional Ballot in the 2020 Primary Election.

County	Provisional Ballots Voted
ADAMS	248
ALLEGHENY	4,337
ARMSTRONG	146
BEAVER	459
BEDFORD	129
BERKS	1,146
BLAIR	316
BRADFORD	263
BUCKS	3,335
BUTLER	1,001
CAMBRIA	298
CAMERON	12
CARBON	131
CENTRE	304
CHESTER	1,468
CLARION	71
CLEARFIELD	195
CLINTON	139
COLUMBIA	90
CRAWFORD	227
CUMBERLAND	676
DAUPHIN	1,058
DELAWARE	5,916
ELK	53
ERIE	710
FAYETTE	289
FOREST	14
FRANKLIN	364
FULTON	34
GREENE	92
HUNTINGDON	92
INDIANA	83
JEFFERSON	355
JUNIATA	41
LACKAWANNA	544

County	Provisional Ballots Voted
LANCASTER	1,689
LAWRENCE	87
LEBANON	233
LEHIGH	1,132
LUZERNE	1,513
LYCOMING	649
McKEAN	163
MERCER	567
MIFFLIN	56
MONROE	397
MONTGOMERY	4,170
MONTOUR	22
NORTHAMPTON	566
NORTHUMBERLAND	165
PERRY	10
PHILADELPHIA	1,874
PIKE	132
POTTER	72
SCHUYLKILL	255
SNYDER	83
SOMERSET	165
SULLIVAN	13
SUSQUEHANNA	88
TIOGA	125
UNION	68
VENANGO	139
WARREN	65
WASHINGTON	254
WAYNE	43
WESTMORELAND	1,029
WYOMING	58
YORK	2,156
Total	42,674

Table 17: Data obtained from the SURE system.

Mail-in Ballot Statistics

Mail-in Ballot Applications Filed Prior to Receipt of Voter Registration in the 2020 Primary Election.

County	Applications Filed
ADAMS	0
ALLEGHENY	16
ARMSTRONG	0
BEAVER	0
BEDFORD	0
BERKS	2
BLAIR	0
BRADFORD	0
BUCKS	2
BUTLER	1
CAMBRIA	0
CAMERON	0
CARBON	1
CENTRE	1
CHESTER	2
CLARION	0
CLEARFIELD	1
CLINTON	1
COLUMBIA	0
CRAWFORD	0
CUMBERLAND	2
DAUPHIN	0
DELAWARE	4
ELK	0
ERIE	3
FAYETTE	0
FOREST	0
FRANKLIN	2
FULTON	1
GREENE	0
HUNTINGDON	2
INDIANA	4
JEFFERSON	2
JUNIATA	0
LACKAWANNA	1
LANCASTER	3

County	Applications Filed
LAWRENCE	0
LEBANON	0
LEHIGH	1
LUZERNE	1
LYCOMING	1
McKEAN	0
MERCER	0
MIFFLIN	0
MONROE	0
MONTGOMERY	2
MONTOUR	0
NORTHAMPTON	0
NORTHUMBERLAND	1
PERRY	0
PHILADELPHIA	21
PIKE	2
POTTER	0
SCHUYLKILL	0
SNYDER	1
SOMERSET	0
SULLIVAN	0
SUSQUEHANNA	0
TIOGA	1
UNION	0
VENANGO	2
WARREN	0
WASHINGTON	0
WAYNE	0
WESTMORELAND	2
WYOMING	0
YORK	5
Total	91

Table 18: Data obtained from the SURE system.

Mail-in Ballot Statistics

Total Mail-in Ballots Reported by Counties as Challenged in the 2020 Primary Election.

County	Ballots Challenged
ADAMS	0
ALLEGHENY	0
ARMSTRONG	0
BEAVER	0
BEDFORD	0
BERKS	0
BLAIR	0
BRADFORD	0
BUCKS	0
BUTLER	0
CAMBRIA	0
CAMERON	0
CARBON	0
CENTRE	0
CHESTER	0
CLARION	0
CLEARFIELD	0
CLINTON	0
COLUMBIA	0
CRAWFORD	0
CUMBERLAND	0
DAUPHIN	0
DELAWARE	0
ELK	0
ERIE	0
FAYETTE	0
FOREST	0
FRANKLIN	0
FULTON	0
GREENE	0
HUNTINGDON	0
INDIANA	0
JEFFERSON	0
JUNIATA	0
LACKAWANNA	0
LANCASTER	0
LAWRENCE	0

County	Ballots Challenged
LEBANON	0
LEHIGH	0
LUZERNE	0
LYCOMING	0
McKEAN	0
MERCER	0
MIFFLIN	0
MONROE	0
MONTGOMERY	0
MONTOUR	0
NORTHAMPTON	0
NORTHUMBERLAND	0
PERRY	0
PHILADELPHIA	0
PIKE	0
POTTER	0
SCHUYLKILL	0
SNYDER	0
SOMERSET	0
SULLIVAN	0
SUSQUEHANNA	0
TIOGA	0
UNION	0
VENANGO	0
WARREN	0
WASHINGTON	0
WAYNE	0
WESTMORELAND	0
WYOMING	0
YORK	0
Total	0

Table 19: Data obtained from each county via a uniform survey requesting the data required pursuant to Act 35.

Mail-in Ballot Statistics

Mail-in Ballots Reported by Counties as Successfully Challenged in the 2020 Primary Election.

County	Ballots Challenged
ADAMS	0
ALLEGHENY	0
ARMSTRONG	0
BEAVER	0
BEDFORD	0
BERKS	0
BLAIR	0
BRADFORD	0
BUCKS	0
BUTLER	0
CAMBRIA	0
CAMERON	0
CARBON	0
CENTRE	0
CHESTER	0
CLARION	0
CLEARFIELD	0
CLINTON	0
COLUMBIA	0
CRAWFORD	0
CUMBERLAND	0
DAUPHIN	0
DELAWARE	0
ELK	0
ERIE	0
FAYETTE	0
FOREST	0
FRANKLIN	0
FULTON	0
GREENE	0
HUNTINGDON	0
INDIANA	0
JEFFERSON	0
JUNIATA	0
LACKAWANNA	0
LANCASTER	0

County	Ballots Challenged
LAWRENCE	0
LEBANON	0
LEHIGH	0
LUZERNE	0
LYCOMING	0
McKEAN	0
MERCER	0
MIFFLIN	0
MONROE	0
MONTGOMERY	0
MONTOUR	0
NORTHAMPTON	0
NORTHUMBERLAND	0
PERRY	0
PHILADELPHIA	0
PIKE	0
POTTER	0
SCHUYLKILL	0
SNYDER	0
SOMERSET	0
SULLIVAN	0
SUSQUEHANNA	0
TIOGA	0
UNION	0
VENANGO	0
WARREN	0
WASHINGTON	0
WAYNE	0
WESTMORELAND	0
WYOMING	0
YORK	0
Total	0

Table 20: Data obtained from the SURE system.

Mail-in Ballot Statistics

Challenged Mail-in Ballots Not Canvassed in the 2020 Primary Election.

County	Ballots Not Canvassed
ADAMS	0
ALLEGHENY	0
ARMSTRONG	0
BEAVER	0
BEDFORD	0
BERKS	0
BLAIR	0
BRADFORD	0
BUCKS	0
BUTLER	0
CAMBRIA	0
CAMERON	0
CARBON	0
CENTRE	0
CHESTER	0
CLARION	0
CLEARFIELD	0
CLINTON	0
COLUMBIA	0
CRAWFORD	0
CUMBERLAND	0
DAUPHIN	0
DELAWARE	0
ELK	0
ERIE	0
FAYETTE	0
FOREST	0
FRANKLIN	0
FULTON	0
GREENE	0
HUNTINGDON	0
INDIANA	0
JEFFERSON	0
JUNIATA	0
LACKAWANNA	0
LANCASTER	0
LAWRENCE	0

County	Ballots Not Canvassed
LEBANON	0
LEHIGH	0
LUZERNE	0
LYCOMING	0
McKEAN	0
MERCER	0
MIFFLIN	0
MONROE	0
MONTGOMERY	0
MONTOUR	0
NORTHAMPTON	0
NORTHUMBERLAND	0
PERRY	0
PHILADELPHIA	0
PIKE	0
POTTER	0
SCHUYLKILL	0
SNYDER	0
SOMERSET	0
SULLIVAN	0
SUSQUEHANNA	0
TIOGA	0
UNION	0
VENANGO	0
WARREN	0
WASHINGTON	0
WAYNE	0
WESTMORELAND	0
WYOMING	0
YORK	0
Total	0

Table 21: Data obtained from each county via a uniform survey requesting the data required pursuant to Act 35.

Absentee Ballot and Mail-in Ballot Statistics

Ballots Sent to Wrong Individual or Wrong
Address in the 2020 Primary Election.⁴

County	Ballots Sent
ADAMS	0
ALLEGHENY	3,000
ARMSTRONG	0
BEAVER	0
BEDFORD	2
BERKS	0
BLAIR	0
BRADFORD	0
BUCKS	0
BUTLER	0
CAMBRIA	0
CAMERON	0
CARBON	0
CENTRE	0
CHESTER	0
CLARION	0
CLEARFIELD	0
CLINTON	0
COLUMBIA	19
CRAWFORD	0
CUMBERLAND	0
DAUPHIN	0
DELAWARE	0
ELK	0
ERIE	0
FAYETTE	0
FOREST	0
FRANKLIN	0
FULTON	0
GREENE	0
HUNTINGDON	0
INDIANA	2
JEFFERSON	0
JUNIATA	0

⁴ Counties responding to this question noted that ballots were sent to the wrong address because the

County	Ballots Sent
LACKAWANNA	1
LANCASTER	0
LAWRENCE	0
LEBANON	0
LEHIGH	0
LUZERNE	0
LYCOMING	1
McKEAN	0
MERCER	0
MIFFLIN	0
MONROE	0
MONTGOMERY	0
MONTOUR	0
NORTHAMPTON	0
NORTHUMBERLAND	8
PERRY	11
PHILADELPHIA	0
PIKE	0
POTTER	0
SCHUYLKILL	0
SNYDER	0
SOMERSET	0
SULLIVAN	0
SUSQUEHANNA	0
TIOGA	0
UNION	3
VENANGO	0
WARREN	0
WASHINGTON	0
WAYNE	0
WESTMORELAND	0
WYOMING	0
YORK	235
Total	3,282

Table 22: Data obtained from each county via a uniform survey requesting the data required pursuant to Act 35.

voters' address was incomplete or needed to be updated.

Absentee Ballot and Mail-in Ballot Statistics

Ballots Voted by Individual Other than Voter
in the 2020 Primary Election.⁵

County	Ballots Voted
ADAMS	0
ALLEGHENY	0
ARMSTRONG	0
BEAVER	0
BEDFORD	0
BERKS	0
BLAIR	0
BRADFORD	0
BUCKS	0
BUTLER	0
CAMBRIA	0
CAMERON	0
CARBON	0
CENTRE	0
CHESTER	0
CLARION	0
CLEARFIELD	0
CLINTON	0
COLUMBIA	0
CRAWFORD	0
CUMBERLAND	0
DAUPHIN	0
DELAWARE	0
ELK	0
ERIE	1
FAYETTE	0
FOREST	0
FRANKLIN	0
FULTON	0
GREENE	0
HUNTINGDON	0
INDIANA	0

⁵ In every instance where a voter received a wrong ballot as indicated above, the county reported they were able to correct the matter and reissue a ballot

County	Ballots Voted
JEFFERSON	0
JUNIATA	0
LACKAWANNA	1
LANCASTER	0
LAWRENCE	0
LEBANON	0
LEHIGH	0
LUZERNE	0
LYCOMING	0
McKEAN	0
MERCER	0
MIFFLIN	0
MONROE	0
MONTGOMERY	0
MONTOUR	0
NORTHAMPTON	0
NORTHUMBERLAND	0
PERRY	0
PHILADELPHIA	0
PIKE	0
POTTER	0
SCHUYLKILL	1
SNYDER	0
SOMERSET	0
SULLIVAN	0
SUSQUEHANNA	0
TIOGA	0
UNION	0
VENANGO	0
WARREN	0
WASHINGTON	0
WAYNE	0
WESTMORELAND	0
WYOMING	0
YORK	0
Total	3

Table 23: Data obtained from each county via a uniform survey requesting the data required pursuant to Act 35.

to the appropriate voter while ensuring the incorrect ballot was cancelled and not counted.

Absentee Ballot and Mail-in Ballot Statistics

Ballots Returned Not by Mail or In Person in
the 2020 Primary Election.⁶

County	Ballots Returned
ADAMS	0
ALLEGHENY	0
ARMSTRONG	0
BEAVER	0
BEDFORD	0
BERKS	0
BLAIR	0
BRADFORD	0
BUCKS	0
BUTLER	0
CAMBRIA	0
CAMERON	0
CARBON	0
CENTRE	0
CHESTER	0
CLARION	0
CLEARFIELD	0
CLINTON	0
COLUMBIA	1
CRAWFORD	0
CUMBERLAND	0
DAUPHIN	0
DELAWARE	0
ELK	0
ERIE	0
FAYETTE	0
FOREST	0
FRANKLIN	4
FULTON	0
GREENE	0
HUNTINGDON	0
INDIANA	0
JEFFERSON	0

⁶ In the above reports, figures include emergency ballots, ballots returned through a voter-designated

County	Ballots Returned
JUNIATA	0
LACKAWANNA	1
LANCASTER	2
LAWRENCE	0
LEBANON	0
LEHIGH	0
LUZERNE	0
LYCOMING	20
McKEAN	0
MERCER	9
MIFFLIN	0
MONROE	0
MONTGOMERY	112
MONTOUR	0
NORTHAMPTON	0
NORTHUMBERLAND	0
PERRY	0
PHILADELPHIA	2
PIKE	0
POTTER	0
SCHUYLKILL	0
SNYDER	0
SOMERSET	0
SULLIVAN	2
SUSQUEHANNA	0
TIOGA	0
UNION	0
VENANGO	0
WARREN	0
WASHINGTON	0
WAYNE	0
WESTMORELAND	0
WYOMING	0
YORK	0
Total	153

Table 24: Data obtained from each county via a uniform survey requesting the data required pursuant to Act 35.

agent, or other persons that were not the voter. For more information, see pp. 38 -39.

Act 12 of 2020 Statistics

Election Officers Appointed in Districts
Outside District of Residence for the 2020
Primary Election.⁷

County	Election Officers Appointed
ADAMS	23
ALLEGHENY	296
ARMSTRONG	58
BEAVER	No data provided
BEDFORD	5
BERKS	413
BLAIR	86
BRADFORD	34
BUCKS	372
BUTLER	52
CAMBRIA	35
CAMERON	8
CARBON	25
CENTRE	203
CHESTER	139
CLARION	0
CLEARFIELD	5
CLINTON	14
COLUMBIA	Data not available at this time
CRAWFORD	15
CUMBERLAND	167
DAUPHIN	0
DELAWARE	Data not available at this time
ELK	0
ERIE	138
FAYETTE	32
FOREST	2
FRANKLIN	40
FULTON	1
GREENE	44
HUNTINGDON	40
INDIANA	18

County	Election Officers Appointed
JEFFERSON	5
JUNIATA	0
LACKAWANNA	186
LANCASTER	341
LAWRENCE	3
LEBANON	No data provided
LEHIGH	0
LUZERNE	168
LYCOMING	0
McKEAN	14
MERCER	56
MIFFLIN	8
MONROE	88
MONTGOMERY	0
MONTOUR	1
NORTHAMPTON	169
NORTHUMBERLAND	11
PERRY	1
PHILADELPHIA	Data not available at this time
PIKE	0
POTTER	2
SCHUYLKILL	36
SNYDER	1
SOMERSET	13
SULLIVAN	0
SUSQUEHANNA	5
TIOGA	0
UNION	10
VENANGO	31
WARREN	25
WASHINGTON	238
WAYNE	25
WESTMORELAND	350
WYOMING	0
YORK	167
Total	4,217

Table 25: Data obtained from each county via a uniform survey requesting the data required pursuant to Act 35.

⁷ Several counties did not have this data readily available at this time.

Act 12 of 2020 Statistics

Number of Polling Places Consolidated that did Not Require DOS Approval for the 2020 Primary Election.

County	Polling Places Consolidated
ADAMS	0
ALLEGHENY	N/A
ARMSTRONG	3
BEAVER	1
BEDFORD	2
BERKS	0
BLAIR	9
BRADFORD	0
BUCKS	9
BUTLER	0
CAMBRIA	6
CAMERON	N/A
CARBON	13
CENTRE	4
CHESTER	73
CLARION	2
CLEARFIELD	0
CLINTON	0
COLUMBIA	0
CRAWFORD	11
CUMBERLAND	8
DAUPHIN	6
DELAWARE	151
ELK	0
ERIE	0
FAYETTE	0
FOREST	N/A
FRANKLIN	0
FULTON	0
GREENE	5
HUNTINGDON	42
INDIANA	2
JEFFERSON	1
JUNIATA	0
LACKAWANNA	14

County	Polling Places Consolidated
LANCASTER	6
LAWRENCE	8
LEBANON	0
LEHIGH	0
LUZERNE	86
LYCOMING	0
McKEAN	0
MERCER	1
MIFFLIN	12
MONROE	0
MONTGOMERY	212
MONTOUR	0
NORTHAMPTON	0
NORTHUMBERLAND	8
PERRY	0
PHILADELPHIA	N/A
PIKE	0
POTTER	0
SCHUYLKILL	9
SNYDER	2
SOMERSET	5
SULLIVAN	0
SUSQUEHANNA	0
TIOGA	0
UNION	0
VENANGO	0
WARREN	0
WASHINGTON	11
WAYNE	2
WESTMORELAND	0
WYOMING	0
YORK	0
Total	724

Table 26: Data obtained from each county via a uniform survey requesting the data required pursuant to Act 35.

Act 12 of 2020 Statistics

Polling Place Consolidation Requiring DOS Approval for the 2020 Primary Election.

County	Polling Places Consolidated
ADAMS	0
ALLEGHENY	830 into 211
ARMSTRONG	0
BEAVER	0
BEDFORD	0
BERKS	0
BLAIR	0
BRADFORD	0
BUCKS	0
BUTLER	0
CAMBRIA	0
CAMERON	10 into 3
CARBON	0
CENTRE	0
CHESTER	0
CLARION	0
CLEARFIELD	0
CLINTON	0
COLUMBIA	0
CRAWFORD	0
CUMBERLAND	0
DAUPHIN	0
DELAWARE	0
ELK	0
ERIE	0
FAYETTE	0
FOREST	9 into 2
FRANKLIN	0
FULTON	0
GREENE	0
HUNTINGDON	0
INDIANA	0
JEFFERSON	0
JUNIATA	0
LACKAWANNA	0
LANCASTER	0

County	Polling Places Consolidated
LAWRENCE	0
LEBANON	0
LEHIGH	0
LUZERNE	0
LYCOMING	0
McKEAN	0
MERCER	0
MIFFLIN	0
MONROE	0
MONTGOMERY	0
MONTOUR	0
NORTHAMPTON	0
NORTHUMBERLAND	0
PERRY	0
PHILADELPHIA	850 into 190
PIKE	0
POTTER	0
SCHUYLKILL	0
SNYDER	0
SOMERSET	0
SULLIVAN	0
SUSQUEHANNA	0
TIOGA	0
UNION	0
VENANGO	0
WARREN	0
WASHINGTON	0
WAYNE	0
WESTMORELAND	0
WYOMING	0
YORK	0

Table 27: Data in this table is based on the request for approval the referenced counties submitted to the Department of State.

Act 12 of 2020 Statistics

Polling Places Located Subject to Section 1803-B during the 2020 Primary Election.

County	Polling Places
ADAMS	0
ALLEGHENY	1
ARMSTRONG	0
BEAVER	0
BEDFORD	2
BERKS	0
BLAIR	0
BRADFORD	0
BUCKS	0
BUTLER	0
CAMBRIA	0
CAMERON	0
CARBON	0
CENTRE	0
CHESTER	0
CLARION	0
CLEARFIELD	0
CLINTON	0
COLUMBIA	0
CRAWFORD	0
CUMBERLAND	0
DAUPHIN	1
DELAWARE	0
ELK	0
ERIE	0
FAYETTE	0
FOREST	0
FRANKLIN	0
FULTON	0
GREENE	0
HUNTINGDON	0
INDIANA	0
JEFFERSON	0
JUNIATA	0
LACKAWANNA	0
LANCASTER	0
LAWRENCE	0

County	Polling Places
LEBANON	0
LEHIGH	5
LUZERNE	0
LYCOMING	0
McKEAN	3
MERCER	0
MIFFLIN	0
MONROE	0
MONTGOMERY	0
MONTOUR	0
NORTHAMPTON	0
NORTHUMBERLAND	10
PERRY	0
PHILADELPHIA	10
PIKE	0
POTTER	0
SCHUYLKILL	0
SNYDER	0
SOMERSET	0
SULLIVAN	0
SUSQUEHANNA	0
TIOGA	0
UNION	0
VENANGO	0
WARREN	0
WASHINGTON	11
WAYNE	0
WESTMORELAND	74
WYOMING	0
YORK	0
Total	117

Table 28: Data obtained from each county via a uniform survey requesting the data required pursuant to Act 35.

Polling Places Located in a School

Polling places located in schools for the 2020 Primary Election.

County	Polling Places
ADAMS	1
ALLEGHENY	30
ARMSTRONG	0
BEAVER	4
BEDFORD	0
BERKS	28
BLAIR	6
BRADFORD	0
BUCKS	65
BUTLER	0
CAMBRIA	5
CAMERON	8
CARBON	0
CENTRE	8
CHESTER	93
CLARION	2
CLEARFIELD	1
CLINTON	0
COLUMBIA	0
CRAWFORD	4
CUMBERLAND	8
DAUPHIN	28
DELAWARE	73
ELK	0
ERIE	15
FAYETTE	12
FOREST	0
FRANKLIN	0
FULTON	0
GREENE	3
HUNTINGDON	19
INDIANA	1
JEFFERSON	0
JUNIATA	0
LACKAWANNA	20
LANCASTER	8
LAWRENCE	3

County	Polling Places
LEBANON	2
LEHIGH	17
LUZERNE	26
LYCOMING	1
McKEAN	1
MERCER	8
MIFFLIN	10
MONROE	2
MONTGOMERY	140
MONTOUR	0
NORTHAMPTON	29
NORTHUMBERLAND	6
PERRY	0
PHILADELPHIA	99
PIKE	0
POTTER	0
SCHUYLKILL	1
SNYDER	0
SOMERSET	3
SULLIVAN	0
SUSQUEHANNA	0
TIOGA	0
UNION	2
VENANGO	0
WARREN	2
WASHINGTON	8
WAYNE	0
WESTMORELAND	29
WYOMING	0
YORK	10
Total	841

Table 29: Data obtained from each county via a uniform survey requesting the data required pursuant to Act 35.

Pre-Canvassing and Canvassing Statistics

Date and Time of Pre-Canvass Meeting⁸

County	Date/Time of Meeting
ADAMS	6/2/2020 9:00am
ALLEGHENY	6/2/2020 7:00am
ARMSTRONG	6/2/2020 9:00am
BEAVER	N/A
BEDFORD	6/2/2020 7:30am
BERKS	N/A
BLAIR	6/2/2020 9:00am
BRADFORD	N/A
BUCKS	6/2/2020 10:00am
BUTLER	6/2/2020 7:00am
CAMBRIA	6/2/2020 8:00am
CAMERON	6/2/2020 10:00am
CARBON	N/A
CENTRE	6/2/2020 9:00am
CHESTER	6/2/2020 7:00am
CLARION	6/2/2020 4:30pm
CLEARFIELD	6/2/2020 10:00am
CLINTON	N/A
COLUMBIA	6/2/2020 7:00am
CRAWFORD	6/2/2020 10:00am
CUMBERLAND	N/A
DAUPHIN	N/A
DELAWARE	6/2/2020 9:00 am
ELK	6/2/2020 1:00pm
ERIE	6/2/2020 10:00 am
FAYETTE	6/2/2020 8:00am
FOREST	6/2/2020 3:00pm
FRANKLIN	6/2/2020 8:30am
FULTON	6/2/2020 1:00pm
GREENE	N/A
HUNTINGDON	6/2/2020 10:00am
INDIANA	6/2/2020 9:00am
JEFFERSON	6/2/2020 7:00am

⁸ If N/A is listed, it means that the county did not participate in pre-canvassing events.

⁹ In the survey responses, Montour County reported they began on 6/1/2020 when they started

County	Date/Time of Meeting
JUNIATA	N/A
LACKAWANNA	6/2/2020 9:00am
LANCASTER	6/2/2020 8:00am
LAWRENCE	6/2/2020 8:10am
LEBANON	N/A
LEHIGH	6/2/2020 7:00am
LUZERNE	6/2/2020 7:00am
LYCOMING	6/2/2020 7:00am
McKEAN	6/2/2020 9:00am
MERCER	N/A
MIFFLIN	6/2/2020 9:30am
MONROE	N/A
MONTGOMERY	6/2/2020 8:00am
MONTOUR ⁹	6/1/2020 9:00am
NORTHAMPTON	6/2/2020 7:00am
NORTHUMBERLAND	6/2/2020 8:00am
PERRY	6/2/2020 9:30am
PHILADELPHIA	N/A
PIKE	N/A
POTTER	6/2/2020 10:00am
SCHUYLKILL	6/2/2020 1:00am
SNYDER	6/2/2020 8:00am
SOMERSET	N/A
SULLIVAN	6/2/2020 11:00am
SUSQUEHANNA	6/2/2020 7:00pm
TIOGA	6/2/2020 1:00pm
UNION	6/2/2020 9:00am
VENANGO	6/2/2020 7:00am
WARREN	6/2/2020 9:00am
WASHINGTON	6/2/2020 7:00am
WAYNE	6/2/2020 8:00am
WESTMORELAND	6/2/2020 9:00am
WYOMING	6/2/2020 7:00am
YORK	6/2/2020 7:00am

Table 30: Data obtained from each county via a uniform survey requesting the data required pursuant to Act 35.

preliminary sorting and slicing envelopes opening without removing ballots nor counting ballots.

Pre-Canvassing and Canvassing Statistics

Date and Time of Canvass Meeting for the 2020 Primary Election.

County	Date and Time of Meeting
ADAMS	6/2/2020 9:00am
ALLEGHENY	6/2/2020 8:00pm
ARMSTRONG	6/5/2020 9:00am
BEAVER	6/3/2020 9:00am
BEDFORD	6/2/2020 7:30am
BERKS	6/2/2020 9:00am
BLAIR	6/3/2020 8:00am
BRADFORD	6/2/2020 1:00pm
BUCKS	6/3/2020 9:00am
BUTLER	6/5/2020 9:00am
CAMBRIA	6/2/2020 8:30am
CAMERON	6/5/2020 9:00am
CARBON	6/3/2020 9:00am
CENTRE	6/2/2020 9:00am
CHESTER	6/3/2020 7:00am
CLARION	6/3/2020 9:00am
CLEARFIELD	6/2/2020 8:00pm
CLINTON	6/5/2020 9:00am
COLUMBIA	6/2/2020 8:00pm
CRAWFORD	6/2/2020 8:30pm
CUMBERLAND	6/3/2020 9:00am
DAUPHIN	6/4/2020 9:00am
DELAWARE	6/2/2020 8:30am
ELK	6/3/2020 9:00am
ERIE	6/5/2020 9:00am
FAYETTE	6/5/2020 9:00am
FOREST	6/2/2020 3:00pm
FRANKLIN	6/3/2020 9:00am
FULTON	6/5/2020 9:00am
GREENE	6/3/2020 9:00am
HUNTINGDON	6/2/2020 8:00pm
INDIANA	6/3/2020 8:30am
JEFFERSON	6/2/2020 9:00am
JUNIATA	6/3/2020 9:00am
LACKAWANNA	6/2/2020 5:30pm

County	Date and Time of Meeting
LANCASTER	6/3/2020 9:00am
LAWRENCE	6/2/2020 8:00pm
LEBANON	6/3/2020 9:00am
LEHIGH	6/3/2020 10:00am
LUZERNE	6/2/2020 8:00pm
LYCOMING	6/2/2020 8:00pm
McKEAN	6/5/2020 9:00am
MERCER	6/3/2020 9:00am
MIFFLIN	6/5/2020 9:00am
MONROE	6/3/2020 at 9:30am
MONTGOMERY	6/2/2020 8:00am
MONTOUR	6/3/2020 9:00am
NORTHAMPTON	6/5/2020 9:00am
NORTHUMBERLAND	6/2/2020 3:45pm
PERRY	6/2/2020 10:00am
PHILADELPHIA	6/5/2020 9:00am
PIKE	6/3/2020 7:00am
POTTER	6/3/2020 9:00am
SCHUYLKILL	6/2/2020 1:00pm
SNYDER	6/2/2020 9:00pm
SOMERSET	6/2/2020 9:00am
SULLIVAN	6/5/2020 9:00am
SUSQUEHANNA	6/2/2020 8:00pm
TIOGA	6/3/2020 8:30am
UNION	6/5/2020 9:00am
VENANGO	6/5/2020 8:00am
WARREN	6/5/2020 9:00am
WASHINGTON	6/3/2020 9:00am
WAYNE	6/2/2020 8:00pm
WESTMORELAND	6/5/2020 5:00pm
WYOMING	6/2/2020
YORK	6/2/2020 8:00pm

Table 31: Data obtained from each county via a uniform survey requesting the data required pursuant to Act 35.

Pre-Canvassing and Canvassing Statistics

Last Date County Reported Counting all Domestic Ballots for the 2020 Primary Election.¹⁰

County	Date and Time of Meeting
ADAMS	6/4/2020
ALLEGHENY	6/17/2020
ARMSTRONG	6/11/2020
BEAVER	6/11/2020
BEDFORD	6/3/2020
BERKS	6/9/2020
BLAIR	6/8/2020
BRADFORD	6/17/2020
BUCKS	6/17/2020
BUTLER	6/8/2020
CAMBRIA	6/5/2020
CAMERON	6/5/2020
CARBON	6/18/2020
CENTRE	6/5/2020
CHESTER	6/15/2020
CLARION	6/17/2020
CLEARFIELD	6/5/2020
CLINTON	6/9/2020
COLUMBIA	6/9/2020
CRAWFORD	6/18/2020
CUMBERLAND	6/16/2020
DAUPHIN	Not provided
DELAWARE	6/18/2020
ELK	6/3/2020
ERIE	6/12/2020
FAYETTE	6/22/2020
FOREST	6/5/2020
FRANKLIN	6/9/2020
FULTON	6/5/2020
GREENE	6/17/2020
HUNTINGDON	6/5/2020

County	Date and Time of Meeting
INDIANA	6/16/2020
JEFFERSON	6/5/2020
JUNIATA	6/5/2020
LACKAWANNA	6/8/2020
LANCASTER	6/16/2020
LAWRENCE	6/9/2020
LEBANON	week of 6/8/20
LEHIGH	6/12/2020
LUZERNE	6/18/2020
LYCOMING	6/15/2020
McKEAN	6/5/2020
MERCER	6/9/2020
MIFFLIN	6/10/2020
MONROE	6/5/2020
MONTGOMERY	6/17/2020
MONTOUR	6/4/2020
NORTHAMPTON	6/5/2020
NORTHUMBERLAND	6/3/2020
PERRY	6/5/2020
PHILADELPHIA	6/17/2020
PIKE	6/5/2020
POTTER	6/4/2020
SCHUYLKILL	6/11/2020
SNYDER	6/4/2020
SOMERSET	6/10/2020
SULLIVAN	6/5/2020
SUSQUEHANNA	6/5/2020
TIOGA	6/5/2020
UNION	6/11/2020
VENANGO	6/5/2020
WARREN	6/5/2020
WASHINGTON	6/12/2020
WAYNE	6/8/2020
WESTMORELAND	6/9/2020
WYOMING	6/5/2020
YORK	6/12/2020

Table 32: Data obtained from each county via a uniform survey as well as other county post-election reporting regarding ballot counting status.

¹⁰ Data not requested by Act 35 but included for informational purposes.

Review of Actions Taken

The General Assembly's enactment of the election reforms contained in Act 2019-77 and Act 2020-12 and election officials' subsequent implementation of those legislative reforms enabled Pennsylvania to respond effectively to the unique challenges posed by the COVID-19 pandemic. The mail-in voting option in Act 77 and the emergency polling place and poll worker provisions in Act 12 gave voters expanded access to voting by mail and helped county election officials protect public health for in-person voting.

As mentioned in the introduction to this report, the confluence of circumstances leading up the June 2 Primary, including the closures and restrictions caused by COVID-19 and the unprecedented volume of voters voting by mail, resulted in some unavoidable challenges. Delays and errors in fulfilling some ballot requests in several counties required those counties not only to take quick actions to correct errors, but also to provide individualized outreach to correct any confusion among voters experiencing these issues.

Counties collectively reported that 3,288 ballots were sent to the wrong voter or to the wrong address. Of this total, 3,000 were reported by a single county (Allegheny). That county reported that 3,000 ballots were returned as undeliverable because the voters provided an incorrect or no longer valid address. In about half of these cases, the county was able to reissue ballots, but in some cases the undeliverable ballots arrived too late for the county to reissue ballots.

The causes of the remaining errors and irregularities include the following:

- mail house vendor errors;
- mailing addresses on some address labels without an apartment number due to an anomaly in the Online Absentee Ballot application that did not require applicants to enter apartment information in the correct field;
- human error when inserting balloting materials into envelopes;
- mail delivery errors that resulted in individuals receiving another voter's balloting materials; and
- timing issues that resulted in voters receiving ballots at an address after they moved or returned to a previous address.

Counties reported that three (3) ballots (of the nearly 2.9 million ballots voted in the Primary Election) were voted by someone other than the voter. In each of these three cases, the person who voted the ballot received it in error, and in each case county election officials voided the ballots and re-issued them to the appropriate voter. Based on the information reported by the counties, these situations were reviewed by the counties, who reported that the facts did not appear to be willful nor attempted fraud, and thus they were dealt with administratively.

Counties reported that a total of 153 ballots were returned by means other than the voter sending it by mail or delivering it in person to a site designated by the county board of elections. Of those 153 ballots, 117 ballots were delivered on behalf of voters with disabilities by duly

designated agents. The remaining 36 instances appear to be the result of confusion regarding the requirements for delivering balloting materials. For example, Mercer County reported that a care home administrator delivered the ballots of nine (9) residents on Election Day because they had failed to timely mail the ballots. The county reported that it informed the care home administrator that the ballots could not be counted. Lycoming County reported that it allowed approximately 20 ballots to be delivered by the voters' spouses. That county has taken steps to ensure that its staff does not accept this type of delivery in the future.

In addition to the issues reported in response to the Act 35 inquiries, in Montgomery County approximately 1,900 voters were sent ballots for the incorrect political party. The county cancelled the ballots and issued new ballots to each affected voter. Also, in Montgomery County, about 4,000 additional voters received the wrong ballot style. Unfortunately, the county became aware of this issue late in the process, at which point there was no longer time to issue new ballots and send them by mail. The county cancelled all the incorrect ballots and contacted the affected voters to inform them that they could vote provisionally at the polls or come to the county in person to request a replacement ballot. In both these circumstances, the county's mail house vendor did not employ adequate quality control measures to prevent such errors from occurring. The county is no longer using this vendor and will ensure stricter quality control measures going forward.

In the lead up to the June 2, 2020 Primary, the Department worked with the counties that experienced delays and/or errors in the fulfillment of ballot requests to aid them in assessing the causes and identifying appropriate solutions for any problems that occurred. Immediately following the conclusion of the Primary, the Department reached out to the counties to follow up on all issues and begin working with them on ways to prevent future occurrences, and expanded our work with them on process improvement and implementation of best practices. The Department also engaged experts to work directly with counties to break down and evaluate their internal processes and external dependencies to identify specific actions that the counties must take to avoid similar delays and errors for the November general election.

The data provided by the counties reinforces numerous independent studies that conclude that mail ballot fraud is exceedingly rare, and it demonstrates that the errors that occurred accounted for a very small fraction of the nearly 1.5 million absentee and mail-in ballots requested and cast by voters. Nonetheless, it also demonstrates the need for additional education and outreach to ensure that the issues experienced during the primary do not recur.

Issues or Incidents Involving Voting Machines

The counties reported relatively few voting system errors or issues in the 2020 Primary Election. Of the 27 counties that reported experiencing any voting system issue, all but three (3) counties reported only isolated issues with scanners or ballot-marking devices that were quickly resolved through maintenance or replacement. For example, nine (9) counties had to replace or take offline approximately 30 scanners on Election Day and one (1) county had to replace a defective power cord on a scanner. The remaining counties experienced isolated errors related to needing to replace the paper roll or ink cartridge for the printers, cleaning and calibration adjustments, paper jams, battery failures and errors in opening the polls and other minor poll worker errors. In the overwhelming majority of counties these routine issues were reported in fewer numbers in the 2020 primary than voting system issues reported in comparable prior years with older voting systems.

In the three (3) counties that experienced more significant issues, voters were able to continue voting with little to no interruption throughout the day. In each instance, the issues were not actually voting system issues; rather, they concerned printing vendor errors resulting in some ballots that did not fit through the scanners or were too lightly printed to be successfully scanned, or the use of incorrect markers resulting in write-in votes unable to be scanned.

Each of these issues was addressed at the time and additional corrective action is being taken, as described below:

Bucks County, whose printing vendor cut some ballots too large to be scanned by the precinct scanners, addressed the issue immediately by instructing voters to cast their ballots in the emergency ballot box on the scanner so they could be secured and returned to the county to be tabulated centrally. The county is implementing changes to ensure this does not recur in the future, including evaluating a change in print vendor and augmenting quality control and testing measures.

Similarly, in Lancaster County, where some ballots were too lightly printed to be read by the scanner, the county addressed the immediate issue by instructing voters to insert the improperly printed ballots into the emergency ballot box on the scanner so they could be secured and returned to the county to be tabulated centrally. The county has cancelled its contract with the print vendor and is in the process of rebidding the contract and will implement changes to ensure this does not recur.

Clarion County experienced issues with the scanners' reading of write-in votes on election day ballots and determined that the issue was caused by the pens used to mark the ballots, not the voting system itself. Though the issue did not impede voting, it did significantly slow the canvassing of write-in votes after election day. Because they could not be effectively scanned and captured at the precinct on election day, all ballots with write-in votes had to be rescanned at the county and reconciled manually. The county will be implementing improved training to address this prior to the November election.

The Department will continue working with all counties to ensure that their pre-election logic and accuracy testing is completed as broadly and effectively as possible. Additionally, the Department will work with counties to conduct additional education for poll workers and voters alike. COVID-19 significantly affected both poll worker recruitment and training, and also prevented many counties from holding in-person voting system demonstrations to give poll workers, voters, and other stakeholders an opportunity to gain hands-on experience with new voting systems.

The Department's Ready to Vote 2020 campaign will continue to serve as an important resource for information about each county's voting system. This resource includes online step-by-step instructions for each county's voting system, as well as video demonstrations of voting on each voting system. These resources are supplemented by poll worker training resources provided by both the Department and voting system vendors to ensure that poll workers have access to training materials that they can review in their own homes. The Ready to Vote 2020 campaign also includes a toolkit that candidates, legislators, parties, and other stakeholders can use to generate awareness about these resources. It is essential that all stakeholders work to expand knowledge of these resources, to increase voter education, poll worker recruitment, and poll worker training, to ensure the most accessible and secure participation by eligible voters in this November's election.

Conclusions

The 2020 Primary Election provided some clarity on additional changes that the General Assembly should consider regarding the administration of elections.

Delivery of Ballots to Voters

Section 1305 of the Election Code requires a county board of elections to begin delivering or mailing ballots to voters no later than 14 days before a primary or election. Based on the experiences of the primary election, we believe this is not nearly enough.

Therefore, the Department recommends that the deadline for counties to begin delivering or mailing ballots to voters be increased to at least 28 days before the election, and if a third-party vendor is used, counties should be required to submit the initial list of approved applicants to its third-party vendor(s) no fewer than 35 days prior to an election. These changes would help ensure that voters receive their ballot earlier and have an appropriate amount of time to complete and return their ballot.

Return of Ballots to Counties

Requiring ballots to be sent to voters earlier will only solve part of this problem, however. Some voters will not receive their ballots until only a day or two before an election; others will receive their ballot earlier but may not return it until closer to the election. To allow for all of these votes to be counted, the Department recommends that counties be required to count votes that are received by the county board of elections no later than the Friday following an election, provided that the envelopes have been postmarked by Election Day. Allowing ballots to be returned by the Friday after Election Day will allow ample time for all votes to be counted prior to the statutory deadline to order a statewide recount of any race that is decided by less than a 0.5% margin. Coupled with a change of date for counties to begin delivering or mailing ballots to voters, this change would provide eligible voters the greatest ability to cast their vote.

Pre-Canvass Timeline

As mentioned earlier in this report, the Department also supports counties beginning the pre-canvassing process as early as three weeks before Election Day. To illustrate why this is important, we can look to the Democratic Primary on June 2: At midnight on June 3, 2020, the Democratic race for Auditor General was led by one candidate. Due to delays in canvassing of ballots, it was not until days later that a different candidate, Nina Ahmad, took the lead as ballots continued to be counted. This same process occurred in nine (9) House and Senate races. Even with Act 12 of 2020 moving back the pre-canvassing period from 8pm on Election Day to 7am, it was still not enough time, and in approximately half the counties, ballots were still being counted over a week later. Allowing counties to begin taking these steps earlier would allow them to report accurate and nearly complete results in a timely manner.

The Department recommends that this period be extended to three weeks prior to the primary or election. The Department further recommends that counties be required to conduct at least one pre-canvass meeting, and as many meetings as necessary to pre-canvass all ballots received

prior to the Friday before a primary or election. Counties would be required to follow procedures already in place to notify the public, political parties, and campaigns about these pre-canvass meetings. Furthermore, the law already prohibits any person attending or participating in a pre-canvass meeting from disclosing the results of a pre-canvass meeting prior to the close of the polls. The penalty for doing so is enumerated in Section 1853 of the Election Code, which provides for a fine of up to \$2,500 and/or up to two years in jail. Thus, the Department believes that changes can be implemented that would ensure that counties would be able to report accurate and more complete results on election night without risking the release of results beforehand.

Poll Worker Flexibility

Act 12 of 2020 authorized counties to appoint poll workers for the 2020 Primary Election who were not specifically registered electors of the election district they were serving in on the day of the primary. This flexibility allowed for the counties to appoint thousands of poll workers in order to fill vacancies in advance of the primary. The Department believes that making this provision of Act 12 permanent would enhance poll worker recruitment and is of urgent need given the continuance of COVID 19 precautions.

Additionally, the Department would recommend that Section 405 of the Election Code be modified to provide a county Board of Elections with a greater amount of time prior to an election in which they may appoint poll workers to fill vacancies. Currently, a county must wait until five days before an election to appoint poll workers to fill vacancies. Prior to those five days the county must seek Court approval to appoint them. The Department believes that this should be changed to allow counties the authority to fill vacancies beginning at least 60 days before Election Day. Like the other recommendation described above, this would provide counties with greater flexibility in ensuring that all polling places are properly staffed on election day.

The Pennsylvania Department of State and all 67 counties have demonstrated the strength of our election officials' commitment to ensuring the integrity, accessibility, and security of our elections. On June 2, 2020, Pennsylvanians reaffirmed the durability of our democracy when we exercised our right to vote amid a worldwide pandemic and nationwide social unrest, and overwhelmingly embraced new, more secure voting systems and expanded options for voting safely by mail. We have our dedicated county election officials and poll workers, as well as our resilient voters, to thank for the success of the primary election. With their continued commitment and collaboration, we look forward to holding another successful election on November 3rd.