



Butler County Board of Elections

Response to Voters

April 6, 2022

Meeting Purpose

- Board of Elections listened to public comments
- Asked you to submit questions and will provide you with responses to many of the most commonly asked questions
- Both shared perspective and individual comments as we open and close.
- We don't expect this to satisfy everyone tonight nor do we expect this to be an end to our work and discussions together.
- We do expect that you give us the same due respect as we have provided in listening to your perspectives over the last several months.
- Two hour timeframe and will end the meeting promptly at 8.

2020 Election Overview

The 2020 Election, both in local and national terms, was unprecedented in many ways.

- The overall increase in the number of registered voters
- The use of mail-in and early in-person voting as alternatives to precinct voting.
- The level of public scrutiny before, during, and after Election Day.
- The extent to which elections were contested and litigated before and after Election Day.
- The impact of a global pandemic on the election process.

(This is NOT a statement of motive or indictment, simply what was)

IMPACT OF CHANGES IN ELECTION MANAGEMENT

A. Replacement of Election Equipment

- 2016 – learned that Election Equipment was at end of life.
- Worked with the Election Director and staff to explore voting equipment and balloting options.
- Following the 2016 general election, an independent Blue Ribbon Commission recommended the state adopt voter-verifiable (paper) election systems.
- Butler County planned for a 2021 launch to avoid implementing new equipment during a presidential campaign in 2020.
- Then, in November of 2018, Governor Wolf settled a lawsuit with Green Party Candidate Jill Stein’s campaign by pledging to require counties to replace their voting machines before 2020’s election.
- Butler County interviewed and reviewed four different election system providers, inviting judges of elections and poll workers to test the machines and provide feedback. Ultimately chose ES&S’s paper scan system. It was first used in the 2019 general election, just in time to allow election workers to become familiar with the equipment before the presidential election in 2020.

IMPACT OF CHANGES IN ELECTION MANAGEMENT

B. Changes in Election Law

- On **October 30, 2019** the legislature passed Act 77, signed by the Governor.
- Passed in exchange for the elimination of straight-party voting, often benefitting Democrats down ballot.
- Republicans voted for it. Democrats voted against it. Now we are witnessing some Rs apologizing and the Ds defending.

ACT 77 PROVIDED....

- **no excuse mail-in voting,**
New option to vote by mail without providing an excuse, previously required for voters using absentee ballots., joined 31 states.
- **a 50-day mail-in voting period,**
Voters can request and submit their mail-in or absentee ballot up to 50 days before the election, which is the longest vote-by-mail period in the country. (Often ballots aren't certified until 4 to 6 weeks prior)
- **a permanent mail-in and absentee ballot list,**
Voters can request to receive applications for mail-in or absentee ballots for all primary, general and special elections held in a given year Pennsylvania is the 12th state to provide voters with the automatic option.
- **15 more days to register to vote,**
Voter registration deadline is extended to 15 days from 30 days before an election. More time than 24 other states.
- **ballot on demand,**
A voter presenting an application for mail-in or absentee ballot in person at the county board of elections may request said ballot at the same time.
- **and extends mail-in and absentee submission deadlines.**
Voters can submit mail-in and absentee ballots until 8:00 p.m. on Election Day.
- **Authorizes the governor to pursue a \$90 million bond to reimburse counties for 60 percent** of their actual costs to replace voting systems. The new systems have enhanced security to help guard against hacking and produce an anonymous paper record so voters can verify their ballot is correctly marked when casting it. Paper records also allow officials to conduct the most accurate recounts and audits of election results.

ACT 12 ...

In March of 2020 against the backdrop of Emergency Stay at Home orders due to the pandemic, the Legislature passed Act 12, that provided for:

- in-person, same day voter registration,
- surrendering mail-in ballots at the polls to be spoiled, then allowing the elector to vote in-person having signed a statement subject to the penalties relating to unsworn falsification to authorities,
- the prohibition of challenges to applications for mail-in ballots on the grounds the applicant used an absentee ballot application and conversely challenges to absentee applications based on the grounds that the applicant used a mail-in in application,
- pre-canvassing of mail-in ballots beginning at 7 a.m. on election day but prohibiting the publishing or recording of votes prior to closure of the polls,
- Establishment of an election law advisory board,
- a temporary emergency provision to allow for consolidation of polling places by not more than a 60% reduction; relieving the requirement that election officers (poll workers) be electors of the election district in which appointed but instead simply an elector of the county;
- addressing technicalities and deadlines due to the postponement of the primary from April 28 to June 2, 2020. ***Last two provisions expired July 3, 2020.***

IMPACT OF CHANGES IN ELECTION MANAGEMENT

C. Unclear Election Guidance

On August 19, 2020, the Department of State issued Absentee and Mail-In Ballot Return Guidance that:

- said County Boards **“should”** establish a plan and adopt procedures for the return of mail-in ballots and “should” submit it to the Department of State at least 45 days prior to the election,
- said County Boards **“may”** establish multiple ballot return locations where a secure ballot return receptacle “drop box” may be located. In defining security of said receptacles, the language said the board **“must”** ensure a list of procedures all of which then used the word **“should.”**

SUPREME COURT RULINGS

September 17, 2020, the Supreme Court of PA PA Democratic Party VS. Kathy Boockvar and County Boards of Elections

- extended the receipt of mail-in ballot deadline by three days to November 6 for ballots postmarked by 8 p.m. on election day,
- held that Election Code permitted the use of drop boxes,
- agreed that poll watchers must live in the County where they serve,
- ruled election boards did NOT have to notify mail-in or absentee voters whose ballots contained minor defects to allow them to cure the errors,
- removed Green Party candidate Howie Hawkins from the ballot clearing the way for a ballot to be certified and printed by counties.

IMPACT OF PANDEMIC

- Many judges of elections and poll workers chose not to work the polls in 2020, leaving the County staff and Board of Elections (County Commissioners) rushing to fill poll worker positions in both the primary and general elections.
- Further, many polling places either would not or could not confirm use of their facilities. A total of nine (9) polling places had to be relocated requiring compliance inspections, public notices including mailers to all affected voters, and extensive logistics coordination.
- Training was adapted to include management of election sites under CDC and PA Department of Health COVID-19 mandates and guidelines. This was done against the backdrop of processing the high volume of mail-in ballot requests.

IMPACT OF AN INTENSE PRESIDENTIAL RACE IN A SWING STATE

- ***HIGH VOLUME OF CALLS AND ACCUSATIONS***
- ***THIRD PARTY MAILERS***
- ***SOCIAL MEDIA & FOREIGN COUNTRY DISRUPTIONS***
- ***POLL WATCHERS DEPLOYED LIKE NEVER BEFORE***

SIMPLE RESPONSES

- **Question:** *Have the Commissioners given consideration to reconvening the Election Review Commission?*
- **Response:** *No – We will continue to pursue the recommendations and to share the report widely. It is currently being used by the PA Senate Committees and seems to be getting some attention.*

SIMPLE RESPONSES

- **Question:** *How many drop boxes does the County intend to utilize during the upcoming primary election and what will be done to monitor those drop boxes?*
- **Response: None** – *The County has been supported in its decision NOT to use drop boxes. We did have a monitored ballot return station in the lobby during 2020 to reduce the long lines that formed. But, we have not found that to be necessary since. We would do it if deemed necessary.*

SIMPLE RESPONSES

Question: *Because of various problems associated with the 2020 general election, will you commit to preserving all election data and ballots indefinitely so that they remain available for subsequent audit, investigatory and/or review purposes?*

Response:

- *Federal law requires that we retain all federal election records for 22 months from the date of any general election where a federal office is on the ballot.*
- *State law (25 P.S. Sec. 3146) requires that we retain these types of documents (including ballots, absentee/mail-in materials, applications, and nomination certificates & papers) for two (2) years.*
- *Butler County follows a practice where we double the minimum time. **In other words, we would be retaining most of the records from the 2020 General Election for four years.***

SIMPLE RESPONSES

Question: *Who actually owns the voting machines? Were they purchased with County taxpayer dollars or were they purchased utilizing federal and state grants or other funds?*

Response: *Butler County owns the voting system. It was purchased initially with County reserve funds then subsequently reimbursed through provision in Act 77 authorizing the Governor to pursue \$90 million bond to reimburse Counties 60%. Additional HAVA funds brought the total reimbursed to \$926,572.23.*

Total Cost of system with equipment purchased in both 2019 and 2020:

\$1,142,170.00

\$ 926,572.23 Reimbursed by the Commonwealth

\$ 215,597.77 From County Capital Fund

OVERALL COST OF ELECTIONS

- The Elections budget has grown from:

\$551,364 in 2019

to

\$870,870 in 2021

SIMPLE RESPONSES

Question: Has there been any evidence of intentional fraud in Butler County that the Board of Elections has been able to investigate or found to be credible/substantiated?

Answer: *We conducted three investigations, one related to a notification by the state of Florida of an irregularity with a specific voter. The other two were both related to reports of alleged misconduct in Clearfield Township.*

- In the first, a judge of elections was accused of not using provisional ballots or sworn affidavits for voters who were surrendering their ballots at the polls to vote in person. District Attorney's office findings were inconclusive due to a lack of cooperation by participating parties. The individual, at the solicitor's request, voluntarily resigned.*
- The second related to a write-in campaign for judge of elections in which there was a mistake made in the computation process in which the computation board misspelled his name. The election bureau did not award the position since there was not voter in the district with that spelling. Upon discovery by the nominee, the computation board was notified and awarded him the position. The Board of Elections requested an investigation by the DA. Written response from the DA.*

2020 Ballots and the US Postal Service

Question: *Was there any resolution of the lost ballot issue which was reported by the US Postal Service in the 2020 general election and if so what was it?*

Response:

- *Postal Service investigation launched because of notice received from the Department of State re: slow delivery of ballots in both York and Butler Counties as reported also by the Governor and his wife.*
- *Met with two special agents from the State Attorney General's Office along with a representative of the US Postal Service Inspector General's Office*

2020 Ballots and the US Postal Service

Question: *Was there any resolution of the lost ballot issue which was reported by the US Postal Service in the 2020 general election and if so what was it?*

Response:

- *Postal service appointed a specific person to work with the Butler County Election Bureau on any issues*
- *Postal service stopped sending ballots to Pgh for processing and instead they were postmarked and run through Butler only*

Inactive Voters Added back to voter rolls

Question: *How and why were names of deceased and/or inactive voters added back on to the rolls of Butler County voters in the fall of 2020?*

Response:

- *On June 17th, as noted in the data records, a clerk, in an attempt to make inactive voters who had not voted in the prior two presidential elections inactive, inadvertently entered an incorrect parameter that actually reactivated as many as 6000 voters who had been inactive back to 2004. It was explained to us that there was no single action to “undo” that move or to correct it. The files had to be individually corrected as found. Good news is that we ran a query and found that only 8 voted. This action artificially inflated the voter rolls.*

Subtracted Votes

Question: *In emails released via a right-to-know request, there was mention of votes being subtracted during the 2020 November election. Please provide the circumstances regarding that observation*

Response:

- *On the afternoon of November 23rd, the day final certification was due, the election director came to our offices to report a problem with the final report noting that the total was less than a report generated on or about November 13th. The vote total was off by 266 votes.*
- *Using the email that Mr. White sent us, I was able to look at count estimates and suggest that perhaps a flash drive with one a specific voter category may not have been loaded? (I.E. military ballots/problem ballots/re-makes).*
- *The election director contacted ES&S and worked through the remainder of the afternoon and evening to correct the problem. We asked for a response from ES&S as to how this could occur. (BOC read the document from ES&S)*

Subtracted Votes

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Response:

- *ES&S responded with a formal letter on January 18, 2021 after they reviewed the system's event logs.*
- *Good news is that reconciliation caught it.*
- *Not so good news is that we don't have good reconciliation procedures in place as yet and are looking to do an analysis of that during this election cycle if possible to establish a very clear and recorded reconciliation process.*

2021 General Election Results Reporting Delay

Question: *Why did the Butler County Bureau of Elections withhold election results until all returns were in on the night of the 2021 General Election?*

Response:

- *The predetermined plan was to attempt to load the mail-in ballot results simultaneously with each precinct as they came in. This was to avoid the big mystery surrounding the “mail-in” results in 2020 and to be able to show each precinct as complete.*
- *Unfortunately there was a gross underestimate of the help that would be needed to complete the count in this manner in time to be done prior to or near to 8 p.m.*
- *While the Board of Elections was told at 8:15 p.m. that we were on target, we subsequently learned that in order to report those results, they would have to stop counting for approximately 30 minutes in order to download the results from the machines. Without consulting the BOE, the decision was made not to load any results until the counting was complete. The BOE had no information and heard only media reports. We have discussed the upcoming election with staff and are working to provide the resources needed to complete the count in time to load the results simultaneously as was planned for 2021.*

Other Questions to be addressed

➤ *IP Addresses*

➤ *Precinct Scanner Tapes*

Changes in Procedures

Question: *What changes have been made to the election process since the 2020 election?*

Response:

- *Added 2 Full-Time Staff; One specifically to serve judges and polling places.*
- *The use of planning and management software for scheduling, communication, tracking of equipment, equipment delivery, etc.*
- *More deliberate announcements and access to the logic and accuracy testing*
- *The planned hiring of supports for Right-to-Know requests*
- *Expanded support for Judges and poll workers to improve communication modes and access to real-time information*
- *Improved estimates in the ballot counts for polling places*
- *Security measures related to chain of custody of ballots (requires two people to deliver ballots to post office)*

Changes in Procedures

Question: *What changes have been made to the election process since the 2020 election?*

Response:

- *Specific log-in IDs assigned to users of Electionware system*
- *Scanning and attaching mail-in ballot applications to the voters file for verification purposes*
- *Changes in records retention procedures*
- *Office/building space upgrade underway to improve access and security*
- *Live stream video available in the mail-in/absentee ballot tabulation room*
- *Changes to procedures for write-in verifications to prevent the issue that occurred in the case of Clearfield Township Judge of Elections.*

Actions and Next Steps

Are you willing to take action to improve voter confidence in our county election process? If so what specific actions are you considering undertaking?

- **Voter rolls and SURE system**
- **Staff support and safety**
- **Continuous evaluation of procedures/improvement particularly from election day through certification**
- **Continued research/listening**
- **Continued legislative advocacy**
- **Continued evaluation of voter system**
- **Improve communication and customer service always**
- **Improved access and visibility**
- **Use of the expanded 2% Audit as recommended by our Commission in the upcoming election in a manner that is accessible to the public and voters**