

CITY OF PHILADELPHIA PENNSYLVANIA

OFFICE OF THE CONTROLLER

Promoting honest, efficient, and fully accountable government

CITY COMMISSIONERS OFFICE

**Review of Provisional Ballots Cast in
the 2012 Presidential Election**

May 2013



City Controller

ALAN BUTKOVITZ



CITY OF PHILADELPHIA

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ALAN BUTKOVITZ
City Controller

GERALD V. MICCIULLA
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June 6, 2013

Honorable Anthony Clark, Chair
City Commissioners Office
City Hall, Room 130
Philadelphia, PA 19107

Honorable Al Schmidt, Vice Chair
City Commissioners Office
City Hall, Room 134
Philadelphia, PA 19107

Dear Mssrs. Clark and Schmidt:

Pursuant to Section 6-400(d) of the Home Rule Charter, the City Controller's Office conducted an audit of the provisional ballots cast in the 2012 City of Philadelphia presidential election to determine the reason(s) for the widespread use of provisional ballots by voters in that election. A synopsis of the results of our work, which was performed in accordance with *Government Auditing Standards*, is provided in the executive summary to the report.

We discussed our findings and recommendations with you and your staffs at an exit conference and included your written response to our comments as part of the report. We believe that our recommendations, if implemented by management, will improve the efficiency and effectiveness of the election process overseen by the City Commissioners Office. Our recommendations have been numbered to facilitate tracking and follow-up in subsequent years.

We would like to express our thanks to you and your staffs for the outstanding courtesy and cooperation displayed during the conduct of our work.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alan Butkovitz".

ALAN BUTKOVITZ
City Controller

cc: Honorable Michael A. Nutter, Mayor
Honorable Darrell L. Clarke, President
and Honorable Members of City Council
Honorable Stephanie Singer, City Commissioner
Members of the Mayor's Cabinet



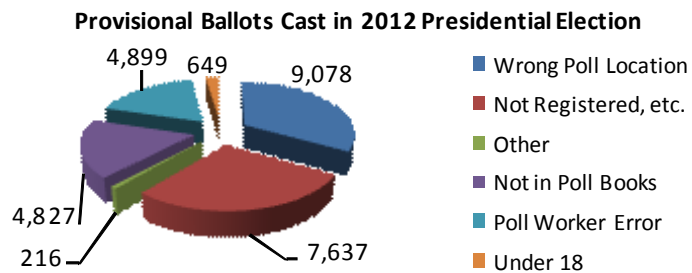
CITY COMMISSIONERS OFFICE REVIEW OF PROVISIONAL BALLOTS CAST IN THE 2012 PRESIDENTIAL ELECTION

EXECUTIVE SUMMARY

Why The Controller's Office Conducted The Review

Pursuant to Section 6-400 (d) of the Philadelphia Home Rule Charter, the City Controller's Office conducted an audit of the provisional ballots cast in the City of Philadelphia's 2012 presidential election. Our objective was to determine the reason(s) for the widespread use of provisional ballots during the election.

What The Controller's Office Found



Source: Office of the City Controller

About 10,591 or 39 percent of the 27,306 provisional ballots cast in the 2012 Presidential Election in Philadelphia occurred because of poll worker mistakes or errors arising in the creation of poll books. Our work suggests that poll workers could not locate voters' names that were properly listed in the poll books because of inattentiveness, time constraints imposed by long lines of voters, or failure to follow procedures established by management of the City Commissioners Office. In some instances, errors in the creation of the supplemental poll

books resulted in the names of properly registered voters being omitted from the poll books that were sent to polling locations.

Other significant reasons requiring the use of provisional ballots included:

- An estimated 9,078 (33 percent) individuals were required to vote provisionally because they did not go to their assigned polling location. Many individuals in our sample appeared to vote at locations that were not in close proximity to their assigned polling location, suggesting that they selected a polling location based on convenience.
- Finally, 7,637 (28 percent) of provisional ballots were cast by individuals who were ineligible to vote. These individuals were either not registered to vote, registered in another state or county, or had their registrations cancelled.

Additionally, and although not directly related to our objectives, we observed other matters related to the use of provisional ballots that warrant management's attention. Some provisional ballots appeared to have been miscounted — a small number of ballots were inappropriately included in the tally, while others which should have been counted were not.

What The Controller's Office Recommends

The Controller's Office has developed a number of recommendations to address the above findings. Some of the more significant recommendations are: (1) perform independent reviews of provisional ballots to identify those poll workers which may require additional training; (2) work with State officials to identify and correct the cause of errors in the printing of the poll books; (3) require the checklist of procedures used in the poll book preparation process to be signed-off and reviewed; and, (4) exercise greater care in the counting of provisional ballots.

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INTRODUCTION

Background

Origin, Purpose, and Use of Provisional Ballots



In the aftermath of the controversial presidential election of 2000, the Help America Vote Act¹ (HAVA) was signed into law on October 29, 2002. HAVA resulted in sweeping reforms to the nation's voting process which included a requirement placed

on states to implement procedures related to provisional voting. A provisional ballot is a conditional ballot cast, in most cases, by a voter whose name does not appear on the registration list for that polling location, or whose eligibility is challenged by an election official. Under either of these circumstances, a voter is barred from using a voting machine to cast a ballot because his or her eligibility to vote cannot be determined at that time. A provisional ballot, therefore, is designed to prevent an individual from losing his or her right to vote due to the fact that a poll worker did not have all the information available or needed to accurately assess voter eligibility.²



To cast a provisional ballot, a voter is required to anonymously complete a paper ballot that is often unique to the ward and division where he or she appears to vote. A ballot will be unique because the geographic boundaries of most federal, state and local legislative districts do not fully overlap. For example, a federal congressional district's boundaries may include two or more State Senate and/or State Representative districts, each having different candidates for office. Therefore, a voter who casts a ballot in a different ward and division from which he or she is registered may be voting for the proper candidate for some, but not all offices. In this case, the vote will be counted for some candidates, but not for others.

After completing the ballot, the voter places and seals it inside a "secrecy" envelope which also bears no voter identification. The secrecy envelope is then sealed inside the provisional ballot envelope. Election officials at the polling location must sign the provisional ballot envelope and indicate the reason for issuing the provisional ballot. The voter must assert, by completing and signing an affidavit printed on the envelope, the address where the voter lived at the time he or she registered to vote.

After the polls close, the envelopes containing the provisional ballots are returned to the City Commissioners Office and, in the week following the election, a determination is made regarding the voter's eligibility by comparing the information on the provisional ballot envelope to the corresponding record in the Statewide Uniform Registry of Electors (SURE), the state's voter registration database. If the voter was found to be ineligible to vote, e.g., the voter was not registered to vote, or not registered to vote in the county, the

¹ Pub. L. 107-252, 42 U.S.C. 15301 *et seq*

² U.S. Election Assistance Commission, EAC Advisory 2005-006: Provisional Voting and Identification Requirements, September 13, 2005.

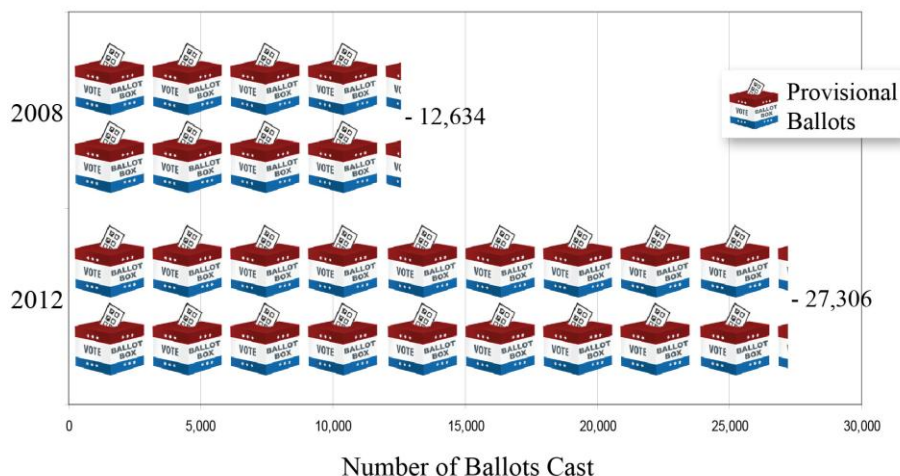
ballot is rejected and the votes are not counted.

If the voter was deemed to be eligible and registered to vote in the ward and division where he or she appeared on election day, the vote is fully counted for all offices. However, if the voter was considered eligible, but the provisional ballot was cast in a ward and division that differed from the voting location that corresponds to the voter’s registered address, the provisional ballot is partially counted. As previously mentioned, partial counts occur because the voter was determined to have cast his or her ballot outside the geographical boundaries of one or more of the federal, state or local offices that correspond to the voter’s registered address. Therefore, the votes for some offices are counted while the votes for others are not.

**November 2012
Presidential
Election**

In the November 2012 presidential election, Philadelphia voters cast 27,306 provisional ballots which represented an increase of 14,672 provisional ballots (116%) from the 12,634 cast in the 2008 presidential election, as shown in Figure 1 below.

Figure 1: Provisional Ballots Cast in Philadelphia Presidential Elections - 2008 and 2012



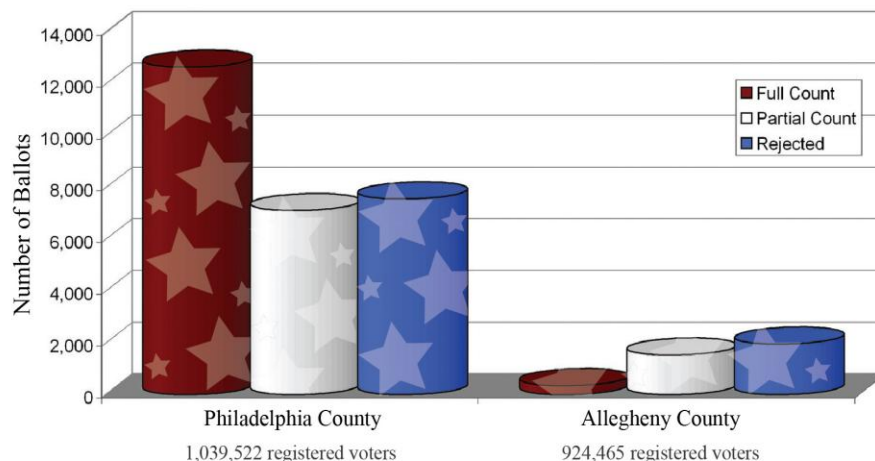
Source: Prepared by the Office of the Controller based on data provided by the City Commissioners Office.

Many voters who were required to use provisional ballots voiced complaints to the City Commissioners, the Committee of Seventy (an independent agency which oversees a non-partisan voter assistance program), and the media. These individuals questioned why their names did not appear in the poll books (listings of registered voters for a specific ward and division) or supplemental poll books (listings of voters whose registrations were processed after the poll books were printed). The reported problems appeared to be broad-based, encompassing all geographic areas and demographic sectors within the City.

The Pennsylvania Department of State’s Bureau of Commissions, Elections and Legislation (the Bureau) is responsible for overseeing the SURE system and downloading the information used to print the poll books used at Philadelphia’s polling locations. Philadelphia election officials questioned representatives of the Bureau concerning the problems encountered with the poll books. A spokesman for the Bureau stated that the information for the poll books was extracted from the SURE system using the standard process, and added that no other counties in Pennsylvania had problems on the same scale as Philadelphia.³

A comparison of the number of provisional ballots cast in Philadelphia and Allegheny County, with nearly the same number of registered voters, revealed that Philadelphia’s provisional ballot count (27,306) was, in fact, 616% higher than that of Allegheny County (3,812).⁴ The sizable difference between the two counties is graphically depicted in Figure 2.

Figure 2: Disposition of Provisional Ballots by County – 2012 Presidential Election



Sources: Prepared by the Office of the City Controller based on data received from Allegheny County Department of Administrative Services – Division of Elections and the City Commissioners Office

It was against this backdrop that the City Controller’s Office undertook an audit of Philadelphia’s provisional ballot usage. Our initial audit objective was to determine why the number of provisional ballots cast in the 2012 presidential election dramatically increased from the number cast in 2008. However, during the preliminary survey stage of the audit, we were informed that the 2008 provisional ballot envelopes had been destroyed. The envelopes contain part of the information necessary to determine why a provisional ballot was needed, and therefore, without this information we were unable to compare our results for 2012 with 2008. As a result, it was necessary to modify our objective to

³ Ransom, Jan; Lucey, Catherine; Brennan, Chris. “This voting mess has city sweating ballots.” *Philly.com*. 15 November 2012. Web. 19 November 2012.

⁴ 2012 General Election Experience Report, Department of Administrative Services – Division of Elections, County of Allegheny.

determining the reasons why the widespread use of provisional ballots was required in Philadelphia's 2012 presidential election.

Flawed Election Process Led to Significant Use of Provisional Ballots in Philadelphia's 2012 Presidential Election

About 10,591 or 39 percent of the 27,306 provisional ballots cast in the 2012 Presidential Election in Philadelphia occurred because of poll worker mistakes or errors arising in the creation of poll books. Of the remaining provisional ballots cast, voters either cast their ballots at the wrong polling location, or they were not properly registered to vote. The presence of such a substantial number of manually processed ballots could place a significant burden on the Commissioners' resources, increase the likelihood of miscounting votes, and affect the timeliness of reporting election results.

Errors by Poll Workers



An estimated 4,899 voters⁵ needlessly cast provisional ballots in the 2012 Presidential Election because of errors made by poll workers. Our inspection of 379 randomly selected provisional ballot envelopes indicated that for 68 (18 percent), the voters had been properly registered, appeared at their correct polling location, and were properly listed in the poll books or supplemental poll books. Poll workers should have located the names in the books, which would have permitted these voters to cast their ballots using a voting machine, rather than completing a provisional ballot.

The mistaken use of provisional ballots occurred despite poll workers having a set of instructions readily available to them. These instructions, titled *Guide for Election Officers*, had been distributed by the City Commissioners to each polling location. They outlined the procedures poll workers needed to follow when a voter's name could not be located in the poll books. In our opinion, although awkward to use, the instructions appeared very comprehensive. Simply stated, they required poll workers to (1) re-check the poll book, (2) observe the voter's identification card to determine if he or she was at the correct polling location, (3) search under the person's prior last name if recently married, (4) check all variants if the person had more than one last name, or a hyphenated last name, (5) search the supplemental poll book pages, and (6) call the voter registration office to resolve the issue. If, after completing these procedures, the voter's name could not be located in the poll book or SURE system, the individual was to be provided the opportunity to vote by provisional ballot since he or she was not permitted to vote on a machine.

The extent to which poll worker errors occurred suggests several possible causes. The poll workers were either inattentive in the conduct of their duties,

⁵ Estimated with 95% certainty, \pm 5% based on the parameters used in the sample selection process, and a population of 27,306 provisional ballots. See Audit Scope, Objective and Methodology for more information.

rushed because of lines which formed at some polling locations, or failed to follow the procedures listed in the *Guide for Election Officers*.

Although the *Guide for Election Officers* contained all the information required by poll workers to address the issue of voters whose names were not listed in the poll book, it was not, in our opinion, a “user friendly” publication. The information was presented in a tabloid format which the poll workers had to page through in order to find the section concerning provisional voting. During peak hours, this process could be both time consuming and impractical, and could cause lengthy delays for voters. One possible solution that could reduce the number of provisional ballots cast and speed the voting process would be to publish the provisional voting guidelines separately, in a format that could be readily accessible when needed.

After determining that poll workers were responsible for 18 percent of the provisional ballots cast in the 2012 presidential election, we inquired of City Commissioners Office personnel regarding their training policies and procedures. Management of the City Commissioners Office explained that, although training was offered at various locations during the time leading up to the election, the District Election Board, specifically the Judge of Elections, Majority Inspector, and Minority Inspector, at each polling location were elected officials, and could not be required to attend training. To encourage attendance, a nominal amount (\$20) is paid to each attendee. Other than this small payment, management explained, there is little incentive for poll workers to attend training.

Our review of Pennsylvania law that addresses the instruction of election officers, disclosed the following:

“For the purpose of giving such instructions, the county boards shall call such meeting or meetings of election officers as shall be necessary. Each judge, inspector and machine inspector shall, upon notice, attend such meeting or meetings called for his instruction and receive such instruction as shall be necessary for the proper conduct of the primary or election with voting machines.... No judge, inspector or machine inspector shall serve at any primary or election at which a voting machine is used, unless he shall have received such instructions, shall have been found qualified to perform his duties in connection with the machine, and shall have received a certificate to that effect from the county board or one of the custodians appointed by them....”⁶

Based on the foregoing citation, we believe that management of the City Commissioners Office can require election officers to attend training. Although personnel of the City Commissioners Office informed us that enforcing this provision could make it extremely difficult to staff each polling location in the city, in our opinion, management should do whatever is possible to ensure that Philadelphia election officers comply with the requirement.

⁶ Source: Act 1937-320, P.L. 1333, approved June 3, 1937, 25 P.S. §2684.

Recommendations:

City Commissioners should perform and document an independent review of the provisional ballots cast in each voting division to determine which locations had a high poll worker error rate. Poll workers at poorly performing locations should be counseled and required to attend a “refresher” training course [207313.01]. Consideration should be given to replacing the *Guide for Election Officers* with a user friendly manual. For example, a three-ring binder with tabs identifying subject matter to which poll workers could quickly refer would be more helpful and easier to use than the current tabloid format. Changes to the manual could be made simply by updating and replacing pages or sections prior to each election [207313.02]. Management of the City Commissioners Office should require all poll workers to attend training to keep their knowledge of voting procedures current. Management should also give consideration to increasing the training bonus to \$50 to encourage compliance with the training requirement [207313.03].

Problems in Properly Printing Supplemental Poll Books

Another contributing cause to the high number of provisional ballots in the 2012 Presidential Election was errors occurring in the creation of the “supplemental” poll books. About 4,827 ± 5 percent of the voters that cast provisional ballots were properly registered to vote, and went to their correct polling locations, but their names did not appear in the supplemental poll books. Anyone properly registered, but not listed in the poll books can only vote by provisional ballot. We noted that 67 voters in our sample (17.7 percent) were affected by this condition and not permitted to vote by machine.

These incomplete supplemental poll books presented a significant problem because their purpose was to ensure that those individuals, whose registration applications were not processed in time to be included in the poll books, still had the right to vote. Some names may not appear in the poll books because the City Commissioners Office traditionally receives a large number of last minute voter registration applications, and cannot enter them all into the SURE system before the Pennsylvania Department of State’s Bureau of Commissions, Elections and Legislation (the Bureau) extracts the voter information and forwards it to a vendor that prints the poll books. As the Bureau begins the extraction process, the City Commissioners Office continues to process registration applications. Because these late registrants will not appear in the poll books, the City Commissioners Office must extract this information from the SURE system on its own, and then print and distribute it to the polling locations in the form of supplemental poll books.

Although personnel of the City Commissioners Office printed the supplemental poll books prior to the 2012 presidential election, they were unaware that the names of some registered voters did not appear in the books until election day. The one commonality among these individuals was that their voter registration

records were created or modified between October 22, 2012, the day the State began the extraction process, and November 2, 2012, the day the supplemental poll books were printed. Identifying the underlying cause of this problem was complicated by the fact that the names of some, but not all, voters processed during this period were dropped from the supplemental poll books. Personnel of the City Commissioners Office informed us that the supplemental poll books were reprinted after November 2nd, at which time the missing names appeared on the listings.

We discussed possible causes of the problem with the City Commissioners Office personnel and a representative from the Pennsylvania Department of State. By the end of our fieldwork, a definitive answer regarding the cause had not been determined. City Commissioners believed a glitch may have occurred in the SURE registration system when printing the supplemental poll books on November 2nd. The representative from the Pennsylvania Department of State suggested the possibility that incorrect parameters, i.e., date ranges, were used when printing the supplemental poll books.

We requested documentation supporting the parameters used by City Commissioners personnel when printing the supplemental poll books, but management informed us that a record of the parameters used was not maintained. Moreover, City Commissioners personnel stated that the SURE system keeps no record of the parameters used that could be accessed by its staff.

Lacking a record of the parameters used by the City Commissioners Office, we still attempted to verify the State's suggestion that the use of improper parameters caused this issue. We tried to duplicate the supplemental poll book printed on November 2nd for several voting divisions by varying the date ranges entered and printing the resulting output. However, in every case, our testing provided listings with more or fewer names, but never an exact match to the original listing.

At the conclusion of our fieldwork, we informed the Pennsylvania Department of State that we could not duplicate the problem by varying the date parameters, thus suggesting that the use of improper parameters may not have caused the problem with the supplemental poll books. Its representative indicated that he would contact the City Commissioners Office and jointly work with its staff to find the cause of the problem.

Recommendations:

We recommend that the City Commissioners Office collaborate with the Pennsylvania Department of State to identify the cause of this problem, and resolve this issue for future elections [207313.04]. We also recommend that responsible personnel of the City Commissioners Office maintain documentation of all parameters used when printing the supplemental poll books or performing other operations in the SURE system [207313.05].

Poll Book Preparation Procedures

Approximately 649 ± 5 percent of first-time voters were required to cast provisional ballots because City Commissioners personnel failed to run the “Update Underage Voters Utility” computer program prior to creating the poll books. As a result of this oversight, nine individuals in our sample (2.4 percent) who submitted registration applications before their 18th birthday, in anticipation of becoming 18 years of age and eligible to vote prior to the 2012 presidential election, did not appear in the poll books or supplemental poll books on Election Day.

Had the required procedure been performed, the registration records of these individuals would have been moved from a pending file to actively registered voter status prior to the election, ensuring that their names would have appeared in the poll books. Because of the omission, this group of first-time voters was denied the right to vote on a machine through no fault of their own.

To aid counties in the poll book preparation process and to prevent errors of this nature from occurring, the Pennsylvania Department of State created a checklist of procedures to be completed by the counties prior to finalizing voter information and printing the poll books. City Commissioners personnel informed us that the checklist is not formally signed-off by the individual performing the procedures.

Recommendation:

We recommend that management of the City Commissioners Office require the employee assigned the responsibility for completing the checklist, to sign and date each procedure as it is finished. We further recommend a superior be required to evidence their review that all checklist procedures were properly completed by signing and dating the checklist [207313.06].

Voters Using Wrong Polling Location



Voters who went to the wrong polling location cast the largest number of provisional ballots in the 2012 presidential election. We estimate that 9,078 ± 5 percent of the provisional ballots were cast by individuals who did not vote at the polling location where they were registered. Our estimate is based on 126 instances (33 percent) in our sample where voters were required to vote provisionally because they went to an improper polling place.

There are several reasons why a person might vote at a polling location other than where they are registered. For example, an individual who has moved since the last election may unknowingly go to a polling location which does not correspond to his current address. Or, perhaps a person’s polling location may have been relocated, e.g., to accommodate voters with special needs and, not knowing the location of the new polling place, the voter may appear at the wrong poll. Finally, a voter may have chosen to vote at a more convenient

location such as one close to his place of employment. Upon closer examination, we noted that 88 of the 126 voters (70 percent) who went to an improper polling place voted at a location that was not in geographical proximity to where they were registered. In some cases, their voting location and their registered polling place were several miles apart. This suggests that these individuals may have simply decided to vote where it was convenient.

When a voter appears at a polling location where he is not registered, the poll workers should attempt to determine the individual's assigned polling location by examining the voter's registration card or by obtaining additional information from the voter such as his home address or the location where he voted in the last election. Whenever possible, the voter should be directed to the proper polling location where he will be able to vote on a machine to mitigate the possibility that his ballot will be rejected or partially counted. Reducing the number of provisional ballots cast will also lessen the workload of City Commissioners personnel and hasten the certification of the election results.

Recommendations:

To reduce the number of provisional ballots cast and the additional work it imposes on City Commissioner personnel, we recommend that the City Commissioners Office emphasize to poll workers: (1) the need to determine if the voter is at their proper polling place when the individual cannot be located in the poll book; and, (2) the importance of providing voters with the address of their proper voting location [207313.07]. Further, to encourage individuals to vote at the proper polling location, we recommend the City Commissioners Office require poll workers to explain to voters being provided with a provisional ballot that, if they are not at their proper polling place, their ballot may be partially counted [207313.08].

People Ineligible to Vote



Of the total 379 ballot envelopes we examined as part of the audit, the City Commissioners Office had rejected 106 (28 percent) of them because the ballots had been cast by ineligible voters. More specifically, the individuals were either: not registered to vote in Pennsylvania (59); registered to vote in a county other than Philadelphia (35); no longer eligible to vote because they had failed to vote in the past two federal elections (9); or had also cast votes on a voting machine (3). Based on the above findings, we concluded with 95 percent confidence that 7,637 ± 5 percent of the provisional ballots completed in the 2012 presidential election were cast by ineligible voters.

The ballots cast by out-of-state and out-of-county voters were rejected because Pennsylvania's election laws require that, for a vote to be counted, the voter must be registered in Pennsylvania and cast a ballot in the county where he or she is registered. If a voter expects to be out-of-county on Election Day, he or she may vote in advance using an absentee ballot.

There may be several reasons why out-of-county registrants voted in Philadelphia. These voters may have: (1) worked in Philadelphia, and voted here as a matter of convenience; (2) attended college and temporarily resided in the City; or, (3) moved into the City but failed to change their voter registration. Regardless of the specific reason, voting out-of-county suggests that these voters may have been unfamiliar with the requirement to vote in the county where they are registered.

When the number of rejected ballots becomes excessive, it creates a needless drain on the resources of the City Commissioners Office, and frustrates those individuals who must vote provisionally only to later visit the State's website and learn that their vote did not count. The magnitude of the problem suggests that a campaign to educate the public about voter eligibility is necessary to effectively reduce the number of rejected provisional ballots.

Recommendations:

We recommend that the City Commissioners Office, in conjunction with local voter advocacy groups, disseminate information advising the public that they must be registered in Philadelphia for their vote to count [207313.09]. To educate students in this regard, we also recommend the City Commissioners Office work with the political organizations on college campuses to inform students from other counties that, for their vote to be counted, they must submit an absentee ballot to the county where registered, or re-register using their local address [207313.10].

Other Matters

During the audit, we noted other matters about the provisional ballot envelopes that came to our attention. Specifically, we observed ballot envelopes in the sample for which the available evidence indicated the voter's ballot was improperly counted. We also noted a subsection of the ballot envelope population that appeared to have been improperly excluded from the count of votes, while others were inappropriately included. As we could not physically observe actual ballots cast by voters because the anonymity of an individual's vote must remain protected, we determined that these votes had not been counted based solely on notations made on the provisional ballot envelopes, and other supporting evidence such as the voter's registration record. Each of the above matters is discussed in more detail below.

**Improperly
Counted
Ballots**

Six instances in our random sample of provisional ballot envelopes appeared to have been miscounted. In five of these cases, the voters went to the proper polling location, and their ballots should have been fully counted. However, our observations disclosed:

- two ballot envelopes with notations that indicated the ballots were only partially counted;
- one ballot envelope without notations indicating how the ballot was counted, or whether it was counted at all;
- one ballot envelope marked "cancelled" indicating the vote was not counted even though the voter was properly registered; and,
- one ballot envelope that was erroneously marked as voided because City Commissioners personnel indicated the person had also voted on a machine. This situation occurred because personnel from the City Commissioners Office wrongly identified the voter's signature in the poll book. Had they checked the dates of birth, they would have realized the signature was that of the voter's mother, who had voted on a machine.

The last of the six cases where a voter's ballot appeared to have been miscounted occurred because of a data entry error made by personnel in the City Commissioners Office. Data entry personnel entered the wrong address of the voter registrant into the SURE system. This error resulted in the voter being assigned to the wrong polling location. Although the voter went to the proper polling location for his place of residence, his registration information was not in the poll books. As such, he was required to vote provisionally and his vote was only partially counted because of the discrepancy.

When these six voters cast their provisional ballot, they were given a barcode to check the status of how their vote was counted on the SURE system website. Personnel from the City Commissioners Office enter this information into the SURE system after the votes are counted. We entered the barcode information into the SURE system website to observe the disposition of these six cases in the system. In all six cases, we found there were no certified provisional ballots associated with the barcodes. We also noted two other cases in our sample where the ballots correctly appeared to have been partially counted, but their status was also not entered into the SURE system. Although we were unable to determine why the information was not entered into the SURE system, any of these six voters who visited the SURE website, may have been upset to learn that, despite voting provisionally, their votes were not counted.

Recommendation:

Personnel of the City Commissioners Office should exercise greater care in the processing of provisional ballots to mitigate the possibility that ballots may be improperly counted. To aid in ensuring accuracy, the count should be reviewed by another employee before the ballot tabulations are finalized. Greater care is also required when inputting registration application information and barcodes to the SURE system to ensure that all ballot information is entered [207313.11].

**Ballots
Improperly
Accounted For**

As part of our work, we also noted instances of provisional ballots that, although not randomly selected for inspection, appeared to have been excluded from the voter tally. For example, we observed 32 provisional ballot envelopes, which were marked as full counts that still had the ballot sealed inside the secrecy envelope. We also noticed 47 other provisional ballot envelopes marked as partial counts still sealed and again with the ballots inside. Consequently, it appeared that 79 ballots that should have been fully or partially counted were excluded from the voter tally and the voters were disenfranchised.

Additionally, we also observed 73 other cases where the ballots were removed from the provisional ballot envelopes, even though the available evidence indicated the ballots should have been rejected. This group included:

- 33 individuals who were recorded as also having voted on a machine;
- 15 individuals who were not in the SURE voter registration system;
- 21 individuals whose registrations had been cancelled; and,
- 4 individuals who may not have appeared in person at a polling location.

It appears that all 73 ballots were inappropriately counted. Our review of the voter registration database revealed that one of the individuals whose registration was cancelled was not a U.S. citizen, yet the individual's vote seems to have been counted. Of the four individuals who may not have shown up at a polling location, notations on the ballot envelopes suggested that: one was hospitalized; one was marked as also having voted by absentee ballot; one was a senior citizen who was unable to get to the polling location; and, one was included in the poll books but the polling location was not wheelchair accessible. These four individuals should have obtained and submitted absentee ballots prior to the election, if possible. Provisional ballots must be completed in person at the polling location to be valid.

Recommendations:

As previously recommended, personnel of the City Commissioners Office should exercise greater care in processing provisional ballots so as to mitigate the possibility that ballots may be improperly accounted for. To aid in ensuring accuracy, the count should be reviewed and documented by another employee before the ballot tabulations are finalized [207313.12].

Poll workers should be further instructed regarding the difference between absentee and provisional ballots, as well as the situations when each is appropriate. In addition, poll workers should not distribute provisional ballots to, or accept provisional ballots from, anyone other than a voter who appears at the polling location to preclude the potential for voter fraud [207313.13].

Conclusion

Provisional ballots are an important part of the election process because they serve to ensure an individual's right to vote. However, because of the conditional nature of the provisional ballot, most voters would prefer to cast their vote on a machine. In addition to increasing voter satisfaction, a reduction in the number of provisional ballots would significantly reduce the burden on the staff of the City Commissioners Office, decrease the likelihood of miscounting votes, and enhance the timeliness of reporting election results. Our report provides recommendations that we believe will reduce the number of provisional ballots needed in future elections, and allow these additional benefits to be achieved.

APPENDIX I: OBJECTIVES, SCOPE, AND METHODOLOGY

The Controller's Office conducted an audit of provisional ballots cast at polling locations within the City of Philadelphia during the presidential election held November 6, 2012 (the election). The objective of our audit was to determine the reason(s) for the widespread use of provisional ballots in the 2012 presidential election. To satisfy our objective, we were required to gain an understanding of: (1) the laws and regulations concerning voter registration and the use of provisional ballots; (2) the procedures followed by City Commissioners Office personnel to process voter registration applications and provisional ballots; and, (3) Pennsylvania's Statewide Uniform Registry of Electors (SURE) system. In addition, we examined a random sample of provisional ballot envelopes and the corresponding voter registration information to determine the possible reason(s) why such a large number of provisional ballots were cast.

To gain an understanding of the laws and regulations relating to voter registration and the use of provisional ballots, we:

- Reviewed the applicable section of the Help America Vote Act of 2002 (HAVA) which mandates the use of provisional ballots in national elections.
- Reviewed sections of the Pennsylvania Election Code (P.L. 1333, No. 320) which address the State's requirements pertaining to provisional ballots.
- Interviewed a representative from the Pennsylvania Department of State's Bureau of Commissions, Elections and Legislation which oversees the Commonwealth's electoral and voter registration processes.

To determine the procedures designed and used by the City Commissioners Office relating to processing voter registration applications and the use of provisional ballots, we:

- Interviewed management and staff of the City Commissioners Office to determine the procedures for: (1) processing voter registration applications; (2) voting by, controlling, counting and recording provisional ballots; and, (3) providing training to employees and poll workers.

To ascertain the possible reason(s) for the widespread use of provisional ballots, we:

- Performed a physical count of the provisional ballots to independently verify the number cast in the election.
- Selected a statistical sample of 379 provisional ballot envelopes from the population of 27,306 provisional ballots cast with the assistance of the accounting firm of WithumSmith+Brown, PC. The sampling parameters employed provided for a 95% confidence level with a margin of error of +/- 5%. For each of the provisional ballot envelopes sampled, we determined the reason(s) why the voter cast the provisional ballot.

APPENDIX I: OBJECTIVES, SCOPE, AND METHODOLOGY

- Determined whether the voter was registered, that is, eligible to vote by observing the voter registration information recorded in the SURE system.
- Established whether the voter appeared at the proper polling location by comparing the voter's ward and division as shown in the SURE system to the ward and division where the voter cast the provisional ballot.
- Confirmed whether the voter's name appeared in the poll books or supplemental sheets by independently examining both documents for the polling place where the voter cast his provisional ballot.
- Made telephone inquiries of selected voters in the sample to acquire information concerning the reason(s) why they were required to vote by provisional ballot.
- Compared the location of the polling places where provisional ballots were cast to a listing of polling places that were relocated since the last presidential election.

We performed our work from December 2012 through April 2013 in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



OFFICE OF THE CITY COMMISSIONERS

Commissioner Anthony Clark, Chair
Commissioner Al Schmidt, Vice Chair
Commissioner Stephanie Singer

Honorable Alan Butkovitz
Office of the Controller
1230 Municipal Services Building
1401 John F. Kennedy Boulevard
Philadelphia, PA 19102

June 5, 2013

Dear Mr. Butkovitz:

The Office of the City Commissioners (OCC) appreciates the opportunity to formally respond to the Office of the Controller's report entitled "City Commissioners Office – Review of Provisional Ballots Cast in the 2012 Presidential Election." We have completed our review of the information reflected in the report and concur with all recommendations.

The proper use and processing of provisional ballots is essential to the effectiveness and integrity of the election process. We welcome this opportunity to work with the Office of the Controller to improve election procedures and the Election Day experience for all Philadelphians.

In December 2012, OCC supervisors prepared an internal report reviewing the 2012 Presidential Election and identifying the reasons for the increased use of provisional ballots. The internal report made many of the same recommendations as made in the report from the Office of the Controller, including: implementing checklists to ensure that proper procedures are being followed; working with the Pennsylvania Department of State to resolve the issue with the Statewide Uniform Registry of Electors (SURE) system for future supplemental poll books; and revamping Election Board training to emphasize the proper procedures for using supplemental poll books and provisional ballots.

Many of the recommendations made by the Office of the Controller have already been implemented by the City Commissioners and were in place for the 2013 Primary Election. Consequently, a total of 335 provisional ballots were cast in the 2013 Primary Election, representing a significant decrease in use even when adjusted for low voter turnout.

Errors by Poll Workers

On February 6, 2013, the City Commissioners voted to implement a system to identify and counsel Election Board Officials who did not follow proper procedures on Election Day

[207313.01]. In addition, OCC personnel revised the content and presentation of the training seminar for Election Board Officials. These changes modernized the training methodology and emphasized important aspects of election procedures related to supplemental poll books and provisional ballots. Deputy Commissioners have begun redesigning the *Guide for Election Officers* to create a more user-friendly manual [207313.02].

The current City Commissioners and our predecessors have repeatedly asked the Administration to increase OCC's budget request to allow for increased pay and training bonuses for Election Board Officials [207313.03]. While we agree with the Office of the Controller's reading of the Election Code regarding the requirement that Election Board Officials attend training, we are not currently aware of any enforcement mechanism to compel attendance.

Problems in Properly Printing Supplemental Poll Books

The City Commissioners' personnel have met with the Pennsylvania Department of State on numerous occasions in an effort to resolve the supplemental poll book issue for future elections [207313.04]. On February 6, 2013, the City Commissioners voted to conduct a pre-election review of poll books and supplemental poll books to be certain that the Statewide Uniform Registry of Electors (SURE) properly included all registered voters. This process was successfully completed for the 2013 Primary Election. During the 2013 Primary Election cycle, OCC personnel maintained a record of all parameters used when printing the supplemental poll books and will continue to do so in future elections [207313.05].

We appreciate the recognition of the Office of the Controller that problems in properly printing supplemental poll books were not caused by the Office of the City Commissioners inputting improper parameters.

Poll Book Preparation Procedures

In advance of the 2013 Primary Election, the City Commissioners voted to create a checklist to be completed, signed, and dated by personnel prior to each election to confirm that procedures were properly followed for updating the "Underage Voters Utility" computer program. The checklist was completed and signed by OCC personnel, and reviewed by a Deputy Commissioner prior to Election Day [207313.06].

Voters Using Wrong Polling Location

The City Commissioners' personnel will continue to emphasize to Election Board Officials the importance of determining that voters are at the proper polling place, providing voters the address of the proper location when possible, and encouraging individuals to vote at the proper polling location [207313.07]. OCC instructors will train poll workers to explain to voters being provided with a provisional ballot that, if they are not at their proper polling place, their ballot may be partially counted [207313.08]. On May 8, 2013, the City Commissioners voted to provide new ward/division placards and voting division maps to every Election Board to assist

voters in locating their proper polling location. These materials were provided to every Election Board prior to the 2013 Primary Election. In addition, voters and Election Board Officials will soon have the ability to locate their polling place via the City Commissioners' website starting July 2013, or by using the mobile app, which is currently available.

People Ineligible to Vote

The City Commissioners will increase our voter outreach efforts moving forward. The Commissioners regularly hold outreach events to advise the public of important information related to elections and voting. The City Commissioners will continue to advise the public that they must be registered in Philadelphia in order for their vote to count [207313.09]. The City Commissioners' current outreach events are held at high schools, college campuses, civic associations, senior centers, and other public locations. The Office of the City Commissioners will develop strategies to better inform students [207313.10].

Other Matters

Prior to the 2013 Primary Election, Deputy Commissioners developed a checklist for personnel and supervisors to use when reviewing all steps of the provisional ballot process to ensure greater accuracy. Personnel have been instructed to exercise greater care in the processing of provisional ballots [207313.11 & 207313.12]. The updated training seminars currently instruct Election Board Officials on the difference between absentee and provisional ballots, but we will direct Election Board trainers to further emphasize the importance of this distinction [207313.13].

We would like to thank you and your staff for the attention given to the matter of provisional ballots cast in the 2012 Presidential Election in Philadelphia and for the recommendations contained in your report. Thank you also for the professional nature in which the audit was conducted by your office. The City Commissioners look forward to continuing to improve the Election Day experience for all Philadelphians.

Very truly yours,



ANTHONY CLARK
City Commissioner, Chair



AL SCHMIDT
City Commissioner, Vice Chair

CONTROLLER'S OFFICE CONTACT AND STAFF ACKNOWLEDGEMENTS

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Staff Acknowledgements

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Graph designs: Brian Dries, Director of Communications

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