



CITY OF PHILADELPHIA

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September 21, 2020

Rep. Bryan Cutler
Speaker of the House
110 Main Capitol Building
PO Box 202100
Harrisburg, PA 17120

Sen. Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Room: 292 Main Capitol
Harrisburg, PA 17120-3025

Dear Mr. Speaker and Mr. President:

I am writing to follow up on my letter, dated August 12, 2020, in which I urged the Pennsylvania State Legislature to eliminate the secrecy envelope requirement for absentee and mail-in ballots. At the time of my first letter, my arguments were based on my hope that we could implement a more streamlined process, and an effort to avoid voter confusion. However, since my last correspondence, recent actions by the Pennsylvania Supreme Court have set Pennsylvania up to be the subject of significant post-election legal controversy, the likes of which we have not seen since Florida in 2000.

The ruling that I am referencing is the section of last Thursday's Pennsylvania Supreme Court decision in *Pennsylvania Democratic Party v. Boockvar (2020)*, concerning naked ballots, or ballots returned to the county boards of elections only in the declaration envelope, and not in a secrecy envelope. While everyone is talking about the significance of extending the mail ballot deadline, it is the naked ballot ruling that is going to cause electoral chaos. I hope you consider this letter as me being a canary in the coalmine.

Historically, the staff of the Philadelphia Board of Elections counted naked ballots. They would not have brought them before the board for a ruling. During the 2019 General and 2020 Primary Elections, the board received objections to this practice. After the 2020 Primary, despite the past procedure of resolving challenged ballots at the end of the canvas, the board chose to vote on challenged ballot categories towards the beginning of the canvas. This was due to the large number of naked ballots that would not have been included in the count until the very end, and the statewide races which were awaiting Philadelphia County's results.

Since the board voted to count the naked ballots towards the beginning of the process, the total number of said ballots we received for the June 2020 Primary were not tracked, and the exact count is unknown. According to the transcripts from the 2019 General Election, the board received 3,086 absentee ballots, of which 197 were naked, or 6.4%. If you carry that percentage over, we would have received 11,211 naked ballots in the 2020 Primary. Under the Pennsylvania Supreme Court's recent ruling, that would amount to 11,211 votes that would have not been counted.

Even more concerning is that the above estimate is likely low, when you consider that in 2019, those voting via an absentee or alternative ballot were more likely to have voted by mail in previous elections and would have been familiar with the process. For many voters, the 2020 Primary was their first time voting by mail. In the 2020 General Election, there will be many thousands more voting through the mail, for the very first time. It is likely that the true number of naked ballots we received in the June Primary Election was at least between 15,000 to 20,000. Philadelphia is likely to receive about twice as many mail ballots in the General Election as we did in the Primary. This would mean that 30,000 to 40,000 ballots could very likely be thrown out in Philadelphia alone. That number could rise to over 100,000 votes statewide - votes that will not be counted, all because of a minor technicality. When you consider that the 2016 Presidential Election in Pennsylvania was decided by just over 44,000 votes, you can see why I am concerned.

This is not a partisan issue. We are talking about the voting rights of our constituents, whether they be Democrats, Republicans, or independents, whose ballots will be needlessly set aside. As public servants, we owe it to all citizens to avoid this situation, and the likely chaos that would come with it. Anyone who advocates doing nothing to address this situation, in hopes that more Democratic ballots are thrown out than Republican ballots, is not being an effective policy maker and is not doing their job to make sure that this election goes off well.

I, again, remind you that the secrecy envelope is not needed, it is a vestige of the past. The secrecy envelope is a hold over from when Pennsylvania counted absentee ballots at polling places. Now they are counted centrally, through an industrialized process, which prompted the Philadelphia Board of Elections to purchase 22 extraction desks. This equipment will allow us to remove 12,000 ballots an hour. Without a secrecy envelope, we could remove 24,000 an hour, and we could scan 32,000 ballots an hour. At these speeds, there is no opportunity to stop, or even slow down, and identify how an individual voted - anonymity is maintained. Pennsylvania is only one of just sixteen states that require either a secrecy envelope or sleeve to be included with voters' mail ballots¹, another example of why I will continue to argue that a secrecy envelope is not needed. The secrecy envelope exists now only as a means to disenfranchise well intentioned Pennsylvania voters.

Eliminating the secrecy envelope will cost counties across the Commonwealth nothing; in fact, the requirement's eradication would save counties tens of thousands of dollars a year. Failing to act will cost taxpayers heavily. In order to lower the number of ballots that will be discarded due to an understandable oversight, counties and the Commonwealth will need to

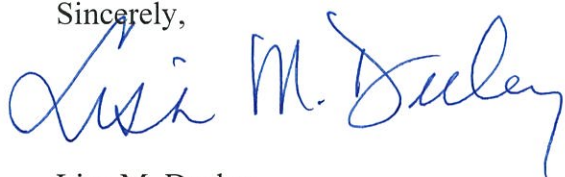
¹ <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-13-states-that-are-required-to-provide-secrecy-sleeves-for-absentee-mail-ballots.aspx>

invest heavily in communication focused on alerting and reminding voters that they have to double envelope their ballot in order for it to count, an extremely odd and unusual way to mail something.

I urge you, once again, to please act to eliminate the secrecy envelope requirement, though now my pleas have much more urgency. To do this quickly, I ask that it be done as a clean bill and not as a part of the controversial HB 2626. Disagreements over pre-canvassing length and drop boxes and satellite offices should not interfere with the urgent need to eliminate the secrecy envelope requirement. Further, I strongly ask that you take this action swiftly, so that we all, as officials who represent the constituents of the Commonwealth, can fulfill our duties to properly inform all voters.

If you have any questions, please do not hesitate to reach out to my office.

Sincerely,



Lisa M. Deeley
City Commissioner, Chairwoman

CC: The Honorable Al Schmidt, Philadelphia City Commissioner
The Honorable Omar Sabir, Philadelphia City Commissioner
The Honorable Tom Wolf, State of Pennsylvania, Governor
Secretary Kathy Boockvar, Secretary of the Commonwealth
The Honorable Kevin Boyle, PA State House State Government Committee, Democratic Chair
The Honorable Garth Everett, PA State House State Government Committee, Chair
The Honorable Anthony Williams, PA State Senate State Government Committee, Minority Chair
The Honorable John DiSanto, PA State Senate State Government Committee, Chair
The Honorable Jason Dawkins, Philadelphia State House Delegation, Chair
The Honorable Christine Tartaglione, Philadelphia State Senate Delegation, Chair