

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Pennsylvania Senate Intergovernmental Operations
Committee,

Petitioner,

v.

Pennsylvania Department of State, et al.,
Respondents.

No. 95 MD 2022

**MEMORANDUM IN OPPOSITION TO PETITIONER'S APPLICATION
FOR SUMMARY RELIEF**

Dated: August 10, 2022

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INTRODUCTION

Last January, this Court denied the Senate Intergovernmental Operations Committee’s application for summary relief and its request for an order to enforce a subpoena issued in September 2021 to the Acting Secretary of the Commonwealth. *See generally* Memorandum & Order (“*Costa* Mem. & Order”), *Costa v. Corman*, No. 310 MD 2021 (Pa. Commw. Ct. Jan. 10, 2022). The Court said then that “substantial factual question[s]” made summary relief “inappropriate,” and ruled that “none of the parties have established a clear right to relief given the outstanding issues of material fact surrounding the issue of maintaining the privacy of voter information and infrastructure.” *Id.* at 5-6.

This case involves the same subpoena, the same issues, and the same factual record. The Committee¹ effectively acknowledges that the issues this case presents are no different than those presented in *Costa*. It describes the “material difference” only as the Committee’s requested remedy (a writ of mandamus), a change made only for jurisdictional reasons. Pet’r’s Br. at 10 & n.2.

Nevertheless, the Committee again asks this Court to grant it summary relief and to enter an order enforcing the subpoena. In doing so, the Committee briefly acknowledges the *Costa* order, but completely ignores what this Court ruled. Its

¹ The Committee has not actually authorized this action. Resp’t’s Br. in Support of Prelim. Obj. at 4-9. For convenience, this brief refers to Petitioner as the Committee.

application for relief also completely ignores the various constitutional, statutory, and common law protections that dictate if the subpoena is enforceable. Instead, the Committee focuses almost entirely on why 71 P.S. §§ 272 and 801 entitle it to a writ of mandamus to enforce its subpoena. But no matter the scope of those statutes (both of which the Committee also relied on in *Costa*) they do not entitle the Committee to relief here.²

First, the Committee's demand that it and an unexamined and inexperienced private vendor be given a remarkably sensitive database of nine million Pennsylvanians' personal information—including partial Social Security numbers, driver's license numbers, dates of birth, and addresses—implicates constitutional privacy rights. As this Court already identified, *Costa* Mem. & Order at 6, factual disputes relevant to this constitutional right prevent granting summary relief. Those disputes remain and include whether there is a sufficient need to access such an extensive collection of personal information, whether the Committee and its vendor can and will follow adequate security protocols, and whether a lesser alternative would serve the Committee's supposed needs.

² The Department incorporates here the arguments made in its preliminary objections brief as further reason the Committee is not entitled to a writ of mandamus under 71 P.S. §§ 272 and 801. *See generally* Resp't's Br. in Supp. of Prelim. Obj.

Second, the subpoena demands federally protected information that lays out vulnerabilities in Pennsylvania’s election infrastructure. The Court previously denied summary relief because of factual disputes relevant to this issue, *Costa Mem. & Order* at 5, and there have been no developments since. So, the Committee still has not clearly established that it may receive that infrastructure information.

Third, there are factual disputes about whether the subpoena furthers a legitimate legislative purpose and whether complying with it would conflict with the right to freely vote in fair elections. Beyond those problems, the subpoena is an unauthorized exercise of legislative power and it demands privileged information.

For any of these reasons, the Committee has not shown that the subpoena is clearly enforceable. The Court should follow its prior order and the application for summary relief should be denied.

STATEMENT OF FACTS

I. The Committee’s Investigation of Pennsylvania’s Elections

The 2020 presidential election was the first time in modern history in which the losing candidate refused to acknowledge the results of a free election. Former President Trump’s insistence—without evidence—that the election was “rigged” spawned relentless attacks on the election. *See Mem. in Supp. of Com. Pet’rs’ App. for Summ. Relief (“Costa Pa. Br.”) at 7-16, Costa*, (Oct. 14, 2021). Members of the Committee have actively participated in that effort. *Id.*

The Committee’s involvement started in the Summer of 2021. That summer, after touring an “audit” of Arizona’s 2020 election, Senator Doug Mastriano wrote that “[a] county audit like the one authorized by the Arizona State Senate is critically necessary for our Commonwealth.” Sen. Doug Mastriano, *Observations after touring Arizona’s Election Audit Operation*, SenatorMastriano.com (June 9, 2021) (Ex. A-1). Senator Cris Dush, who was with Senator Mastriano, opined that it “is what we should be doing here in Pennsylvania,” Marcie Schellhammer, *Pa. state senator visits Ariz., pushes for election audit*, Olean Times Herald (June 5, 2021), (Ex. A-2).³

The next month, Senator Mastriano, then the Committee Chair, requested information from Philadelphia, Tioga, and York counties that he claimed was needed to permit a “forensic investigation of the election results and processes for the 2020 General Election and 2021 Primary.” *E.g.*, Ltr. from Sen. Mastriano to Lisa Deeley (July 7, 2021) (Ex. A-4). After all three counties refused, Senator Jake Corman, Senate President Pro Tempore, appointed Senator Dush as Committee Chair. *Corman Issues Statement on Forensic Investigation of Recent Elections, Mastriano Obstruction* (Aug. 20, 2021) (Ex. A-5).

³ On August 1, 2022, Arizona’s Attorney General wrote that one of the audit’s central conclusions—that 282 deceased individuals voted in the 2020 election—was wrong as to 281 of the individuals. Ltr. from Att’y General Mark Brnovich to Sen. Karen Fann (Aug. 1, 2022) (Ex. A-3).

Senator Corman subsequently explained that the Committee’s “investigation” would continue. Marc Levy & Sam Dunklau, *Hearings in election ‘investigation’ to begin this week, Corman says*, WITF (Aug. 23, 2021) (Ex. A-6). Senator Corman justified the ongoing investigation by explaining, “I don’t necessarily have faith in the [election] results... I think there were many problems in our election that we need to get to the bottom of.” Andrew Seidman, *Top Pa. GOP lawmaker says hearings will begin this week to start ‘forensic investigation’ of 2020 election*, Phila. Inquirer (Aug. 24, 2021) (Ex. A-7). Within two weeks, Senator Dush announced that the Committee was conducting an investigation “into the 2020 General Election and the 2021 Primary Election.” Pa. Senate Republicans, *Senate Intergovernmental Operations Committee Invites Public to Submit Sworn Testimony in Election Investigation* (Sept. 2, 2021) (Ex. A-8).

The Committee held its first investigative hearing on September 9, 2021. The publicized topic was “PA Department of State’s last minute guidance to counties regarding the 2020 general election.” Senate Committee Meetings—Intergovernmental Operations (Ex. A-9); *see also* Hr’g Tr. at 2:9-11 (Sept. 9, 2021) (Pet’r’s Ex. A). Only Fulton County Commissioner Stuart Ulsh testified. *Id.* at 31. He told the Committee that a company he had secretly authorized to “investigate” how Fulton County conducted the 2020 general election did not identify any fraud in Fulton County’s election. *Id.* at 52:10-55:10, 63:3-16, 66:9-13. Former Acting

Secretary Veronica Degraffenreid provided written testimony but did not personally attend the September 9 hearing because of a lawsuit that Commissioner Ulsh and other Fulton County officials had brought against her concerning election matters. Prelim. Obj. at ¶ 12.

The next day, Senator Corman said that, because the Acting Secretary had not personally attended the hearing on election guidance to “provide answers to the lingering questions about the fairness of the 2020 General Election,” the Committee needed to “begin a full forensic audit of the 2020 General Election” and would “vote on issuing subpoenas for information and testimony from the Department of State as well as the SURE system.” *Corman Calls for Subpoenas in Election Investigation Next Week* (Sept. 10, 2021) (Ex. A-10).

II. The Committee’s Subpoena

On September 15, 2021, the Committee met to authorize a subpoena for, among other things, voters’ personally identifying information. At the outset, Senator Dush referred to “this body’s investigation into the 2020 general election and 2021 primary election and how the election code is working after the sweeping changes of Act 77.” Hr’g Tr. (Sept. 15, 2021) at 4:14-16 (Pet’r’s Ex. B). Later, however, Senator Dush described the Committee’s work as an audit to verify the identity of Pennsylvanians who voted in the 2020 general election and their eligibility to vote. *Id.* at 16:22-17:20; 19:12-13; 20:2-5. He explained that Social

Security and driver's license numbers were needed "to verify the identity of individuals and their place of residence and their eligibility to vote." *Id.* at 17:6-8. And the investigation was "regarding the validity of people who have voted, whether or not they exist." *Id.* at 17:16-17.

Throughout the hearing, Senator Dush identified no evidence of irregularities in the 2020 or 2021 elections. In fact, he conceded that prior election audits were done properly, and that election commissioners of both parties acknowledged as much. *Id.* at 60:4-25. He further conceded that the investigation was "not responding to proven allegations"; instead, he claimed to be "investigating the allegations to determine whether or not they are factual." *Id.* at 17:17-20. But Senator Dush and other members provided no details about these allegations besides stating that "there have been questions regarding the validity of people who have voted, whether or not they exist." *See id.* at 17:15-20; *see also id.* at 56:18-20 (Sen. Judy Ward referring to the unanswered "questions" of her "outraged" constituents).

During questioning, Senator Dush said he would retain a third-party vendor to conduct the investigation. *Id.* at 20:12-14. Senator Dush declined to identify which vendors he was considering and would not describe the vetting process. *Id.* at 20:6-26:17.

On a partisan vote, the Committee approved sending a subpoena to the Acting Secretary. *Id.* at 65:1-66:12. The subpoena seeks every registered Pennsylvania

voters' partial Social Security number, driver's license number, name, address, date of birth, and voting history. Subpoena at ¶¶ 4-14 (PFR Ex. A). It also seeks reports of audits and/or reviews of the Statewide Uniform Registry of Electors (SURE) system from 2018 to the present. *Id.* at ¶ 16. Finally, it seeks information about the Department's communications with county election officials; election procedures and policies; materials used to train election workers; a copy of the certified results of the November 2020 general election and 2021 primary election; and 2021 voter registration reports submitted to the Department. *Id.* at ¶¶ 1-3, 15, 17.

After the Committee's vote, Senator Dush made additional statements about what the Committee was investigating. In late September 2021, after the Acting Secretary and others had sued to quash the subpoena, Senator Dush issued a statement referencing a 2019 Auditor General report to say that "[t]he purpose of our review is to find the flaws in the [SURE] system and identify how to address them." *Dush Responds to Attorney General's Lawsuit, Arizona Audit Report* (Sept. 24, 2021) (Ex. A-11). Days later, Senator Dush reiterated that the Committee is "digging into the stuff that was brought out during Gene DePasquale's investigation...when he was the Auditor General. And the stuff that was brought out during the two hearings that we had before." Transcript of Interview with Sen. Cris Dush (Sept. 29, 2021) (Ex. A-12).

Then, in October 2021, he stated that the investigation would focus on voter rolls and voter fraud by investigating “duplicate voters, dead voters, and/or illegal voters.” Cris Dush, *Your View by Republican leading Pennsylvania election audit: A meteor strike is more likely than a breach of your election info*, Morning Call (Oct. 13, 2021) (Ex. A-13). In press releases, he has similarly focused on supposedly “poorly kept” voter rolls and has urged the public to submit sworn testimony regarding “firsthand” accounts of nebulously defined “irregularities” or “election improprieties.” *Dush Issues Statement on Inclusion of Personal Information in Subpoena*, The Courier Express (Sept. 17, 2021) (Ex. A-14); *Dush Urges Public to Submit Sworn Testimony* (Ex. A-15).

III. The Committee’s Vendor

Several months after the Committee issued the subpoena, the Senate Republican Caucus hired Envoy Sage LLC to investigate Pennsylvania’s 2020 general election and 2021 primary election, purportedly on behalf of the Committee. Envoy Sage Contract, Attachment B at 1 (Ex. A-16). Senator Dush, consulting only with counsel for the Republican Caucus, selected Envoy. *PA Election Investigation – Restoring Faith in Our Elections* (Ex. A-17); *see also* Tr. (Sept. 15, 2021) at 20:6–21:12.

Envoy’s assignment is to review and analyze all information received from the Department and all election submissions and affidavits the Committee solicited

through a website. *See* Envoy Sage Contract, Attachment A. Some of the specific tasks that Envoy was contracted to perform with that information include to “[p]rovide analysis of election audit reports conducted in other U.S. States,” *id.*, Attachment B at 2; to analyze “election integrity initiatives across the nation,” *id.*, Attachment A at 2; to “[d]eliver consultation and advisory services regarding potential further subjects of investigation related to the 2020 General and 2021 Primary Elections,” *id.*, Attachment B at 2; and to “[p]rovide subject matter expertise regarding election systems and election integrity legislation.” *Id.* And the contract’s identified labor categories include “Toner & Ink Analyst,” “[Artificial Intelligence Subject-Matter Expert],” “Paper/Document Analyst,” and “Imagery Analyst.” *Id.* Attachment A at 2; *id.*, Attachment C.

Public records suggest that Envoy is a recently formed entity, registered first in Iowa in August 2020 and then in Florida in September 2021, after Envoy’s president, Steven Lahr, purchased a house there. Business No. 639287, Business Entity Summary, Iowa Sec. of State (filed Aug. 5, 2020) (Ex. A-18); Doc. No. M21000012150, Fl. Sec. of State (filed Sept. 10, 2021) (Ex. A-19).

It is unclear if Envoy has a physical presence. Envoy’s Iowa registration listed its principal place of business as a single-family home that Mr. Lahr recently sold. *Compare* Iowa Business Entity Summary *with* Warranty Deed, Doc. No. 2021-00009747, Dubuque Cnty. Recorder (recorded June 11, 2021) (Ex. A-20). Envoy’s

Florida registration and Attachment B to the contract, on the other hand, list Envoy's principal place of business as the address of a tax preparation company operated by Envoy's Iowa registered agent. *Compare* Doc. No. M21000012150, Fl. Sec. of State *and* Envoy Sage Contract, Attachment B at 1, *with* Iowa Business Entity Summary *and* U.S. Tax Service – Kevin Kelly, CPA, Chamber of Commerce (Ex. A-21). Correspondence with the Committee identifies Envoy's principal place of business at a third location, a single-family home Mr. Lahr recently purchased in Florida. *Compare* Envoy Sage Letter and Envoy Sage Contract *with* General Warranty Deed, Instrument No. 2964264, Charlotte Cnty., Fl. Clerk of the Cir. Ct. and Cnty. Comptroller (recorded June 25, 2021) (Ex. A-22).

Envoy's webpage provides a cursory summary of four past projects, but none involves elections, election systems, voter registration, or election integrity legislation. *See* Envoy Sage Webpage (Ex. A-23). The only news item on Envoy's webpage is that the Committee hired it. *Id.* The Committee's contract with Envoy does not list any experience Envoy has with election matters generally or reviewing voter registration information specifically. When specifically asked at a November 23 press conference about past election-related experience, Mr. Lahr identified none. Press Conference Tr. (Nov. 23, 2021) at 4:23-5:11, 11:11-12:14, 15:20-16:21 (Ex. A-24). Likewise, on the frequently asked questions section of the Committee's investigation website, the question “[w]hat experience does the vendor have

investigating elections?” is answered without providing a single example of prior election work. *PA Election Investigation – Restoring Faith in Our Elections*.

Envoy appears to be an entity comprising, at most, two individuals. Its website lists no employees. *See Envoy Sage Webpage*. Nothing in the contract with Envoy hints at who, besides Mr. Lahr, works there. Indeed, even though the contract lists 26 labor categories, Envoy Sage Contract, Exhibit B, it does not provide any details about who will perform each task. At his November 23 press conference, Mr. Lahr identified just one other person affiliated with Envoy, but did not describe that person’s responsibilities. Press Conference Tr. (Nov. 23, 2021) at 8:25-9:13. When asked specifically how many people were “on his team,” Mr. Lahr responded, “our team has got the ability to scale. When we need more members and more expertise, we add them to the team either as fulltime [], 1099, or subcontractors and when we need to contract we’re able to do that.” *Id.* at 14:14-15:12.

Finally, Envoy’s president has publicly written about his belief that “[t]oday, tech giants are collaborating with news agencies, students, academia, Hollywood, and the Democratic Party to restrict speech.” *Taming Thought Engineers* (Ex. A-25). In that article, he suggested that that collaboration was a modern version of “university students, academia, and the Nazi party in Germany collaborat[ing] to burn hundreds of thousands of books for being ‘un-German.’” *Id.* He also accused “tech giants, in close collaboration with many Democrats” of having “launched an

information war, wielding their version of the truth” once former President Trump was elected. *Id.* All of this, the article concluded, is reminiscent of the Soviet Union having dissidents “killed or sent to gulags,” of the Cuban revolution’s leaders “imprison[ing] those who failed to comply,” and of the “Khmer Rouge and its truth campaign [having] sowed the killing fields.” *Id.*

IV. Prior Litigation and the Department’s Effort to Narrow Disputes

This is not the first lawsuit related to the Committee’s subpoena.

A week after the Committee issued the subpoena, the Commonwealth, the Department, and the Acting Secretary filed a petition for review seeking an order that the subpoena is invalid and that the Department need not comply because doing so would violate both Pennsylvania and federal law. *Pennsylvania v. Dush*, 322 MD 2021 (Pa. Commw. Ct.). A coalition of individual voters and nonprofit organizations intervened in that action. Two other petitions challenging the subpoena were filed around the same time. *Costa v. Corman*, 310 MD 2021 (Pa. Commw. Ct.); *Haywood v. Chapman*, 323 MD 2021 (Pa. Commw. Ct.). All three were consolidated, and, consistent with the parties’ proposal, the Court set a schedule for cross-applications for summary relief.

In January 2022, an *en banc* panel issued an order denying all applications for summary relief (except one filed by the Senate Parliamentarian). The Court ruled that outstanding factual questions made summary relief “inappropriate” and that

“none of the parties have established a clear right to relief.” *Costa* Mem. & Order at 5-6.

Two days later, the Court told the parties to discuss a possible protective order. Order, *Costa*, (Jan. 12, 2022). After, the Department informed the Committee that it could not agree to a protective order premised on complying with a subpoena that was still being actively litigated. Application to Lift Stay at ¶¶ 13, 16, *Costa*, (Jan. 19, 2022). But the Department invited the Committee to identify what analysis it wanted performed on voters’ personal data; the Committee did not respond to that offer. Prelim. Obj. ¶¶ 30-31; Pet’r’s Answer to Prelim. Obj. ¶¶ 30-31.

The Department then filed an application asking that the case proceed to discovery so that the parties could develop the factual record needed to reach final resolution. Application to Lift Stay at 7-8. The Committee opposed the request for the case to proceed. *Id.* at 8.

Two weeks later, this Court stayed discovery and directed the parties to brief whether it had jurisdiction over the petitions and whether the petitions were ripe. Order, *Costa*, (Jan. 25, 2022). That briefing is complete and argument has been scheduled.

Contemporaneous with this litigation, the Department tried to negotiate with the Committee to narrow or moot portions of the subpoena by voluntarily producing certain documents that do not implicate constitutional rights, election security, or

any privilege. Prelim. Obj. ¶ 27.⁴ Although the Committee refused to narrow or withdraw any portion of the subpoena, the Department already has voluntarily provided 3,432 documents responsive to six paragraphs in the subpoena. *Id.* at ¶ 28.

V. The Committee's Inactivity and This Lawsuit

On March 31, 2022, the Committee convened for the first (and only) time since voting to issue the subpoena, holding a hearing about ballot drop boxes.

Then, six months after issuing the subpoena, a month and a half after this Court raised jurisdictional questions about the consolidated cases, and a month after the Committee filed a brief arguing the Court did not have jurisdiction over the consolidated cases, the Committee initiated this case. It seeks to enforce the subpoena either through a writ of mandamus or an equitable order. The Committee never met nor held any vote about whether to enforce the subpoena, including through the filing of its petition.

LEGAL STANDARD

A motion for summary relief under Rule 1532(b) may be granted only when no material facts are in dispute and the moving party has clearly established its right

⁴ The Committee incorrectly claims that the Department's voluntarily productions responded to "informal directives by the Court." Pet'r's Br. at 11. It is unclear what an "informal directive" is, or what the Committee means to describe, but the Department has never been directed—informally or formally—to comply with the subpoena. The Department has made clear since soon after the Committee issued the subpoena it is willing to work with the Committee to narrow the issues and has made voluntary productions in service of that goal.

to relief. *Hosp. & Healthsystem Ass'n of Pa. v. Com.*, 77 A.3d 587, 602 (Pa. 2013). Evidence must be viewed “in the light most favorable to the non-moving party.” *Id.* Peremptory judgment in mandamus is reviewed under the same standard. *MFW Wine Co., LLC v. Pennsylvania Liquor Control Bd.*, 231 A.3d 50, 52 n.2 & 56 (Pa. Commw. Ct. 2020).

The record that determines the availability of summary relief “is the same as that for a summary judgment motion” and so includes “the pleadings and other documents of record, such as exhibits.” *Allen v. Pa. Bd. of Prob. & Parole*, 207 A.3d 981, 984 n.4 (Pa. Commw. Ct. 2019); *see also Borough of Bedford v. Dep't of Env't Prot.*, 972 A.2d 53, 60 n.6 (Pa. Commw. Ct. 2009); *Meggett v. Pa. Dep't of Corrections*, 892 A.2d 872, 879 n.13 (Pa. Commw. Ct. 2006).⁵

ARGUMENT

Whether by subpoena or statute, a legislative demand for information must comply with constitutional requirements. Otherwise, it is void. Likewise, a legislative demand is unenforceable if it seeks federally protected information, is not

⁵ The record would include any answer the Department files to the petition for review, including new matter or counterclaims. *See* Pa.R.A.P. 1516(b). Because there are threshold defects with the petition for review, the Department has filed preliminary objections. If those are denied, the Department would have a “right to plead over,” Pa.R.A.P. 1517; Pa.R.Civ.P. 1028(d), to raise the issues addressed in this brief.

issued for a proper legislative purpose, is beyond the issuing body's authority, or seeks privileged information.

The subpoena at issue here implicates each of these issues. Therefore, the Committee's near total focus on 71 P.S. §§ 272 and 801 avoids the issues that actually dictate if the subpoena is enforceable, which are the issues that informed the Court's prior order denying the Committee's application for summary relief. And disputes relevant to whether compliance with the subpoena would be unconstitutional, would violate federal law, and was issued for a proper purpose remain. Additionally, the Committee has not clearly established the subpoena was a valid exercise of legislative power or that it may demand privileged information. So, the Committee does not have a clear right to either a writ of mandamus or an equitable order requiring compliance with the subpoena.

I. The Committee Has Not Clearly Established that Article I, Section 1 Allows Producing Voters' Personal Information.

The subpoena demands that the Department produce highly sensitive personal information—including partial Social Security and driver's license numbers—of more than nine million Pennsylvania voters. Subpoena at ¶¶ 4-14. That demand implicates Pennsylvanians' right to informational privacy under Article I, Section 1 of the Pennsylvania Constitution. Accordingly, the Department cannot comply unless the Committee has a need for voters' personal information that both outweighs voters' interest in maintaining control of their own information and also

justifies the risks of producing that information. Here, like in *Costa*, the application for summary relief must be denied because no set of undisputed facts clearly establishes that the Committee satisfies this constitutional standard.

A. This Court Already Determined There Are Factual Issues Related to Maintaining the Right to Privacy.

Initially, this Court already determined that “outstanding issues of material fact surrounding the issue of maintaining the privacy of voter information” mean that the Committee is not entitled to summary relief to enforce the subpoena. *Costa* Mem. & Order at 6. There is no reason for the Court to depart from its prior order. Doing so would flout “the concept that a court involved in the later phases of a litigated matter should not reopen questions decided by another judge of the same court” *Anter Assocs. v. Zoning Hearing Bd. of Concord Twp.*, 79 A.3d 1230, 1233 (Pa. Commw. Ct. 2013) (describing law of the case doctrine). That concept applies here. The Court should follow its prior decision because it correctly denied the Committee’s prior request for summary relief, and the two cases involve the same subpoena, the same parties, the same factual record, and the same legal arguments.⁶

⁶ This includes the argument that 71 P.S. §§ 272 and 801 give the Committee a clear right to enforce the subpoena. See Mem. in Supp. of Committee’s Cross-App. for Summ. Relief (“*Costa* Comm. Br.”) at 13, 28-30, 53, 103-105, 114, *Costa*, (Oct. 22, 2021); Reply in Supp. of Committee’s Cross-App. for Summ. Relief (“*Costa* Comm. Reply”) at 48-51, *Costa*, (Nov. 22, 2021).

The Committee’s current application for relief briefly acknowledges the *Costa* order, but completely ignores its significance. Pet’r’s Br. at 9. The Committee’s application also ignores that the subpoena, on its face, implicates the constitutional right to privacy (as well as other constitutional, statutory, and common law protections). *Id.* at 13-30 (discussing only the Committee’s view of 71 P.S. §§ 272, 801). Instead, the Committee suggests that a legislative demand for information is enforceable without regard to whether it violates the Pennsylvania Constitution (or otherwise makes unlawful demands). *Id.* at 31-32.

But the constitutional concerns animating the *Costa* order are unavoidable here. A legislative investigation, “like any other governmental activity, is subject to the limitations placed by the Constitution on governmental encroachments on individual freedom and privacy.” *Com. ex rel. Carcaci v. Brandamore*, 327 A.2d 1, 4 (Pa. 1974); *see also Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2032 (2020) (stating that subpoena recipients “retain... constitutional privileges” in the course of a legislative investigation); *Reese v. Pennsylvanians for Union Reform*, 173 A.3d 1143, 1159 (Pa. 2017) (explaining the Constitution may require shielding information for which there is a statutory right of access). If a legislative demand for information infringes upon a constitutional protection, “there is a constitutional lack of power to demand it” and the demand is “void.” *Annenberg v. Roberts*, 2 A.2d 612, 618 (Pa. 1938); *see also Lunderstadt v. Pa. House of Representatives Select Comm.*,

519 A.2d 408, 415 (Pa. 1986) (announcing judgment) (explaining legislative demands for information are “invalid” if they infringe upon constitutional limitations).

Whether the Committee acts by subpoena or by statute, and whether it seeks mandamus or equitable relief, it must abide by the Pennsylvania Constitution. And, just as before, the Committee has not clearly established that Section 1 of the Pennsylvania Constitution allows the Committee to access voters’ personal information.

B. Article I, Section 1 Governs What Personal Information the Department May Produce.

Even if the Court’s prior order did not alone require denying the Committee’s application for summary relief, the Court still should conclude that the Committee has not clearly established that Article I, Section 1 of the Pennsylvania Constitution allows the Department to produce personal information that nine million voters voluntarily provided to it.

Section 1 guarantees Pennsylvanians’ right to informational privacy. *Pennsylvania State Educ. Ass’n v. Com. Dep’t of Cmty. & Econ. Dev.* (“PSEA”), 148 A.3d 142, 158 (Pa. 2016). The right to informational privacy is “the right of the individual to control access to, or the dissemination of, personal information about himself or herself.” *Id.* at 150. That right limits what personal information the Department may produce in response to the subpoena.

It is wrong, as the Committee previously has argued, that the right to informational privacy protects against only public disclosure of personal information. The Supreme Court has said repeatedly that the right to informational privacy permits “the individual to control access to, or the dissemination of, personal information about himself or herself.” *Easton Area School District v. Miller*, 232 A.3d 716, 733 (Pa. 2020); *accord Reese*, 173 A.3d at 1159; *PSEA*, 148 A.3d at 150.

In fact, the Supreme Court has held that constitutional privacy rights prohibited a court from subpoenaing a mother’s psychological records for use in a juvenile delinquency proceeding even though only the judge, court psychologist, court psychiatrist, and staff social works would have had access to them. *In re “B”*, 394 A.2d 419, 423-26 (Pa. 1978). Similarly, the Supreme Court has ruled that a grand jury could access patients’ medical information not because that private use did not implicate the constitutional right to privacy, but because access was “justified under the circumstances.” *In re June 1979 Allegheny County Investigating Grand Jury*, 415 A.2d 73, 77-78 & n.11 (Pa. 1980).

Moreover, if Section 1 protected against only public disclosures of information, the requester’s security protocols would be irrelevant. But security is an essential component of Section 1’s balancing test. *See Allegheny County Grand Jury*, 415 A.2d at 78; *In re Fortieth Statewide Investigating Grand Jury*, 220 A.3d 558, 570 (Pa. 2019); *Costa Mem. & Order* at 6. Plus, whether an entity seeking

access to private information plans to publicly disclose that information ignores an important reality: every transfer of sensitive personal information increases the risk that the information will be compromised and become public. Ferrante. Decl. at ¶¶ 65-67 (Ex. B).

Giving individuals control over access to their private information ensures that the risk of that information being compromised is assumed only voluntarily or with sufficient justification. Confining the risks attendant to sharing personal information in these ways serves the precise purpose of the right to privacy, which is to make people “the master of [their] fate.” *PSEA*, 148 A.3d at 151 (quoting *Commonwealth v. Murray*, 223 A.2d 102, 109-10 (Pa. 1966)).

Nor is it right, as the Committee also previously has argued, that Section 1 does not apply when one arm of government demands personal information that individuals voluntarily provided to a separate arm of government. A governmental demand for information seeks to assert control of personal information just as any other. What is more, excluding governmental encroachments of privacy from Section 1’s scope contravenes the basic structure of the right to privacy, which is a right “as against the government...to be let alone.” *Denoncourt v. Com., State Ethics Comm’n*, 470 A.2d 945, 948-49 (Pa. 1983) (quoting *Olmstead v. United States*, 277 U.S. 438, 478 (1928) (Brandeis, J., dissenting); accord *PSEA*, 148 A.3d at 151-52.

Precedent and Pennsylvania statutes corroborate that sensitive information cannot freely flow between different branches of government. In *In re Subpoena on Judicial Inquiry & Review Board*, for example, the Supreme Court refused to enforce a subpoena issued from a legislative commission to a judicial board because of constitutionally protected confidentiality interests. 517 A.2d 949, 956 (Pa. 1986) (citing Pa. Const. art. V, § 18). Similarly, the Administrative Code of 1929 differentiates between inter- and intra-branch information sharing. Compare 71 P.S. § 182 with, e.g., 71 P.S. §§ 240, 272, 512. Likewise, the Right-To-Know Law gives the public less access to the General Assembly’s records than it does to the records of executive branch agencies. See 65 P.S. § 67.102 (delineating the types of “legislative records” subject to public request without similarly limiting executive branch “records”). Each of these reveals that separate branches of government do not constitute an undifferentiated whole, and that exchanging information across branches is not per se permissible.

The Committee wants to take control over voters’ personal information. It must establish that Section 1 permits it to do so. As discussed in the next section, that means the Committee must have an adequate reason for taking control of a database with nine million voters’ personal information, as well as security protocols suitable for the unavoidable risks transferring such a database entails and the Committee’s assumption of control poses.

C. The Committee Has Not Clearly Established that It Satisfies Section’s 1 Balancing Test.

Personal information is always at risk of misuse. Ferrante Decl. at ¶¶ 18-23. Any dissemination exacerbates the risks. *Id.* at ¶¶ 65-67. Yet, individuals often must decide if certain forms of engagement—for example registering to vote or applying for a credit card—are worth the risks attendant to sharing personal information. The right to privacy under Article I, Section 1 protects individuals’ right to make considered choices about what risks to take on by guaranteeing control over when and where personal information is shared. *PSEA*, 148 A.3d at 157-58.

Ordinarily, those voluntary decisions define the entirety of when an individuals’ personal information may be shared consistent with Section 1. There is a limited exception that allows a third party to assume control of someone else’s personal information only when the need for that information outweighs the strength of the individual privacy interest. *Id.* As part of this balancing test, the requester’s ability (or inability) to protect personal information can minimize or augment the privacy interest at stake. *Allegheny County Grand Jury*, 415 A.2d at 78; *see also Fortieth Grand Jury*, 220 A.3d at 570. And only a “significant” or “compelling” state interest can overcome a strong interest in informational privacy. *PSEA*, 148 A.3d at 157-58; *Commonwealth v. Nixon*, 761 A.2d 1151, 1156 (Pa. 2000); *Denoncourt*, 470 A.2d at 949. That high standard means the information must “effect the state’s purpose” and there must not be an “alternate reasonable method of lesser

intrusiveness to accomplish” those purported goals. *Denoncourt*, 470 A.2d at 949. Application of this exacting test necessarily is context specific.

Here, the Committee does not clearly satisfy the constitutional standard because, with reasonable inferences and factual disputes drawn in the Department’s favor, the Committee’s need for personal information that it has not indisputably established it can protect does not outweigh individuals’ privacy interest.

Privacy interests. The subpoena demands a database of nine million individuals’ partial Social Security numbers, driver’s license numbers, names, and birth dates. This demand implicates a monumental privacy interest.

To start, government agencies and financial institutions use Social Security and driver’s license numbers for identification, and so those numbers frequently are used for identity theft and financial fraud. Ferrante Decl. at ¶¶ 21-23. Alone, each number is sensitive personal information that is among the most commonly breached types of personally identifying information. *Id.*⁷ Sharing Social Security and driver’s license thus numbers jeopardizes “a person’s privacy, reputation, or personal security,” *Tribune-Review Pub. Co. v. Bodack*, 961 A.2d 110, 115-16 (Pa. 2008),

⁷ The privacy interest in the last four digits of a Social Security number is nearly as strong as in the full number. Algorithms can use publicly available data and partial Social Security numbers to predict full Social Security numbers. Ferrante Decl. at ¶¶ 24-27.

and can lead to the “retrieval of extensive amounts of personal data,” *Times Pub. Co.*, 633 A.2d at 1237-38 (cited approvingly in *PSEA*).

Federal and state laws’ careful protection of partial Social Security and driver’s license numbers further signals the weight of the privacy interest here. Pennsylvania law does not permit including voters’ Social Security or driver’s license numbers on “public information lists,” “street lists,” or lists of information about mail-in and absentee voters that are otherwise accessible under some conditions. 25 P.S. §§ 3146.9(b)-(c), 3150.17(b)-(c); 25 Pa.C.S. §§ 1404(a)(1), 1403(a); 4 Pa. Code §§ 183.13(a), (c)(5)(iii), 183.14(c)(3). Pennsylvania law also excludes partial Social Security and driver’s license numbers from the classes of voter information otherwise subject to public inspection in some circumstances. 25 P.S. §§ 2602(z.5), 2648, 3146.9(a), 3150.17(a); 25 Pa.C.S. § 1207. Outside the voter records context as well, Social Security numbers and driver’s license numbers enjoy strong protections.⁸

⁸ Federal and state statutes do not define Section 1’s protections, but instead exhibit the strength of the privacy interest in Social Security and driver’s license numbers that must be considered when performing the constitutional balancing test. There are numerous relevant statutes. *E.g.*, 5 U.S.C. § 552a (limiting disclosure by federal agencies); 5 U.S.C. § 552a note (limiting the ability of states to require disclosure to receive a right, benefit, or privilege); 18 U.S.C. § 2721(a) (restricting release by state departments of motor vehicles); 18 U.S.C. § 2725(3) (defining personal information to include Social Security number); 42 U.S.C. § 405(c)(2)(C) (limiting permissible state uses of Social Security numbers collected under federal laws and designating those numbers as confidential); 65 P.S. § 67.708(b)(6)(i)(A)

Dates of birth and addresses also implicate meaningful privacy concerns. The Supreme Court already has ruled that people have “constitutionally protected privacy interests in their home addresses.” *PSEA*, 148 A.3d at 157. And it has cited with approval a decision that sharing someone’s month and date of birth would jeopardize “personal security.” *Reese*, 173 A.3d at 1159 (citing *Governor’s Office of Admin. v. Purcell*, 35 A.3d 811, 821 (Pa. Commw. Ct. 2011)).

Pennsylvania and federal law exhibit similar concern for access to this information. Public officials and individuals who can demonstrate a threat to personal safety can request that their home addresses not be included on voter lists. 4 Pa. Code § 183.14(c)(4)-(5). A similar group of people are entitled to use a substitute address in the SURE system. 23 Pa.C.S. §§ 6701-13; Marks Decl. ¶ 27 (Ex. C).

While alone, each of partial Social Security numbers, driver’s license numbers, home addresses, and dates of birth implicate a significant privacy interest, demanding this information in a single package greatly exacerbates the privacy

(creating exemptions to disclosure under the Right-To-Know Law); 74 P.S. § 201 (criminalizing the public posting or public display by a person, entity, Commonwealth agency, or political subdivision); 73 P.S. §§ 2301-30 (mandating disclosure of data breach for Social Security and driver’s license numbers); *Advancement Project v. Pa. Dep’t of Transp.*, 60 A.3d 891, 895-97 (Pa. Commw. Ct. 2013) (ruling that 75 Pa.C.S. § 6114 makes driver’s license non-disclosable through a Right-To-Know request).

concerns. As one concern, it intensifies existing risks because each additional data point about an individual creates new opportunities for identify fraud. Ferrante Decl. at ¶ 29. That is because aggregating sensitive personally identifying information into a single database magnifies the risk of abuse. *Dittman v. UPMC*, 196 A.3d 1036, 1048 (Pa. 2018) (storing sensitive employee information in a database created significant enough risk to trigger duty to protect the database). There is therefore a considerable difference between visiting 67 county commissions to inspect more than nine million voter registration applications and acquiring a single database with the personal information of more than nine million people. *See U.S. Dep't of Just. v. Reps. Comm. For Freedom of Press*, 489 U.S. 749, 764 (1989).

More than that, compiling a package of voter information creates unique risks, such as the possibility of changing the voter's name, address, and party affiliation, or the possibility of requesting a mail-in ballot for the voter and having it sent to a different mailing address. Ferrante Decl. at ¶ 73. Attacks on election systems, such as this, have become a real threat. *Id.* at ¶¶ 73-77; *see also* Jeremy Roebuck and Jonathan Lai, *Dozens of mail ballots are going to a GOP ward leader's South Philly P.O. box, raising 'ballot harvesting' concerns*, Phila. Inquirer (May 6, 2022) (Ex. A-26).

Given what the subpoena demands, the reasonable inference is that this case implicates an exceedingly strong privacy interest.

Security. The immense privacy concerns are even more pronounced here because, as this Court already concluded, there is a dispute about whether the Committee can adequately protect voters' personal information. *Costa Mem. & Order* at 6.

Data breaches are fact of the modern information economy, and trends show they are continually on the rise. Ferrante Decl. at ¶¶ 30-32. To limit risks, sound data maintenance must begin by defining who has access to a system and ensuring that those people are adequately trained. *Id.* at ¶ 69. There must then be a plan to guard data while it is being transferred, whether transfer occurs by hard copy, physical drive, or electronically. *Id.* at ¶ 70. If data is transferred electronically, there must be distinct plans to protect the data while it is in transit and during the periods it is at rest on intermediary servers. *Id.* There must also be a plan to guard data upon receipt, including plans to guard against inadvertent or intentional improper internal access, phishing scams, endpoint vulnerabilities (meaning vulnerabilities with a user's laptop or desktop), and for storage of and access to any physical drives. *Id.* ¶ 31.

Given the appeal of the package of information the Committee seeks, it is imperative that the Committee and Envoy have detailed and adequate plans for storing voters' personal information and are capable of executing them. But there are no indisputably adequate plans. And there are disputes about Envoy's ability to execute whatever protocols may exist.

First, there is no evidence the Committee performed any due diligence of Envoy's competencies before contracting with it, a standard security practice. Ferrante Decl. at ¶¶ 43, 47-48. Rather, the Republican Caucus signed its contract with Envoy just one day after Mr. Lahr provided general statements about Envoy's security practices. *See* Envoy Sage Letter and Envoy Sage Contract.

Second, the Republican Caucus's contract with Envoy provides no information about data lifecycle management, including how Envoy will receive the data, how it will store the data, where it will store the data, who will have access to the data, how the data will be protected from unauthorized access, or how Envoy will delete the data. Ferrante Decl. at ¶¶ 37-44. Commitments to comply with "Industry Best Practices for Information Security, Handling, and Disposal," *see* Envoy Sage Letter, are meaningless without specifics explaining the protocols that would be in place. Ferrante Decl. at ¶¶ 40-41. Moreover, "industry best practices" is not a term of art, and Envoy does not explain which practices it will follow. *Id.* at ¶ 42.

Third, Envoy's contract envisions using subcontractors, which means additional, unidentified individuals will have access to the data, there will need to be additional data transfers under unknown parameters, and the risk of data review in unsecure environments increases. *Id.* at ¶ 37. Hiring temporary employees or contractors, some of whom may need to access data remotely, only multiplies the

avenues for misuse, unauthorized access, or malicious attack. *Id.* at ¶¶ 38, 67-71. Nothing in the Republican Caucus’s contract with Envoy hints at who, besides Mr. Lahr, works there. Indeed, even though the contract lists 26 labor categories necessary to complete the work, Envoy Sage Contract, Exhibit B, it does not provide any details about who will perform each role.

Fourth, nothing in the record documents what servers the Committee or Envoy will use to store data, where those storage servers might be located, and how they will be secured. Ferrante Decl. at ¶¶ 44-46. Data protection requires physical infrastructure. Whether Envoy has a physical place of business is disputed. *Supra* at 11. Without a physical presence, Envoy lacks a secure building, secure networks, and a secure, private server in which to store and review the requested data. It also will have to store and review the data remotely using cloud-based services—which simply means storing the data on servers owned and operated by other companies in large data centers. But remote access to sensitive personal data stored by yet another company multiplies the risks, since the data is now vulnerable when at rest on the other company’s servers, when accessed by Envoy remotely, *and* when reviewed on the computers, printers, and networks used by Envoy’s employees or contractors. Ferrante Decl. at ¶¶ 45-46.

Fifth, the subpoena still directs that voters’ personal information initially be turned over to counsel for the Republican Caucus, Subpoena at 1, which plans to

secure that information “just like any other legal documents,” Tr. (Sept. 15, 2021) at 24:10-20.

For each of these reasons, if the Department is forced to comply with the subpoena, “there is a high likelihood” that personal voter information “will be subject to misuse by unauthorized actors and leveraged for nefarious purposes, resulting in the harm of potentially millions of Pennsylvania citizens and the Pennsylvania SURE election system.” Ferrante Decl. at ¶ 14.

Need. Even the most robust security measures are not impenetrable. Therefore—assuming that the Committee or Envoy were capable of implementing robust security measures—there must be a need for individuals’ personal information that warrants taking on the unavoidable risks attendant to sharing such a valuable data set. The Committee has not established (especially with reasonable inferences drawn in the Department’s favor) a need for voters’ personal information warranting those risks.

Taking at face value one of the Committee’s claimed purposes—that it is examining somewhat recent elections to decide whether it should modify the Election Code further in light of how Act 77 of 2019 and Act 12 of 2020 have functioned, *Costa* Comm. Br. at 82—the Committee still has failed to articulate why the personal information of nine million Pennsylvanians is needed.

For example, the Committee has previously said it needs personal information for nine million voters to determine “exactly how people voted in response to the options created by Act 77 and Act 12.” *Id.* at 87. But personal information is not needed to determine voting patterns, which, in any event, are already identifiable in the aggregate. So, that professed need can be met without access to voters’ personal information. The Committee also has insisted it needs voters’ personal information to identify what problems people encountered voting. *Id.* But voters’ personal information has no plausible connection to that need. Finally, the Committee has said it needs voters’ personal information to determine whether the new laws allowed double voting due because of defects in the SURE system. *Id.* Yet, the Committee has not, at minimum, explored less intrusive alternatives, such as asking the Department to report on duplicate entries in the SURE system. In fact, the Committee has affirmatively refused the Department’s offers to discuss what analysis it can perform on information already in the Department’s possession. Prelim. Obj. ¶¶ 30-31; Pet’r’s Answer to Prelim Obj. ¶¶ 30-31. The Committee, therefore, has not shown there is “no alternate reasonable method of lesser intrusiveness” to accomplish those purported goals. *Denoncourt*, 470 A.2d at 949.

Nor will access to personal information stored in Pennsylvania’s registration system illuminate whether anyone tried to vote twice in any recent election.

As the Pennsylvania Supreme Court has stated, if an invasion of privacy “does not effect the state’s purpose, it is a gratuitous intrusion.” *Id.* Additionally, the “unproven ability of the release of the requested information to assist” the requester’s supposed needs weighs against release. *Sapp Roofing Co. v. Sheet Metal Workers’ Int’l Ass’n, Local Union No. 12*, 713 A.2d 627, 630 (Pa. 1998) (plurality opinion). The Committee’s failure to describe why an investigation into possible modifications to Act 77 and Act 12 requires a data set with every single voter’s personal information means the Committee has not clearly satisfied Section 1’s balancing test.

D. Prior Uses of Private Information are Legally Irrelevant and Factually Distinct.

The constitutional balancing test that protects Pennsylvanians’ privacy rights must be applied based on each case’s particular circumstances. *PSEA*, 148 A.3d at 157-58; *Denoncourt*, 470 A.2d at 948. Pennsylvania courts therefore regularly apply Section 1’s balancing test to personal information that has been previously shared in some form. *Fortieth Grand Jury*, 220 A.3d at 560-61, 570; *City of Harrisburg v. Prince*, 219 A.3d 602, 618-19 (Pa. 2019); *Reese*, 173 A.3d at 1158-60; *PSEA*, 148 A.3d at 157-58; *Governor’s Off. of Admin. v. Campbell*, 202 A.3d 890, 894 (Pa. Commw. Ct. 2019). Because the balancing test is context specific, and not dependent on prior access, any prior access to the voter information at issue here is legally irrelevant.

Additionally, no prior access to voter information has occurred in circumstances remotely similar to those here. All instances in which the Department has allowed—or been ordered to allow—non-Department entities to securely access voter information have made use of that information for the very reasons that voters must supply it to the Department in the first place: for the Department to maintain registration records with uniquely identifying information.

For example, a 2014 contract to maintain the SURE system and 2020 contract to modernize the SURE system were necessary for the Department to meet its obligations to “[d]evelop, establish, implement and administer” a system that must, among other things, be able to “[e]nsure the integrity and accuracy of all registration records in the system” and also be able to “[i]dentify duplicate voter registrations on a countywide and Statewide basis,” 25 Pa.C.S. §§ 1201(3), 1222(c)(2), (17); Marks Decl. ¶¶ 41-44, 53-56. Voters’ sensitive personal information could not be put safely to the precise purposes that make supplying it a required part of registering to vote if no one could be hired to maintain and upgrade the systems that hold registered voters’ information. Further, the Department’s vendors access voter information consistent with Commonwealth protocols, only as needed to maintain or upgrade the SURE system, and only using Department hardware, software, and networks. Marks Decl. ¶¶ 45-54.

In 2019, the Auditor General was given restricted access to voter information and the SURE system as part of an audit the Department requested to meet the Department's obligations to "administer" the SURE system. 25 Pa.C.S. § 1201(3); *see also* 25 Pa.C.S. § 1222. Officials from the Auditor General's office could view only some voter information, only at the Department, only using Department hardware, and only under Department supervision. Marks Decl. ¶¶ 88-94.

In *Applewhite v. Commonwealth*, a prior administration was ordered to provide the Petitioner's expert access to voter information only after the court ruled such access was necessary to determine an essential fact for that litigation. No. 330 MD 2012, 2014 WL 184988, at *33-*38 (Pa. Commw. Ct. Jan. 17, 2014). Even more important, the court ordered that Petitioner be given access to voter data only after the prior administration refused to conduct the required analysis itself. *Id.* at *34-*35. Here, there are disputes about whether the Committee actually needs voters' information for its stated purpose, *supra* at 33-34, and no dispute that the Committee has affirmatively refused the Department's offer to identify if there are less intrusive alternatives that would serve the Committee's stated purpose, Prelim. Obj. ¶¶ 30-31; Pet'r's Answer to Prelim. Obj. ¶¶ 30-31. Additionally, in *Applewhite*, the court and the Department both knew who would access the information, how the data would be transferred, where it would be stored, and how it would be deleted. Protective Order, *Applewhite v. Commonwealth* (Ex. A-27).

Finally, the Department's provides ERIC, a non-profit government organization that provides unrivaled list maintenance services, information that has been processed through a one-way hash application that turns personal information into an indecipherable string of letters and numbers, Marks Decl. at ¶¶ 77-82.

* * * * *

In all, the Committee has not established a clear right to enforce the subpoena given the constitutional privacy concerns. Just as in the consolidated cases, this Court should deny the Committee's application for summary relief on this basis.

II. The Committee Has Not Clearly Established that the Subpoena is not an Unconstitutional Search.

Similarly, Article I, Section 8 of the Pennsylvania Constitution protects Pennsylvanians from unreasonable searches that intrude upon a reasonable expectation of privacy, including searches conducted during a legislative investigation. *Annenberg*, 2 A.2d at 617–18; *Lunderstadt*, 519 A.2d at 414-15 (announcing judgment). The Committee has not clearly established that Section 8 allows producing voters' personal information.

Under Section 8, Pennsylvanians have a reasonable expectation of privacy in the last four digits of their Social Security number, their driver's license number, and their birthdate. These pieces of information allow for the "retrieval of extensive amounts of personal data," *Times Pub. Co. v. Michel*, 633 A.2d 1233, 1237-38 (Pa. Commw. Ct. 1993) (cited approvingly in *PSEA*), and therefore reveal much about a

person’s “personal affairs, opinions, habits or associations,” *Commonwealth v. Duncan*, 817 A.2d 455, 463 (Pa. 2003); *supra* at 25-28. Pennsylvania voters who have provided this information to election officials can reasonably expect it to remain protected and used only in connection with conducting Pennsylvania elections—the purpose for which it has been voluntarily supplied.⁹

Before it can invade voters’ reasonable expectations of privacy, the Committee must affirmatively demonstrate its need and that the search is tailored to that need. Without that protection, legislative bodies could intrude upon reasonable expectations of privacy for “fishing expeditions.” *Lunderstadt*, 519 A.2d at 414 (announcing judgment). The applicable standard has at times been described as requiring the legislative body show “probable cause that the particular records sought contain evidence of civil or criminal wrongdoing.” *Id.* at 415 (announcing judgment).¹⁰ Other times, Section 8 has been described as preventing a legislative body from invading expectations of privacy “except to the extent to which such disclosure is reasonably required for the general purpose of the inquiry,” *Annenberg*,

⁹ Voluntarily providing personal information to the Department does not vanquish the reasonable expectation of privacy in that information. Pennsylvania courts have “declined to embrace a constitutional analysis under Article I, Section 8 that relies primarily upon a principle of disclosure.” *Commonwealth v. Rekasie*, 778 A.2d 624, 630-31 (Pa. 2001).

¹⁰ This standard applies under the Fourth Amendment when the government demands records from a third party in which persons have a reasonable expectation of privacy. *Carpenter v. United States*, 138 S. Ct. 2206, 2222 (2018).

2 A.2d at 617. Either way, a legislative body cannot issue sweeping subpoenas disconnected from any documented need. *Lunderstadt*, 519 A.2d at 415 (announcing judgment); *id.* at 416-17 (Zappala, J., concurring).

Here, no undisputed facts establish that the Committee's demand for personal information can satisfy either standard. Senator Dush has referenced incredible allegations of fraudulent voting during the 2020 election, Hr'g Tr. (Sept. 15, 2021) at 15:10-24, 16:18-21, but unsubstantiated allegations are not probable cause for a sweeping demand for the personal information of every registered voter. Nor do unsubstantiated allegations clearly establish any need for which voters' personal information is reasonably required.

Finally, even if some portion of what the Committee demands could yield relevant information, that does not justify an overbroad demand that reaches far beyond any identified need. *Lunderstadt*, 519 A.2d at 415 (announcing judgment).

III. The Committee Has Not Clearly Established that Federal Law Allows Producing Critical Infrastructure Information.

Next, the Committee has no clear right to relief because the subpoena demands protected critical infrastructure information (PCII) that, under federal law, may not be produced. Subpoena at ¶ 16. This Court already ruled that summary relief is "inappropriate" because of this very issue, *Costa Mem. & Order* at 5, and there are no new facts warranting a different outcome now.

Federal law creates a mechanism to ensure that certain national security information is not disclosed. 6 U.S.C. § 673; 6 C.F.R. §§ 29.5-29.8. The mechanism allows entities to submit to the federal government “critical infrastructure” and “critical infrastructure information” to be designated as PCII. 6 C.F.R. § 29.5. “Critical infrastructure” are “systems and assets” that are “so vital to the United States” that their incapacity or destruction “would have a debilitating impact on security, national economic security, national public health[,], or safety.” 42 U.S.C. § 5195c. Critical infrastructure information” is nonpublic information “related to the security of critical infrastructure,” including “security testing, risk evaluation thereto, risk management planning, or risk audit.” 6 U.S.C. § 671(3).

Information submitted as to the U.S. Department of Homeland Security for validation as PCII is presumed to be PCII until DHS makes a contrary decision. 6 C.F.R. § 29.6(b). Once information is validated as PCII, it can be shared under only very limited circumstances. The applicable regulations generally forbid disclosure of PCII a state government possesses, 6 C.F.R. § 29.8(d)(2), and separately restrict disclosure of PCII a state government has received, 6 C.F.R. § 29.8(d)(1). PCII in a state government’s possession may be used “only for the purpose of protecting critical infrastructure or protected systems.” 6 C.F.R. § 29.8(d)(2). Beyond this exception, PCII in a state’s possession may not be disclosed. *Tombs v. Brick Twp.*

Mun. Utilities Auth., No. A-3837-05T5, 2006 WL 3511459, at *2-*3 (N.J. Super. Ct. App. Div. Dec. 7, 2006).

The subpoena demands access to information with details about the Department's IT architecture and potential risks and vulnerabilities in the SURE system. Marks Decl. ¶ 103. The Department has submitted that information consistent with statutory and regulatory requirements to the DHS for designation as PCII consistent. *Id.* at ¶¶ 103-104; *see also* 6 U.S.C. § 673(a)(2); 6 C.F.R. § 29.5. Every report that the Department has submitted under the PCII program has been validated as PCII. Marks Decl. at ¶ 103.

As a result, certain records the subpoena demands can be accessed only “for the purpose of protecting critical information or protected systems,” 6 C.F.R. § 29.8(d)(2). This exception does not cover the Committee, which is not performing homeland security duties, is not requesting the information for the purpose of protecting critical infrastructure, and has not demonstrated an ability to protect PCII. Ferrante Decl. ¶¶ 59-60; *Costa* Mem. & Order at 5. The Committee therefore has no clear right to enforce its demand for PCII.

IV. The Committee Has Not Clearly Established that the Subpoena Serves a Legitimate Legislative Purpose.

Independently, the Committee has no clear right to enforce any part of the subpoena because there are factual disputes about whether it advances a legitimate legislative purpose.

Any legislative investigation must be “related to, and in furtherance of, a legitimate task of the Congress.” *Mazars*, 140 S. Ct. at 2031; *see also Camiel v. Select Comm. on State Contract Practices of House of Representatives*, 324 A.2d 862, 869 (Pa. Commw. Ct. 1974) (“[L]egislative authority cannot be so broad as to negate any legitimate legislative purpose.”); *Lunderstadt*, 519 A.2d at 415 (Hutchinson, J., concurring) (concluding legislative subpoena should be quashed because it did not have proper legislative purpose).¹¹

Whether a legislative investigation furthers a legitimate legislative purpose is a factual question that courts assess based on all relevant evidence. *E.g.*, *Watkins v. United States*, 354 U.S. 178, 209-16 (1957). When assessing the purpose of a legislative investigation, “courts should be attentive to the nature of the evidence offered by [a legislative body] to establish that a subpoena advances a valid legislative purpose.” *Mazars*, 140 S. Ct. at 2036 (citing *Watkins*, 354 U.S. at 201). “Detailed and substantial evidence” of the legislative purpose is preferred. *Id.* Review of the evidence may be deferential to the legislative bodies, but courts must conduct that review all the same. *E.g.*, *Barenblatt v. United States*, 360 U.S. 109,

¹¹ This is true whether a legislative body demands information through a subpoena or statutory process. *Comm. on Ways & Means, U.S. House of Representatives v. U.S. Dep’t of the Treasury*, No. 21-5289, slip op. at 8 (D.C. Cir. Aug. 9, 2022) (“[W]e see no reason that the case law shaping when and how Congress can request certain information via subpoena should not inform our analysis of Congress’s ability to do so via statute.”).

130-33 (1959) (reviewing evidence of subpoena's purpose); *Watkins*, 354 U.S. at 209-16 (same); *Comm. on Ways & Means, U.S. House of Representatives v. U.S. Dep't of the Treasury*, No. 21-5289, slip op. at 10-13 (D.C. Cir. Aug. 9, 2022) (same); *Trump v. Mazars USA, LLP*, No. 21-5177, 2022 WL 2586480, at *10-*15 (D.C. Cir. July 8, 2022) (same); *Trump v. Thompson*, 20 F.4th 10, 41-44 (D.C. Cir. 2021) (same); *Republican Nat'l Comm. v. Pelosi*, No. 22-659, 2022 WL 1294509, at *16-*19 (D.D.C. May 1, 2022) (same).

Here, there are factual disputes about whether the subpoena furthers a legitimate legislative purpose. Not even the Committee's stated purpose has been consistent. At its inception, the Committee's investigation was described as a forensic investigation of the results of the 2020 general election and the 2021 primary election, necessitated by doubts about election results. *Supra* at 4-5.

The sole hearing conducted before issuing the subpoena was publicly described as being about the Acting Secretary's election guidance. *Supra* at 5. The day after that hearing, Senator Corman stated that because the Department did not appear at the Committee's hearing about election guidance to answer questions "about the fairness of the 2020 General Election" the Committee needed to "begin a full forensic audit of the 2020 election," and would issue a subpoena for that reason. *Supra* at 6.

At the meeting to vote on the subpoena, Senator Dush said the Committee was reviewing Pennsylvania's most recent elections to assess how the Election Code was functioning after Act 77. *Supra* at 6-7. But he also said the investigation was an audit to verify the identity and eligibility of Pennsylvanians who voted in the 2020 general election, and that voters' personal information would allow them to do that work. *Supra* at 6-7.

After the Committee voted on the subpoena, Senator Dush said that the Committee needed to inspect how the SURE system is working, *supra* at 8, that the Committee was following up on the Auditor General's 2019 report, *supra* at 8, and that the Committee needs to determine if there are duplicate, dead voters, or ineligible voters on Pennsylvania's voter rolls, *supra* at 9.

Then, the Committee's briefs in the consolidated case argued the subpoena is part of an investigation into how the Election Code is operating after Act 77 and Act 12, and will answer how people voted in response to those laws, what problems they encountered, and whether those laws allowed for double voting. *Costa Comm. Br.* at 82, 87.

Many of these given justifications do not amount to a proper legislative purpose. For instance, conducting a "forensic investigation" of the results of the 2020 election is not a proper legislative purpose. Investigating cases of voter fraud

also is not a proper legislative purpose. *See Mazars*, 140 S. Ct. at 2032 (explaining that legislative branch cannot issue subpoena for law enforcement purposes).

What is more, there is a factual dispute about whether the Committee is pursuing any of its stated purposes. The Committee's shifting rationale signals the insincerity of the publicly professed purposes. *E.g., Leibensperger v. Carpenter Techs., Inc.*, 152 A.3d 1066, 1077 (Pa. Commw. Ct. 2016) (explaining inconsistency is often evidence of pretext); *Kroptavich v. Pa. Power & Light Co.*, 795 A.2d 1048, 1059 (Pa. Super. Ct. 2002) (same). So do both the decision to hire Envoy, and the terms of contract with Envoy. Reviewing voter rolls is not simple. Hiring an entity with no experience doing so, or any experience in election matters, is not designed to produce reliable results. *E.g., supra* at 4 n.3. Plus, much of what Envoy has been deputized to do, such as reviewing other states' audit reports, has absolutely no connection to reviewing Pennsylvania's Election Code. *Supra* at 9-10. Some work the contract with Envoy envisions evokes far-fetched theories used to justify audits of the 2020 Election, such as analyzing toner, ink and paper. *Id.* Finally, the Committee has done nearly nothing to advance its investigation since issuing the subpoena. It has shown no interest in the more recent elections that might illustrate more usefully how Act 77 and Act 12 are operating, especially as the Department and counties have now had additional time to implement those sweeping laws.

While this Court previously concluded that this evidence did not entitle the Acting Secretary to summary relief on the grounds that the subpoena does not advance a legitimate legislative purpose, *Costa* Mem. & Order at 3-4, drawing reasonable inferences in the Department's favor, as this Court must at this stage, the Committee has not now clearly established it is pursuing a legitimate legislative purpose. Indeed, as the Committee stated in the consolidated cases (while otherwise making arguments contrary to precedent about judicial review of legislative purpose) the parties have identified opposing evidence about the Committee's purpose and there is a factual dispute about this issue. *Costa* Comm. Reply at 18-19.

Even if the Committee is investigating facts relevant to possible amendments to Act 77 and Act 12, or the Election Code more broadly (which the Department does not dispute would be a legitimate purpose for another committee) there remain factual disputes about whether the information the subpoena demands furthers that investigation.

The Committee has not identified how accessing partial Social Security numbers, driver's license numbers, addresses, and dates of birth for more than nine million Pennsylvania voters advances such a legislative investigation. Voters' Social Security and driver's license numbers have no relationship to determining "exactly how people voted in response to the options created by Act 77 and Act 12." *Contra Costa* Comm. Br. at 87. Nor will partial Social Security numbers, driver's license

numbers, addresses, and dates of birth illuminate problems encountered, or instances of double voting, following Act 77 and Act 12, *contra id.*, because none of that information provides qualitative details about problems while voting by mail, and duplicate registrations do not inform whether someone tried to vote twice.

At bottom, there are factual disputes about whether the subpoena furthers a legitimate legislative purpose, and those disputes prevent summary relief.

V. The Committee Has Not Clearly Established that the Subpoena Does Not Interfere with the Right to Freely Vote in Fair Elections.

There also are disputes about whether producing voter’s personal information will chill individuals’ willingness to vote. If it will, compliance would violate protections under both the Pennsylvania and U.S. Constitution that ensure people can freely exercise the right to vote. The application for summary relief must be denied on this basis too.

In Pennsylvania, the Constitution guarantees that elections “shall be free and equal” and “no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” Pa. Const. art. I, § 5. Section 5’s reaching language ensures that “all aspects of the electoral process, to the greatest degree possible, be kept open and unrestricted to the voters of our Commonwealth, and, also, conducted in a manner which guarantees, to the greatest degree possible, a voter’s right to equal participation in the electoral process[.]” *League of Women Voters v. Commonwealth*, 178 A.3d 737, 804 (Pa. 2018). Because of Section 5’s purpose, courts give it “the

broadest interpretation.” *Id.* at 814. Among other protections, Section 5 forbids any “undue influences by which elections may be assailed,” including influences that “shall impair the right of suffrage rather than facilitate or reasonably direct the manner of its exercise.” *Id.* at 809 (quoting Charles R. Buckalew, *An Examination of the Constitution of Pennsylvania. Exhibiting The Derivation and History of Its Several Provisions*, Article I at 10 (1883)). It thus applies not only to procedural rules that directly govern elections, but also to conduct that might affect voter behavior.

Accordingly, Section 5 prohibits acts that “discourage[e] voters from participating in the electoral process.” *Id.* at 814. Section 5’s protections mean “that by no intimidation, threat, improper influence, or coercion of *any kind* shall the right [to vote] be interfered with.” *Oughton v. Black*, 61 A. 346, 347 (Pa. 1905) (emphasis added). If any part of the government acts to discourage participation in the electoral process, the action must be “necessary to promote a compelling state interest and [] narrowly tailored to effectuate that state purpose.” *Banfield v. Cortes*, 110 A.3d 155, 176 n.15 (Pa. 2015) (describing standard of review for significant interferences with fundamental rights).

The U.S. Constitution likewise carefully guards against acts that might discourage an individual from exercising the right to vote. For example, the U.S. Supreme Court has recognized that political speech—to which the First Amendment

gives “its fullest and most urgent application”—must yield if it might interfere with someone’s right to vote. *Burson v. Freeman*, 504 U.S. 191, 196-208 (1992) (plurality) (upholding law that prohibited certain forms of political speech within 100 feet of a polling place); *see also Minnesota Voters All. v. Mansky*, 138 S. Ct. 1876, 1888 (2018) (agreeing that interest in preserving safe access to the ballot box could justify restricting First Amendment rights). The most compelling First Amendment rights, the Court has reasoned, must give way to ensure that there are no undetected “acts of interference” in the electoral process that might “drive the voter away.” *Burson*, 504 U.S. at 207 (plurality).

Here, the Committee is not entitled to summary relief because there are disputes about whether its demands for a package of voters’ personal information will discourage future participation in the electoral process. Voters already are leery of voluntarily sharing some of that personal information when registering to vote. *See* Voter Intervenors’ Verified Pet. for Review (“Voters’ *Costa* Petition”) at ¶¶ 52, 70, *Costa*, (Oct. 4, 2021). Enforcing the subpoena would introduce the possibility that any future participation in Pennsylvania’s electoral process comes with the risk that, on a purely partisan basis, political actors and third parties can access information that voters are already reluctant to turn over even to election administrators.

Many Pennsylvanians reacted to the subpoena with these concerns. Senate Majority Leader Kim Ward, for example, called the Committee’s demand for personal information “intrusive and overreaching.” Deb Erdley, *Pennsylvania Democrats ramp up effort to derail GOP election subpoenas*, TribLive (Sept. 23, 2021) (Ex. A-28). And Senate Majority Leader Ward expressed a reasonable fear about what will happen if the Committee gets access to voters’ private information: “And yeah, (the last four digits of your Social Security is) scary — and the license. So, I don’t know what’s going to happen with those things.” Bob Mayo, *Voters’ private info subpoenaed by State Senate Republicans; Democrats challenge move in court*, WTAE Pittsburgh (Sept. 21, 2021) (Ex. A-29).

Senate Majority Leader Ward is not alone. In the 10 days after the Committee voted to issue the subpoena, 549 people, including individuals from both major political parties, contacted the Office of Attorney General’s constituent services to express concern about sharing their personal information to an unknown vendor, and the attendant risk of identity theft. Charles Decl. ¶¶ 11, 13-24. (Ex. D). More than 300 Bucks County voters contacted their Board of Elections to express a similar concern. Ellis-Marseglia Decl. ¶¶ 6-8 (Ex. E). Members of the Pennsylvania AFL-CIO’s affiliates, a group of about 750,000 people, have expressed “grave concerns” about the subpoena because of the risk that their personal information will be misused. Bloomingdale Decl. ¶¶ 1, 9-10 (Ex. F).

One woman who contacted the Office of Attorney General expressed in particular that the “real threat” of the subpoena “is the potential discouragement from voting in the future.” Charles Decl. ¶ 18. Organizations dedicated to registering voters already have stated that they will have a harder time doing so because of fears that private, personal information will be published. Voters’ *Costa* Petition at ¶¶ 53, 71. Counties expect the same challenges in their voter registration efforts. Ellis-Marseglia Decl. ¶ 16; Arkoosh Decl. ¶ 6 (Ex. G).

Federal courts recognize that sharing voters’ personal information may chill voters’ willingness to exercise their rights. One court explained that a state law allowing for access to voters’ Social Security numbers constituted a “profound invasion of privacy” and thus imposed a substantial burden on the right vote. *Greidinger v. Davis*, 988 F.2d 1344, 1353-54 (4th Cir. 1993).¹² Courts have interpreted the National Voter Registration Act *not* to require disclosure of Social Security numbers because of reasonable concerns about access to personal information. *E.g.*, *True the Vote v. Hosemann*, 43 F. Supp. 3d 693, 739 (S.D. Miss. 2014); *Project Vote/Voting For Am., Inc. v. Long*, 752 F. Supp. 2d 697, 712-13 (E.D. Va. 2010). An alternative conclusion would run counter to “the voter registration goals of the NVRA” because allowing “uniquely sensitive” information that is

¹² Use of a Social Security number for only election administration purposes does not impose the same burden. *Greidinger*, 988 F.2d at 1354 n.10.

“vulnerable to abuse” to be shared would make voters understandably hesitant to register in the first place. *Project Vote*, 752 F. Supp. 2d at 712-13. Requiring unredacted access to voters’ personal information, such as birthdates, names, and addresses, creates “a substantial likelihood that many may decline to register altogether, thus depressing voter registration.” *True the Vote*, 43 F. Supp. 3d at 739.

There are factual disputes about what effect enforcing the subpoena will have on future participation in the electoral process. No justification, let alone an adequate one, has been given in defense of that potential burden on the right to vote. *Supra* at 33-34. The application for summary relief must be denied for this reason as well.

VI. The Committee Has Not Clearly Established that the Subpoena is an Authorized Exercise of Legislative Power.

A legislative subpoena is a form of legislative power. *Brandamore*, 327 A.2d at 3. The Commonwealth’s legislative power is vested in its General Assembly. Pa. Const. art. II, § 1. The General Assembly may authorize other entities—such as a committee—to exercise its legislative power, *Annenberg*, 2 A.2d at 616, but the exercise of legislative power must fit within the scope of delegated authority.

To keep exercises of legislative power within this constitutional framework, judicial review of a legislative subpoena includes “an examination of whether the inquiry is within the authority of the issuing party.” *Lunderstadt*, 519 A.2d at 415 (announcing judgment); *see also Camiel*, 324 A.2d at 864 (explaining committee’s authority was to “issue subpoenas...touching matters properly being inquired into

by the Select Committee”). Federal legislative bodies are held to this same fundamental principle, and so are “restricted to the missions delegated to them.” *Watkins*, 354 U.S. at 206. Keeping legislative committees’ exercise of legislative powers “strictly within their proper bound[s]” maintains “the orderly and long-established processes of our coordinate branches of government.” *McGinley v. Scott*, 164 A.2d 424, 431 (Pa. 1960). Ensuring that constitutional powers are only exercised by those who possess them is not merely a matter of managing the General Assembly’s “day-to-day affairs.” *Contra Blackwell v. City of Philadelphia*, 684 A.2d 1068, 1073 (Pa. 1996) (announcing judgment).

The proper understanding of what legislative powers a committee has been assigned may be understood by its history and legislative activity. *Barenblatt*, 360 U.S. at 117–18. A legislative body’s rules might also answer what powers a committee has been delegated.¹³

Here, legislative history and the Senate rules both communicate that the

¹³ Relying on legislative rules to understand the scope of a committee’s delegated powers does not make unauthorized exercised of power unreviewable. *See Yellin v. United States*, 374 U.S. 109, 114 (1963) (“It has been long settled, of course, that rules of Congress and its committees are judicially cognizable.”). In *Yellin*, the U.S. Supreme Court reversed a witness’s contempt conviction because the witness had not been offered the chance to testify privately before being subpoenaed to testify publicly, in violation of committee rules. *Id.* at 114-15. Here, the Senate Rules go to an even more fundamental question: is the Committee exercising legislative power without authority.

Senate Intergovernmental Operations Committee has not been assigned any legislative power related to election oversight.¹⁴

For the 2021-22 legislative session, the Pennsylvania Senate created 22 Standing Committees and delegated to each some authority to conduct oversight of a particular subject matter area. *See* Pa. S. Rule 14(a)(1); Pa. S. Res. No. 3, Session of 2021 (Jan. 5, 2021). Where the committees have been given authority, they may “maintain a continuous review of the work of the Commonwealth agencies concerned with their subject areas and the performance of the functions of government within each such subject area.” Pa. S. Rule 14(d)(1). A committee’s subpoena authority is tied to its assigned subject area-specific duties. Pa. S. Rule 14(d)(3).

This Committee’s authority, and thus its power to investigate, is limited to regulatory reform. At the Committee’s inception, the Senate’s President Pro Tempore explained that the Committee would review plans to overhaul state agencies or to redirect their operations. *Senator Smucker Named Committee Chairman, States News Service* (Jan. 4, 2011) (Ex. A-30). The Committee’s

¹⁴ This problem is distinct from the one raised in *Brandamore*. There, the witness argued that a House resolution impermissibly authorized a special committee to investigate matters that overlapped with the work of other committees. 327 A.2d at 4. Here, the problem is not that two committees have overlapping powers, but that the Committee is exercising legislative power it does not have.

inaugural Chair reiterated that the Committee would “have jurisdiction over proposals to restructure state government, such as consolidating state agencies, with the purpose of cutting costs and improving efficiency.” *Id.* Senator Mastriano, the Committee’s immediate past Chair, described it as “responsible for reviewing proposals to reform state government, reduce costs and enhance government efficiencies.” *Mastriano Named Chair of Intergovernmental Operations Committee, Appointed to 5 Others* (June 19, 2021) (Ex. A-31).

For the General Assembly’s last two sessions, the most significant matter in the Committee’s portfolio has been oversight of the Independent Regulatory Review Commission. 51 Pa. Bulletin 765, 777 (Feb. 13, 2021); 49 Pa. Bulletin 587, 599 (Feb. 9, 2019). That Commission was created pursuant to the Regulatory Review Act, and it analyzes agency regulations with an eye towards the costs and burdens placed on small business. Regulatory Review Act, P.L. 657, No. 76 §1(c), 71 P.S. § 745.2(c) (2012).

As of August 2022, of the 15 Senate General Bills referred to the Committee during the General Assembly’s 2021-22 session, seven proposed amendments to the Regulatory Review Act. *See* Bills by Committee, Session of 2021, Committee on Intergovernmental Operations (Ex. A-32). The other eight proposed restructuring state agencies and the regulatory process, proposed training for state employees, proposed amending grant oversight, or proposed amending certain permitting

processes. *Id.*

Before issuing the subpoena, the Committee had not taken a single vote on any election related matter in its nine-year existence. *See* Senate Committee Roll Call Votes: Intergovernmental Operations 2011-2012 Regular Session (Ex. A-33); Senate Committee Roll Call Votes: Intergovernmental Operations 2013- 2014 Regular Session (Ex. A-34); Senate Committee Roll Call Votes: Intergovernmental Operations 2015-2016 Regular Session (Ex. A-35); Senate Committee Roll Call Votes: Intergovernmental Operations 2017-2018 Regular Session (Ex. A-36); Senate Committee Roll Call Votes: Intergovernmental Operations 2019-2020 Regular Session (Ex. A-37); Senate Committee Roll Call Votes: Intergovernmental Operations 2021-2022 Regular Session (Ex. A-38).

Rather, the Senate's State Government Committee has authority for election matters. As of August 2022, there have been 30 Senate General Bills proposing amendments to the Election Code during the General Assembly's 2021-22 session (such of which the General Assembly passed). Each one has been referred to the State Government Committee. *Compare* Bills by Committee, Session of 2021, Committee on State Government (Ex. A-39) *with* 2021-2022 Legislation Amending Act 320 of 1937 (Ex. A-40). At least 16 other bills related to elections or voting were also referred to the State Government Committee. Bills by Committee, State Government.

That committee also has oversight of the Department. *See, e.g.*, 51 Pa. Bulletin at 776; 49 Pa. Bulletin at 598. And the Department often works with and reports to the State Government Committee on election and voting matters. *E.g.*, 71 P.S. § 279.6 (requiring the Department to issue a report to the State Government Committee with statistics on the 2020 general primary election, including the number of absentee ballot and mail-in ballot applications); 25 P.S. § 2627 (mandating that the Department submit written plans to the State Government Committee on disapproval and decertification of voting apparatuses).

Because the Committee has not been given authority over elections or voting matters, the subpoena is an unauthorized exercise of legislative power and is not clearly unenforceable.¹⁵

VII. The Committee Has Not Clearly Established that It Is Entitled to Privileged Information.

Finally, the application for summary relief must be denied because the subpoena requests material protected by the deliberative process privilege. Subpoena at ¶ 16.¹⁶

¹⁵ Even if the Committee did have authority to issue the subpoena, it has not actually authorized this action. Resp't's Br. in Support of Prelim. Obj. at 4-9.

¹⁶ The best reading of paragraph 2 of the subpoena is that it refers only to final directives, guidance, policies, and procedures, and the Department assumes as much.

Subpoena recipients “retain common law and constitutional privileges” in the course of a legislative investigation. *Mazars*, 140 S. Ct. at 2032. The deliberative process privilege is one such privilege, and this Court has recognized that it applies in Pennsylvania. *League of Women Voters v. Commonwealth*, 177 A.3d 1010, 1017-18 (Pa. Commw. Ct. 2017); *KC Equities v. Dep’t of Pub. Welfare*, 95 A.3d 918, 934 (Pa. Commw. Ct. 2014); *Ario v. Deloitte & Touche LLP*, 934 A.2d 1290, 1294 (Pa. Commw. Ct. 2007). A plurality of the Pennsylvania Supreme Court also has ruled that the deliberative process privilege process applies in Pennsylvania. *Commonwealth v. Vartan*, 733 A.2d 1258, 1266 (Pa. 1999) (announcing judgment).

Because the deliberative process privilege comes from common law, it operates independently of any specific statutory recognition. *In re Sealed Case*, 121 F.3d 729, 737 (D.C. Cir. 1997); *see also KC Equities*, 95 A.3d at 934 (denying subpoenas issued to high-ranking officials in civil litigation to protect deliberative process privilege without statutory basis). So, assuming the Committee had demanded information from the Department through § 272 or § 801 rather than by subpoena, the deliberative process privilege still applies. And nothing in either statute indicates that the legislature intended to affirmatively abrogate the common law privilege.

Under the privilege, “confidential deliberations of law or policymaking, reflecting opinions, recommendations or advice” are exempt from disclosure and

the government may “withhold documents containing ‘confidential deliberations of law or policymaking, reflecting opinions, recommendations or advice.’” *Vartan*, 733 A.2d at 1263 (announcing judgment). Materials are protected by the deliberative process privilege if they satisfy two criteria. First, they “must have been made before the deliberative process was completed.” *Id.* at 1264 (announcing judgment). And, second, they “must be deliberative in character.” *Id.* (announcing judgment) That is, the material must “make[] recommendations or express[] opinions on legal or policy matters.” *Id.* (announcing judgment).¹⁷

Paragraph 16 demands discussions within the Department about the SURE system that are deliberative in character and were conducted prior to the completion of the relevant deliberative process. Those materials are exempt from production.

CONCLUSION

For the reasons set forth above, the Application for Summary Relief should be denied.

¹⁷ No Pennsylvania Court has held the privilege may be overcome. The Third Circuit has said the privilege may yield if there is “sufficient need for the material in the context of the facts.” *Redland Soccer Club, Inc. v. Dep’t of the Army of the U.S.*, 55 F.3d 827, 854 (3d Cir. 1995). Even if that rule applies, the Committee has not established undisputed facts exhibiting its need for the information it demands.

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CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Dated: August 10, 2022

/s/ Jacob B. Boyer

Jacob B. Boyer

CERTIFICATE OF LENGTH

I certify that this brief complies with the word count requirement set forth in Pennsylvania Rule of Appellate Procedure 2135(a)(1). Excluding matters identified in Pennsylvania Rule of Appellate Procedure 2135(b), this brief is 13,806 words. I have relied on Word's word count function to determine the length of this brief.

Dated: August 10, 2022

/s/ Jacob B. Boyer

Jacob B. Boyer

Exhibit A

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Pennsylvania Senate Intergovernmental Operations
Committee,

Petitioner,

v.

Pennsylvania Department of State, et al.,
Respondents.

No. 95 MD 2022

DECLARATION OF JACOB BOYER

I, Jacob Boyer, declare under the penalty of perjury as follows:

1. I am a Deputy Attorney General with the Pennsylvania Office of Attorney General, and a member in good standing of the bar of Pennsylvania. I have personal knowledge of the facts stated herein, and, if called upon, could and would testify competently to them.

2. I make this Declaration in support of Respondent's Memorandum in Opposition to Petitioner's Application for Summary Relief.

3. Attached to this declaration as Exhibit A-1 is a true and correct copy of *Observations after touring Arizona's Election Audit Operation*, by Senator Doug Mastriano, published on SenatorMastriano.com on June 9, 2021. The URL from which the exhibit was obtained is:

<https://senatormastriano.com/2021/06/09/op-ed-observations-after-touring-arizonas-election-audit-operation/>.

4. Attached to this declaration as Exhibit A-2 is a true and correct copy of the article *Pa. state senator visits Ariz., pushes for election audit*, by Marcie Schellhammer published by Olean Times Herald on June 5, 2021. The URL from which the exhibit was obtained is: https://www.oleantimesherald.com/news/pa-state-senator-visits-ariz-pushes-for-election-audit/article_5efd09f4-7c0e-54d0-ab84-871c09d19aed.html.

5. Attached to this declaration as Exhibit A-3 is a true and correct copy of a letter from Attorney General Mark Brnovich to Senator Karen Fann dated August 1, 2022.

6. Attached to this declaration as Exhibit A-4 is a true and correct copy of a letter from Senator Doug Mastriano to Commissioner Lisa Deeley dated July 7, 2021.

7. Attached to this declaration as Exhibit A-5 is a true and correct copy of the statement *Corman Issues Statement on Forensic Investigation of Recent Elections, Mastriano Obstruction*, released on August 20, 2021. The URL from which the exhibit was obtained is <https://www.senatorcorman.com/2021/08/20/corman-issues-statement-on-forensic-investigation-of-recent-elections-mastriano-obstruction/>.

8. Attached to this declaration as Exhibit A-6 is a true and correct copy of *Hearings in election 'investigation' to begin this week, Corman says*, by Marc Levy & Sam Dunklau, published by WITF. The URL from which the exhibit was obtained is <https://www.witf.org/2021/08/23/hearings-in-election-investigation-to-begin-this-week-corman-says/>.

9. Attached to this declaration as Exhibit A-7 is a true and correct copy of *Top Pa. GOP lawmaker says hearings will begin this week to start 'forensic investigation' of 2020 election*, by Andrew Seidman published in the Philadelphia Inquirer on August 24, 2021. The URL from which the exhibit was obtained is: <https://www.inquirer.com/politics/pennsylvania/jake-corman-pennsylvania-election-audit-hearings-20210823.html>.

10. Attached to this declaration as Exhibit A-8 is a true and correct copy of the statement *Senate Intergovernmental Operations Committee Invites Public to Submit Sworn Testimony in Election Investigation*, released on September 2, 2021. The URL from which the exhibit was obtained is: <https://www.pasenategop.com/blog/senate-intergovernmental-operations-committee-invites-public-to-submit-sworn-testimony-in-election-investigation/>.

11. Attached to this declaration as Exhibit A-9 is a true and correct copy of the Pennsylvania State Senate's website *Senate Committee Meetings* –

Intergovernmental Operations. The URL from which the exhibit was obtained (<https://www.legis.state.pa.us/cfdocs/legis/CMS/Archive.cfm?Chamber=S&Code=57&SessYear=2021>) is current as of August 10, 2022.

12. Attached to this declaration as Exhibit A-10 is a true and correct copy of the statement *Corman Calls for Subpoenas in Election Investigation Next Week* released on September 10, 2021. The URL from which the exhibit was obtained is: <https://www.senatorcorman.com/2021/09/10/corman-calls-for-subpoenas-in-election-investigation-next-week/>.

13. Attached to this declaration as Exhibit A-11 is a true and correct copy of the statement *Dush Responds to Attorney General's Lawsuit, Arizona Audit Report* released on September 24, 2021. The URL from which the exhibit was obtained is: <https://senatorcrisdushpa.com/2021/09/24/dush-responds-to-attorney-generals-lawsuit-arizona-audit-report/>.

14. Attached to this declaration as Exhibit A-12 is a true and correct copy of a transcript of the interview of Senator Cris Dush from September 28, 2021, which is embedded at the URL: <https://www.fox43.com/article/news/politics/fox43-capitol-beat/election-investigation-pennsylvania-arizona-audit-results/521-07d561bd-0e19-4ed8-9c82-31637c04fa5c>.

15. Attached to this declaration as Exhibit A-13 is a true and correct copy of the article *Your View by Republican leading Pennsylvania election audit: A meteor strike is more likely than a breach of your election info*, published by the Morning Call on October 13, 2021. The URL from which the exhibit was obtained is: <https://www.mcall.com/opinion/mc-opi-election-investigation-pa-dush-20211013-qg6cy22ggzhc7pljsx2rkk7u3q-story.html>.

16. Attached to this declaration as Exhibit A-14 is a true and correct copy of the article *Dush Issues Statement on Inclusion of Personal Information in Subpoena*, published by The Courier Express on September 17, 2021. The URL from which the exhibit was obtained is: https://www.thecourierexpress.com/tri_county_sunday/dush-issues-statement-on-inclusion-of-personal-information-in-subpoena/article_a2ba51b0-405a-5284-80fc-69ecc0e4a972.html.

17. Attached to this declaration as Exhibit A-15 is a true and correct copy of the statement *Senator Dush Urges Public to Submit Sworn Testimony in Election Investigation by October 1* released on September 23, 2021. The URL from which the exhibit was obtained is: <https://www.pasenategop.com/blog/senator-dush-urges-public-to-submit-sworn-testimony-in-election-investigation-by-october-1/>.

18. Attached to this declaration as Exhibit A-16 is a true and correct copy of the Envoy Sage, LLC Contract. This exhibit was obtained from the Senate Intergovernmental Operations Committee's appendix created for *Commonwealth v. Dush*, No. 322 MD 2021 (Pa. Commw. Ct. 2021).

19. Attached to this declaration as Exhibit A-17 is a true and correct copy of the website *Election Investigation – Restoring Faith in Our Elections*. The URL from which this exhibit was obtained (<https://paelectioninvestigation.com/>) is current as of August 10, 2022.

20. Attached to this declaration as Exhibit A-18 is a true and correct copy of a business entity summary for Envoy Sage, LLC, accessed from the Iowa Secretary of State's business entity search (<https://sos.iowa.gov/search/business/search.aspx>).

21. Attached to this declaration as Exhibit A-19 is a true and correct copy of a corporate summary for Envoy Sage, LLC, accessed from the Florida Department of State's Division of Corporation's records search (<https://dos.myflorida.com/sunbiz/search/>).

22. Attached to this declaration as Exhibit A-20 is a true and correct copy of a warranty deed for 1655 Rolling Hills Drive, Dubuque, Iowa 52001, obtained through the Dubuque County Recorder's Index.

23. Attached to this declaration as Exhibit A-21 is a true and correct copy of the Chamber of Commerce profile for “U.S. Tax Service – Kevin Kelly, CPA.” The URL from which the exhibit was obtained (<https://www.chamberofcommerce.com/united-states/iowa/dubuque/accountants-certified-public-cpa/1336607635-u-s-tax-service-kevin-kelly-cpa>) is current as of August 10, 2022.

24. Attached to this declaration as Exhibit A-22 is a true and correct copy of a general warranty deed for 4409 Crew Court, Port Charlotte, Florida, 33952, obtained through the office of the Clerk of the Circuit Court & County Comptroller for Charlotte County.

25. Attached to this declaration as Exhibit A-23 is a true and correct copy of all content from Envoy Sage, LLC’s website. The URL from which the exhibit was obtained (<https://www.envoysage.com/>) is current as of August 10, 2022.

26. Attached to this declaration as Exhibit A-24 is a true and correct copy of a transcript from a press conference held by Senator Cris Dush and Steven Lahr on November 23, 2021.

27. Attached to this declaration as Exhibit A-25 is a true and correct copy of *Taming Thought Engineers* by Steve Lahr published by American Greatness on October 24, 2020. The URL from which the exhibit was obtained is <https://amgreatness.com/2020/10/24/taming-thought-engineers/>.

28. Attached to this declaration as Exhibit A-26 is a true and correct copy of the article *Dozens of mail ballots are going to a GOP ward leader's South Philly P.O. box, raising 'ballot harvesting' concerns*, by Jeremy Roebuck and Jonathan Lai published by Philadelphia Inquirer on May 6, 2022. The URL from which the exhibit was obtained is <https://www.inquirer.com/politics/election/republican-mail-ballots-south-philadelphia-20220506.html>.

29. Attached to this declaration as Exhibit A-27 are materials from *Applewhite v. Commonwealth*, No. 330 MD 2012 (Pa. Commw. Ct 2012). This exhibit was obtained from the Senate Intergovernmental Operations Committee's appendix created for *Commonwealth v. Dush*, No. 322 MD 2021 (Pa. Commw. Ct. 2021).

30. Attached to this declaration as Exhibit A-28 is a true and correct copy of the article *Pennsylvania Democrats ramp up effort to derail GOP election subpoenas* by Deb Erdley published by TribLive on September 23, 2021. The URL from which the exhibit was obtained is <https://triblive.com/news/pennsylvania/pennsylvania-democrats-ramp-up-effort-to-derail-gop-election-subpoenas/>.

31. Attached to this declaration as Exhibit A-29 is a true and correct copy of the article *Voters' private info subpoenaed by State Senate Republicans; Democrats challenge move in court* by Bob Mayo published by WTAE on September 21, 2021. The URL from which the exhibit was obtained is <https://www.wtae.com/article/voters-private-info-subpoenaed-by-state-senate-republicans-democrats-challenge-move-in-court/37671056#>.

32. Attached to this declaration as Exhibit A-30 is a true and correct copy of *Senator Smucker Named Committee Chairman* published by States News Service on or about January 4, 2011.

33. Attached to this declaration as Exhibit A-31 is a true and correct copy of the statement titled *Mastriano Named Chair of Intergovernmental Operations Committee, Appointed to 5 Others* released on June 12, 2019. The URL from which the exhibit was obtained is: <https://senatormastriano.com/2019/06/12/mastriano-named-chair-of-intergovernmental-operations-committee-appointed-to-5-others/>.

34. Attached to this declaration as Exhibit A-32 is a true and correct copy of Pennsylvania General Assembly's webpage Bills by Committee, Session of 2021, Documents Ever in the Senate Committee on Intergovernmental Operations. The URL from which the exhibit was obtained

https://www.legis.state.pa.us/cfdocs/legis/BC/bc_action.cfm?sessId=20210&Committees=S|57&inOut=A) is current as of August 10, 2022.

35. Attached to this declaration as Exhibit A-33 is a true and correct copy of Pennsylvania State Senate's webpage Senate Committee Roll Call Votes: Intergovernmental Operations 2011 – 2012 Regular Session. The URL from which the exhibit was obtained is: <https://www.legis.state.pa.us/cfdocs/legis/RCC/PUBLIC/listVotes.cfm?SPick=2010&chamber=S&cteeCde=57>.

36. Attached to this declaration as Exhibit A-34 is a true and correct copy of the Pennsylvania State Senate's webpage Senate Committee Roll Call Votes: Senate of Pennsylvania Session of 2013 – 2014 Regular Session Intergovernmental Operations. The URL from which the exhibit was obtained is: <https://www.legis.state.pa.us/cfdocs/legis/RCC/PUBLIC/listVotes.cfm?SPick=20130&chamber=S&cteeCde=57>.

37. Attached to this declaration as Exhibit A-35 is a true and correct copy of the Pennsylvania State Senate's webpage Senate Committee Roll Call Votes: Senate of Pennsylvania Session of 2015 – 2016 Regular Session Intergovernmental Operations. The URL from which the exhibit was obtained is:

<https://www.legis.state.pa.us/cfdocs/legis/RCC/PUBLIC/listVotes.cfm?SPick=20150&chamber=S&cteeCde=57>.

38. Attached to this declaration as Exhibit A-36 is a true and correct copy of the Pennsylvania State Senate's webpage Intergovernmental Operations 2017 – 2018 Regular Session. The URL from which the exhibit was obtained is: <https://www.legis.state.pa.us/cfdocs/cteeInfo/index.cfm?Code=57&CteeBody=S&SessYear=2017>.

39. Attached to this declaration as Exhibit A-37 is a true and correct copy of the Pennsylvania State Senate's webpage Senate Committee Roll Call Votes: Senate of Pennsylvania Session of 2019 – 2020 Regular Session Intergovernmental Operations. The URL from which the exhibit was obtained is <https://www.legis.state.pa.us/cfdocs/legis/RCC/PUBLIC/listVotes.cfm?SPick=20190&chamber=S&cteeCde=57>.

40. Attached to this declaration as Exhibit A-38 is a true and correct copy of the Senate Committee Roll Call Votes: Intergovernmental Operations 2021 – 2022 Regular Session. The URL from which the exhibit was obtained (<https://www.legis.state.pa.us/cfdocs/legis/RCC/PUBLIC/listVotes.cfm?SPick=20210&chamber=S&cteeCde=57>) is current as of August 10, 2022.

41. Attached to this declaration as Exhibit A-39 is a true and correct copy of the Pennsylvania General Assembly's website Bills by Committee, Session of 2021, Documents Ever in the Senate Committee on State Government. The URL from which the exhibit was obtained (https://www.legis.state.pa.us/cfdocs/legis/BC/bc_action.cfm?sessId=20210&Committees=S|41&inOut=A) is current as of August 10, 2022.

42. Attached to this declaration as Exhibit A-40 is a true and correct copy of the Pennsylvania General Assembly's website 2021-2022 Legislation Amending Act 320 of 1937. The URL from which the exhibit was obtained (<https://www.legis.state.pa.us/cfdocs/billinfo/AmendingLegis.cfm?Act=320&ActSessYear=1937&ActSessInd=0&SessYear=2021&SessInd=0>) is current as of August 10, 2022.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 10, 2022.



Jacob Boyer

Exhibit A-1

« **Senate Guest Chaplain, Pastor Tyler**

Weidler

Mastriano votes YES to terminate

Governor Wolf's Emergency

Declaration »

Op-Ed: Observations after touring Arizona's Election Audit Operation

Posted on Jun 09, 2021

I recently accepted an invitation to meet with Arizona State Legislators and tour the Maricopa County Audit facility in Phoenix, AZ. I was joined by my colleagues Senator Cris Dush and Representative Rob Kauffman.

I was more than impressed with what I saw on the ground in Phoenix. What stood out to me most were the measures being taken to ensure transparency, security, and accuracy.

Besides the eight cameras that livestream to the public every day, there are hundreds of other cameras that are capturing everything that happens on the floor with every ballot.

When a ballot is being counted, one person is assigned to put a ballot on a carousel after counting and spin it around a table for two additional people to also count and verify. Tallies between the three counters are compared at the end of every batch. Those ballots are later scrutinized under a forensic microscope to determine if the ballot was physically filled in with a pen or by a machine.

Anyone in the world can view the audit twenty-four hours a day, seven days a week at azaudit.com. This is transparency. This is meaningful access.

Nothing is being hidden to the public or to audit observers.

The comprehensive forensic audit has four main stages:

Registration and Votes Cast Audit

- This will confirm that those who show as having voted is an accurate representation. Volunteers ask all registered voters in several identified precincts the following questions to validate that the results match what is shown in the voter history:
 - Did you vote in the 2020 General Election?
 - What method of voting did you use in the 2020 General Election?
 - Where did you cast that vote?
 - When did you cast that vote?

Vote Count & Tally Audit

- Volunteers hand-count and visually inspect all the paper ballots to ensure accuracy in the vote tallies within Maricopa County. The volunteers consist of non-partisan former Law Enforcement, veterans, and retired individuals who have gone through extensive background checks.

Electronic Voting System Audit

- Audit team confirms that the electronic voting system utilized is generating an accurate representation of the votes that were cast through the system. All tabulators, adjudication machines, election management system servers, workstations, and related media have digital forensic images captured. Forensic images are reviewed for nation state level malware by analysts who regularly respond to attacks against our country. Forensic images are also reviewed for any evidence of the deletion of data, destruction of data, or the manipulation of results. Election tallies and results will be pulled from the images to validate the counts match the expected results.

Reported Results Audit

- Audit team confirms that the results tallied at the various stages are the same as those results that end up being published as official. The output from all four phases will be compared against those results published at the county and state level; in addition to what eventually was reported as official.

Here in Pennsylvania, a cloud of suspicion hangs over the 2020 General Election. Hundreds of sworn affidavits from eyewitnesses alleging fraud, irregularities, and illegal behavior during the election have lain dormant. Our Governor, Secretary of State, and

Attorney General intentionally ignored them and conspired to ensure this evidence would not be investigated or heard in the court of law.

A Muhlenburg poll from earlier this year showed that 40 percent of Pennsylvanians were not confident that the results of the 2020 election accurately reflected how Pennsylvanians voted. How can we have a healthy Constitutional Republic when that many citizens feel that their vote does not count?

A county audit like the one authorized by the Arizona State Senate is critically necessary for our Commonwealth. Those who have concerns about the accuracy of the 2020 election will have a forensic audit to investigate their concerns. Those who think that there was zero voter fraud, no irregularities, and the elections were conducted perfectly will have the chance to be vindicated.

Sadly, we already seeing strong resistance to a transparent forensic audit from leading PA Democrats. Governor Wolf stated that audits like the one in Arizona are “an insult to election workers and to voters.”

Wolf's heir apparent, Attorney General Josh Shapiro, went a step further saying that if an audit is brought to Pennsylvania, they would “have to go through me... and every time they have tried to take me on...I've won.” This is a bizarre statement from the Attorney General who also believes that any allegations of fraud in the 2020 election are a “conspiracy theory.” Ironically, before a single vote was counted on Election Day 2020, AG Shapiro said that when all the votes were tallied: “Joe Biden would be elected President of the United States.”

My question for Governor Wolf, AG Shapiro, and partners in the corporate media who echo their talking points is this: What do you have to hide?

This is not about overturning the results of the 2020 election. The goal is to confirm the effectiveness of existing legislation on the governance of elections or to point out areas for potential legislative reform.

The people of our state should have confidence that their vote counts. It takes accountability and transparency to ensure that our elections are free and fair.



Exhibit A-2

https://www.oleantimesherald.com/news/pa-state-senator-visits-ariz-pushes-for-election-audit/article_5efd09f4-7c0e-54d0-ab84-871c09d19aed.html

Pa. state senator visits Ariz., pushes for election audit

By MARCIE SCHELLHAMMER The Bradford Era

Jun 5, 2021



Sen. Cris Dush

BRADFORD, Pa. — State Sen. Cris Dush made a trip to Arizona last week, but it wasn't to bask in the desert sun.

Dush, R-Jefferson County, whose district includes McKean County; Sen. Doug Mastriano, R-Franklin County; and House Judiciary Chairman Rob Kauffman went at the invitation of the Arizona legislators who are involved in the audit of the November 2020 presidential election.

"It is what we should be doing here in Pennsylvania," Dush, of Brookville, said regarding the audit. "The audit needs to happen because the audit will tell us what needs to be fixed and what doesn't."

The Bradford Era spoke with the senator about why he feels the audit is needed.

"First of all, this is the issue that won't quit," Dush replied. "In my six years in the House and six months in the Senate, I've never been stopped on the street so much on a single issue."

While he acknowledged the outcome of the presidential race can't be changed, he said it's important to verify if something went wrong.

In Arizona, "the things they are examining are the things everybody has questions about."

Dush disagreed with media reports saying the audit, conducted by Cyber Ninjas, has security issues or that the company is inexperienced to handle the task at hand.

Explaining that he had been in law enforcement and in security with the Air National Guard, Dush said, "These people are doing a chain-of-evidence that is unbelievable. Every time someone touches a ballot it is documented, by video and hand receipt."

And the data is being stored in huge files, even greater than terabyte size, in a size called petabytes, he explained. "It's all going to be out there for the public.

"No one is going to be able to question the data that comes out of there, whether you think something happened or something didn't.

"If we don't find anything untoward, then people can have confidence" in the election, Dush said.

If something were found, "we can start working on the things that were necessary to fix the processes.

"You've got 47% of the nation saying there was something not right with the way the election went down," the senator said. "If we're going to instill confidence, it has to be done to the scale they are doing (in Arizona).

"The whole point is finding out what actually happened and what we need to do," Dush said.

Gov. Tom Wolf, a Democrat, has called the Arizona trip "an effort to discredit the integrity of our elections" and an insult to the voters. Attorney General Josh Shapiro has pledged to fight any attempt to audit the election here. Will they be obstacles to getting an audit done in Pennsylvania?

"Neither the governor nor the attorney general control the auditor general nor the Senate," Dush said. "The Senate is gaining steam."

Sen. Kim Ward, R-Greensburg, the Senate majority leader, is interested in hearing what the contingent learned, Dush said.

Why is all of this so important to Dush?

“The effect is that if people don’t think that their vote counts, they are not going to show up,” he explained. “We have to do everything we can to make sure when they take time to fill out the ballot, that every ballot that is counted is legal and their vote actually does count.

“If they feel disenfranchised, they won’t show up to vote,” Dush said. And in his district, where the rural population is already physically distant from the decision-makers, that could mean a silencing of the rural voice.

“If we do that, we lose any influence at the state and federal levels,” he said.

On Dush’s Facebook page, he has a short video showing a sample ballot in Arizona that would clear up many concerns. It is printed on similar paper as money, has a holographic image embedded into it, has a QR code and other security features that are read by the computer to count the votes. Any fake ballots would be immediately rejected.

“It seems like an outstanding idea,” Dush said, adding he wants them in Pennsylvania, and would like to have them produced with specific identifiers for each county. He addressed the cost of such a ballot, too.

“People were fighting to get us to put postage on the ballots” that are being distributed by mail currently. “The cost of this paper with the safety features, the cost quoted to the Arizona legislature, is about 25 to 26 cents a piece,” Dush explained. “Less than the cost of postage.”

Exhibit A-3



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

August 1, 2022

The Honorable Karen Fann
Arizona State Senate
1700 West Washington, Room 205
Phoenix, Arizona 85007

RE: Status of Deceased Voter Allegations - November 3, 2020 General Election

Dear President Fann:

On April 6, 2022, I forwarded my first report responding to complaints received by our office from the Arizona State Senate and numerous other concerned individuals alleging election failures and potential misconduct that may have occurred in 2020. We concluded that the 2020 election in Maricopa County revealed certain vulnerabilities that should be addressed. As noted in the report, the work of the Attorney General's Election Integrity Unit (EIU) remains ongoing.

This letter serves as notice that we have now concluded our criminal investigation related to deceased voter allegations. Specifically, we received numerous complaints regarding allegations of dead voters during the 2020 elections, including those presented to us by you on September 24, 2021, following the completion of the Cyber Ninjas' audit. This specific complaint alleged that 282 individuals who were deceased prior to October 5, 2020, voted in the November 3, 2020 general election. After spending hundreds of hours reviewing these allegations, our investigators were able to determine that only one of the 282 individuals on the list was deceased at the time of the election. All other persons listed as deceased were found to be current voters.

Our agents investigated all individuals that Cyber Ninjas reported as dead, and many were very surprised to learn they were allegedly deceased. In addition, we received dead voter reports from other sources that were also reviewed. Three reports were submitted to the EIU that combined alleged 409 dead voters. One additional report, making no distinction between dead voters and dead registrants, included 5,943 registrations. Once again, these claims were thoroughly investigated and resulted in only a handful of potential cases. Some were so absurd the names and birthdates didn't even match the deceased, and others included dates of death after the election. While our office has successfully prosecuted other instances of dead voters, these cases were ultimately determined to be isolated instances.

We supported the Arizona Senate's ability to conduct an audit of Maricopa County's elections and understand the importance of reviewing the results. However, allegations of widespread deceased voters from the Senate Audit and other complaints received by the EIU are insufficient and not corroborated.

Respectfully yours,

A handwritten signature in blue ink that reads "Mark Brnovich". The signature is stylized and includes a long horizontal flourish at the end.

Mark Brnovich
Attorney General

Exhibit A-4



Senate Committee on Intergovernmental Operations

Senator Doug Mastriano

Chair

Senate Box 203033 • Harrisburg, PA 17120-3033 • (717) 787-4651 • www.senatormastriano.com

TO: City Commissioner Lisa Deeley
Philadelphia County Board of Elections
1400 John F Kennedy Blvd, Room 130
Philadelphia, PA 19107

CC: Al Schmidt, Vice Chair, Philadelphia City Commissioners
Veronica Degraffenreid, Acting Secretary, Department of State

FROM: Senator Doug Mastriano

DATE: July 7, 2021

SUBJECT: Request for Information Pertaining to the 2020 General Election and 2021 Primary Election

Chairwoman Deeley,

A combination of legislative updates to the election code, the COVID-19 pandemic, actions by our Secretary of State in October and November, and late decisions by the Supreme Court of Pennsylvania presented unprecedented challenges and substantive changes to our Commonwealth's election process in 2020. These factors combined to cause a great burden on counties and county officials during the general election cycle.

Additionally, this was the first election in Pennsylvania with "mass" mail-in voting. In 2020, there were 2.7 million ballots cast by mail and absentee compared to about 263,000 absentee ballots cast in 2016. Many of these ballots were counted at offsite locations with limited outside observation or oversight. Furthermore, mail ballots without signature verification were permitted to be counted across the Commonwealth.

The damage to the integrity and confidence in our election process will not be undone with the passing of time. I believe the only way to restore confidence in our Commonwealth's election process is to undertake a forensic investigation of the election results. By doing this, faith in our election system will be restored.

The case for a forensic investigation of election results is well-defined.

In the weeks leading up to the election, the Pennsylvania Department of State repeatedly altered the manner in which Pennsylvania's election was conducted. The constantly changing guidance delivered to counties contradicted Election Code language that the department is obligated to uphold. Those who voted in person were held to a higher standard than those who mailed in their ballots. Signatures required for mail-in ballots were rendered meaningless as the PA Supreme Court ruled that ballots could not be rejected based on an analysis of the voter's signature.

On September 17th, the PA Supreme Court ruled that counties had to count ballots received up to three days after Election Day.

A week before the election, the Department of State told the U.S. Supreme Court that ballots received after 8 p.m. on November 3rd would be segregated. But the department changed the rules two days before the election and directed counties to canvass those ballots as soon as possible upon receipt. The U.S. Supreme Court had to eventually step in and order the counties to segregate the ballots.

Just hours before the polls opened on November 3, the department changed the rules again by providing last-second guidance on how to help voters whose mail-in or absentee ballots were incorrectly completed. The late release of this "guidance" resulted in inconsistent application across the Commonwealth. Some counties contacted voters as directed and while others did not. There was no basis for that guidance in current or case law.

The fundamental changes to the manner and conduct of the election undermined the faith of our citizens. A January poll from Muhlenberg University showed that 40% of Pennsylvania voters are not confident that the final results of the 2020 Election accurately reflected how Pennsylvanians voted. It is critical to the health of our Republic for people to trust in the election system.

Election process problems were not limited to 2020. During the May Primary, multiple poll locations ran out of their supply of ballots. This occurred even though counties are required to print at least 10% more ballots than the highest number of votes cast in any of the previous three municipal primary elections. In some precincts, voting machines improperly labeled the headers of Republican ballots as Democrat while the GOP races still appeared. In one county, a "printing issue" caused both Democratic and Republican ballots to be rejected. These errors occurred in a lower-turnout election, where mistakes should be least likely to occur.

The Intergovernmental Operations Committee is a standing committee of the Pennsylvania State Senate with oversight and investigatory responsibilities regarding activities relating to or conducted between two or more governments or levels of government, including the administration of elections across the Commonwealth.

As set forth in Pennsylvania Senate Rule 14 (d), each standing committee is empowered with the authority to inspect and investigate the books, records, papers, documents, data, operation, and physical plant of any public agency in this Commonwealth, including county boards of elections.

As the Chair of the Intergovernmental Operations Committee and in accordance with the Pennsylvania Constitution and the rules of the Senate of Pennsylvania, I request the items outlined in "Exhibit A" as part of the Committee's investigative authority.

The items requested by this committee are sufficiently specific and the items sought are reasonably relevant to its investigation of the 2020 General Election and 2021 Primary.

The Supreme Court of Pennsylvania has consistently recognized that the legislative branch's "power to investigate is an essential corollary of the power to legislate. The scope of this power of inquiry extends to every proper subject of legislative action." (Carcaci v. Brandamore)

Further, as stated in McGinley v. Scott, "The right to investigate in order to acquire factual knowledge concerning particular subjects which will, or may, aid the legislators in their efforts to determine if, or in what manner, they should exercise their powers, is an inherent right of a legislative body."

A thorough investigation is necessary for the General Assembly to adequately consider future legislation to reform and amend Pennsylvania's Election Code. This includes, but is not limited to; in-person voting, mail

ballot voting, absentee ballot voting, voter registration, voter identification, ballot collection facilities, inspection rights during the canvassing of ballots, election machine security, mail and absentee ballot security, information technologies, infrastructure and controls, and election integrity.

I request that you provide, and permit inspection, testing, or sampling of the items identified in the attached "Exhibit A" to the Intergovernmental Operations Committee.

In addition, please instruct all employees of the Commissioner's Office to cooperate and, if requested, participate, under the direction of the Intergovernmental Operations Committee, or its designees, in the inspection, testing, or sampling of the items.

Please respond declaring that the Commissioner's Office will plan to comply with the Senate Intergovernmental Operations Committee's request by **July 31, 2021** with a proposed timeline regarding inspection, testing, or sampling of items.

A subpoena may be issued if a plan to comply with the requests of this letter and Exhibit A is not presented to the Intergovernmental Operations Committee within the stated period of time. The Intergovernmental Operations Committee is open to considering any requests that you may have to facilitate transport and maintain the security of responsive materials.

A forensic investigation of election results and processes for the 2020 General Election and 2021 Primary will go a long way toward restoring trust and support in our system. Voting is the bedrock of American virtue and the most fundamental right of all citizens. We should continually look for ways to improve the voting process to ensure our elections are secure and accurate.

I look forward to your response and full cooperation in assisting the Intergovernmental Operations Committee to review and improve Pennsylvania's election process.

Sincerely,

A handwritten signature in black ink that reads "Doug Mastriano". The signature is written in a cursive, somewhat stylized font.

Doug Mastriano
State Senator, 33rd District
Chair, Intergovernmental Operations

Exhibit A

Pertaining to the November 2020 General Election and May 2021 Primary, the Intergovernmental Operations Committee requests access to the following books, letters, or other documentary evidence from your county for the purpose of forensic analysis:

1. All ballot production, processing, and tabulation equipment from satellite election offices and any other location used to count votes.
2. The software and bootable media, hardware tokens (security keys) for the equipment described in item #1, and the election management system that was used.
3. Forensic images of all election equipment:
 - Servers – Election management server, file servers, network servers, dial-up servers, or any other server utilized for the processing or storage of election results or data required to run an election.
 - Tabulators – high speed and normal speed
 - Ballot marking devices – including accessibility, or for normal voting
 - Desktops & laptops – Utilized within the Election Management System for any purpose including but not limited to: EMS Client, adjudication, registration, creation of ballots or designs, processing results, uploading results or anything similar
 - Signature matching and ballot sorting equipment
 - Switches, routers or other network equipment – This includes normal networking equipment as well as any specialized systems such as Intrusion Detection Systems, Firewalls, Intrusion Prevention Systems or similar
4. Forensic images of all removable media (including, but not limited to USB thumb drives, external hard drives, backup tape cassettes, memory cards, PCMCIA cards, Compact Flash, CD/DVD or similar) used as part of the election process or to load software, configuration, or programming.
5. Forensics images of the firmware of any device associated with the election that does not have a hard drive; including any tooling required to extract that firmware, if applicable.
6. Forensic images of all SIM cards used for wireless 3G/4G LTE/5G communications.
7. Forensics on all machines utilized for absentee ballot processing to include:
 - All logs from the system
 - Backups of the system
 - Offsite cloud storage associated with the system
 - Media used to transfer data (USB drives, compact flash, external hard drives)
8. Logs from all routers, switches, firewalls, IDS, IPS or similar devices. This includes, but is not limited to:
 - Netflows (or equivalent)
 - DHCP logs
 - Access logs
 - VPN logs
 - PPP logs
 - RDP logs
 - Splunk logs

- Any remote administration tool logs

9. Logs from all computer systems, servers, desktops, laptops, or similar including but not limited that was used in the design, management, and running of the election:

- Windows Event logs
- Access logs
- Firewall logs
- IDS / IPS / Malware / Virus Scan Logs
- Database logs
- All logs generated from applications associated in any way with the election

10. Logs from all EMS Server(s), EMS Clients, tabulators, ballot marking devices, ballot on demand printers, scanners, voting systems, or other election equipment including, but not limited to:

- Error logs
- Access logs
- Debug output
- Audit logs
- Administrator logs

11. Election Log Files XML, EML, JSON, DVD and XSLT other election files and logs for:

- Tabulators
- Result pair resolution
- Result files
- Provisional votes
- RTM logs
- SQL database files and logs
- Signature checking & sorting machine

12. List of all IP addresses utilized at any location where election equipment was utilized during the entire election period. This includes the time from when the election equipment was ready to receive a cast ballot to when the certified results were officially published. This shall include, but is not limited to:

- IP addresses of any cellular modems utilized by voting equipment
- IP addresses of any routers utilized at any location where votes were cast, counted, tallied, or reported
- IP addresses of any dial-up connections utilized
- IP addresses of any computers utilized to process, send or upload election results

13. Access or control of ALL routers, tabulators or combinations thereof (some routers are inside the tabulator case) in order to gain access to all the system logs.

14. Election Settings:

- Ranked profiles and entire change history of audit trail logs
- Ranked contests and entire change history audit trail logs
- Rejected ballots report by reason code
- All configuration files utilized to control the election

15. Accounts and Tokens:

- Username & Passwords (Applications, Operation Systems, Routers, Switches, Firewalls, etc)
- File and/or Harddrive Encryption Passwords or keys (Bitlocker, Veracrypt, Etc)
- Security Tokens (iButton, Yubikey, SmartCard, Etc)

16. ES&S Express VoteXL Specific:

- All Paper Vote Summary Cards
- All USB Flash Drives

17. Voter Rolls:

- Database of voter rolls
- Forensic Image of computer/device used to work with voter rolls
- Copy of media device used to transfer voter rolls

18. Records required from the voting system- Daily and cumulative voter records for those who voted with sufficient definition to determine:

- Voter's name and Registered Voting address
- Address for correspondence (mailing address)
- D.O.B.
- Voter ID number
- How Voted (mail, in-person early, in person Election Day)
- Where Voted (if applicable)
- Date voted (if applicable)
- Party affiliation (if recorded)
- Ballot by mail Request Date
- Ballot by mail sent date
- Ballot by mail voted date (if applicable)
- Ballot cancelled date (if applicable)
- RAW, HTML, XHTML and SVG files (Ballot Images)

19. Access needed to physically and forensically examine all date and time-stamped paper ballots as required:

- Voter Tally Paper Rolls, Test Ballots, Ballot Test Matrix

20. Paper samples from all ballot paper utilized during the 2020 election cycle.

21. All ballots cast or attempted to cast during the 2020 General Election. This includes, but is not limited to:

- Mail in and absentee ballots
- Provisional Ballots
- Early Voting Ballots
- Accessibility Ballots
- Spoiled Ballots
- UOCAVA ballots
- Election Day Ballots

22. All request forms for mail ballots and absentee ballots.

23. All envelopes for mail in and absentee ballots.

24. All reports detailing all ballots that were rejected prior to election day and the process to contact the voter to cure the ballot.

25. All cartridges from all voting machines and scanners.

26. All affidavits for assistance.

27. All envelopes of requested ballots that were returned as undeliverable.

28. All training materials used to train County Employees including temporary employees, Judges of Election, Inspectors, Clerks, and all persons who staffed the satellite voting offices.
29. All duplicated ballots and all logs that would allow the duplicate to be compared to the original.
30. Chain of custody records and procedures for all ballots from the start of the election through the current date.
31. All pollbooks from all precincts, wards, and divisions.
32. All supplemental pollbooks from all precincts, wards and divisions.
33. A list of all voters who cast an absentee or mail ballot and voted on the machines at the polls on Election Day.
34. All contracts and agreements between the Philadelphia Commissioners Office and the City of Philadelphia Office of Innovation and Technology.
35. All contracts and agreements between the Philadelphia Commissioners Office and the City of Philadelphia Office of the Managing Director.
36. All contracts and agreements between the Philadelphia Commissioners Office and the City of Philadelphia Office of the Mayor including all Departments under the direction of the Mayor.
37. All contracts and agreements between any vendor or contractor that supplies voting equipment of any type, software utilized in the election process, ballot paper, election design support, election equipment support, or election support. This includes, but is not limited to contracts dealing with:
 - Ballot Marking Devices, Tabulators, Election Management Systems, or similar
 - Election Design Software, Tabulation Software, Voting Registration Software, Duplication Software, Adjudication Software, Signature Verification Software, or anything similar related to the election
 - Ballot Paper, Printing Services, Mailing Services, Scanning Services, Address Validation Services
 - Election Design Services, Election Equipment Repair, Election Equipment Service, Election Processing, or other Election support services
 - Internet service provider, cellular service provider
38. Timeline (1 month prior to the election to 1 month after the election) for each location that utilized a piece of election equipment that includes:
 - Who accessed the equipment (the organization they represent and their position in the organization), on what date, for what purpose, what electronic media was used, and what records were kept
 - Any tests that were performed during the access of the equipment (voters on election day are not to be included)
39. A complete end-to-end election setup for use in a laboratory:
 - This would include all the equipment necessary to simulate an election and recreate the precise scenarios of election day in 2020
 - Central Server, tabulators (high speed and normal), poll pads, etc.
 - This specifically includes all of the passwords, security tokens, physical keys, key fobs, etc., needed to use each piece of equipment
 - Instruction manuals on how to use the end-to-end setup
 - Duplicate copy of election tabulator bootable media for multiple selected locations
 - Ballots used in the locations selected

40. All precincts return sheets with the paper tapes:
 - Any return sheets that were unusable, needed to be recreated, or fixed in somehow should also be included with their notes (front and back)
41. Dates/times of the technicians/people of LAT testing that had access to election equipment.
42. Dates/times of software updates on election computers and servers.
43. Dates/times of certification of the equipment (servers, election computers, election hardware devices).
44. Details of all CTCL related activities, included but not limited to:
 - Equipment purchased by CTCL
 - Number and locations of drop boxes installed
 - List of resources CTCL had access to, including voter rolls or other data
45. Details and data surrounding the SURE system including:
 - A full copy of the database holding all records and change records in the SURE system
 - A copy of all logs showing all changes to the voter rolls as well as the username, name, IP address, or other details of the individual making the change
 - A list of individuals and organizations with access to the SURE system and any of its Application Programming Interfaces
 - Manuals and programmer documentation for interfacing with the SURE system
46. List of where the clerk stores all election equipment and data along with list of individuals that have access to these areas.
47. Information related to voting system design, architecture, and configuration.
48. Information pertaining to cybersecurity protocols and settings put into place.

Exhibit A-5

« Senators Stefano, Corman Honor

Employer Support for National

Guard

Op-Ed: Careful, Thoughtful

Investigation is Necessary to Restore

Faith in Our Elections »

Corman Issues Statement on Forensic Investigation of Recent Elections, Mastriano Obstruction

Posted on Aug 20, 2021

HARRISBURG – Senate President Pro Tempore Jake Corman (R-Bellefonte) issued the following statement today regarding the review of recent elections and some of the issues that have prevented an election audit in Pennsylvania thus far:

“It is deeply disappointing that Senator Mastriano has retreated from conducting a forensic investigation of the election in Pennsylvania, and it is discouraging to realize that he was only ever interested in politics and showmanship and not actually getting things done.

“Despite this setback, we remain committed to conducting a full investigatory audit of recent elections to improve our election system going forward. We need someone to lead this effort who is more interested in real results than grandstanding at rallies. For that reason, I am requesting that Senator Cris Dush – an Air Force veteran who has led numerous investigations in the military and headed the delegation in visiting the Arizona audit – take up this cause and initiate a thorough review of the election, starting with fighting back against the partisan attacks on our election system by the Wolf Administration.

"We remain committed to an open, honest review that will lead to positive changes to restore the public's faith in our elections."


CONTACT: [Jason Thompson](#)



Exhibit A-6



Pennsylvania Senate Majority Leader Jake Corman, R-Centre, in the Senate chambers before John Fetterman is sworn in as Pennsylvania Lieutenant Governor on Tuesday, Jan. 15, 2019, at the state Capitol in Harrisburg, Pa.

 Matt Rourke / AP Photo

AUGUST 23, 2021 | 4:10 PM

UPDATED: AUGUST 23, 2021 | 9:10 PM

Hearings in election 'investigation' to begin this week, Corman says

Marc Levy/The Associated Press

Sam Dunklau

(Harrisburg) — The top Republican in Pennsylvania's Senate said Monday that hearings will begin this week as he committed to carrying out a "full forensic investigation" of the state's 2020 presidential election.

Senate President Pro Tempore Jake Corman (R-Centre) said he has communicated with former President Donald Trump, whose baseless claims about election fraud have propelled loyalists to

[pursue audits, reviews or other examinations](#) <

<https://apnews.com/article/politics-donald-trump-arizona->

[election-2020-election-recounts-c08bdd5ef992dd77716ef1f983bbd43e](#)> of ballots and voting machines in battleground states where Democrat Joe Biden defeated him.

“I think he’s comfortable with where we’re heading and so we’re going to continue that work,” Corman said on the conservative Wendy Bell Radio program streamed online Monday.

Amid clashes over how to conduct it and how to pay for it, Corman on Friday removed the rank-and-file state senator, Doug Mastriano (R-Franklin), who had been the figurehead in the push for an Arizona-style audit of Pennsylvania’s 2020 presidential election. He then tapped Sen. Cris Dush (R-Cameron) to not only replace Mastriano, but to [take his place as chair < https://www.legis.state.pa.us/cfdocs/cteInfo/Index.cfm?Code=57&CteeBody=S](#)> of the obscure Senate Intergovernmental Operations Committee.

Sen. Cris Dush, tapped to replace Sen. Doug Mastriano, will begin holding hearings this week, Corman said. Dush and Mastriano [both traveled to Phoenix in June < https://apnews.com/article/donald-trump-arizona-election-2020-elections-election-recounts-0f822ded24fb3cdbb9894c175dffa91](#)> to see the audit there up close.

RELATED STORIES

- [Corman orders new senator in charge of 'election integrity' plan < https://www.witf.org/2021/08/20/corman-orders-new-senator-in-charge-of-election-integrity-plan/>](#)

[https://twitter.com/justin_sweitzer/status/1429905388049207306](#)> that could have been exploited.”

"We as the oversight body of elections have to ensure that people feel confident that elections were done fairly," Corman said on the radio program. "I don't think, I know they don't feel confident in that now, and we need to provide that stability moving forward and if our work leads to someone else taking that work into a court of law, and changing those results, then so be it."

A special Senate committee **already investigated the 2020 election.** [< https://www.pasenategop.com/blog/senate-special-committee-releases-report-on-election-reforms/>](https://www.pasenategop.com/blog/senate-special-committee-releases-report-on-election-reforms/) That effort focused on future contests and did not attempt to prove baseless allegations of voter fraud. After months of work, that body released a report suggesting a litany of election code changes that ultimately were vetoed by Governor Tom Wolf.

Penn State Harrisburg Assistant Professor of Public Policy and Administration Dan Mallinson said the GOP is using support for new election investigations as a tool to attract Trump supporters.

"I think Republicans are trying to figure out how to keep these voters engaged and keep them coming back," Mallinson said. "And so in the short term, the anger about losing the 2020 Election seems like something that may motivate those folks to come out."

That strategy, he said, is worrying not only because it might be unsustainable for Republicans in the long term, but because of how it can undermine the country's democratic underpinnings.

"If that's what you're going to continue to leverage, then you have to continue to leverage grievance and I feel like that just leads to a very dark place," Mallinson continued. "You're no longer debating real policy, but you're trying to fire people up with grievance."

Matt York / AP Photo

Maricopa County ballots cast in the 2020 general election are examined and recounted by contractors working for Florida-based company, Cyber Ninjas, Thursday, May 6, 2021 at Veterans Memorial Coliseum in Phoenix.

In recent days and months, Trump allies have held up Corman as an obstacle, even drawing Trump's wrath on Twitter in June, saying Corman "is fighting as though he were a Radical Left Democrat." Democrats, meanwhile, say Corman is too cowardly to stand up to right-wing conspiracy theories about the election.

One question Corman's office has been unable to answer is how to pay for an Arizona-style audit without private donations.

Senate GOP officials are concerned about the legality of funding the undertaking with private money, Corman's office said.

But in Arizona, Trump backers reported raising **more than \$5.7 million** < <https://apnews.com/article/entertainment-arizona-senate-elections-9b626b0fb2714b17279d832339d8a878>> for the widely discredited and partisan election audit sponsored by Senate Republicans there.

If Pennsylvania's Senate Republicans need money, they may already have it sitting around: the Republican-controlled Legislature has long sat on reserves of more than \$100 million, and the Senate alone last year reported \$66 million in its reserve account.

Another question is how an Arizona-style audit will stand up to legal challenges like the one hinted at by Attorney General Josh Shapiro and places like Philadelphia County. Corman seemed to acknowledge them in explaining how the Senate GOP might approach the effort.

"We have to make sure legally we're on the right spot to make sure we can absorb a challenge, which we will get," Corman said.

While Corman and some other Republican senators might avoid repeating Trump's baseless election claims, they continue to perpetuate the idea that Democrats cheated and blame Democrats — not Trump — for sowing doubt in the election.

They routinely distorted the actions of state judges and officials as "unconstitutional" or "illegal" in settling legal disputes and questions over Pennsylvania's fledgling mail-in voting law in the weeks before November's election.

On Monday, Corman repeatedly singled out Gov. Tom Wolf's former top elections official, at one point saying she "didn't allow" observers to see the counting of absentee ballots in Philadelphia.

However, the Trump campaign's own court complaint, witnesses and lawyers acknowledged that its watchers were able to see the processing of mail-in ballots in Philadelphia, which was also livestreamed on video.

The Trump campaign's complaint was that Philadelphia election officials did not allow their watchers close enough to election

workers to see writing on the ballot envelopes. There is, however, no such requirement in state law, courts found.

Still, Corman seemed to acknowledge some criticism of how Arizona Senate Republicans had selected contractors.

They selected a cybersecurity firm that had no prior experience in elections, never submitted a formal bid for the work and had an owner who had tweeted support for conspiracy theories claiming Biden's victory was illegitimate.

"We want credibility to what we are doing, and I think it's important that we get people involved that don't have ties to anybody, right? That are professional, that will do the job so that we can stand behind the results," Corman said.

Pa. Republican lawmakers and the U.S. Capitol attack

As part of WITF's commitment to standing with facts, and because the Jan. 6 attack on the U.S. Capitol was an attempt to overthrow representative democracy in America, we are marking elected officials' connections to the insurrection. *Read more about this commitment <*

<https://www.witf.org/2021/01/28/countering-the-big-lie-witf-newsrooms-coverage-will-connect-lawmakers-with-their-election-fraud-actions/>> .

Sens. Corman, Mastriano and Dush are among the several dozen state lawmakers who signed a letter asking Congress to delay certifying Pennsylvania's 2020 election result, despite no evidence that would call that result into question.

This supported the election-fraud lie, which led to the attack on the Capitol.

TAGS

election 2020

election audit

Jake Corman

CATEGORIES

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Support for WITF is provided by:

Exhibit A-7

Thursday, September 30, 2021

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Top Pa. GOP lawmaker says hearings will begin this week to start 'forensic investigation' of 2020 election

Senate President Pro Tempore Jake Corman (R., Centre) said he's spoken with former President Donald Trump about the effort.



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Senate President Pro Tempore Jake Corman (R., Centre) said the state Senate would begin hearings th ... [Read more](#)
Commonwealth Media Services

by Andrew Seidman
Updated Aug 24, 2021

Almost 10 months after the presidential election, the Pennsylvania Senate will open hearings this week as it launches a "forensic investigation," the top Republican senator said Monday.

Thursday, September 30, 2021

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that's what we need to do," he said in [an interview with the pro-Trump radio personality Wendy Bell](#). "That's what we're going to do."

Corman said he has spoken with former President Donald Trump about the issue: "I think he's comfortable where we're heading."

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The development came days after [Corman ousted fellow GOP Sen. Doug Mastriano](#) (R., Franklin) as the leader in Harrisburg of the push for an Arizona-style "audit" of the 2020 election, saying Mastriano was more interested in "grandstanding" than in getting results. Corman installed Sen. Cris Dush (R., Jefferson) as the new chairman of the committee that will lead the review.

Thursday, September 30, 2021

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victory to plunging full steam ahead into
baseless election fraud claims.

Corman is up for reelection next year, and perceived disloyalty to Trump could invite a primary challenge. In late 2020, Corman announced he was forming a Special Committee on Election Integrity and Reform. It held hearings this year and [recommended changes to state law](#). Two other committees in the legislature also reviewed Pennsylvania's election system this year.

That hasn't stopped Trump and some of his most vocal supporters — including Mastriano, a likely candidate for governor next year — from demanding an “audit.”

It's not clear how the Senate's new review

Thursday, September 30, 2021

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the end product would be.

Each Pennsylvania county already conducted an audit of the election results before they were certified last year, as required by law. All but four of 67 also participated in a “risk-limiting” audit, a gold-standard method of confirming the reported results against a random sample of ballots.

» ***READ MORE: A Pa. town's 'election integrity law' shows how Trump's lies can hijack local politics and government***

The renewed push for an investigation comes as officials in Arizona are bracing for the release of a report that's expected to detail the findings of a monthslong partisan inquiry into the election in that state.

The Arizona “forensic investigation” was led

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QAnon conspiracy theory, which centers on the baseless idea that prominent Democrats and other elites run a child sex-trafficking ring and worship Satan.

With the Arizona review wrapping up, Pennsylvania may now become ground zero for the election denial movement. Corman said he hopes the Arizona findings “will be a springboard for us” and “make it harder for courts to shoot us down.”

“We are committed to going wherever this takes us,” he said. “There’s no ceiling on this.”

He said he’s spoken with the Republican leaders of the Arizona Senate. Asked by Bell, the radio host, what he learned from those conversations, Corman said: “It’s important we get people involved that don’t have ties to anybody, that are professional, that will do the job, so that we can stand behind the results.”

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reiterated criticism of then-Secretary of State Kathy Boockvar's guidance to county elections officials.

"I don't necessarily have faith in the results," Corman said in the interview. "I think there were many problems in our election that we need to get to the bottom of."

He said he's "heard stories" about fraud such as dead people voting — a baseless conspiracy theory — which he cited as supporting the need for a review of the election.

"We need to get the voter rolls, we need to get the ballots — things of that nature — so we can match them up to see: who voted, where were they living, were they alive?"

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[by Fulton County](#) against the won

administration, challenging the secretary of state's decision to decertify its voting machines. The administration took that step after the county allowed a third-party

vendor to access the machines earlier this year as part of an "audit."

"We are joining that suit so we can fight this out first, to make sure we can get access to those machines," Corman said.

Not everyone in the Senate GOP is on board. State Sen. Gene Yaw (R., Lycoming) said the underlying rationale for many who support an "audit" is that they believe Trump "will somehow be reinstated as President."

"Unless there is a coup, which is not going to happen in the United States, the 2020 election is over," [Yaw wrote on his website last week](#). "Biden is the President. An audit is not going to change that fact irrespective of the outcome."

And Sen. Dan Laughlin (R., Erie), a moderate who's [considering running for governor](#), said last month that the spectacle of an audit "will only further the paranoid [atmospherics](#)" over the 2020 election.

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Andrew Seidman

I cover Pennsylvania politics and political culture, including the state's major political figures, the Philly suburbs, and upcoming elections.

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Exhibit A-8

« **IRRC Approves Governor's Carbon Tax**

Regulation

**Senate Intergovernmental Operations
Committee Plans First Public Hearing of
Election Investigation »**

Senate Intergovernmental Operations Committee Invites Public to Submit Sworn Testimony in Election Investigation

Posted on Sep 02, 2021

HARRISBURG – The Senate Intergovernmental Operations Committee has created a special webpage for Pennsylvania residents to submit sworn testimony regarding problems they have personally experienced with the state's election system, according to Committee Chair Senator Cris Dush (R-Jefferson).

As part of the committee's comprehensive election integrity investigation, Dush is encouraging voters to come forward if they have witnessed voter irregularities or other election improprieties firsthand.

The information will help lawmakers develop potential improvements to state law to bolster election security. Pennsylvanians can share their stories and contact information at:

<https://intergovernmental.pasenategop.com/electioninvestigation/>.

Dush noted that testimony is only being accepted from Pennsylvania residents, and the infractions must have been witnessed in person or affected the state resident personally. In addition, members of the public should submit testimony on the webpage only if they are comfortable signing an affidavit and potentially testifying under oath at a Senate committee hearing under penalty of perjury.

In addition, Dush said his committee is in the process of scheduling a hearing to be held with the Department of State to examine the impact of last-second guidance sent

to counties before the 2020 General Election.

The new webpage and upcoming hearing are part of a much broader investigation into the 2020 General Election and 2021 Primary Election. Dush announced today that the committee plans to hold public hearings, create a publicly accessible webpage with information and updates about the investigation, and request documents from counties and the Department of State to conduct a comprehensive election investigation – including potentially using the committee’s subpoena powers.

CONTACT: **Jason Thompson**



Exhibit A-9

[Home](#) / [Session Information](#) / [Committees](#) / [Senate Intergovernmental Operations](#) / [Committee Meetings](#)

Senate Committee Meetings Intergovernmental Operations

RSS Available 

Session 2021 - 2022 ▾

INTERGOVERNMENTAL OPERATIONS ▾

Thursday, March 31, 2022

INTERGOVERNMENTAL OPERATIONS

10:00 AM - (public hearing on ballot drop boxes)

Hearing Room 1
North Office Bldg.
(LIVE STREAMED)

 MEETING DETAILS

Wednesday, September 15, 2021

INTERGOVERNMENTAL OPERATIONS

9:30 AM - (to consider a motion to authorize the issuance of subpoenas)

Room 8E-B
East Wing
(LIVE STREAMED)

 MEETING DETAILS

Thursday, September 9, 2021

INTERGOVERNMENTAL OPERATIONS

1:00 PM - (public hearing on PA Department of State's last minute guidance to counties regarding the 2020 general election)

Hearing Room 1
North Office Bldg.
(LIVE STREAMED)

 MEETING DETAILS

Tuesday, April 27, 2021

INTERGOVERNMENTAL OPERATIONS

11:00 AM - (to consider Senate Bills No. [28](#), [32](#), [126](#), [426](#), [520](#) and [533](#))

Senate Chamber
(LIVE STREAMED)

 MEETING DETAILS

Exhibit A-10

« Republican Leaders Request More

Detailed COVID-19 Data from Wolf

Administration

Senate President Pro Tempore

Corman Responds to Governor Wolf's

Recall Request, False Accusations »

Corman Calls for Subpoenas in Election Investigation Next Week

Posted on Sep 10, 2021

HARRISBURG – Senate President Pro Tempore Jake Corman (R-Bellefonte) issued the following statement today regarding the beginning of the investigation into our election system and the refusal of the Department of State to participate:

“As predicted, the Department of State failed to appear yesterday to provide answers to the lingering questions about their role in creating doubts about the fairness of the 2020 General Election. The dereliction of duty by Wolf Administration officials continues a troubling pattern of refusing to take accountability for weaponizing an agency that is supposed to be non-partisan.

“Yesterday's hearing was an important first step in the process of investigating every aspect of our election system, but it will not be the last. Pennsylvanians deserve answers about the Wolf Administration's mishandling of our election. I am calling on the Senate Intergovernmental Operations Committee to meet on Monday, September 13 to vote on issuing subpoenas for information and testimony from the Department of State as well as the SURE system, and to take other steps necessary to get access to ballots and other voting materials to begin a full forensic audit of the 2020 General Election.

“Senator Dush’s office will have my full cooperation in achieving these goals.”

CONTACT: [Jason Thompson](#)



Exhibit A-11

« **Senator Dush Urges Public to Submit**

Sworn Testimony in Election

Investigation by October 1

Senate Passes Measures to Help

Pennsylvania Farmers Move Goods »

Dush Responds to Attorney General's Lawsuit, Arizona Audit Report

Posted on Sep 24, 2021

HARRISBURG – Senator Cris Dush (R-Jefferson) issued the following statement today in reaction to the Attorney General's lawsuit to prevent a review of recent elections, as well as a reaction to the release of Arizona's election audit report:

“As a Commonwealth, we play no greater role in bringing strength to our nation than by celebrating our state's independence through our voting process. Protecting the integrity of Pennsylvanians' election system is not only critical to the overall function of our country, but also secures Pennsylvania's unique role as a state within the fabric of our nation by allowing Pennsylvanians to express our state's culture, demographic, and geographic diversity through our voting process. It is for these reasons that Pennsylvania and other states must have certainty in the oversight and integrity of their state's voting system.

“It is unfathomable to think Attorney General Shapiro showed little to no concern when the Democrat Auditor General requested similar information about voters in 2019 as part of his review of the SURE system, but he is pursuing litigation now. The purpose of our review is to find the flaws in the system and identify how to address them, and we cannot do that properly without access to the information we subpoenaed.”

CONTACT: **Jason Thompson**



Exhibit A-12

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Transcription of Video:

<https://www.fox43.com/article/news/politics/fox43-capitol-beat/election-investigation-pennsylvania-arizona-audit-results/521-07d561bd-0e19-4ed8-9c82-31637c04fa5c>

FOX 43 Video: PA Election Investigation to Continue Despite Arizona Audit Results, Chairman Tells FOX43

Author: Matt Maisel (FOX43)

Published: 2:13 PM EDT September 28, 2021

Updated 5:02 AM EDT September 29, 2021

1 MR. MAISEL: The results in Arizona,
2 does that change where you guys are going
3 with this at all?

4 SENATOR DUSH: Well, no, because we're -
5 - from the beginning, we were planning on
6 doing a Pennsylvania investigation. This
7 isn't -- the only thing that I'm doing is
8 going where the evidence goes, and we're
9 digging into the stuff that was brought out
10 during Gene DePasquale's investigation, when
11 -- in his audit, when he was the Auditor
12 General. And the -- the stuff that was
13 brought out during the two hearings that we
14 had before. So, --

15 MR. MAISEL: Do you know how much this
16 is going to cost taxpayers yet?

17 SENATOR DUSH: We don't yet, and what
18 we're doing is, we're making sure once we're
19 able to sign the contracts, that the
20 contracts are going to be done as a Master
21 of Services agreement, in a way that we can
22 adjust it. So that, if we're going too far,
23 we can just stop at a certain level, and
24 maybe put it off. So, --

25 MR. MAISEL: How long do you expect this

1 to take?

2 SENATOR DUSH: Oh, it's going to take
3 months. I don't know, we're just going to go
4 where the evidence leads.

5 MR. MAISEL: Do you have any evidence
6 thus far?

7 SENATOR DUSH: I'm not willing to
8 comment on that yet.

9 MR. MAISEL: Why not?

10 SENATOR DUSH: It's an investigation,
11 and publicity destroys evidence.

12 MR. MAISEL: Your response to the
13 lawsuits that have been filed, regarding the
14 private information?

15 SENATOR DUSH: I'm going after the same
16 stuff that Gene DePasquale was going after,
17 the same information that the Department of
18 State gave access to third parties to when
19 they --

20 MR. MAISEL: I guess what I'm wondering,
21 are --

22 SENATOR DUSH: -- when they were putting
23 information into the system. Their arguments
24 are spacious.

25 MR. MAISEL: Are having people's Social

1 Security numbers, and Driver ID numbers,
2 necessary for this?

3 SENATOR DUSH: Absolutely.

4 MR. MAISEL: Why?

5 SENATOR DUSH: That's the only way we
6 can verify that the work that was done by
7 the third-party folks was done with
8 fidelity.

9 MR. MAISEL: Right. Thank you very much,
10 Senator.

11 SENATOR DUSH: You're welcome.

12 (End of recording.)

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CERTIFICATE

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I, Alexandria Brobst, Transcriptionist,
do hereby certify that I was authorized to
and did listen to and transcribe the
foregoing recorded proceedings and that the
transcript is a true record to the best of
my professional ability.

Dated this 11th day of October, 2021.

Alexandria Brobst

Alexandria Brobst

Exhibit A-13

LEARN MORE ABOUT SUBSCRIPTIONS

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Live updates



Allentown voters will decide
whether to remove English
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OPINION

Your View by Republican leading Pennsylvania election audit: A meteor strike is more likely than a breach of your election info

By **CRIS DUSH**

THE MORNING CALL | OCT 13, 2021



Since lawmakers voted on Sept. 15 to subpoena information from the state's voter registration system, many Pennsylvania Democratic leaders have made wild accusations about what will happen to this data when it is eventually turned over by the Department of State.

Attorney General Josh Shapiro claims the subpoena will compromise the privacy rights of Pennsylvanians. Senate Democrats said private voting information would

be released and personal information would be exposed.

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The reality? None of this could be further from the truth.



Cris Dush (Matt Rourke / AP)



County government workers pre-canvas mail-in and absentee ballots in Scranton on Tuesday, Nov. 3, 2020.

The politicians who are telling these tall tales know there is a better chance of a Pennsylvanian being struck by a meteor than having their personal information compromised by our election investigation. Unfortunately, many members of the media have bought into their false narrative and created doubts in the minds of good, honest citizens.

The reason why the Senate Intergovernmental Operations Committee subpoenaed this information is to cross match and verify whether or not our voter registration system has duplicate voters, dead voters and/or illegal voters.

Former Auditor General Eugene DePasquale — a Democrat — asked for the same information for the same purpose in 2019, when he documented major concerns with the Statewide Uniform Registry of Electors system and the existence of **tens of thousands of problem records in the system.**

Do you remember the outcry from Attorney General Shapiro, Pennsylvania Senate Democrats, or the media about privacy concerns related to this request in 2019?

Me neither.

What you may not know is this same crowd prevented DePasquale from getting the records, perhaps after realizing what he was going to find out. Will Gov. Wolf and his administration ever let anyone outside his control check on registration integrity?

The truth is the legislature has an impeccable record of protecting the personal information of Pennsylvanians.

Every time a constituent has an issue with the Pennsylvania Department of Transportation, they share their driver's license number with us. Every time a constituent has an issue with the unemployment compensation system, they share their Social Security information with us.

How many times has this information been compromised by Senate Republicans?

Zero.

The idea that this information will be jeopardized is simply not realistic. Our history and our track record contradicts those imaginary concerns and improbable hypotheticals.

I have conducted investigations for a significant part of my adult life, both in the military and the private sector. I have yet to allow a single piece of sensitive information to fall into the wrong hands. I will not allow that streak to end now.

Senate Republicans pledged to take every step necessary to protect this information. This includes insisting on contract language with potential vendors to ensure information security; forcing any vendor personnel who accesses this

information to sign nondisclosure agreements under penalty of law; and making information security a key consideration as we decide which vendor to select.

The committee will do everything in its power to ensure the vendor that handles this information will keep private information just that — private.

There is a popular saying that it is easier to fool someone than to convince them they have been fooled. That is exactly what Attorney General Shapiro and Senate Democrats are banking on.

My message to Pennsylvanians is this: Don't allow yourself to be fooled. Don't buy into the disingenuous propaganda of politicians who are actively trying to shield our election system from transparency.

Trust me to do exactly what I have been pledging since I took over this effort more than a month ago — to conduct an honest, responsible, secure investigation of our elections, with fidelity.

LATEST OPINION

Readers React: Story's description trivializes armed robbery

Readers React: Too many beliefs are based on hearsay

Readers React: Oil producers care about profits, not U.S. consumers

Cris Dush is a Republican member of the Pennsylvania Senate serving the 25th District.

Topics: [Elections](#), [Pennsylvania, 2020](#), [presidential contest](#), [Pennsylvania Senate Intergovernmental Operations Committee](#), [subpoenas](#), [voters' information](#), [Social Security numbers](#)

Exhibit A-14

https://www.thecourierexpress.com/tri_county_sunday/dush-issues-statement-on-inclusion-of-personal-information-in-subpoena/article_a2ba51b0-405a-5284-80fc-69ecc0e4a972.html

Dush issues statement on inclusion of personal information in subpoena

Sep 17, 2021



DUSH

HARRISBURG – Senate Intergovernmental Operations Committee Chairman Senator Cris Dush, R-Brookville, issued the following statement Friday regarding the inclusion of personal identifying information in subpoenas issued to the Pennsylvania Department of State this week:

“I have been receiving numerous inquiries regarding the personal identifying information requested in the subpoenas that the Intergovernmental Operations Committee issued to the Department of State on Wednesday. Most of this information is available for \$20 at your local county board of elections offices.

“I understand why folks are hesitant or concerned in light of the way this issue has been sensationalized by the media. However, the reason for requesting the last four digits of a voter’s Social Security number or their driver License is because it is the best way to determine the accuracy of voter rolls and make sure there are not duplicate, doctored or deceased voters on these rolls. This is the exact reason why the Department of State has the information in the first place.

“Committee staff and I remain committed to using this information only to conduct a thorough investigation and to create legislation to fix the problems we identify. It is the 21st century, and given the technology used in today’s world, poorly kept voter rolls should be a thing of the past.”

Exhibit A-15

« **Senator Martin’s Hearing on COVID in**

Schools Reveals Ongoing Frustration

with State Agencies

Local Elections Officials, Stakeholders

Testify on Bipartisan Election Reform

Bill »

Senator Dush Urges Public to Submit Sworn Testimony in Election Investigation by October 1

Posted on Sep 23, 2021

HARRISBURG – Senate Intergovernmental Operations Committee Chairman Senator Cris Dush (R-Jefferson) is urging Pennsylvanians to submit sworn testimony by October 1 regarding problems they have personally experienced with the state’s election system.

Voters should submit information only if they experienced irregularities or other election improprieties firsthand. State residents can share their stories and contact information at

<https://intergovernmental.pasenategop.com/electioninvestigation/>.

The information will help lawmakers develop potential improvements to state law to bolster election security. The October 1 date matches the deadline for the Department of State to respond to subpoenas issued by the committee last week.

Dush noted that testimony is only being accepted from Pennsylvania residents, and the infractions must have been witnessed in person or affected the state resident personally. In addition, members of the public should submit testimony on the webpage only if they are comfortable signing an affidavit and potentially testifying under oath at a Senate committee hearing under penalty of perjury.

More information about the election investigation is available at www.paelectioninvestigation.com.

CONTACT: [Jason Thompson](#)



Exhibit A-16

ENVOY SAGE, LLC

Ms. Clark
General Counsel, Senate Republican Caucus
350 Main Capitol
Harrisburg, PA 17120

18 November 2021

Dear Ms. Clark,

As I am aware, there are a number of provisions in the Master Services Agreement between the parties which speak to the requirement that we comply with various industry standards in performing our work, including 3.9, 4.6, 4.8, 4.9, 26.1.14, as well as a number of provisions that speak to the requirement that services be provided "professionally," including but not necessarily limited to 3.3, 3.4, 4.2, 4.3, 4.5, and 4.8. With specific regard to information security matters, Envoy Sage, LLC follows Industry Best Practices for Information Security, Handling and Disposal.

Our company's information security policies, standards, and procedures adhere to, or are more rigorous than, guidance from the National Institute of Standards and Technology Cybersecurity Framework (NIST CSF) [Dept of Commerce], the SANS Institute, and, where applicable, the Multi-State Information Sharing & Analysis Center (MS-ISAC) [Dept of Homeland Security]. Envoy Sage employs proven cyber security tools to protect data, private information, and identity verification. Our tools use military-grade encryption (256-bit AES), and provide users with two-factor authentication (2FA) as well as biometric logins.

Sincerely,

Steven R. Lahr
Steven R. Lahr (Nov 18, 2021 18:59 EST)

Steven R. Lahr
President



4409 Crews Ct
Port Charlotte, FL
33952

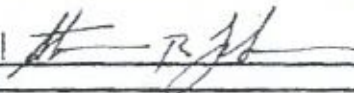
PHONE 202.379.3045
FAX 202.280.2717
EMAIL Contact@envoysage.com
WEBSITE Envoysage.com

SERVICE PURCHASE CONTRACT

ISSUING MEMBER/OFFICER & ADDRESS		CONTRACTOR NAME & ADDRESS		Show This Contract Number on Invoices		
Senator Kim Ward 292 Main Capitol Building Harrisburg, PA 17120		Envoy Sage, LLC 4409 Crews Ct Port Charlotte, FL 33962		SP# <u>3921111601A</u>		
Contact Person: Crystal Clark Phone: 717-787-6259 Fax: 717-772-3146		Contact Person: Steven R. Lahr Phone: 202-379-3045 Fax: 202-280-2717		Funding Source: CPI APP 41 30219		
EFFECTIVE DATE: 11/18/2021	EXPIRATION DATE: 05/18/2022					
SERVICES SPECIFIED (Describe and list terms & conditions. Use and reference attachments, if necessary)				Quantity	Unit Price	Total Price
Specific services to be performed are set forth in Attachment A, which shall be performed in accordance with the terms and conditions set forth in the Master Services Agreement attached hereto as Attachment B. Pricing for work pursuant to this SPC is set forth in Attachment C hereto.						
				TOTAL (if applicable)		\$270,250.00

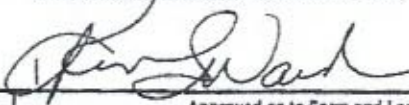
In compliance with the contract terms, conditions, and specifications, the undersigned, on behalf of the Contractor, which intends to be legally bound hereby, offers and agrees, to provide the specified services at the price(s) set forth above at the time(s) and point(s) specified. In addition to this document additional terms and conditions may be referenced and made a part hereof as attachments.

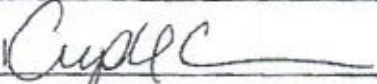
▼ Contractor Signatures (In Ink) ▼

President / Vice President / Manager / Partner / Owner (Sign below, print name, and circle title)	Date	Corporate Secretary / Treasurer (Sign below, print name, and circle title)	Date
	11/18/2021		

▼ Senate of Pennsylvania Approvals ▼

Approved as to Legislative Purpose

Issuing Member/Officer Or Designee (sign below & print name)	Date
	11/19/21

Approved as to Fiscal Responsibility & Availability of Funds	Approved as to Form and Legality
Chief Clerk Or Designee (sign below & print name)	Senate Attorney (sign below & print name)
Date	Date
Donette M. DiMascio 11/19/2021	 11/19/21

Print and sign two originals -- Contractor Senate

ATTACHMENT A

1. Document analysis for the subpoena (issued 15 September 2021) in support of legislation, as necessary, pertaining to the current election code and the future SURE system.
 - a. Conduct analysis of all communications between the Department of State and local governments/individuals to include training materials. (Subpoenaed Elements 1 – 3)
 - i. Produce a summary of the analysis
 - ii. Produce a recommendation of follow-on actions with justifications
 - iii. Conduct a briefing(s) of summary and recommendations
 - b. Conduct basic analysis of all voter lists for the May 2021 primary election. (Subpoenaed Elements 4,10 – 13, 15)
 - i. Produce a summary of the analysis
 - ii. Produce a recommendation of follow-on actions with justifications
 - iii. Conduct a briefing(s) of summary and recommendations
 - c. Conduct basic analysis of all voter lists for the November 2020 general election. (Subpoenaed Elements 5 – 9, 15)
 - i. Produce a summary of the analysis
 - ii. Produce a recommendation of follow-on actions with justifications
 - iii. Conduct a briefing(s) of summary and recommendations
 - d. Conduct detailed analysis of the complete list of all changes to voter records made between May 31, 2020 and May 31, 2021. (Subpoenaed Elements 14,15)
 - i. Produce a summary of the analysis
 - ii. Produce a recommendation of follow-on actions with justifications
 - iii. Conduct a briefing(s) of summary and recommendations
 - e. Conduct analysis all reports of audits and/or reviews of the SURE system conducted by or for the Department of State between 2018 and the present, including, but not limited to, any audits conducted under 25 Pa.C.S. 1803(a). Conduct analysis of the annual reports submitted to the Department of State pursuant to 4 PA Code 183.17. (Subpoenaed Elements 16 - 17)
 - i. Produce a summary of the analysis
 - ii. Produce a recommendation of follow-on actions with justifications
 - iii. Conduct a briefing(s) of summary and recommendations
2. Provide consultation and advisory activities in support of the Intergovernmental Operations Committee investigation into election integrity to aid in the development of legislation, as necessary, pertaining to the current election code and the future SURE system.
 - a. These activities are to aid in the development of legislation, as necessary, of the current system election code and the future SURE system.
 - b. Activities directed, to include, but not limited to general investigative execution and analysis.

- c. Activities directed, to include, but not limited to support all manner of legislation development to include such items as (policy development & hearing design).
3. Provide multi-faceted general communications services to communicate to people both externally and internally to the Senate. This includes, but is not limited to, consultation, format/channel recommendations analysis, and communicating directly to individuals/groups as approved by the client.
4. Conduct Analysis of the submissions to the Intergovernmental Operations Committee webpage and for election affidavits submitted to the Committee to aid in the development of legislation, as necessary, pertaining to the current election code and the future SURE system.
 - a. Webpage submissions
 - i. Screen approximately 700 emails.
 - ii. Conduct analysis of emails of interest. Approximately 125 emails.
 - iii. Produce a summary of the analysis
 - iv. Produce a recommendation of follow-on actions with justifications
 - v. Conduct a briefing(s) of summary and recommendations
 - b. Affidavits Submitted
 - i. Conduct basic analysis of approximately 100 affidavits.
 - ii. Produce a summary of the analysis
 - iii. Produce a recommendation of follow-on actions with justifications
 - iv. Conduct a briefing(s) of summary and recommendations
5. Conduct analysis of other election integrity initiatives across the nation to aid in the development of legislation, as necessary, pertaining to the current election code and the future SURE system.
 - a. Produce a summary of the analysis
 - b. Produce a recommendation of follow-on actions with justifications
 - c. Conduct a briefing of summary and recommendations

Attachment B
Master Services Agreement
Contract Reference Number: 3921111601A

This Master Services Agreement, herein referred to as the "Agreement," made and entered into as of the _____ of November, 2021, by and between:

the Pennsylvania Senate Republican Caucus, herein referred to as the "Client."

-AND-

Envoy Sage, LLC, a Limited Liability Corporation lawfully incorporated by and operating under the laws of Iowa, and operating in Pennsylvania as a qualified Limited Liability Corporation whose principal place of business is located at 1715 Central Ave, Dubuque, Iowa, herein referred to as the "Vendor."

In this agreement, Client and Vendor will be jointly referred to as the "Parties."

WITNESSETH THAT:

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions set forth in this Agreement, and operating under the jurisdiction of Pennsylvania, the Parties agree as follows:

Performance Work Statement

1. Description of Services (Overview)
 - 1.1. The Vendor shall serve as prime contractor to provide consultation, advisory services, and analysis regarding the conduct of an investigation by the Client into the 2020 General and 2021 Primary Elections in the Commonwealth of Pennsylvania.

2. Background.
 - 2.1. The Client has an urgent and compelling requirement to investigate the conduct of the 2020 General and 2021 Primary Elections to aid in the development of legislation, as necessary.
 - 2.2. The Client has the lawful authority and charter to conduct these investigations, such being derived from its functional role within the Pennsylvania General Assembly.

3. General Performance Objectives.

- 3.1. Provide subject matter expertise regarding election systems and election integrity legislation.
- 3.2. Conduct analysis of pertinent election information that is currently available and/or may become available during the term of this Agreement.
- 3.3. Conduct professional investigations and analysis as may be directed by the Client through individual Service Purchase Contracts.
- 3.4. Deliver professional consultation and advisory services to the Client regarding preliminary research, investigation management, and interpretation of findings.
- 3.5. Conduct thorough and complete analysis of information and data discovered during investigation.
- 3.6. Provide analysis of election audit reports conducted in other U.S. States.
- 3.7. Identify potential additional courses of investigative action.
- 3.8. Deliver consultation and advisory services regarding potential further subjects of investigation related to the 2020 General and 2021 Primary Elections, and investigation management needs associated therewith.
- 3.9. Any information or evidence collected as a result of investigation shall be collected, maintained, and stored (escrowed) following industry best practices for Chain of Custody pursuant to federal law, including, but not limited to state and federal Rules of Evidence, and state and federal election security laws.
- 3.10. Deliver findings in a timely and professional manner. This may include written reports, briefing slides, oral briefings, video conferences, and testimony.

4. Scope.

- 4.1. This Agreement is designed to assist the Client in its analysis of information provided as part of the Client's investigation into the conduct of the 2020 General and 2021 Primary Elections in the Commonwealth of Pennsylvania. Additionally, the purpose of this Agreement is to advise the Client regarding potential legislation associated with that investigation. The intent is to provide the Client with accurate, reliable, and effective consultative and advisory services.
- 4.2. The goal of the Agreement is to deliver a highly professional, fact-based, apolitical investigation for the people of the Commonwealth of Pennsylvania.
- 4.3. This is an urgent and compelling requirement. The Vendor shall operate accordingly. The Vendor shall execute requirements with appropriate speed, without sacrificing quality and professionalism. The Vendor shall deliver professional, unbiased, and discreet services from all personnel and subcontractors.
- 4.4. The investigation effort is not intended to be a media/marketing event for the Vendor and/or the Client, and the Agreement may be terminated for such activity.
- 4.5. All investigative activity and analytics shall be conducted in a highly professional manner and shall be fair and unbiased.

- 4.6. All investigative activity and analytics shall be conducted using current industry best practices, technology, policies and procedures, and using the utmost care and skill, including, but not necessarily limited to, the standards as set forth by the U.S. Election Assistance Commission, the standards set forth in "Forensic Examination of Digital Evidence: A Guide for Law Enforcement" (published by the United States Department of Justice, Office of Justice Programs, Institute of Justice), and "Searching and Seizing Computers and Obtaining Electronic Evidence in Criminal Investigations" (published by the Office of Legal Education Executive Office for United States Attorneys).
 - 4.7. Perform all work under this Agreement using personnel that have the necessary skills, training, experience, knowledge, qualifications, and resources to provide and perform the services in accordance with the Agreement.
 - 4.8. Render such services in a prompt, professional, diligent and workmanlike manner, consistent with industry standards applicable to the performance of the services and using the utmost care and skill.
 - 4.9. This is a unique requirement. The Vendor shall react accordingly, and deliver the most technically advanced solutions, which are appropriate for the job. This shall be overlaid with industry proven procedures and best practices for this manner of investigation.
5. Vendor Responsibility.
- 5.1. The Vendor shall be solely responsible for conducting and managing all aspects of the work performed pursuant to this Agreement. The Vendor will be responsible for managing the day-to-day activities including but not limited to: hiring, managing, terminating and paying the Subcontractors and Participants. All Subcontractors and Participants must be approved in advance by the Client.
 - 5.1.1. Upon request of the Client, the Vendor must provide the Client with an unredacted copy of any subcontract between the Vendor and the subcontractor.
 - 5.1.2. The existence of any subcontract shall not change the obligations of the Vendor to the Client under this Agreement.
 - 5.1.3. The Vendor shall be free from political associations, and shall not have any existing business relationships with the Commonwealth of Pennsylvania for complete independence and transparency.
 - 5.1.3.1. "Political association" is defined as active support of a political party or candidate by the Vendor, Vendor's agents, Vendor's subcontractors and/or Vendor's employees.
 - 5.1.3.2. "Active support" is defined as soliciting or making contributions to a candidate, candidate's committee, or a committee of a political party, attending political meetings and rallies, and/or making speeches on behalf of a candidate.
 - 5.1.3.3. "Candidate" shall include any current candidate for office, or any candidate who appeared on either the Primary or General Election ballots in 2020 or 2021 in Pennsylvania.
 - 5.1.4. The Vendor shall not be influenced, in any way that may affect the quality of work and independence of the vendor in performing work under this Agreement,

by any individual or entity, including, but not limited to, state government leaders and legislators, current and former federal government officials and employees, political parties, the press, Pennsylvania voters, and/or any other interested parties.

- 5.1.5. The Vendor shall be responsible for a detailed audit trail of all costs associated with the investigation, maintaining the documentation, and the delivery and presentation of the reports.
 - 5.1.6. The Vendor shall communicate regarding matters related to the work being performed under this Agreement only with individuals designated by the Client, or as otherwise approved by the Client. The Client shall expeditiously resolve any legislative, judicial, or governmental issues so the investigation can be run in an effective and efficient manner. Both Parties shall rapidly collaborate to resolve other issues impacting the investigation.
 - 5.1.7. The Vendor shall prioritize the hiring and staffing with Subcontractors and Participants who have election work experience when possible.
6. Period of Performance.
 - 6.1. The Period of Performance is Six Months from the date of Award, with one additional optional six month period of performance which may be exercised at the discretion of the Client per an Addendum to the Service Purchase Contract.
 - 6.2. Prohibition prior to effective date. No employee or official of the Client has the authority to verbally direct the commencement of any service or delivery of any materials under this Agreement prior to the effective date of the Agreement. The Vendor hereby waives any claim or cause of action for any service performed prior to the effective date of this Agreement.
 7. Deliverables.
 - 7.1 Deliverables will be set forth in individual Service Purchase Contracts between the Client and Vendor.
 - 7.2. The Vendor shall, upon request from the Client, orally brief the Client on any deliverable with briefing slides. Additionally, the Vendor shall be prepared to brief in person, via telephone, video teleconference, and shall also be prepared to deliver testimony as directed by the Client.
 - 7.3. All deliverables, to include reports, findings, assessments, and data collected shall be provided to, and become property of the Client.
 8. Force Majeure and Notice of Delays.
 - 8.1. Neither party will incur any liability to the other if its performance of any obligation under this Contract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but aren't limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders,

- natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes.
- 8.2. Whenever the Vendor encounters any difficulty that delays or threatens to delay the timely performance of this Agreement (including actual or potential labor disputes), the Vendor shall notify the Client orally within five days and in writing within ten days of the date on which the Vendor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall describe fully such cause and its effect on performance, state whether performance under the contract is prevented or delayed and if performance is delayed, state a reasonable estimate of the duration of the delay. The Vendor shall have the burden of proving that such cause delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the Client may reasonably request. After receipt of such notification, the Client may elect either to cancel the Contract or to extend the time for performance as reasonably necessary to compensate for the Vendor's delay. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery schedule because of such delay. If an extension of any delivery schedule is granted, it will be done consistent with the terms of this Agreement.
- 8.3. In the event of a declared emergency by competent governmental authorities, the Client, by notice to the Vendor, may suspend all or a portion of the Contract.
9. Quality Assurance.
- 9.1. High quality investigation, analysis, and reporting is essential to this program.
- 9.2. The Vendor shall provide a Quality Assurance (QA) Plan within two weeks of contract execution.
- 9.2.1. The QA Plan shall describe the Vendor's plan to manage quality during technical execution, consultation, and reporting. This plan shall be submitted for review/approval by the Client.
10. Confidentiality, Privacy and Compliance.
- 10.1. General. The Vendor agrees to protect the confidentiality of the Client's confidential information. The Client agrees to protect the confidentiality of Vendor's confidential information. Unless the context otherwise clearly indicates the need for confidentiality, information is deemed confidential only when the party claiming confidentiality designates the information as "confidential" in such a way as to give notice to the other party (for example, notice may be communicated by describing the information, and the specifications around its use or disclosure, in any transfer of custody notice). Neither party may assert that information owned by the other party is such party's confidential information. Notwithstanding the foregoing, all information provided by, or collected, processed, or created on behalf of the Client is confidential information unless otherwise indicated in writing.
- 10.2. All confidential information of or relating to a party shall be held in confidence by the other party to the same extent and in at least the same manner as such party protects its own confidential or proprietary information. Subject to the other provisions of this

Agreement, however, each party shall be permitted to disclose relevant aspects of the other party's Confidential Information to its officers, agents, subcontractors and personnel, and to the officers, agents, subcontractors and personnel of its related affiliates to the extent such disclosure is reasonably necessary for the performance of its duties under this Agreement and Pennsylvania law; however, such party shall take all reasonable measures to ensure that the confidential information is not disclosed or duplicated in contravention of the provisions of this Agreement by such officers, agents, subcontractors and personnel.

- 10.3. Third Party Information. Vendor understands that its level of access may allow or require it to view or access highly sensitive and confidential Client and third-party data. This data is subject to various state and federal laws, regulations and policies that vary from agency to agency, and from program to program within an agency. If applicable, prior to deployment of the work, the Vendor must receive and sign off on particular instructions and limitations as may be necessary to protect that information. A sample sign-off is attached as Exhibit "A".
- 10.3.1. The Vendor hereby certifies and warrants that, after being informed by the Client of the nature of the data which may be implicated and prior to the deployment of the work to be performed, the Vendor is and shall remain compliant with all applicable state and federal laws, regulations and policies regarding the data's protection, and with the requirements memorialized in every completed and signed sign-off document. Every sign-off document completed by the Client and signed by at least one signatory authorized to bind the Vendor is valid and is hereby integrated and incorporated by reference into this Agreement.
- 10.3.2. This section does not require a Client to exhaustively list the laws, regulations or policies to which implicated data is subject; the Client is obligated only to list the nature of the data implicated by the Vendor's access, to refer the Vendor to any of its own privacy and security policies, and to specify requirements that are not otherwise inherent in compliance with applicable laws, regulations and policies.
- 10.3.3. The requirements of this section are in addition to and not in lieu of other requirements of this Agreement, its Exhibits, Appendices and Attachments, having to do with data privacy and security.
- 10.3.4. Vendor shall conduct additional background checks, in addition to those otherwise required herein, as may be required by the Client in its sign-off documents. The Vendor shall educate and hold its agents, employees, contractors and subcontractors to standards at least as stringent as those contained in this Agreement. The Vendor shall provide information regarding its agents, employees, contractors and subcontractors to the Client upon request.
- 10.4. Copying; Disclosure; Termination. The parties agree that confidential information shall not be copied, in whole or in part, or used or disclosed except when essential for authorized activities under this Agreement and, in the case of disclosure, where the recipient of the confidential information has agreed to be bound by confidentiality requirements no less restrictive than those set forth herein. Each copy of confidential

information shall be marked by the party making the copy with any notice appearing in the original. Upon expiration or termination of this Agreement or any license granted hereunder, the receiving party will return to the disclosing party, or certify as to the destruction of, all confidential information in the receiving party's possession. A material breach of these requirements may result in termination for default under this Agreement, in addition to other remedies available to the non-breaching party.

- 10.5. Insofar as information is not otherwise protected by law or regulation, the obligations stated in this section do not apply to information:
- Already known to the recipient at the time of disclosure other than through the contractual relationship;
 - Independently generated by the recipient and not derived from the information supplied by the disclosing party;
 - Known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;
 - Disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or
 - Required to be disclosed by the recipient by law, regulation, court order, or other legal process.
- 10.6. The Vendor shall use the following process when submitting information to the Client it believes to be confidential and/or proprietary information or trade secrets:
- 10.6.1. Prepare and submit an unredacted version of the appropriate document;
- 10.6.2. Prepare and submit a redacted version of the document that redacts the information that is asserted to be confidential or proprietary information or a trade secret. The Vendor shall use a redaction program that ensures the information is permanently and irreversibly redacted; and
- 10.6.3. Prepare and submit a signed written statement that identifies confidential or proprietary information or trade secrets and that states:
- 10.6.3.1. The attached material contains confidential or proprietary information or trade secrets;
- 10.6.3.2. The Vendor is submitting the material in both redacted and unredacted format, if possible, in accordance with 65 P.S. §67.707(b); and
- 10.6.3.3. The Vendor is requesting that the material be considered exempt under 65 P.S. §67.708(b)(11) from public records requests.
- 10.7. Disclosure of Recipient or Benefit Information Prohibited. The Vendor shall not use or disclose any information about a recipient receiving services from, or otherwise enrolled in, a Commonwealth program affected by or benefitting from services under the Agreement for any purpose not connected with the Vendor's responsibilities, except with consent pursuant to applicable law or regulations. All material associated with direct disclosures of this kind (including the disclosed information) shall be provided to the Client prior to direct disclosure.
- 10.8. Compliance with Laws. Vendor will comply with all applicable laws or regulations related to the use and disclosure of information, including information that

- constitutes Protected Health Information (PHI) as defined by the Health Insurance Portability and Accountability Act (HIPAA).
- 10.9. Additional provisions. Additional privacy and confidentiality requirements may be specified in the Agreement.
- 10.10. Restrictions on Use. All data and all intellectual property provided to the Vendor pursuant to this Agreement or collected or generated by the Vendor on behalf of the Client pursuant to this Agreement shall be used only for the work of this Agreement. No data, intellectual property, documentation or developed works may be used, disclosed, or otherwise opened for access by or to the Vendor or any third party unless directly related to and necessary under the Agreement.

11. Data Breaches or Losses.

- 11.1. The Vendor shall comply with all applicable data protection, data security, data privacy and data breach notifications laws, including but not limited to the Breach of Personal Information Notification Act, Act of December 22, 2005, P.L. 474, No. 94, as amended, 73 P.S. §§2301-2329.
- 11.2. For data and confidential information in the possession, custody, and control of the Vendor or its employees, agents and/or subcontractors:
- 11.2.1. The Vendor shall report unauthorized access, use, release, loss, destruction or disclosure of data or confidential information in the possession of the Vendor and/or its subcontractors ("Incident") to the Client within two (2) hours of when the Vendor knows of or reasonably suspects such Incident, and the Vendor must immediately take all reasonable steps to mitigate any potential harm or further access, use, release, loss, destruction or disclosure of such data or confidential information.
- 11.2.2. The Vendor shall provide timely notice to all individuals that may require notice under any applicable law or regulation as a result of an Incident. The notice must be pre-approved by the Client. At the Client's request, Vendor shall, at its sole expense, provide credit monitoring services to all individuals that may be impacted by any Incident requiring notice.
- 11.2.3. The Vendor shall be solely responsible for any costs, losses, fines, or damages incurred by the Client due to Incidents that are reasonably determined to have occurred with respect to Personal Information in the possession, custody and control of the Vendor and/or its Subcontractors, and as a result of a breach of Vendor or Subcontractor's tangible or electronic data systems, and shall not apply to third-party breaches that are outside of the reasonable control of Vendor or its Subcontractors. In addition, any citizens impacted by such Incidents will be offered at least 12 months of credit monitoring at the expense of the Vendor.
- 11.3. As to data and confidential information fully or partially in the possession, custody or control of the Vendor and the Client, the Vendor shall diligently perform all of the duties required in this section in cooperation with the Client, until the time at which a determination of responsibility for the Incident, and for subsequent action regarding the Incident, is made final.

12. Location, Status and Disposition of Information and Materials.

- 12.1. All information and materials must be stored within the United States.
- 12.2. The Vendor shall be responsible for maintaining the privacy, security and integrity of information and materials in the Vendor's or its subcontractors' possession.
- 12.3. All information and materials shall be provided to the Client upon request, in a form acceptable to the Client, at no cost.
- 12.4. All information and materials shall be destroyed by the Vendor at the Client's request.
- 12.5. All information and materials shall be held for litigation or public records purposes by the Vendor at the Client's request, and in accordance with the security, privacy and accessibility requirements of this Agreement.

Terms and Conditions

13. Contract Cost/Pricing.

- 13.1. This Agreement is a Time and Materials Contract except as otherwise set forth herein.
- 13.2. A rate structure for any work to be performed at any time by Vendor on behalf of Client is attached hereto as Exhibit B.
- 13.3. Travel shall be reimbursed at the IRS mileage rate. Travel costs associated with other forms of travel, or related to hotel or other accommodations must be approved in advance by the Client's designated contract representative.
- 13.4. Contract pricing will be set for specific tasks as delineated by Service Purchase Agreement.

14. Invoice/Payment

- 14.1. The Vendor shall submit invoicing according to the designated supplier portal or invoicing system.
- 14.2. Incremental Invoicing for work performed to date of invoice shall be permitted.
- 14.3. The Client shall have the right to require the Vendor to prepare and submit a "Work In Progress" sheet that contains, at a minimum, the tasks performed, number of hours, and hourly rate.
- 14.4. Upon rendering the Services in accordance with the provisions of the Agreement requirements, the Vendor may submit appropriate invoice(s). Accordingly, the Client shall remit the invoice to the Pennsylvania Office of the State Treasurer within thirty (30) days of submission by the Vendor. Client shall remit payment to the Vendor in the amounts requested for services rendered for each invoice as approved upon receipt of checks for same from the Pennsylvania Office of the State Treasurer, in accordance with the terms and conditions of this Agreement.

15. Insurance

- 15.1. The Vendor shall maintain at its expense and require its agents, contractors and subcontractors to procure and maintain, as appropriate, the following types and amounts of insurance, issued by companies acceptable to the Client and authorized to conduct such business under the laws of the Commonwealth:
- 15.1.1. Workers' Compensation Insurance for all of the Contractor's employees and those of any subcontractor engaged in performing Services in accordance with the Workers' Compensation Act, Act of June 2, 1915, P.L. 736, No. 338, reenacted and amended June 21, 1939, P.L. 520, No. 281, as amended, 77 P.S. §§ 1—2708.
- 15.1.2. Commercial general liability insurance providing coverage from claims for damages for personal injury, death and property of others, including loss of use resulting from any property damage which may arise from its operations under this Contract, whether such operation be by the Contractor, by any agent, contractor or subcontractor, or by anyone directly or indirectly employed by either. The limits of such insurance shall be in an amount not less than \$500,000 per person and \$2,000,000 per occurrence, personal injury and property damage combined. Such policies shall be occurrence based rather than claims-made policies and shall name the Pennsylvania Senate Intergovernmental Operations Committee, the Senate Republican Caucus, the Senate Democratic Caucus, and the Pennsylvania Senate as additional insureds, as its interests may appear. The insurance shall not contain any endorsements, or any other form designed to limit and restrict any action by the additional insureds against the insurance coverages in regard to the work performed for or materials provided to the Client under this Agreement.
- 15.1.3. Professional and Technology-Based Services Liability Insurance (insuring against damages and claim expenses as a result of claims arising from any actual or alleged wrongful acts in performing cyber and technology activities) in the amount of \$2,000,000, per accident/occurrence/annual aggregate.
- 15.1.4. Professional Liability/Errors and Omissions Insurance in the amount of \$2,000,000, per accident/occurrence/annual aggregate, covering the Vendor, its employees, agents, contractors, and subcontractors in the performance of all services.
- 15.1.5. Network/Cyber Liability Insurance (including coverage for Professional and Technology-Based Services Liability if not covered under Company's Professional Liability/Errors and Omissions Insurance referenced above) in the amount of \$3,000,000, per accident/occurrence/annual aggregate, covering the Vendor, its employees, agents, contractors, and subcontractors in the performance of all services.
- 15.1.6. Completed Operations Insurance in the amount of \$2,000,000, per accident/occurrence/annual aggregate, covering the Vendor, its employees, agents, contractors, and subcontractors in the performance of all services.

- 15.1.7. Comprehensive crime insurance in an amount of not less than \$5,000,000 per claim.
- 15.2 Certificate of Insurance. Prior to commencing Services under the Contract, and annually thereafter, the Vendor shall provide the Client with a copy of each current certificate of insurance required by this section. These certificates shall contain a provision that coverages afforded under the policies will not be canceled or changed in such a way to cause the coverage to fail to comply with the requirements of this section until at least 15 days' prior written notice has been given to the Client. Such cancellation or change shall not relieve the Vendor of its continuing obligation to maintain insurance coverage in accordance with this section.
- 15.3 Insurance coverage length. The Vendor agrees to maintain such insurance for the life of the Agreement.
- 15.3.1 For the purpose of these provisions, the term Vendor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, Supplies, Services, leased space, construction or other activity, under a contract, grant, lease, Purchase Order or reimbursement agreement with the Client. The term Vendor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Client.
- 15.3.2 The Vendor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Client, that as of the date of its execution of this Agreement, that neither the Vendor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth of Pennsylvania or any governmental entity, instrumentality, or authority and, if the Vendor cannot so certify, then it agrees to submit, along with this Agreement, a written explanation of why such certification cannot be made.
- 15.3.3 The Vendor also certifies, in writing, that as of the date of its execution of this Agreement it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
- 15.3.4 The Vendor's obligations pursuant to these provisions are ongoing from and after the effective date of the Agreement through the termination date thereof. Accordingly, the Vendor shall have an obligation to inform the Client if, at any time during the term of the Agreement, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Vendor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- 15.3.5 The failure of the Vendor to notify the Client of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Agreement with the Vendor.

16. Hold Harmless. The Vendor shall hold the Client, its members, and the Senate of Pennsylvania (the "Indemnified Parties"), harmless from and indemnify them against any and all claims, demands and actions based upon or arising out of any activities performed by the Vendor and its employees and agents under this Agreement and its employees and agents under this Agreement and shall, at the request of the Client, defend any and all actions brought against the Indemnified Parties based upon any such claims or demands.
17. Sovereign Immunity. No provision of this Agreement may be construed to waive or limit the sovereign and other immunities of the Indemnified Parties.
18. Patent, Copyright, Trademark and Trade Secret Protection.
 - 18.1. The Vendor shall hold the Indemnified Parties harmless from any suit or proceeding which may be brought by a third party against the Indemnified Parties for the alleged infringement of any United States or foreign patents, copyrights, trademarks or trade dress, or for a misappropriation of trade secrets arising out of performance of this Agreement, including all work, services, materials, reports, studies, and computer programs provided by the Vendor, and in any such suit or proceeding will satisfy any final award for such infringement, including costs. The Client agrees to give the Vendor prompt notice of any such claim of which it learns.
 - 18.2. The Vendor agrees to exercise reasonable due diligence to prevent claims of infringement on the rights of third parties. The Vendor certifies that, in all respects applicable to this Agreement, it has exercised and will continue to exercise due diligence to ensure that all works produced under this Agreement do not infringe on the patents, copyrights, trademarks, trade dress, trade secrets or other proprietary interests of any kind which may be held by third parties. The Vendor also agrees to certify that work produced for the Client under this Agreement shall be free and clear from all claims of any nature.
 - 18.3. If the defense of the suit is delegated to the Vendor, the Vendor shall pay all damages and costs awarded therein against the Client. If information and assistance are furnished by the Client at the Vendor's written request, it shall be at the Vendor's expense, but the responsibility for such expense shall be only that within the Vendor's written authorization.
 - 18.4. If, in the Vendor's opinion, the products, materials, reports, studies, or computer programs furnished hereunder are likely to or do become subject to a claim of infringement of a United States patent, copyright, trademark or trade dress, or for a misappropriation of trade secret, then without diminishing the Vendor's obligation to satisfy any final award, the Vendor may, at its option and expense:
 - 18.4.1. Substitute functional equivalents for the alleged infringing products, materials, reports, studies, or computer programs; or
 - 18.4.2. Obtain the rights for the Client to continue the use of such products, materials, reports, studies, or computer programs.

- 18.5. If any of the products, materials, reports, studies, or computer programs provided by the Vendor are in such suit or proceeding held to constitute infringement and the use or publication thereof is enjoined, the Vendor shall, at its own expense and at its option, either procure the right to publish or continue use of such infringing products, materials, reports, studies, or computer programs, replace them with non-infringing items, or modify them so that they are no longer infringing.
- 18.6. If the Vendor is unable to do any of the preceding, the Vendor, agrees to pay the Client:
- 18.6.1. Any amounts paid by the Client less a reasonable amount based on the acceptance and use of the deliverable;
 - 18.6.2. Any license fee less an amount for the period of usage of any software; and
 - 18.6.3. The prorated portion of any service fees representing the time remaining in any period of service for which payment was made.
- 18.7. Notwithstanding the above, the Vendor shall have no obligation for:
- 18.7.1. Modification of any product, service, or deliverable provided by the Client;
 - 18.7.2. Any material provided by the Client to the Vendor and incorporated into, or used to prepare, a product, service, or deliverable;
 - 18.7.3. Use of the product, service, or deliverable in other than its specified operating environment;
 - 18.7.4. The combination, operation, or use of the product, service, or deliverable with other products, services, or deliverables not provided by the Vendor as a system or the combination, operation, or use of the product, service, or deliverable, with any products, data, or apparatus that the Vendor did not provide;
 - 18.7.5. Infringement of a non-Vendor product alone;
 - 18.7.6. The Client's distribution, marketing or use beyond the scope contemplated by the Agreement; or
 - 18.7.7. The Client's failure to use corrections or enhancements made available to the Client by the Vendor at no charge.
- 18.8. The obligation to indemnify the Client, under the terms of this section, shall be the Vendor's sole and exclusive obligation for the infringement or misappropriation of intellectual property.

19. Independent Contractor.

- 19.1. In performing its obligations under this Agreement, the Vendor will act as an independent contractor and not as an employee or agent of the Client.
- 19.2. The Vendor will be responsible for all services and materials provided under this Agreement, whether or not the Vendor provides them directly. Furthermore, the Vendor is the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Agreement.

20. Contract Administration.

- 20.1. Vendor may be required to register with the Pennsylvania Department of General Services website and its Supplier Access Portal.
- 20.2. The Vendor's Program Manager shall provide a Program Kick-Off Meeting Briefing to the Client within five days of contract execution date. This meeting will take a form, and occur in a location, TBD.
- 20.3. The Vendor's Program Manager will coordinate with the Client's designated representative to provide deliverables, and to manage relevant event timings.
- 20.4. The Vendor's Program Manager shall provide periodic Program Updates to the Client's designated representative. This update will take a form, and occur in a location, TBD.

21. Taxes.

- 21.1. The Client is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax-free purchases under registration No. 23740001-K. With the exception of purchases of the following items, no exemption certificates are required, and none will be issued: undyed diesel fuel, tires, trucks, gas-guzzler emergency vehicles, and sports fishing equipment. The Client is also exempt from Pennsylvania sales tax, local sales tax, public transportation assistance taxes, and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this section is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

22. Non-Disclosure and Operational Security

- 22.1. A Non-Disclosure Agreement ("NDA") shall be implemented for this Agreement. This NDA shall define the confidentiality of the work, prohibit any disclosure of the work or results during and after the audit, and the penalties if the NDA is violated.
- 22.2. The NDA template approved for this Agreement is attached as "Exhibit C".
- 22.3. There will immediate termination of any individual that violates the NDA and shall endure the penalties contained in the NDA.
- 22.4. All Vendor provided participants will be governed by a strict Non-Disclosure Agreement. All participants, except for the Client, shall be free from political associations, as defined above in Section 5.1.3.
- 22.5. The Client shall follow internal procedures to ensure investigation non-disclosure rules are set in place, with clear instructions and penalties.
- 22.6. The Vendor and all subcontracted organizations shall confirm in writing that employees, second tier subcontractors, and 1099 personnel utilized on this contract are signatories to this Agreement's NDA, are of good character and the NDA violation penalties flow down to them.

22.7. All direct hires and 1099 personnel utilized on this contract shall have background checks conducted prior to commencing work under this Agreement. Backgrounds checks will include, but will not necessarily be limited to: Pennsylvania State Police Criminal Background Check and Federal Criminal History Check. Felony convictions, and/or conviction of any offense which involves some element of deceitfulness, untruthfulness or falsification, shall be disqualifying.

22.7.1. Before the Client will permit a particular individual to work on any matter under this Agreement, the Vendor must provide written confirmation that the background checks have been conducted.

22.7.2. If, at any time, it is discovered that an employee of the Vendor, an employee of any subcontractor, or any 1099 personnel has a criminal record that includes a felony or misdemeanor involving terroristic behavior, violence, use of a lethal weapon, or breach of trust or fiduciary responsibility or which raises concerns about building, system, information, or personnel security, or is otherwise job-related, the Vendor shall not assign that employee or 1099 personnel to any Client work, shall remove any access privileges already given to the individual, and shall not permit that individual remote access to the Client or the Client's information unless the Client consents, in writing, prior to the access. The Client may withhold its consent in its sole discretion.

22.7.3. Failure of the Vendor to comply with the terms of this section on more than one occasion or Vendor's failure to cure any single failure to the satisfaction of the Client may result in the Vendor being deemed in default of this Agreement.

23. Press Interaction.

23.1. If requested, the Vendor's Investigation Program Manager shall release a prepared Press Release prior to announcement/report release/significant event. The Vendor shall coordinate with the Client's Communication Director and/or designated representative prior to such events.

23.2. In no event shall the Vendor issue press releases or conduct press conferences without the direct involvement and approval of the Client, more specifically the input of the Client's lawyers, to protect the integrity of the Investigation.

24. Officials not to Benefit.

24.1. The Pennsylvania Ethics Act, 65 Pa. C.S. Chapter 11, prohibits the use of the authority of public office or employment, or any confidential information received through the public office or employment, for the private financial benefit of the public official or employee, a member of their immediate family, or a business with which the official, employee or a member of their immediate family is associated. This contract is executed in furtherance of Senate duties.

24.2. No official or employee of the Client, or of the Senate of Pennsylvania who exercises any functions or responsibilities under this Agreement shall participate in any decision relating to this Agreement which affects their personal interest or the interest of any corporation, partnership, or association in which they are, directly or indirectly,

interested; nor shall any such official or employee of the Client, or of the Senate of Pennsylvania, have any interest, direct or indirect, in this Agreement or the proceeds thereof.

25. Assignability.

- 25.1. This contract is binding upon the parties and their respective successors and assigns.
- 25.2. The Vendor may not assign, in whole or in part, the Agreement or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Client, which consent may be withheld at the sole and absolute discretion of the Client.
- 25.3. For the purposes of this Agreement, the term "assign" shall include, but not be limited to, the sale, gift, assignment, encumbrance, pledge, or other transfer of any ownership interest in the Vendor, provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.
- 25.4. Any assignment consented to by the Client shall be evidenced by a written assignment agreement executed by the Vendor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Agreement and to assume the duties, obligations, and responsibilities being assigned.
- 25.5. Notwithstanding the foregoing, the Vendor may, without the consent of the Client, assign its rights to payment to be received under the Agreement, provided that the Vendor provides written notice of such assignment to the Client together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of the Agreement.
- 25.6. A change of name by the Vendor, following which the Vendor's federal identification number remains unchanged, is not considered to be an assignment. The Vendor shall give the Client written notice of any such change of name.

26. Default.

- 26.1. The Client may, in addition to any other rights it may have under this Agreement, declare the Vendor in default by written notice thereof to the Vendor, and terminate the whole or any part of this Agreement for any of the following reasons:
 - 26.1.1. Failure to begin services within the time specified in the Agreement or as otherwise specified;
 - 26.1.2. Failure to perform the services with sufficient labor, equipment or material to ensure the completion of the specified services in accordance with the Agreement terms;
 - 26.1.3. Unsatisfactory performance of the services;
 - 26.1.4. Failure to meet requirements within the time period(s) specified in the Agreement;
 - 26.1.5. Failure to provide a service that conforms with the specifications referenced in the Agreement;
 - 26.1.6. Discontinuance of the services without approval;

- 26.1.7. Failure to resume a service, which has been discontinued, within a reasonable time after notice to do so;
- 26.1.8. Insolvency or bankruptcy;
- 26.1.9. Assignment made for the benefit of creditors;
- 26.1.10. Failure or refusal, within 10 days after written notice by the Client, to make payment or to show cause why payment should not be made, of any amounts due subcontractors;
- 26.1.11. Failure to protect, repair or make good any damage or injury to property;
- 26.1.12. Breach of any provision of this Agreement;
- 26.1.13. Any breach by the Vendor of any Confidentiality or Non-Disclosure procedures of this Agreement; or
- 26.1.14. Failure to comply with applicable industry standards, customs and practices.

27. Termination.

27.1. For Convenience.

- 27.1.1. The Client may terminate this Agreement in whole or in part without cause by giving the Vendor 30 days' prior written notice whenever the Client shall determine that such termination is in the best interest of the Client. Any such termination shall be effected by delivery to the Vendor of a Notice of Termination specifying the extent to which performance under this Agreement is terminated either in whole or in part and the date on which such termination becomes effective.

In the event of termination under this paragraph, Vendor shall receive payment for all services performed consistent with the terms of the Agreement prior to the effective date of termination and as directed by the Client. In no event shall the Vendor be paid for any loss of anticipated profit (by the Vendor or any subcontractor), loss or use of money, or administrative or overhead costs.

- 27.1.2. The Vendor shall cease services as of the date set forth in the Notice of Termination, and shall be paid only for such services as have already been satisfactorily rendered up to and including the termination date set forth in said notice, or as may be otherwise provided for in said Notice of Termination, and for any such services performed during the 30-day notice period, if such services are requested by the Client, for the collection, assembling, and transmitting to the Client of at least all materials, manuals, magnetic media, studies, drawings, computations, maps, supplies, and survey notes including field books, or other items which were obtained, prepared, or developed as part of the services required under this Agreement.

- 27.2. Non-Appropriation. Any payment obligation or portion thereof of the Client created by this Agreement is conditioned upon the availability and appropriation of funds. When state funds are not appropriated or otherwise made available to support continuation of performance or full performance in a subsequent fiscal year period, the

Client shall have the right to terminate this Agreement in whole or in part.. The Vendor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under this contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose.

27.3. Default. The Client may, in addition to its other rights under this Agreement, terminate this Agreement in whole or in part by providing written notice of default to the Vendor if the Vendor materially fails to perform its obligations under the Agreement and does not cure such failure within 30 days, or if a cure within such period is not practical, commence a good faith effort to cure such failure to perform within a specified period or such longer period as the Client may specify in the written notice specifying such failure, and diligently and continuously proceed to complete the cure. The Client shall provide any notice of default or written cure notice for Agreement terminations.

27.3.1. In the event the Client terminates this Agreement in whole or in part as provided in this paragraph, the Client may procure services similar to those so terminated, and the Vendor, in addition to liability for any liquidated damages, shall be liable to the Client for the difference between the Agreement price for the terminated portion of the services and the actual and reasonable costs (but in no event greater than the fair market value) of producing substitute equivalent services for the terminated services, provided that the Vendor shall continue the performance of this Agreement to the extent not terminated under the provisions of this section.

27.3.2. Except with regard to defaults of subcontractors, the Vendor shall not be liable for any excess costs if the failure to perform the Agreement arises out of causes beyond the control of the Vendor. Such causes may include, but are not limited to, acts of God or of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, work stoppages, freight embargoes, acts of terrorism and unusually severe weather. The Vendor shall notify the Client promptly in writing of its inability to perform because of a cause beyond the control of the Vendor.

27.3.3. Nothing in this paragraph shall abridge the Client's right to seek to suspend, debar or take other administrative action against the Vendor.

27.3.4. If it is later determined that the Client erred in terminating the Agreement for default, then the Agreement shall be deemed to have been terminated for convenience hereunder.

27.3.5. If this Agreement is terminated as provided for in this paragraph, the Client may, in addition to any other rights provided in this paragraph, and subject to Pennsylvania law and to other applicable provisions of this Agreement, require the Vendor to deliver to the Client in the manner and to the extent directed by the Client, such materials as the Vendor has specifically produced or specifically acquired for the performance of such part of the Agreement as has been terminated.

- 27.4. The rights and remedies of the Client provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.
- 27.5. The Client's failure to exercise any rights or remedies provided in this section shall not be construed to be a waiver by the Client of its rights and remedies in regard to the event of default or any succeeding event of default.
28. Severability.
- 28.1. Should one or more provisions of this Agreement be deemed invalid, unlawful or unenforceable, the remaining provisions shall not in any way be affected and shall continue to be valid, lawful and enforceable.
29. Legal Counsel, Jurisdiction and Compliance with Laws.
- 29.1. Both Parties have the right to obtain legal advice for any or all questions or concerns related to the interpretation, validity or enforceability of this Agreement.
- 29.2. This Agreement, or litigations or legal proceedings that may result from claims, controversies and conflicts on or a violation of its terms and conditions, shall be governed by and subject to the sole jurisdiction of the laws and competent courts of Pennsylvania.
- 29.3. The parties agree that the Commonwealth Court of Pennsylvania and the federal courts of the Middle District of Pennsylvania shall have original and exclusive jurisdiction over disputes under this Contract and the resolution thereof, except as may otherwise be provided herein.
- 29.4. The Vendor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal court in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Vendor agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.
- 29.5. The Vendor shall comply with all federal, state and local laws, regulations and policies applicable to its work under this Agreement, including, but not limited to, all statutes, regulations and rules that are in effect as of the effective date of the Agreement and shall procure at its expense all licenses and all permits necessary for the fulfillment of its obligation.
- 29.6. If any existing law, regulation or policy is changed or if any new law, regulation or policy is enacted that affects the work to be performed under this Agreement, the parties shall modify this Agreement, in accordance with the terms hereof, to the extent reasonably necessary to:
- 29.6.1. Ensure such work will be in full compliance with such laws, regulations and policies; and
- 29.6.2. Modify the rates applicable to such work.

30. Right to Know Law.

- 30.1. The Pennsylvania Right to Know Law, 65 P.S. §§67.101, et seq. (“RTKL”), applies to this Agreement.
- 30.2. The RTKL requires the Client to disclose the details of any contract in excess of \$5,000 along with a copy of the contract to the Pennsylvania Treasury for posting on an internet web page available to the general public. The act allows for redaction of information considered to be privileged or proprietary. The Vendor agrees to notify the Client, no later than the execution date of this contract, of any information the Vendor considers to be privileged or proprietary and subject to redaction. Such notice shall be in writing and sent to the Senate Open Records Officer at Room 104, North Office Building, Harrisburg, PA 17120-3052, with a copy to the Issuing Member or Officer at the address contained herein. Such notice shall include a detailed listing of the information to be redacted and the reason(s) for the redaction.
- 30.3. If the Client needs the Vendor’s assistance in any matter arising out of the RTKL that is related to this Agreement, it shall notify the Vendor using the legal contact information provided in this Agreement. The Vendor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Client.
- 30.4. Upon written notice from the Client that it requires the Vendor’s assistance in responding to a request under the RTKL for information related to this Agreement may be in the Vendor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Vendor shall:
 - 30.4.1. Provide the Client, within 10 days after receipt of written notification, access to, and copies of, any document or information in the Vendor’s possession arising out of this Agreement that the Client reasonably believes is Requested Information and may be a public record under the RTKL; and
 - 30.4.2. Provide such other assistance as the Client may reasonably request, in order to comply with the RTKL with respect to this Agreement.
- 30.5. If the Vendor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Vendor considers exempt from production under the RTKL, the Vendor must notify the Client and provide, within 7 days of receiving the written notification a written statement signed by a representative of the Vendor explaining why the requested material is exempt from public disclosure under the RTKL.
- 30.6. The Client will rely upon the written statement from the Vendor in denying a RTKL request for the Requested Information unless the Client determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Client determine that the Requested Information is clearly not exempt from disclosure, the Vendor shall provide the Requested Information within 5 business days of receipt of written notification of the Client’s determination.
- 30.7. If the Vendor fails to provide the Requested Information within the time period required by these provisions, the Vendor shall indemnify and hold the Client harmless from any damages, penalties, costs, detriment or harm that the Client may incur as a

result of the Vendor's failure, including any statutory damages assessed against the Client.

- 30.8. The Vendor may file a legal challenge to any Client decision to release a record to the public with the Senate RTK Appeals Officer, or in the Pennsylvania Courts; however the Vendor shall indemnify the Client from any legal expenses incurred by the Client as a result of such a challenge and shall hold the Client harmless for any damages, penalties, costs, detriment or harm that the Client may incur as a result of the Vendor's failure, including any statutory damages assessed against the Client, regardless of the outcome of any such legal challenge. As between the parties, the Vendor agrees to waive all rights or remedies that may be available to it as a result of the Client's disclosure of Requested Information pursuant to the RTKL.
- 30.9. The Vendor's duties relating to the RTKL are continuing duties that survive the expiration of this Agreement and shall continue as long as the Vendor has Requested Information in its possession.

31. Contract Integration.

- 31.1. This Agreement constitutes the final, complete, and exclusive Agreement between the parties, containing all the terms and conditions agreed to by the parties.
- 31.2. All representations, understandings, promises, and agreements pertaining to the subject matter of this Agreement made prior to or at the time this Agreement is executed are superseded by this Agreement.
- 31.3. There are no conditions precedent to the performance of this Agreement except as expressly set forth herein.
- 31.4. No contract terms or conditions are applicable to this Agreement except as they are expressly set forth herein.
- 31.5. The Vendor may not require the Client, or any other individual employed by or associated with the Client to sign, click through, or in any way agree to any terms associated with the use of or interaction with the services being provided hereunder unless the Client has agreed to the terms in writing in advance under this Agreement, and the terms are consistent with this Agreement. Further, changes to terms may be accomplished only by processes set out in this Agreement; no quotations, invoices, business forms or other documentation, or terms referred to therein, shall become part of this Agreement merely by submission to the Client or their ordinary use in meeting the requirements of this Agreement. Any terms imposed upon the Client or any employee or official of the Client in contravention of this provision must be removed at the direction of the Client and shall not be enforced or enforceable against the Client or the employee or official.

32. Amendments and Modifications.

- 32.1. This Agreement, or a part thereof, shall not be modified, amended, revised or deleted without prior written consent from the other party. Unless both Parties have

mutually consented, such modification, amendment, revision or rescindment will not be considered enforceable.

33. Survival. Paragraphs 3, 9, 10, 11, 12, 15, 16, 17, 18, 22, 23, 24, 28, 29 and 30, and any right or obligation of the parties in this Agreement which, by its express terms or nature and context is intended to survive termination or expiration of this Agreement, will survive any such termination or expiration.
34. Notice. Any written notice to any party under this Agreement shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.) with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, sent to the following individuals:

On behalf of the Client:

Crystal H. Clark
General Counsel
Senate Republican Caucus
350 Main Capital
Harrisburg, PA 17120
(717) 787-6259
(717) 772-3146 (fax)
cclark@pasen.gov

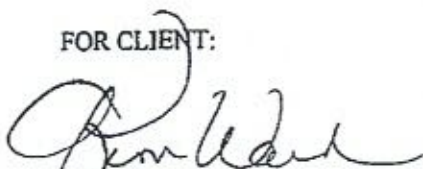
On behalf of the Vendor:

Steven R. Lahr
President
Envoy Sage, LLC
4409 Crews Ct
Port Charlotte, FL 33952
(202) 379-3045
(202) 280-2717 (fax)
s.lahr@envoysage.com

(Signatures On The Following Page)

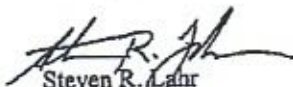
IN WITNESS WHEREOF, the Parties hereto have expressly agreed to the terms and conditions of this Agreement by affixing their signatures below. Client and Vendor have duly enforced this Agreement as of the date first above written.

FOR CLIENT:



Kim Ward
Majority Leader
Pennsylvania Senate Republican Caucus
Commonwealth of Pennsylvania

FOR VENDOR:



Steven R. Lair
President
Envoy Sage, LLC

Exhibit A –
Sample Sign-Off Document

Exhibit B –
Rate Schedule

Exhibit C –
NDA Template

EXHIBIT A

Sign-Off Document No. _____, under the Professional Services Agreement Between
the Pennsylvania Senate Republican Caucus and Envoy Sage LLC

This document becomes, upon its execution by the signatories named below, a legally valid, binding part of the Professional Services Agreement between the Pennsylvania Senate Republican Caucus (Client) and Envoy Sage LLC (Vendor), and is subject to the terms of that Agreement.

1. Scope of Deployment:

2. Nature of Data implicated or potentially implicated:

3. Client Policies to which Vendor is subject (incorporated by reference):

4. Background checks (describe if necessary):

5. Additional requirements (describe with specificity):

Client Contact Person

Signature _____

Date: _____

Vendor Authorized Signatory

Signature _____

Date: _____

Exhibit B
Rate Structure

ID #	Labor Category	Hr Rate
Inv-1	Investigator Lvl 1	65 P.S. § 67.708(b)(11)
Inv-2	Investigator Lvl 2	
Inv-3	Investigator Lvl 3	
Res-1	Researcher Lvl 1	
Res-2	Researcher Lvl 2	
AI - SME	AI SME	
IT -SME	IT Network SME	
CM-SME	Communication & Media SME	
VS-SME	Voting Systems SME	
Dat-A	Data Analyst	
Im-A	Imagery Analyst	
Pap-A	Paper/Document Analyst	
Ink-A	Toner & Ink Analyst	
Fin-A	Financial Analyst	
Cnt-A	Contract Analyst	
Ev-C	Evidence Custodian	
DS-SME	Data Security SME	
Cns-1	Consultant Lvl 1	
Cns-2	Consultant Lvl 2	
Cns-3	Consultant Lvl 3	
Law-1	Legal Consultant Lvl 1	
Law-2	Legal Consultant Lvl 2	
Law-3	Legal Consultant Lvl 3	
Cy-1	Cyber Forensics SME Lvl 1	
Cy-2	Cyber Forensics SME Lvl 2	
Cy-3	Cyber Forensics SME Lvl 3	

Redaction code: 65 P.S. 67§708(b)(11) - A record that constitutes or reveals a trade secret or confidential proprietary information. As asserted by the Vendor per Section 30.

EXHIBIT C

NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement ("NDA") is effective as of _____ by and between ENVOY SAGE, LLC (the "Company") and _____, (the "Receiving Party").

The Company has been retained by the Pennsylvania Senate Republican Caucus (the "Caucus") in connection with an investigation into the 2020 General and 2021 Primary Elections, pursuant to a Professional Services Agreement (the "Agreement") dated _____. A true and correct copy of the Agreement can be accessed at (hyperlink), and is incorporated herein by reference as if fully set forth at length.

The Company is prepared to make available to the Receiving Party certain information, including without limitation non-public, confidential, or proprietary information, in connection with Receiving Party's assistance with the work of the Company on behalf of the Caucus under the Agreement (the "Purpose"). In consideration of the mutual promises and covenants contained in this NDA, the disclosure of Subject Information (as defined in Paragraph 2 below) to the Receiving Party, any payments made or potentially to be made by the parties, and for other good and valuable consideration and intending to be legally bound hereby, the parties hereto agree as follows:

1. **Purpose.** The parties desire that the Company will make certain Subject Information available to the Receiving Party, and/or the Receiving Party will independently obtain certain Subject Information, for use in connection with a potential or actual business relationship elsewhere defined, and that the Receiving Party will protect such Subject Information.
2. **Subject Information.** For purposes of this NDA, "Subject Information" means any information disclosed by the Company to the Receiving Party, directly or indirectly, in computer files or writing, orally or by drawings, observations or otherwise, in connection with the Company's work on behalf of the Caucus. It includes, but is not necessarily limited to, information otherwise defined and referenced in Paragraph 10 of the Agreement. It further means any and all information independently obtained by the Receiving Party in connection with services being provided by the Receiving Party in any potential or actual business relationship elsewhere defined between the Company and the Receiving Party for the Caucus. Additionally, "Subject Information" includes any information disclosed by the Company to the Receiving Party, directly or indirectly, in computer files or writing, orally or by drawings, observations or otherwise, that is clearly marked "proprietary," "confidential" or the like, or that is not so marked but is described as proprietary or confidential by the Disclosing Party at the time of disclosure and is verified as such within 30 calendar days in a writing transmitted to the Receiving Party.
3. **Subject Materials.** "Subject Materials" means all tangible materials containing Subject Information, including without limitation written or printed documents, computer disks or tapes, photographs, videos, database information/data, log files, scanned/copied documents, scanned/copied files, scanned/copied artifacts, video or audio recordings, analysis of information and artifacts, investigation findings and conclusions and all subsequent reports, whether machine or user readable.
4. **Ownership.** Unless otherwise agreed in writing, all Subject Information, and all materials (including all documents, drawings, models, apparatus, designs, lists, disks, diskettes, computer memory or storage or other media) furnished to the Receiving Party from whatever source, will remain the property of the Caucus. The Company will not furnish to Receiving Party any Subject Information that the Company does not have the right to furnish. By disclosing information to Recipient, Company does not grant any express or implied right under its patents, copyrights, trademarks, or trade secret information.
5. **Use and Handling of Subject Information.**
 - (a) The Receiving Party agrees not to disclose, distribute, disseminate, or otherwise communicate to any third

party any Subject Information, and agrees to use any Subject Information only for the Purpose. All Subject Information will be treated by the Receiving Party with at least the same degree of care as the Receiving Party uses to protect its own confidential information (and in any event at least a reasonable degree of care). The Receiving Party will disclose such Subject Information only to its employees, consultants, representatives, agents or other affiliated entities (collectively, the "Representatives") who are actively and directly involved in the Purpose, have a need to know, and who have either agreed in writing to be bound by the terms of this NDA, and the terms of the Agreement relating to confidentiality, non-disclosure, privacy, press contacts, etc., or have received such Subject Information pursuant to the terms of non-disclosure agreements signed by such Representatives that are at least as comprehensive and restrictive as the provisions contained in this NDA or are otherwise satisfactory to the Company and Caucus.

(b) The Receiving Party will at all times be responsible for the actions of any Representative that are inconsistent with the terms of this NDA, including former Representatives who no longer have any employment, consulting or other relationship with the Receiving Party or any affiliated entity. The Receiving Party agrees, at its sole expense, to take all reasonable measures, including court proceedings, to restrain the Representatives (including former Representatives) from unauthorized use or disclosure of Subject Information.

(c) The Receiving Party will not rent, sublicense, lease, transfer or assign any rights in the Subject Information in any form to any other person, and will not modify, translate, reverse engineer, decompile, disassemble, create derivative work space upon or copy any software or accompanying documentation that is part of the Subject Information. The Receiving Party will not make any copies of Subject Information except as necessary for the Purpose, and any copies that are made will be identified and included as Subject Information the same as the original.

(d) Nothing in this NDA shall be deemed to, restrict or limit the Company from any use or disclosure of the Subject Information (or information contained therein or derived therefrom), except as provided in the Agreement.

6. Additional Non-Disclosure Obligations. The obligation of the Receiving Party to maintain the confidentiality of any Subject Information WILL EXTEND TO, AND INCLUDE any specific portion of the Subject Information that may exist or emerge (a) in the public domain through no action of the Receiving Party or its Representatives, (b) rightfully received from a third party that has the right to furnish it to the Receiving Party without any restriction on use or disclosure, (c) rightfully known to the Receiving Party without any restriction on use or disclosure prior to its receipt from the Company, (d) generally made available to third parties by unknown or unauthorized disclosing parties, or (e) furnished by members of the media with or without confidential sourcing. The Receiving Party has an obligation to avoid information leakage and to help prevent the furtherance of commentary on Subject Information, regardless of how the Receiving Party may have gained access to specific portions of Subject Information.

7. Requests for Disclosure. In the event that the Receiving Party or any of its Representatives receives a request or is required (by deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process) to disclose any part of the Subject Information, the Receiving Party agrees (a) to notify immediately the Company and Caucus of the existence and circumstances surrounding such request or requirement, (b) to consult with the Company and Caucus on the advisability of taking legally available steps to resist or narrow such request or requirement, and (c) to assist the Company and Caucus at the Company's expense in seeking a protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained or the Company and Caucus waives compliance with such requirements in writing, the Receiving Party may disclose to any tribunal only that portion of the Subject Information that the Receiving Party has been advised by written opinion of counsel is legally required to be disclosed, and the Receiving Party will not be liable for such disclosure unless such disclosure was caused by or resulted from a previous disclosure by the Receiving Party or its Representatives not permitted by this NDA.

8. Term and Termination: This NDA shall be effective as of the Effective Date first written above, and shall continue for a period of three (3) years unless it is terminated at a sooner date. It may be terminated immediately with respect to further disclosures upon notice by the Company and Caucus. The Company and/or Caucus may terminate the use of its Subject Information by the Receiving Party at any time upon written notice without any liability under this NDA for such termination.

9. Return of Materials. Upon the request of the Company or Caucus, or at such time as the Receiving Party no longer needs the Subject Information for the Purpose (whichever occurs first), the Receiving Party and its Representatives (a) will promptly cease using all Subject Information, (b) will promptly deliver to the Company (or,

at election of the Company, destroy) all Subject Information, (c) will destroy any other materials (including memoranda, notes and other writings or data, whether tangible or stored in any computer memory or storage medium) containing or reflecting any of the Subject Information (regardless of who prepared such material), and (d) will not retain any copies, extracts or other reproductions (whether tangible or stored in any computer memory or storage medium) of such materials. Compliance with this paragraph will be certified in writing to the Company by an authorized officer of the Receiving Party supervising the return and/or destruction of such materials.

10. No Joint Venture, License, Etc. This NDA is not intended to and will not be construed as creating a joint venture, partnership or other form of business association between the parties, and, except for the use of Subject Information for the limited Purpose set forth in this NDA. No rights or licenses to any patents, trademarks, copyrights, mask works, trade secrets or other intellectual property rights of the Receiving Party are granted or implied under this NDA.

11. Warranties. Each Party represents and warrants that it possesses all necessary powers, rights, and authority to lawfully make the disclosures, representations, and warranties provided for in this NDA.

12. Miscellaneous.

(a) Injunctive Relief: The Receiving Party acknowledges and agrees that any Subject Information that it receives is proprietary to, and a valuable trade secret of, the Company and/or Caucus, and that any unauthorized use or disclosure in breach of this NDA will result in irreparable and continuing harm and loss to the Company and/or Caucus. Accordingly, the Receiving Party consents to the issuance of any injunctive relief or the enforcement of other equitable remedies against it (without bond or other security) to compel performance of any of the terms of this NDA.

(b) Other Relief: The Receiving Party acknowledges that the Caucus may choose to pursue other remedies and relief if there is unauthorized use or disclosure in breach of this NDA. Such remedy and relief may derive from special authority and powers afforded to the Caucus, and is not limited to civil penalties, but includes public options available to the Legislative Branch of Pennsylvania.

(c) Entire Agreement: This NDA states the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, written or oral, with respect to such subject matter. This NDA will be governed by the laws of the Commonwealth of Pennsylvania, notwithstanding any conflicts of laws principles, and the parties consent to the jurisdiction of the state courts of Pennsylvania and the federal courts of the Middle District of Pennsylvania.

(d) Successors and Assigns: The Receiving Party may not assign any of its rights or obligations under this NDA without the prior written consent of the Company. This NDA will be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

(e) Headings, Pronouns & Construction. The headings in this NDA are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this NDA or any provision hereof. All pronouns and only variations thereof shall be deemed to refer to masculine, feminine, or neuter, singular or plural as the identity of the Person or Persons may require. Whenever the singular number is used in this NDA and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

(f) Amendments and Waivers: This NDA may not be amended except in writing signed by both parties. Any waiver under this NDA must be in writing, and no failure or delay in exercising any right, power or privilege will operate as such a waiver.

(g) Litigation: In the event of litigation between the parties alleging any breach of this NDA, the prevailing party in such litigation shall be entitled to recover its reasonable attorneys' fees and other reasonable litigation expenses. The "prevailing party" within the meaning of this paragraph includes without limitation a party who agrees to dismiss an action or proceeding upon the other's payment of the sums allegedly due or upon the other's performance of the obligation allegedly breached or who obtains substantially the relief it seeks. The parties agree that any such litigation will be brought in a court of competent jurisdiction located in the Commonwealth of Pennsylvania.

(h) **Severability.** If any of the provisions of this NDA are found to be unenforceable, the remainder shall remain in full force and effect, and the unenforceable provision(s) shall be deemed modified or stricken to the extent required to permit enforcement of the remainder of the NDA.

(i) **Remedies Are Cumulative.** All remedies, whether under this NDA, provided by law or otherwise, will be cumulative and not alternative.

Company

By: _____

Its: _____

Other Party:

By _____

Its _____

ATTACHMENT C

CLIN	Requirements	Est Qty	Unit of Measure	Labor Category	Est # Hrs	Labor Rate	Total
1.a	Conduct Analysis of Communications...	120 Hrs					
1.a.i	Produce Summary			Res-1		65 P.S. § 67.708(b)(11)	\$1,056
1.a.ii	Produce Recommendations			Inv-2		65 P.S. § 67.708(b)(11)	\$4,224
1.a.iii	Produce Briefings			Cns-2		65 P.S. § 67.708(b)(11)	\$14,720
				CM-SME		65 P.S. § 67.708(b)(11)	\$880
					120		\$20,880
1.b	Conduct Analysis of Voter Lists (May 21)...	56 Hrs					
1.b.1	Produce Summary			Dat-A		65 P.S. § 67.708(b)(11)	\$1,680
1.b.ii	Produce Recommendations			Cns-1		65 P.S. § 67.708(b)(11)	\$3,168
1.b.iii	Produce Briefings			Cns-2		65 P.S. § 67.708(b)(11)	\$3,680
					56		\$8,528
1.c	Conduct Analysis of Voter Lists (Nov 20)...	56 Hrs					
1.c.i	Produce Summary			Dat-A		65 P.S. § 67.708(b)(11)	\$1,680
1.c.ii	Produce Recommendations			Cns-1		65 P.S. § 67.708(b)(11)	\$3,168
1.c.iii	Produce Briefings			Cns-2		65 P.S. § 67.708(b)(11)	\$3,680
					56		\$8,528
1.d	Conduct Analysis of Voter Lists (May 20-May 21)...	152 Hrs					
1.d.i	Produce Summary			Dat-A		65 P.S. § 67.708(b)(11)	\$5,040
1.d.ii	Produce Recommendations			Cns-1		65 P.S. § 67.708(b)(11)	\$4,224
1.d.iii	Produce Briefings			Cns-2		65 P.S. § 67.708(b)(11)	\$16,560
					152		\$25,824
1.e	Conduct Analysis of Reports, Audits, Reviews of SURE Sys	200 Hrs					
1.e.i	Produce Summary			Res-1		65 P.S. § 67.708(b)(11)	\$1,584
1.e.ii	Produce Recommendations			Res-2		65 P.S. § 67.708(b)(11)	\$1,840
1.e.iii	Produce Briefings			Inv-2		65 P.S. § 67.708(b)(11)	\$3,168
				Cns-1		65 P.S. § 67.708(b)(11)	\$10,560
				Cns-2		65 P.S. § 67.708(b)(11)	\$12,880
					200		\$30,032

ATTACHMENT C

CLIN	Requirements	Est Qty	Unit of Measure	Labor Category	Est # Hrs	Labor Rate	Total
2	Consultation & Advisory ISO the IGOC...	319 Hrs					
				Cns-1		\$67,708.00	\$10,560
				Cns-2		\$67,708.00	\$49,450
				Cy-3		\$67,708.00	\$3,296
				Im-A		\$67,708.00	\$1,320
				Pap-A		\$67,708.00	\$1,056
					319		\$65,682
3	Communications Consultation & Support...	80 Hrs					
				CM-SME		\$67,708.00	\$8,800
4	Conduct Analysis of Submission to IGOC Webpage and Election Affidavits...	120 Hrs					
4.a.i	Webpage (Screen 700 Emails)			Res-2		\$67,708.00	\$1,840
4.a.ii	Anaylis of emails of interest			Inv-2		\$67,708.00	\$2,112
4.a.iii	Produce Summary			Cns-1		\$67,708.00	\$5,280
4.a.iv	Produce Recommendations			Cns-2		\$67,708.00	\$9,200
4.a.v	Conduct Briefings			Law-3		\$67,708.00	\$3,296
4.b	Analysis of Affidavits (100)				120		\$21,728
4.b.i	Conduct Analysis						
4.b.ii	Produce Summary						
4.b.iii	Produce Recommendations						
4.b.iv	Conduct Briefings						
5	Conduct Analysis of other State Integrety Initiatives...	160 Hrs					
5.a	Produce Summary			Res-1		\$67,708.00	\$1,584
5.b	Produce Recommendations			Res-2		\$67,708.00	\$1,840
5.c	Conduct Briefings			AI-SME		\$67,708.00	\$1,096
				IT-SME		\$67,708.00	\$1,008
				VS-SME		\$67,708.00	\$1,320
				Cns-1		\$67,708.00	\$4,224
				Cns-2		\$67,708.00	\$12,880
				Cy-3		\$67,708.00	\$3,296
					160		\$27,248
Total Labor Estimate							\$217,250
Travel Estimate							\$ 38,000
ODCs/Material Estimate							\$ 15,000

ATTACHMENT C

CLIN	Requirements	Est Qty	Unit of Measure	Labor Category	Est # Hrs	Labor Rate	Total
						Total Price Est	\$270,250

Redaction code: 65 P.S. 67§708(b)(11) - A record that constitutes or reveals a trade secret or confidential proprietary information. As asserted by the Vendor per Section 30, Master Services Agreement, Attachment B.

ID #	Labor Category	Hr Rate
Inv-1	Investigator Lvl 1	
Inv-2	Investigator Lvl 2	
Res-1	Researcher Lvl 1	
Res-2	Researcher Lvl 2	
AI - SME	AI SME	
IT -SME	IT Network SME	
CM-SME	Communication & Media SME	
VS-SME	Voting Systems SME	
Dat-A	Data Analyst	
Im-A	Imagery Analyst	
Pap-A	Paper/Document Analyst	
Ink-A	Toner & Ink Analyst	
Fin-A	Financial Analyst	
Cnt-A	Contract Analyst	
Ev-C	Evidence Custodian	
DS-SME	Data Security SME	
Cns-1	Consultant Lvl 1	
Cns-2	Consultant Lvl 2	
Cns-3	Consultant Lvl 3	
Law-1	Legal Consultant Lvl 1	
Law-2	Legal Consultant Lvl 2	
Law-3	Legal Consultant Lvl 3	
Cy-1	Cyber Forensics SME Lvl 1	
Cy-2	Cyber Forensics SME Lvl 2	
Cy-3	Cyber Forensics SME Lvl 3	

65 P.S. § 67.708(b)(11)

Redaction code: 65 P.S. 67§708(b)(11) - A record that constitutes or reveals a trade secret or confidential proprietary information. As asserted by the Vendor per Section 30, Master Services Agreement, Attachment B.

Exhibit A-17

PA Election Investigation — Restoring Faith in Our Elections



In order to identify and address election irregularities and strengthen our voting laws, the Senate Intergovernmental Operations Committee is conducting a thorough investigation into the 2020 General Election and the 2021 Primary Election.

Our work will build upon previous reviews by the Senate Special Committee on Election Integrity and Reform and the House State Government Committee. However, our approach will be focused on digging much deeper into the problems and irregularities that have been reported in the system and working to rectify those issues.

Senator Cris Dush

A Responsible, Thoughtful and Transparent Investigation

The investigation will include public hearings, eyewitness testimony from Pennsylvanians, a deep-dive review into our voting system, and recommendations for legislative improvements. The goal is to create a fair, transparent process everyone can believe in.

Sign Up for Updates

Subscribe to stay connected with Senator Dush's "Inside the Election Investigation" e-newsletter.

First Name:

Last Name:

Email Address:

Zip Code



Pennsylvania Election Integrity Investigation

1. Gathering Evidence



Invite Pennsylvanians to share election fraud testimony.
Gather information at public hearings.

2. Election Integrity Investigation



Request/subpoena & inspect election materials.

3. Report & Legislative Action



Report findings & legislative recommendations to
General Assembly.

Subpoenas Issued



The Senate Intergovernmental Operations Committee met on September 15, 2021, to approve a subpoena for data, communications and other materials from the Pennsylvania Department of State.

[Read the full language of the subpoena here.](#)

This information will be critical to the committee's review of our elections, providing a clearer picture of potential problems with the state's voter registration system and any

other voting irregularities.

Submit Your Testimony Now



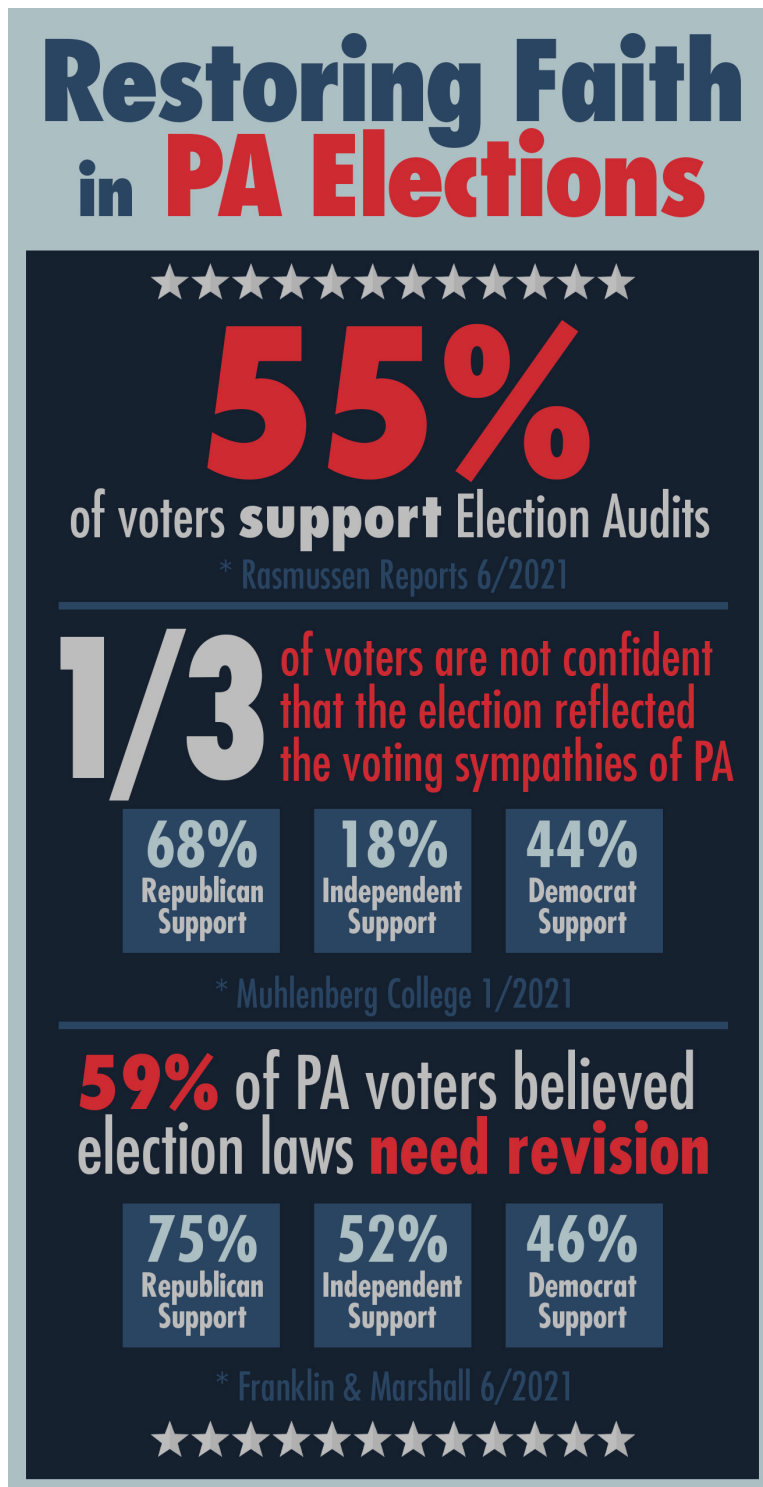
Gathering firsthand testimony from Pennsylvanians is an important part of the investigation. If you witnessed or were personally and directly affected by election improprieties, please consider sharing your stories here.

Please note testimony is only being accepted if you are willing to sign a sworn affidavit and potentially testify at a future hearing.

[Submit your testimony here.](#)

A Crisis of Confidence in PA Voting Systems

Public opinion polls have revealed a troubling crisis of confidence in our election system.



Without a thorough investigation of our elections, these problems will continue to fester and discourage participation in the democratic process.

Election Action Timeline

August 24, 2020 – Senate introduces [election reform legislation](#) that contains:

- Mail-in and absentee ballot signature verification

- Pre-canvassing
- Poll watcher & worker reforms
- Opportunities for voters to obtain ballots earlier
- Mail-in/absentee ballot application deadline
- Secure ballot return locations

August 27, 2020 – Governor [outlines](#) election reforms that mirrors Senate legislation.

September 2, 2020 – House passes [House Bill 2626](#), a similar bill to the one proposed by the Senate. Governor Wolf vows to veto the bill.

Week of September 14, 2020 – Negotiations near completion on an election reform bill that will pass the House, Senate, and be signed by the Governor.

September 17, 2020 – The PA Supreme Court (PASC) rules on election reform lawsuits, and Senate Republican leaders issue a statement in response: [PA Supreme Court Ruling Undermines Election Security](#). The [ruling](#) derails all negotiations for an agreed-to election reform bill. The PASC rules:

1. **Drop Boxes** – were permitted because the Election Code allowed returns of ballots to “the county board of election,” which is permitted under the Code to operate out of its office and other locations it may choose – which could include utilizing drop boxes if it so chooses.

2. **Deadline for Return of Absentee/Mail-in Ballots** –

1. All ballots postmarked by Election Day and received by the Board of Elections by 5 pm on the Friday following the election would be counted,
2. Ballots postmarked after Election Day would not count regardless of when they are received,
3. Any ballot received by 5 pm on Friday following the election would count even if it did not have a postmark as long as there was no other indication that the ballot had been submitted to the postal service for delivery after Election Day (i.e., if the ballot was dated after Election Day by the voter).

3. **Curing Defects in the Absentee and Mail-in Ballots** – failure to submit a ballot in the required secrecy envelope or with a completed declaration would invalidate the ballot, as the Election Code did not provide for a process that the ballot could be cured; any such notice and cure process would need to be legislated.

September 22, 2020 – Senate Republicans file with PASC for a [stay](#) of their September 17 decision on the extension of the deadline for the receipt of ballots. This was a required step before they could file with the Supreme Court of the United States (SCOTUS).

September 28, 2020 – Senate Republicans [file](#) with SCOTUS for a stay of the PASC decision on the extension of the deadline for the receipt of ballots. They file an appeal of that ruling at the same time.

October 10, 2020 – A federal judge in Western District Court [dismisses](#) Trump campaign lawsuit seeking to block drop boxes, require signatures on ballots, require matching signatures, and non-resident poll watchers.

October 17, 2020 – After being denied intervention by the PASC in the signature matching case for which they accepted Kings' Bench; Senate Republicans file an amicus brief arguing PA Election Code requires signature matching.

October 23, 2020 – Senate Majority Leader Jake Corman issues a statement in response to a PASC decision on signature verification: [Supreme Court Issues Decision Based on Boockvar's Interpretation that Signatures Required on Mail-In Ballots are Meaningless](#).

October 23, 2020 – Commonwealth Court and federal court issue decisions on poll watchers. The Pennsylvania Commonwealth Court and a Judge in the United States District Court for the Western District of Pennsylvania find that the offices and satellite offices of the County Boards of Elections were not polling locations at which poll watchers were permitted.

October 28, 2020 – SCOTUS [takes up](#) constitutional concerns raised by Senate leadership:

- SCOTUS declines to expedite a hearing but said guidance by Boockvar indicated that late-arriving ballots would be segregated meaning our Constitutional concerns could still be addressed after the election.
- Justices Alito, Gorsuch, and Thomas [indicate](#) there was a 'strong likelihood that the State Supreme Court decision violates the Federal Constitution' and they may hear this case after the election.

November 2, 2020: The Secretary of the Commonwealth, Kathy Boockvar, issues an email late in the evening to County boards with conflicting and confusing guidance on ballot curing. The email suggests that County boards could contact voters to notify them that their ballot had been rejected so that they could go to the polls on Election Day to vote by provisional ballot. The [PASC had previously found](#) that the failure to submit a ballot in the required secrecy envelope or with a completed declaration would invalidate the ballot, as the Election Code did not provide for a process that the ballot could be cured; any such notice and cure process would need to be legislated.

November 3, 2020 – Senate Republican leadership issue a [statement](#) calling for Boockvar's immediate resignation.

November 3, 2020 – General Election Day.

November 4, 2020 – Majority Leader Jake Corman hosts a [news conference](#) to outline the litany of election concerns and reiterate his call for Boockvar’s resignation.

November 6, 2020 – Senate Majority Leader Jake Corman hosts a [news conference](#) on preserving the integrity of PA election results.

November 6, 2020 – Corman [voices support](#) for Speaker of the House Bryan Cutler’s call for an audit of election results prior to certification.

November 6/7, 2020 – SCOTUS [issues a decision](#) saying it was not aware of the Secretary of the Commonwealth’s original guidance, which had an ‘important bearing on the question whether to order special treatment of the ballots in question had been modified.’ Senator Corman issues a [statement](#) on how this decision underscores concerns about Boockvar’s constantly changing guidance.

November 12, 2020 – Senate Republicans file an [amicus brief](#) in support of a Trump campaign [filing](#) in Middle District Court. The Trump campaign case says that some counties (Democratic leaning) allowed voters to “cure” ballots that were going to be disqualified while other counties (Republican leaning) did not allow it. The basis of the filing is that “curing” is not permitted under Pennsylvania law. Judge Brann ultimately dismissed the case with prejudice on November 21, 2020.

November 23, 2020 – Results of the election are provided to the Secretary of the Commonwealth by the counties as “certified”; if there is no contest in the courts to an election, the Governor shall notify the federal government which slate of electors have been chosen by the state.

December 2, 2020 – Senators David Arnold (R-48), Doug Mastriano (R-33), and Mike Regan (R-31) [introduce legislation](#) to amend the PA Constitution, regarding when Members of the General Assembly are seated, to allow for December session dates. The motivation for this legislation arose when Pennsylvanians demanded the PA Senate vote to send a different slate of electors to DC following the 2020 General Election. Currently, the PA Constitution states that the Members of the General Assembly begin their term of service on the first day of December, following the election. But, those same members are not sworn-in until the first Tuesday in January, meaning that only 25 Senators and 0 Representatives in the House are actually sitting members able to vote on issues for the month of December between legislative sessions.

December 3, 2020 – In response to the distrust that grew out of the 2020 general election, Senate and House Republican leaders [announce](#) plans to restore confidence in the state’s election system and begin the process of making meaningful reforms, including:

- The security of voting and manner in which votes are counted,
- The Secretary of the Commonwealth’s management of the 2020 General Election, and

- The impact of the state's Judiciary on the 2020 General Election.

December 7, 2020 – PA Senate Republicans refuse to defend Act 77 and its mail-in balloting provisions in a [case](#) before the U.S. Supreme Court because Secretary Boockvar used the PASC to legislate, rewrite, and manipulate the law to gain political advantage. Blatantly partisan actions undermined the integrity and confidence in PA's election.

December 8, 2020 – The “Safe Harbor” deadline – if contests of elections have been finalized by this time and results determined by this date, the results of the election (and therefore the selection of the slate of electors) will be deemed conclusive and cannot be subject to challenge. It is the Governor's obligation under federal law, to notify the federal government of the results of the challenge and which slate has been chosen at the conclusion of those challenges.

December 10, 2020 – Senate Republicans file an amicus brief before SCOTUS as part of a [case](#) filed by officials in Texas. The brief took no position on the merits but reiterated that the General Assembly has the authority to set the time, place, and manner of elections and the PASC and Secretary of State have usurped that authority.

December 14, 2020 – Presidential electors assemble in Harrisburg at noon to officially vote.

December 18, 2020 – Senator Ryan Aument (R-36) announces his intent to [introduce legislation](#) that that will help to reconcile any errors, duplicate files, or irregularities within Pennsylvania's voter registration records.

December 21, 2020 – Senator Corman [announces](#) he will introduce a resolution to create a bipartisan Special Committee to conduct an exhaustive review of all aspects of the 2020 general election.

December 23, 2020 – Deadline for reporting the official vote of the electors.

January 6, 2021 – Congress meets in DC for a joint session to count electoral votes and declare election results. If there is a challenge to the electoral vote returns of a particular state, the two Chambers meet separately to decide whether the challenge is valid. The results certified by the Governor will stand unless both Chambers agree that the challenge has merit.

January 20, 2021 – Senators Michele Brooks (R-50), Doug Mastriano (R-33), and Scott Hutchinson (R-21) [introduce legislation](#) that would require the PA Department of State to submit a report to the General Assembly regarding how certain complaints relating to the November 3, 2020 general election were investigated.

February 10, 2021 – Senator Bob Mensch (R-24) [introduces legislation](#) that would remedy a current issue within our election law regarding a voter's permanent absentee voter

status.

March 10, 2021 – Senator Judy Ward (R-30) [introduces legislation](#) that would reform Pennsylvania's absentee and mail-in ballot voting system to help ensure the integrity of our election process in the future given the concerns raised during the 2020 Presidential Election.

March 11, 2021 – The bipartisan Special Committee on Election Integrity & Reform [holds its first hearing](#) on best practices of election integrity and security from other states.

March 15, 2021 – Senator Judy Ward (R-30) [introduces legislation](#) that would apply the voter ID requirement to each and every election and includes both photo and non-photo options on the list of acceptable forms of ID.

March 15, 2021 – Senator John Gordner (R-27) [introduces legislation](#) that would move up the date of our Presidential primary election in the Commonwealth. Under existing law, the primary takes place on the fourth Tuesday of April. In most Presidential elections, the outcome is largely decided before our voters have a chance to cast their vote.

March 22, 2021 – The bipartisan Special Committee on Election Integrity & Reform [holds its second hearing](#) on state and local insight on the administration of elections in Pennsylvania.

April 1, 2021 – Senator Pat Stefano (R-32) [introduces legislation](#) to ensure clarity and security for mail-in and absentee ballots to restore voter confidence in our election process.

April 6, 2021 – Senator Mensch (R-24) [introduces legislation](#) requiring the Auditor General to perform an audit of ballots canvassed in the 2020 General Election.

April 14, 2021 – Senator Bob Mensch (R-24) [introduces legislation](#) requiring the Auditor General to perform a risk-limiting audit of ballots canvassed in the 2020 General Election. In the past, Auditor Generals have attempted to perform similar election audits without the cooperation of the Department of State, as they've refused to share critical information necessary for the Auditor General to perform a thorough audit.

April 16, 2021 – Senator Mastriano (R-33) [introduces legislation](#) to create flexibility for poll watchers and allow them to perform their duties on Election Day.

April 19, 2021 – The bipartisan Special Committee on Election Integrity & Reform [holds its third hearing](#) on insight on the administration of elections in Philadelphia and Allegheny Counties.

May 6, 2021 – Senator Michele Brooks (R-50) [introduces legislation](#) that would direct a hotline and a website be set up within the Office of the Auditor General where

Pennsylvanians can report election fraud allegations as well as questionable practices contrary to the Pennsylvania Election Code.

May 21, 2021 – To address the procedural issues voters experienced in the two most recent elections since no-excuse mail-in ballots were introduced in Pennsylvania, Senator Ryan Aument (R-36) [circulated a cosponsor memo](#) for his legislation that would suspend the use of no-excuse mail-in ballots until spring 2023 or until elected leaders make necessary adjustments to Act 77 of 2019.

June 11, 2021 – The bipartisan Special Committee on Election Integrity & Reform issues its [final report](#) on its findings and accompanying legislative recommendations to improve the integrity of Pennsylvania's elections.

June 22, 2021 – The House passes [House Bill 1300](#), a comprehensive election reform bill that would:

- Establish an early voting period to begin in 2025,
- Allow voters with disabilities to move to the front of the line at polling places,
- Provide for and securing election drop boxes,
- Set standards for counting all votes including allowing non-fatal defects on mail-in ballots, such as unsigned or undated ballots to be corrected,
- Ensure voter verification through an updated county-provided voter registration card,
- Create an election fraud hotline,
- Create a ballot tracking system for mail-in and absentee ballots,
- Ban private donations to counties for election administration, and
- Double penalties for Election Code violations.

June 25, 2021 – The Senate [passes](#) House Bill 1300.

June 30, 2021 – Governor Wolf [vetoes](#) House Bill 1300.

July 10, 2021 – Senator Corman [issues a statement](#) responding to the Department of State's directive that orders counties not to allow for a review of electronic voting systems.

August 20, 2021 – Senator Corman appoints [Senator Cris Dush](#) (R-25) as chair of the Senate Intergovernmental Operations Committee to get results the people of Pennsylvania can believe in.

August 23, 2021 – Senator Corman [issues a statement](#) supporting a careful, thoughtful investigation as necessary to restoring faith in our elections.

September 2, 2021 – The Senate Intergovernmental Operations Committee [creates a special webpage](#) for Pennsylvania residents to [submit sworn testimony](#) regarding problems they have personally experienced with the state's election system.

September 9, 2021 – The Senate Intergovernmental Operations Committee [holds a public hearing](#) on the Investigation of the 2020 General Election and the 2021 Primary Election. The Department of State [refuses to participate](#).

September 15, 2021 – The Senate Intergovernmental Operations Committee [votes to issue subpoenas](#) for a variety of different materials from the Pennsylvania Department of State.

September 17, 2021 – Senator Argall (R-29) and Senator Street (D-3) [introduce legislation](#) to implement some of the recommendations from the [final report](#) issued by the Special Committee on Election Integrity & Reform. The bill (Senate Bill 878) will address pre-canvassing, tracking, and counting mail-in ballots; application deadlines; eliminating the permanent mail-in list; real-time reporting of deceased voters; 24/7 drop box surveillance; and training election workers.

September 21, 2021 – Four updates to Pennsylvania’s election code were [passed out of the Senate State Government Committee](#) with strong bipartisan support:

1. [Senate Bill 428](#), sponsored by Senator John Gordner (R-27), moves up the date of the Presidential Primary Election.
2. [Senate Bill 140](#), sponsored by Senator Pat Browne (R-16), requires the electronic filing of campaign finance reports.
3. [Senate Bill 56](#), sponsored by Senator Scott Martin (R-13), changes the number of write-in votes to qualify as a winner of an election.
4. [Senate Bill 551](#), sponsored by Senator Scott Martin (R-13), would amend the Pennsylvania Constitution to remove the requirement for a separate ballot for judicial elections. These bills now move to the full Senate for their consideration.

September 23, 2021 – The Senate State Government Committee hosts a [public hearing](#) to receive comments on [Senate Bill 878](#), legislation to implement [recommendations](#) of the Special Committee on Election Integrity & Reform.

September 28, 2021 – The Senate State Government Committee passes [Senate Bill 573](#), legislation introduced by Senator Mastriano (R-33) to create flexibility for poll watchers and allow them to perform their duties on Election Day.

October 1, 2021 – Senator Cris Dush (R-25) [issues statement](#) assuring Pennsylvanians that their personal information will be kept safe and secure and condemns political scare tactics that just get in the way of good government.

October 5, 2021 – The Senate State Government Committee hosts a [public hearing](#) to receive comments from the Pennsylvania Department of State on [Senate Bill 878](#),

legislation to implement [recommendations](#) of the Special Committee on Election Integrity & Reform.

October 22, 2021 – Commonwealth Court [filing](#) reaffirms the Legislature’s authority to conduct an election investigation.

November 19, 2021 – Envoy Sage is [selected](#) as vendor to conduct impartial investigation of Pennsylvania’s elections.

January 10, 2022 – Commonwealth Court [upholds](#) the authority of the Senate Intergovernmental Operations Committee to issue a subpoena for voter records as part of its investigation of recent elections.

January 14, 2022 – The Pennsylvania Supreme Court [halts](#) the collection of data from the machines by Envoy Sage, working in connection with the Senate Intergovernmental Operations Committee, just hours after a lower court ruled the process could move forward.

January 20, 2022 – Senator Ryan Aument (R-36) [introduces legislation](#) to clean up voter registration records by requiring regular audits and prohibiting government entities from withholding the data necessary to conduct those audits.

March 11, 2022 – Senate Republicans [file a petition](#) to compel the Department of State to comply with the subpoena issued by the Senate Intergovernmental Operations Committee for information relevant to the committee’s election investigation.

March 29, 2022 – The Senate State Government Committee hosts a [public hearing](#) on [Senate Bill 878](#), legislation that would implement the recommendations of the Special Committee on Election Integrity & Reform.

March 31, 2022 – The Senate Intergovernmental Operations Committee hosts a [public hearing](#) on ballot drop boxes.

April 5, 2022 – The Senate State Government Committee hosts a [public hearing](#) on two election integrity proposals:

- [Senate Bill 982](#) sponsored by Senators Lisa Baker (R-20) and Kristin Phillips-Hill (R-28) that would prohibit outside groups from contributing to election operations, and
- [House Bill 2044](#) sponsored by Representatives Eric Nelson (R-57), Clint Owlett (R-68), and James Struzzi (R-62) that would ensure equitable distribution and transparency of private funding grants for Pennsylvania’s elections.

April 6, 2022 – The Senate State Government Committee hosts a [public meeting](#) to vote to advance the following election integrity legislation:

- **Senate Bill 1018** sponsored by Senator Aument that would help to reconcile any errors, duplicate files, or irregularities within Pennsylvania's voter registration records.
- **House Bill 1614** sponsored by Representative Warner that would increase the required amount of ballots on Election Day in an effort to prevent ballot shortages.

April 8, 2022 – Senate Republicans **announce** bill to eliminate drop boxes citing evidence of misuse.

April 11, 2022 – The Senate State Government Committee **hosts a public meeting to advance three election integrity bills**:

- **Senate Bill 982 to require** elections to be funded only through lawful appropriations by Federal, State or local governments, and imposing a penalty.
- **Senate Bill 1200 to require** that persons delivering mail or absentee ballots may only deliver such ballots at their county's primary office, located in the county seat.
- **House Bill 2044 to prohibit** the Secretary of the Commonwealth and county election officials from accepting private donations or contributions for the operation of elections.


April 13, 2022 – The Senate **votes** to ban unsecured ballot drop boxes (Senate Bill 1200) and private funding of election operations (Senate Bill 982).

June 6, 2022 – The Senate **passes** Senate Bill 573, legislation introduced by Senator Mastriano (R-33) to create flexibility for poll watchers and allow them to perform their duties on Election Day.

July 8, 2022 – The General Assembly passes **Senate Bill 106**, a proposed omnibus constitutional amendment that would, among other things, amend our state's constitution to require voter ID and regular election audits in Pennsylvania. Constitutional amendments are required to pass both chambers of the General Assembly in two consecutive legislative sessions and then be approved by Pennsylvania voters in a ballot referendum. Meaning that, should this language pass the General Assembly again in the next legislative session, it will ultimately be up to the voters to decide if they are in favor of amending the state constitution in these ways.

July 11, 2022 – The General Assembly passes and the Governor signs **Senate Bill 982**, legislation that will ban any state employee or county from accepting money from outside groups to pay for the administration of elections in Pennsylvania and create a grant program for counties to receive the funding necessary to conduct elections efficiently. Counties who accept the money are required to clean up voter rolls, including removing deceased voters, report the total number of voters registered prior to an election, disclose the number of mail-in votes received within 4 hours of polls closing, ensure safekeeping of all ballots, and canvass ballots on Election Day without interruption.

Frequently Asked Questions

Why are lawmakers trying to get my Social Security number and Driver License number? 

That information is necessary to help identify any duplicate registrations, fake registrations, and any votes resulting from those ineligible registrations. Having that information allows us to complete a thorough investigation to ensure every vote cast in every election comes from a living, legal, registered voter.

The General Assembly having this information is no different than any other branch of government having this information. Lawmakers frequently have access to this type of information to help constituents manage problems with the Unemployment Compensation system and other concerns, and no problems have been reported.

Hasn't the state already conducted two audits? 

The two audits mandated by the state were completed, but were limited in size and scope. These reviews are routine and not designed to address broader concerns about election security and integrity. Our investigation and audit are intended to go much further.

How will the investigation be funded? 

The investigation will be funded through Senate accounts. As such, every effort will be made to minimize costs while still providing a thorough examination of our elections.

Will you do the same type of audit as Arizona? 

Although we have learned valuable lessons from Arizona, the process will differ in many ways. We will work with the vendor to determine best practices and allow the investigation to follow wherever the evidence leads.

Vendor Frequently Asked Questions

What experience does the vendor have in investigating elections? 

The team at Envoy Sage has decades of experience in research, investigation, program management, and communications, all of which will be necessary to conduct a thorough review of Pennsylvania's elections. Their team includes analysts, technical professionals, and digital forensic experts who honed their skills during nationally directed operations.

How much is the vendor being paid? 

The contract language, available [here](#), shows a cost of approximately \$270,000.

Who chose the vendor? 

Senator Cris Dush (R-25) in consultation with Senate leadership and Republican members of the Intergovernmental Operations Committee chose the vendor through a rigorous process where merit, competence, impartiality, political affiliations, and more were considered to ensure that the vendor would be more than capable of conducting a fair and thorough investigation of Pennsylvania's elections.

How will the vendor protect my personal information? 

Envoy Sage is well-suited to protect the personal information of Pennsylvania voters, as they not only have handled sensitive information for government agencies, but also have kept classified information safe for the Department of Defense. In fact, much of their team either previously or currently maintains high-level clearances to complete investigations for the most senior levels of government.

Furthermore, the language protecting voters' personal information that is included in the Senate's contract with Envoy Sage is consistent with the language that the Pennsylvania Department of State uses when they contract with third party vendors to maintain the State Uniform Registry of Electors (SURE) system. If this language is


strong enough to safeguard sensitive voter information with the Department's third-party vendors, then it's strong enough to do so for this investigation too.

If you would like to learn more about the contract restrictions placed on the vendor and the protections added to safeguard personal information and taxpayer dollars, the contract language is available [here](#).

What political affiliations does this vendor have? 

None - they are not political. The vendor has never worked for a political party or candidate and does not engage in political advocacy. They have worked with the Department of Defense for both Democrat and Republican Administrations. Furthermore, the contract explicitly prohibits the vendor from engaging in any future political activities to ensure this investigation is completed in a professional, non-partisan manner.

If you would like to learn more about the contract restrictions placed on the vendor and the protections added to prohibit political activities, the contract language is available [here](#).

How can we be sure this vendor will conduct a fair, thorough, and objective review of Pennsylvania elections? 

Envoy Sage is committed to conducting a fair, thorough, and impartial investigation into Pennsylvania's elections. With decades of experience working under both Republican and Democrat Administrations at the federal level and no political affiliations clouding their judgement, Envoy Sage is entering into this project with no pre-conceived notions for what they will or will not find as they investigate the Commonwealth's election systems and data. Envoy Sage's team includes analysts, technical professionals, and digital forensic experts who investigated countless matters of national significance throughout their careers.

Envoy Sage's impressive and extensive investigative resume, coupled with the strict guidelines baked into the contract to ensure that the investigation is impartial and thorough, speaks to Envoy Sage's ability to produce legitimate and useful results.

If you would like to learn more about the contract restrictions placed on the vendor and the protections added to prohibit political activities, protect the personal information of Pennsylvania voters, and ensure a fair and objective review of our elections, the contract language is available [here](#).

How long has this vendor been in the business of conducting investigations?

Envoy Sage personnel have decades of experience in research, investigation, program management, and communications, all of which will be necessary to conduct a thorough review of Pennsylvania's elections. Envoy Sage's team has been involved in conducting high-level investigations through many iterations of the company. The President only recently sold his previous investigative and analytics business and merged it with another company because it was so successful.

Committee Videos & Hearings

Public Hearing — March 31, 2022



Public Hearing — September 15, 2021



Public Hearing — September 9, 2021



Meet Chairman, Senator Cris Dush



Apr 13, 2022

In a strong step forward to safeguard the integrity of Pennsylvania's elections, the Senate approved two bills today that would prevent the future use of unsecured ballot drop boxes and ban private money to fund election operations.

Senate Republicans Announce Bill to Eliminate Election Drop Boxes Citing Evidence of Misuse

Apr 8, 2022

Senate Republicans announced they will soon introduce a proposal sponsored by Senators Cris Dush (R-25), Ryan Aument (R-36), Jake Corman (R-34), and Kim Ward (R-39) that will require mail-in ballots that are not returned in the mail to be returned only to the County Board of Elections office, effectively eliminating drop boxes in Pennsylvania.

County Election Officials, Local Leaders Testify at Election Investigation Hearing on the Flaws of Drop Boxes

Mar 31, 2022

The Senate Intergovernmental Operations Committee hosted a public hearing today on the use of election drop boxes in Pennsylvania as part of the committee's continuing efforts to investigate Pennsylvania's elections.

Senators Corman and Dush Comment on Petition to Compel Compliance with Election Investigation Subpoena

Mar 11, 2022

Senate President Pro Tempore Jake Corman (R-Bellefonte) and Senate Intergovernmental Operations Committee Chair Cris Dush (R-Jefferson) issued the following statement today after filing a petition to compel the Department of State to comply with a subpoena for information relevant to the committee's election investigation:

Corman Applauds Commonwealth Court Ruling Supporting Election Investigation Subpoena

Jan 10, 2022

Senate President Pro Tempore Jake Corman (R-Bellefonte) issued the following statement today after the Commonwealth Court upheld the authority of the Senate Intergovernmental Operations Committee to issue a subpoena for voter records as part of its investigation of recent elections:

Envoy Sage Selected to Conduct Impartial Investigation of Pennsylvania's Elections

Nov 19, 2021

Envoy Sage, a service-disabled veteran-owned small business specializing in research, investigation, program management, and crisis communications, announced earlier today that it has been selected by Pennsylvania State Senator Cris Dush (R-25) in consultation with Senate Republican leadership and members of the Intergovernmental Operations Committee to conduct a thorough investigation of Pennsylvania's elections.

Dush: Commonwealth Court Filing Reaffirms Legislature's Authority to Conduct Election Investigation

Oct 22, 2021

Fighting back against the false narratives and cheap scare tactics of Attorney General Josh Shapiro and Senate Democrats, Senator Cris Dush (R-Jefferson) and Senate Republicans responded in court today with a filing that reaffirms the General Assembly's role to provide oversight and transparency of Pennsylvania's elections.

[Listen](#)

Senator Dush Provides Update on Election Integrity Investigation

Oct 21, 2021

HARRISBURG – Senator Cris Dush (R-Jefferson) provided an update today on the status of the Senate Intergovernmental Operations Committee’s effort to conduct a thoughtful, responsible review of recent elections. The Attorney General and Senate Democrats sought to block...

Op-Ed: Don’t Be Fooled by Democrats’ Election Investigation Scare Tactics

Oct 1, 2021

Since lawmakers voted to subpoena information from the state’s voter registration system two weeks ago, many Pennsylvania Democrat Leaders have made wild accusations about what will happen to this data when it is eventually turned over by the Department of State.

Senate Panel Votes to Issue a Subpoena for Election-Related Documents from Department of State

Sep 15, 2021

To continue its legislative investigation into the integrity of recent elections, the Senate Intergovernmental Operations Committee voted today to issue subpoenas for a variety of different materials from the Pennsylvania Department of State. [Key Points](#)

[« Older Entries](#)

Exhibit A-18

Business Entity Summary

- **Summary**
- [Address](#)
- [Agent](#)
- [Filings](#)
- [Names](#)
- [Officers](#)
- [Stock](#)
- [Search Again](#)

[Print Certificate of Existence](#)

Searched: **Envoy Sage, LLC**

Business No.	Legal Name	Status
639287	ENVOY SAGE, LLC	Active
Type	State of Inc.	Modified
Legal	IA	No
Expiration Date	Effective Date	Filing Date
PERPETUAL	8/5/2020 2:09 PM	8/5/2020 2:09 PM
Chapter		
CODE 489 DOMESTIC LIMITED LIABILITY COMPANY		

Names (Viewing 1 of 1)

Type	Status	Modified	Name
Legal	Active	No	ENVOY SAGE, LLC

Registered Agent or Reserving Party

Full Name	
KEVIN T. KELLY	
Address	Address 2
755 TANGLEWOOD CT	
City, State, Zip	
DUBUQUE, IA, 52003	

Home Office

Full Name	
Address	Address 2
16555 ROLLING HILLS ESTATES	
City, State, Zip	
DUBUQUE, IA, 52001	

Exhibit A-19



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Foreign Limited Liability Company
ENVOY SAGE, LLC

Filing Information

Document Number M21000012150
FEI/EIN Number NONE
Date Filed 09/10/2021
State IA
Status ACTIVE

Principal Address

1715 CENTRAL AVE
DUBUQUE, IA 52001

Mailing Address

1715 CENTRAL AVE
DUBUQUE, IA 52001

Registered Agent Name & Address

LAHR, STEVEN
4409 CREWS CT
PT CHARLOTTE, FL 33952

Authorized Person(s) Detail

Name & Address

Title MGR

LAHR, STEVEN
4409 CREWS CT
PT CHARLOTTE, FL 33952

Title MBR

LAHR, STEVEN
4409 CREWS CT
PT CHARLOTTE, FL 33952

Title AP

LAHR, STEVEN

4409 CREWS CT
PT CHARLOTTE, FL 33952

Annual Reports

No Annual Reports Filed

Document Images

[09/10/2021 -- Foreign Limited](#) [View image in PDF format](#)

Exhibit A-20



Doc ID: 010758060001 Type: GEN
 Kind: WARRANTY DEED
 Recorded: 06/15/2021 at 08:52:01 AM
 Fee Amt: \$2,211.20 Page 1 of 1
 Revenue Tax: \$2,199.20
 Dubuque County Iowa
 John Murphy Recorder

File **2021-00009747**

Return To: Tara L. Holste and Vanessa E. Holste, 16555 Rolling Hills Dr., Dubuque, IA 52001
Taxpayer: Tara L. Holste and Vanessa E. Holste, 16555 Rolling Hills Dr., Dubuque, IA 52001
Preparer: Brian J Kane, 2100 Asbury Rd., Ste. 2, Dubuque, IA 52001, Phone: (563) 582-7980



WARRANTY DEED JOINT TENANCY

For the consideration of Ten Dollars (\$10.00) and other valuable consideration, Steven R. Lahr and Debra K. Lahr, husband and wife, do hereby Convey to Tara L. Holste and Vanessa E. Holste, a married couple, as joint tenants with full rights of survivorship and not as tenants in common, the following described real estate in Dubuque County, Iowa:

Lot 1 of Lot 1 and Lot 2 of Lot 1 of Rolling Hills Estates No. 2, being partly in the City of Sageville, Dubuque County, Iowa, according to the recorded plat thereof.

Grantors do Hereby Covenant with grantees, and successors in interest, that grantors hold the real estate by title in fee simple; that they have good and lawful authority to sell and convey the real estate; that the real estate is free and clear of all liens and encumbrances except as may be above stated; and grantors Covenant to Warrant and Defend the real estate against the lawful claims of all persons except as may be above stated. Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the real estate.

Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

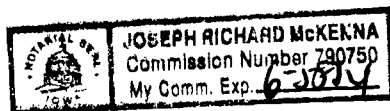
Dated: June 11, 2021.

 Steven R. Lahr, Grantor

 Debra K. Lahr, Grantor

STATE OF IOWA, COUNTY OF DUBUQUE

This record was acknowledged before me on June 11, 2021 by Steven R. Lahr and Debra K. Lahr, husband and wife.



 Signature of Notary Public


500
700
DCAR

Exhibit A-21



U.S. Tax Service - Kevin Kelly, CPA

(3 Reviews)

 **1715 Central Avenue**
Dubuque, IA 52001

[Claim Your Listing](#)

[About](#)

[Hours](#)

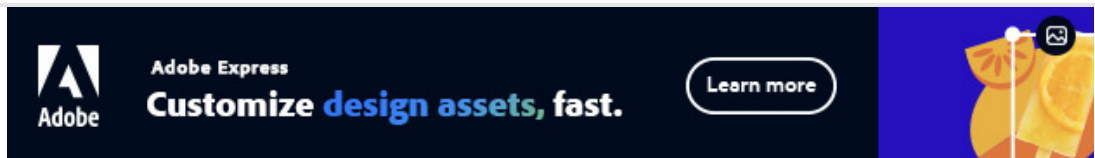
[Details](#)

[Reviews](#)



[DIRECTIONS](#)

[REVIEWS](#)



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Exhibit A-22

Prepared By and Return To:
Steven R. Greenberg, Esquire
Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A.
2033 Main Street, Suite 500
Sarasota, FL 34237

File Number: 77902-131345
Purchase Price: \$1,305,000.00

General Warranty Deed

Made this June 22, 2021 A.D., by **Joseph Imbasciani and Christine M. Imbasciani, husband and wife**, whose post office address is: 20232 Sedley Ave., Port Charlotte, FL 33954, hereinafter called the Grantor, to **Steven Raymond Lahr and Debra Kim Lahr, husband and wife**, whose post office address is: 4409 Crews Court, Port Charlotte, Florida 33952-9758, hereinafter called the Grantee:

(Whenever used herein the term "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth, that the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00), and other valuable consideration, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee, all that certain land situate in Charlotte County, Florida, viz:

Lot 11, Block 2101A, PORT CHARLOTTE SUBDIVISION, SECTION 36, a Subdivision, according to the plat thereof, as recorded in Plat Book 6, Page 8A, of the Public Records of Charlotte County, Florida.

Parcel ID#: 402226331010

SUBJECT TO covenants, restrictions, easements, conditions and limitations of record, and taxes for 2021 and thereafter.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land; that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever.

In Witness Whereof, the said Grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered
in our presence:

Amurph

(Signature of first Witness)

Angie Murph

(Printed name of first Witness)

Joseph Imbasciani

Joseph Imbasciani

Natalie G. Coldiron

(Signature of second Witness)

Natalie G. Coldiron

(Printed name of second Witness)

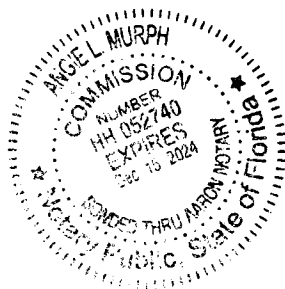
Christine M. Imbasciani

Christine M. Imbasciani

STATE OF FL
COUNTY OF Sarasota

The foregoing instrument was acknowledged before me, by means of [] physical presence or [] online notarization, this 16 day of June, 2021, by **Joseph Imbasciani and Christine M. Imbasciani, husband and wife**, who is/are personally known to me or who produced FL DL as identification.

(NOTARIAL SEAL)



Amurph

NOTARY PUBLIC

Angie Murph

Printed Name: _____

My Commission Expires: _____

Exhibit A-23



Envoy Sage

CRITICAL POINT CONSULTING SERVICES

During every crisis situation, there is a CRITICAL POINT where the right decision or right information makes the difference. Accordingly, we deliver rapid clarity, agile leadership, and creative solutions designed specifically for these chaotic moments.

Services

YOUR STRATEGIC PARTNER DURING CHAOS, CRISIS & CHANGE -- C3

The future promises increasing levels of disorder, rapid market dynamics, and complex disinformation that can threaten your operations. We promise speed, agility, and entrepreneurial creativity delivered by proven professionals with integrity and discreet operations.



Crisis & Risk Management

CONTINGENCY PREPARATION

- Crisis Planning & Response
 - Risk Mitigation
 - Signature Reduction
- Stability Support Operations



Research & Investigation

A COMPREHENSIVE APPROACH

- Sensitive Investigations
 - Digital Forensics
- Due Diligence Research
 - Competitor Research
- Multi-Environment Market Research



Market Influence & Media Messaging

SUCCESS DURING MARKET CHAOS

- Offensive & Defensive Market Engagement
 - Rapid Media Response
 - Full Spectrum Communications Operations



Competitive Business Measures

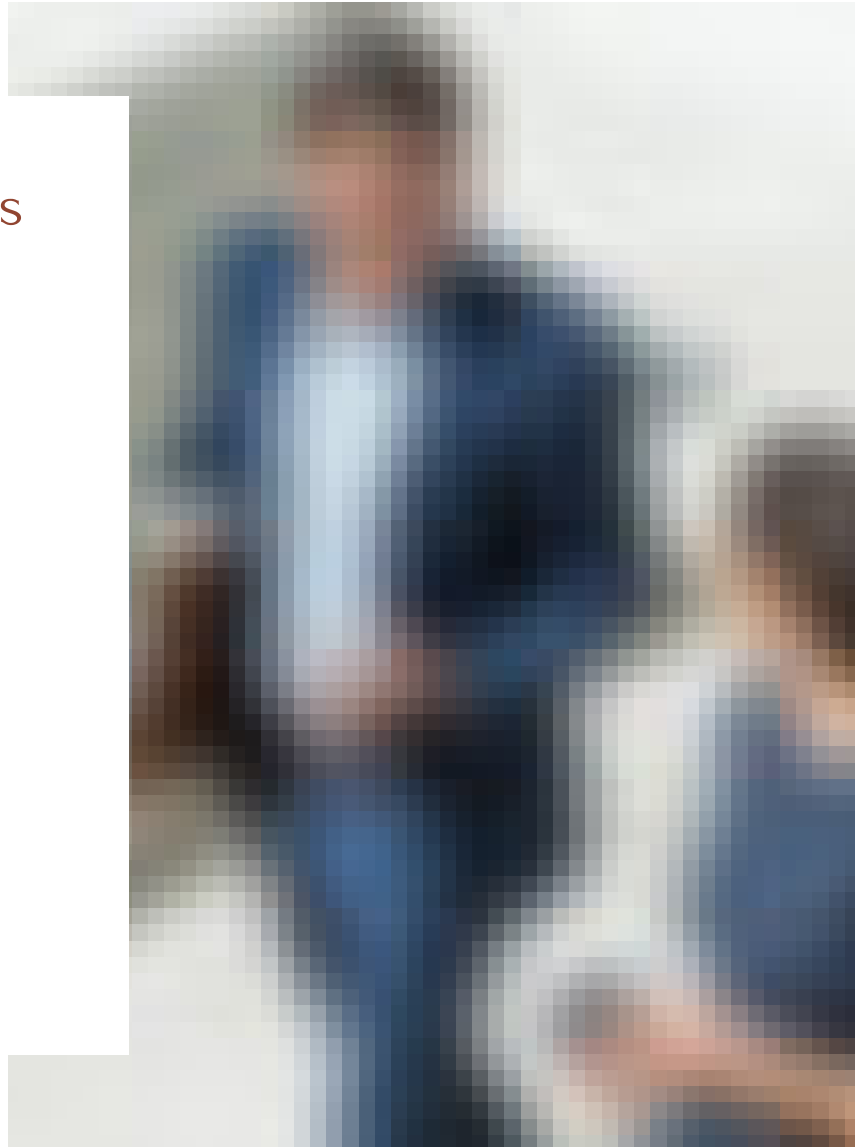
SET CONDITIONS FOR SUCCESS

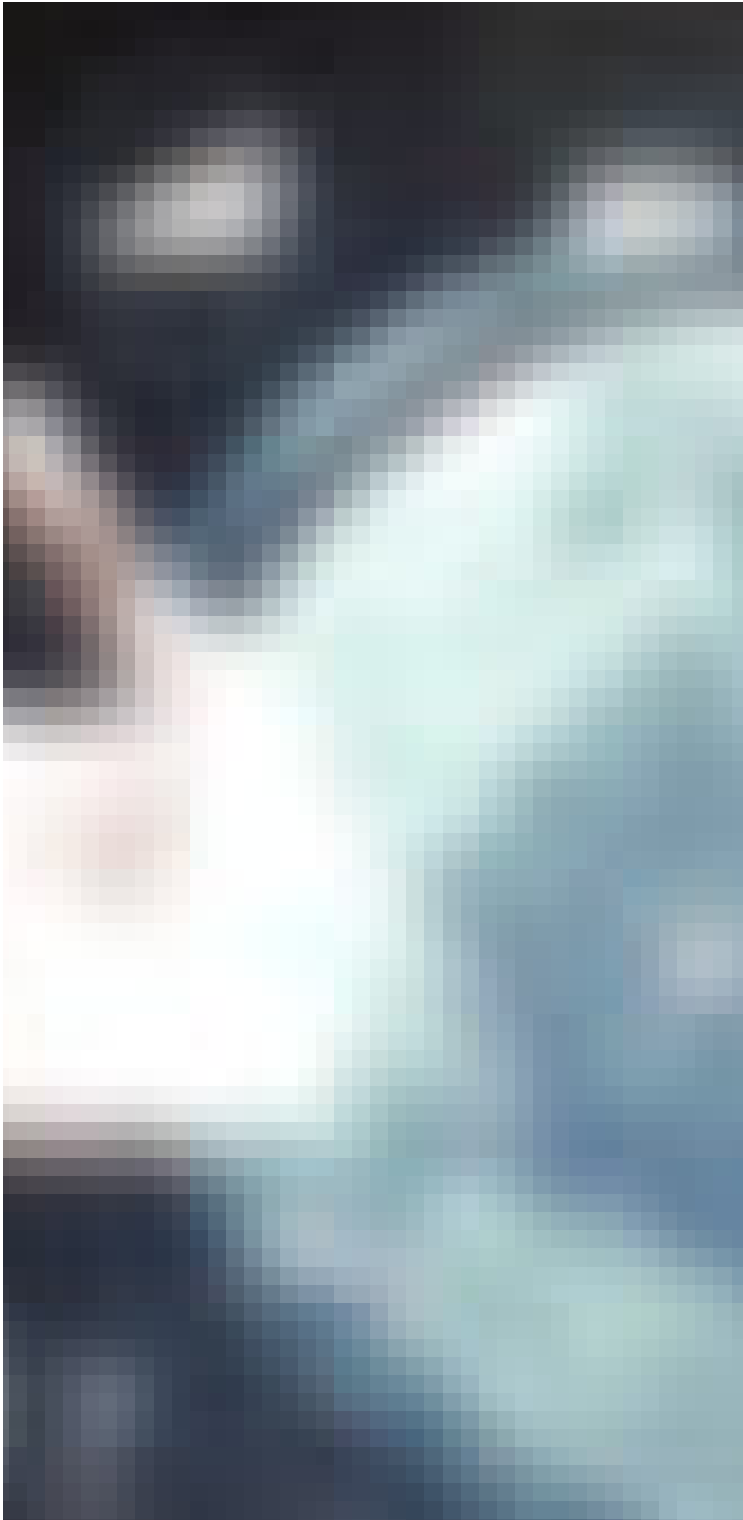
- Competitive Intelligence

- Multi-Source Analytics
- Predictive Analysis
- Red Team/Black Hat Analysis

Operating Principles for C3

- Complete mission focus on client success
- Professionalism with integrity and candor
- The best subject matter expertise – recent and relevant skills/experience
- Proven processes and effective systems
- The right equipment, software, forensic applications, and tools
- Properly prepared – thoughtful plans with contingency options
- Precise execution with agility & speed
- Discreet and secure operations
- Excellent and rapid communications
- Leveraging Lessons Learned
- Media Operations overlaid in all projects





About

CONSULTING SERVICES TAILORED FOR CRISIS, CHAOS & CHANGE - C3

Our capability to operate and succeed in C3 environments was forged during global pursuit and counter-terrorism operations. Envoy Sage leadership and personnel are veterans from the United States Special Operations Command and Intelligence organizations. Our company president is a proven and successful serial entrepreneur, who founded, operated, and transitioned several lucrative ventures. He brings this expertise and experience to every project. We provide analysts, technical professionals, cyber, and digital forensic experts that honed their skills during Nationally-Directed operations, and have customized services for commercial application. Our information and media specialists bring decades of effective Information Operations applied across various domains, platforms, industries, and environments.

Proven Performance

PAST PROJECTS



Fraud Investigation - Oil Industry

Conducted investigation that involved digital forensics, physical evidence, and global tracking. Discovered internal fraud and embezzlement.



Due Diligence Research - International Commerce

Performed due diligence research for an international corporation that was considering an acquisition of a foreign company. Our research uncovered asset and financial anomalies that was a driver in the decision to not acquire.



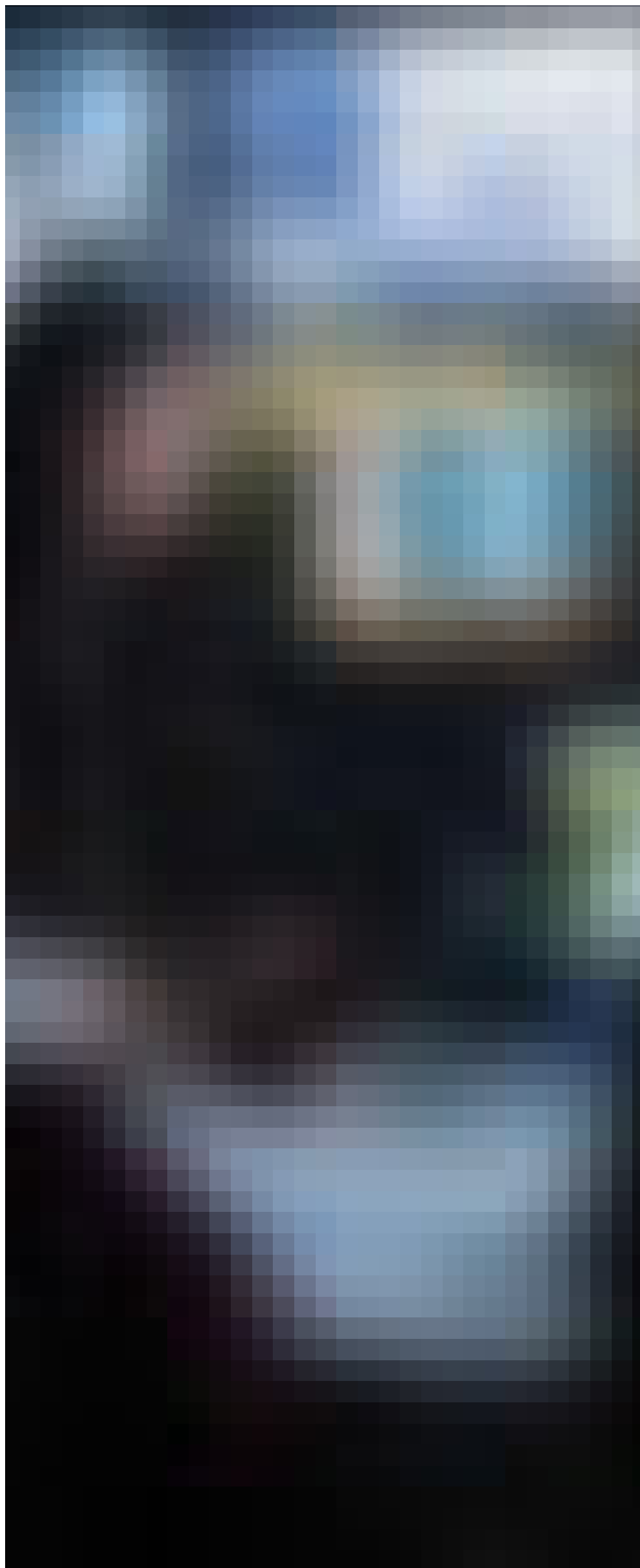
Information Operations - Government and Public Space

Exposed disinformation delivered by three coordinating NGOs, which was harming our client. We built and helped execute a Media Information Operation to expose the disinformation and successfully counter the damaging narratives.



Competitive Intelligence - Business Development

This project involved the collection of information for a client (government contract firm) that was used to build a competitive proposal. We gathered and analyzed competitor service methodology, which was critical to our client's winning proposal.





International Association of
Computer Industry Specialists --
Member



National Council of Investigation &
Security Services --
Member



Vigilant Torch Association -
Co-Founder

Contributions

- Green Beret Foundation
- Vigilant Torch Foundation
- Veterans of Foreign Wars
- American Legion

Contact

Name *

Enter your name

Email *

Enter your email

Subject

Type the subject

Message

Type your message here...

Submit

Envoy Sage, LLC

contact@envoysage.com

202.379.3045

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Envoy Sage Selected to Conduct Impartial Investigation into Pennsylvania's Elections

(Dubuque, IA) – Envoy Sage, a service-disabled veteran-owned small business specializing in research, investigation, program management, and crisis communications, announced earlier today that it has been selected by Pennsylvania State Senator Cris Dush (R-25) in consultation with Senate Republican leadership and members of the Intergovernmental Operations Committee to conduct a thorough investigation of Pennsylvania's elections.

Based in Dubuque, Iowa, Envoy Sage's team has decades of experience conducting investigations that are complex and large scale, regularly employing multi-discipline teams to do so, including analysts, technical professionals, and digital forensic experts who investigated countless matters of national significance throughout their careers. Importantly, the company is well-suited to protect the personal information of voters, as they not only have handled sensitive information for government agencies, but also have kept classified information safe for the Department of Defense. Much of their team either previously or currently maintains high-level clearances to complete investigations for the most senior levels of government which required them to have the proper knowledge, skills, and experience handling evidence and preserving chain of custody.

"Envoy Sage is committed to conducting a fair, thorough, and impartial investigation into Pennsylvania's elections," said Steve Lahr, company President. "With decades of experience working under both Republican and Democrat Administrations at the federal level and no political affiliations clouding our judgement, we are entering into this project with no pre-conceived notions for what we will or will not find as we investigate the Commonwealth's election systems and data. We understand that this objectivity is critical so that the Intergovernmental Operations Committee can use our results and recommendations as they craft future legislation to improve Pennsylvania's elections."

In addition to having no political associations, which includes refraining from actively supporting both current candidates and candidates who were on the 2020 or 2021 ballots in Pennsylvania, Envoy Sage is also contractually prohibited from engaging in any political or lobbying activities moving forward for the duration of the investigation, thereby ensuring that the process is impartial and fair.

The contract language sets the length the relationship between Envoy Sage and the Pennsylvania Senate Intergovernmental Operations Committee at no more than six months, with an option to extend if both parties deem necessary.

At this point in time, Envoy Sage is to provide planning and consulting services necessary to continue the investigation, including recommendations on how best to review whatever information is ultimately received from the Pennsylvania Department of State on the State Uniform Registry of Electors (SURE) system. The contract covers document analysis, consultation, review of election concerns and affidavits submitted to the committee, analysis of other election integrity initiatives across the nation, and more.

Envoy Sage Selected to Conduct Impartial Investigation Into Pennsylvania's Elections

Envoy Sage, LLC

contact@envoysage.com

202.379.3045

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Exhibit A-24

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Transcription of Press Conference based on Audio File Envoy
Sage press conference_otter_ai

1 (Beginning of Audio Recording.)

2 SENATOR DUSH: All right, thanks --
3 thanks (inaudible) people to get off instead
4 of being blocked off or missing part of this.
5 Good afternoon. My name is Senator Cris
6 Dush. I'm chairman of the Senator
7 Intergovernmental Operations Committee, and I
8 appreciate you taking the time to join
9 today's media call.

10 As chair of the Senate
11 Intergovernmental Operations Committee, one
12 of my tasks is to lead our PA election
13 investigation efforts. Today we find
14 ourselves at a crossroads when it comes to
15 the integrity of our election process. An
16 F&M poll conducted in August reflected the
17 first time in the history of the poll a
18 noticeable number of Pennsylvania voters
19 mentioned election integrity as one of the
20 state's pressing issues.

21 And 40 percent of all Pennsylvania
22 voters in that Franklin and Marshall poll
23 supported the PA election investigation.

24 As elected officials representing the
25 people of our commonwealth, it is our

1 responsibility to ensure that people can have
2 trust in our elections and in the process,
3 and we must earn their trust.

4 To accomplish that, we must find out
5 where the weaknesses and strengths are in our
6 system and make appropriate changes to
7 address those weaknesses so we can ensure
8 election integrity.

9 That is why we have contracted with
10 Envoy Sage, LLC. In a few moments, you will
11 hear from Steve Lehr, president of Envoy
12 Sage, the firm selected to help with the
13 investigation.

14 Please keep in mind, this is an
15 investigation, and we must protect the
16 reliability of that investigation, which
17 means that information and updates will be
18 provided as we are able through the committee
19 and Envoy Sage. But that may not occur as
20 often as some might prefer.

21 With that, I will now turn this call
22 over to our call moderator, Dawn Lush, who
23 will walk you through a few instructions.
24 Thank you, Dawn.

25 DAWN LUSH: Thank you, Senator. And

1 again, there was a question if there would be
2 follow-up questions after the Q&A portion.
3 You can always ask your question and maybe
4 press Star 3 again, but there will be no
5 back-and-forth. You will be put live in the
6 line, you will have an opportunity to ask
7 your question, and then you will be muted so
8 that Steve can answer your question.

9 If you have follow-up questions,
10 please press Star 3 to go through the
11 screening process again, and with that, I'm
12 going to turn it over to Steve Lehr,
13 president of Envoy Sage, LLP. Steve, take it
14 away.

15 STEVE LEHR: Thank you, Dawn. And
16 thank you, Senator Dush.

17 Hello, everyone. It's a pleasure to
18 speak with you today. My name's Steve Lehr,
19 and I'm the president of Envoy Sage. My
20 company was selected to assist the Senate
21 Intergovernmental Operations Committee with
22 Pennsylvania election investigation.

23 Our firm was chosen after an extensive
24 interview process. It is an honor to have
25 been chosen to assist in this effort. I've

1 been conducting complex research
2 investigations, audits, and analysis for more
3 than 35 years. This experience was garnered
4 first in the military and then in the private
5 sector.

6 In both arenas, I've built and led
7 teams and successfully delivered crucial
8 information and intelligence, which were the
9 result of extensive, complicated, and
10 sensitive investigation and research, and
11 multi-discipline analysis.

12 We routinely and effectively handled,
13 transported, and protected highly classified
14 governmental material and personal
15 information. We did so while maintaining
16 chain of custody requirements and DOD
17 protocols for evidence, even when operating
18 in dynamic, strict, and high-risk
19 environments.

20 This past performance provides a
21 strong foundation as we move forward to
22 support the Senate investigation. Our role
23 is to provide investigative expertise, tools,
24 and analysis that are not organic to the
25 Senate.

1 We are focused exclusively on election
2 integrity. Our team will begin with an
3 examination of the 2020 general and the 2021
4 primary elections in the Commonwealth of
5 Pennsylvania, followed by an analysis of
6 voter submissions made the committee's
7 website.

8 Next will be a review of previous
9 election audit-related materials, and then we
10 will provide recommendations based on
11 analysis of fact for future election and
12 voting integrity legislation.

13 We are aware that there is a subpoena
14 currently undergoing a legal challenge in the
15 Commonwealth court, and to the extent those
16 are yet undecided, I will not discuss the
17 procedures or efforts that we may or may not
18 take in the future regarding the materials
19 requested in that subpoena.

20 Our function here is to provide the
21 committee with clarity, facts, and analysis.
22 We have no preconceived notions of what we
23 will or will not find. Facts as they are
24 gathered, both digital and physical, will
25 drive our investigative services.

1 We will handle all concerns, data, or
2 information presented by the citizens of the
3 Commonwealth through the website or to us by
4 the committee with fidelity due diligence,
5 and the utmost discretion. Our team will
6 diligently and professionally protect and
7 secure any and all personal information that
8 we are tasked to analyze if such information
9 comes available to use at any time during the
10 investigation.

11 Envoy Sage follows industry best
12 practices for information security, handling,
13 and disposal. Our company policies,
14 standards, and procedures meet or exceed the
15 contract requirements as well as the
16 guidelines from the National Institute of
17 Standards in Technology, their cybersecurity
18 framework or NIST CSF, as well as DOD
19 protocols for the protection of PII and
20 sensitive data.

21 The Senate has made it very clear our
22 efforts must meet the highest standards of
23 professional ethics and integrity. They have
24 engaged in a good-faith contract with Envoy
25 Sage, and we will fulfill our contractual

1 obligations in a manner that keeps with the
2 highest traditions of investigatory
3 procedure, ethics, and professional conduct.
4 Thank you.

5 I will now turn it back to our call
6 moderator for Q&A.

7 DAWN LUSH: Okay, thanks everybody.
8 We're going to take our first call. Joe
9 Natcha (phonetic) from the Tribune Review in
10 Greensburg, you're live on the air.

11 JOE NATCHA: Yes, Senator, how was
12 Envoy Sage selected? There was a no-bid
13 contract, obviously. How many companies bid?
14 How many companies were interviewed for this
15 process?

16 SENATOR DUSH: Yeah, thank you for the
17 question. That's really a response required
18 by the Committee. I'm not permitted to
19 discuss that as part of our contract. Thank
20 you.

21 DAWN LUSH: And thanks for that call.
22 Next, we have Danielle -- pardon if I don't
23 pronounce it correctly -- Danielle Ohl,
24 Spotlight PA. You're live.

25 DANIELLE OHL: Yeah, thanks. My

1 question is -- can you tell us the names of
2 the people who work for Envoy Sage and what
3 they do for the firm?

4 STEVEN LEHR: Well, thank you for the
5 question. That might take all day. I'll
6 tell you, my name's Steve Lehr. I'm the
7 founder and president, and we've got sitting
8 in the room, Mike Mull (phonetic), and then
9 we've got a great team of staff personnel as
10 well as (inaudible) that support us and help
11 us drive our -- conduct our analysis,
12 conclusions, research, and investigation.
13 Thank you.

14 DAWN LUSH: Eddie Kizo (phonetic) from
15 WNTF in Philly, you are next.

16 EDDIE KIZO: Yes, thank you. So
17 Senator, if something is found, right, what
18 is the next step after this? For example,
19 (inaudible) Philadelphia was on the cover of
20 the Inquirer ballot harvesting. Nothing
21 happened to him, and that story went away.
22 So what happens next after this process?
23 Thank you.

24 SENATOR DUSH: Thank you very much for
25 the -- for the question. I will certainly

1 refer that question to the committee, and it
2 would be more appropriate for the committee
3 and the chair to answer that.

4 DAWN LUSH: Okay. Dan Murphy at
5 PennLive. You're on the air.

6 DAN MURPHY: Hi there. I was
7 wondering as a follow-up to Danielle's
8 question of how many people on your team will
9 have access to the information. It sounds
10 like you said there's so many that you
11 couldn't name them all. And also, with
12 regard to the previous examinations that
13 legislative committees have done into the
14 election, I was wondering if you're familiar
15 with what -- what their work what they found
16 did and didn't work with the 2020 election
17 and what will this \$270,000 that taxpayers
18 are going to spend on this going to buy them
19 that they haven't already heard?

20 SENATOR DUSH: Thank you very much.
21 Again, I've got the same response about the
22 question. It's getting into the details of
23 how we'll conduct the investigation, and I'm
24 not at liberty to discuss those procedures.
25 That is a more appropriate question for the

1 committee that is conducting the
2 investigation. Thank you.

3 DAWN LUSH: Okay. We've got Andrew
4 Seidman, although Andrew, I don't see where
5 you're calling from. Andrew, where are you
6 calling from, what organization?

7 ANDREW SEIDMAN: Hi, yes. I'm calling
8 from the Philadelphia Inquirer.

9 DAWN LUSH: Okay, thanks. Go ahead,
10 Andrew. You're live.

11 ANDREW SEIDMAN: Thank you. Mr. Lehr,
12 I understand you can't speak much about --
13 about the investigation. Can you tell us a
14 little bit more about your past experience?
15 What is your relevant experience that you
16 bring to this investigation, and have you --
17 either for Envoy Sage or your previous
18 companies ever investigated an election or
19 election administration? That's my first
20 question.

21 And my second question is what do you
22 make of -- what is your assessment of the
23 reviews that took place earlier this year in
24 Arizona, and do you see that as a potential
25 model for your review?

1 STEVEN LEHR: Thank you very much for
2 that -- for that question. With regard to
3 the first part of your question about the
4 investigation, what I would say is that going
5 back to my opening remarks, I've got 35 years
6 conducting investigation, complex research,
7 and then doing multi-functional analysis.
8 That goes to due diligence, finding
9 personnel, conducting intelligence, and
10 garnering facts, and providing those facts
11 and analysis to the stakeholders. We think
12 that will set -- be very valuable to the
13 Senate committee investigating this -- and
14 could you repeat the second question, please?

15 DAWN LUSH: I'm sorry, he is no longer
16 on the air right now. Let's see --

17 STEVEN LEHR: Oh, I recall now. You
18 had a question about whether the
19 investigation in other states, specifically
20 Arizona, might be a useful guide.

21 You know, we have followed the
22 investigations in other states. Some of
23 their process and procedures may or may not
24 be useful to the investigation. To the
25 extent that some of those process and

1 procedures are useful, we will certainly take
2 them under advisement and incorporate them
3 into our system.

4 But we don't want to come into the
5 investigation with any preconceived notions,
6 and certainly, we want to stay impartial and
7 don't want this to devolve into a, you know,
8 media event. Thank you.

9 DAWN LUSH: Thank you, Steve. We're
10 going to go now to Justin at City and State
11 PA. Justin, you're live.

12 JUSTIN SWEITZER: Yeah, hi. Thanks
13 for taking my question. My question centers
14 around donations that you've made, Mr. Lehr,
15 in the past to Republican candidates. I know
16 that Democrats have been very critical of
17 this election investigation effort, calling
18 it a partisan effort.

19 So I wanted to see what your response
20 would be to their claims that your kind of
21 history of donating to Republican candidates
22 only underscores that this is a partisan
23 review.

24 STEVEN LEHR: Yeah, thank you very
25 much for that question. You know, I think

1 some of the items that I saw in the press
2 were referencing a recent donation a couple
3 years ago to Lindsay Graham for \$250. You
4 know, that's a family member of mine donated
5 that amount.

6 As an American citizen, I don't think
7 it takes away my ability to, on the personal
8 side, provide a support to candidates on the
9 left or the right. I've supported candidates
10 that are Democrats and candidates that are
11 Republicans, and I have worked professionally
12 for both administrations, Democrat and
13 Republican, and I've been able to put a
14 firewall between my personal and professional
15 business dealings, and I've been quite
16 successful and hired by and have been
17 continued to be hired by both -- both
18 administrations. And I see myself as very
19 bipartisan, fair, and will conduct myself as
20 such.

21 DAWN LUSH: Thank you, Steve. Next up
22 is Marley Parish of Capitol Star. Go ahead,
23 Marley.

24 MARLEY PARISH: Hi, thanks for taking
25 my question. This is following up on

1 Danielle and Dan's question. How many people
2 are on your team, and is that going to be
3 enough in terms of conducting this
4 investigation and going through all the
5 information that was referenced in opening
6 remarks?

7 STEVEN LEHR: Yeah, certainly. Thanks
8 for the question. Our team has got the
9 ability to scale when we need more members
10 and more expertise. We add them to the team,
11 either as a fulltime effort, 1099, or
12 subcontractors. And when we need to
13 contract, we're able to do that.

14 So we are very agile in growing the
15 team rapidly with expertise and supporting
16 the client as needed during the investigatory
17 process. Thank you.

18 DAWN LUSH: (Inaudible) Mark Levy with
19 the Associated Press. You're up.

20 MARK LEVY: Hi, Mr. Lehr. So what I
21 think I hear you saying is that you don't
22 have any experience specific to elections,
23 but given your description of the past work
24 you've done, I was wondering if there is a
25 contract that you could describe in detail

1 the work you did on it, something that maybe
2 you're particularly proud of that would give
3 us sort of a sense of what you mean when you
4 say you've handled information, done
5 investigations?

6 STEVEN LEHR: Yeah, thank you for
7 that. Most of our work is confidential and
8 classified at the highest levels from the --
9 for the U.S. Government and the Department of
10 Defense. So I'm not at liberty to discuss
11 those contracts and especially the details of
12 those contracts.

13 I will leave it with you to reiterate
14 what we said earlier. We handled a great
15 deal of personal information and classified
16 information while we conducted investigations
17 for government agencies and -- and the
18 Department of Defense. That information,
19 those techniques, our procedures will be very
20 valuable to the Senate investigation. Thank
21 you.

22 DAWN LUSH: Okay. And we have time
23 for one more caller. Jonathan Lai with the
24 Inquirer. Jonathan, you're on.

25 JONATHAN LAI: Okay, thanks. This is

1 a question for Steve. I heard what you said
2 about no preconceived notions, and I know you
3 can't get too deep into (inaudible). But I'm
4 still a little confused as to what exactly
5 you'll be doing, and I'm wondering if you can
6 tell us some of the specific types of
7 questions you're trying to answer.

8 So for example, are you trying to find
9 voter fraud specifically? You know, what are
10 some of the things you're trying to
11 determine?

12 STEVEN LEHR: Yeah. Thank you for
13 that question. You know, we're focused on an
14 examination of the -- of -- we're focused on
15 election integrity, and our team, as I
16 mentioned earlier, is going to begin with an
17 examination of the 2020 general and 2021
18 primary elections in the Commonwealth of
19 Pennsylvania.

20 Then we're going to shift and conduct
21 an analysis of voter submissions made to the
22 committee's website, followed by a review of
23 previous election audit-related materials,
24 and then we're going to provide
25 recommendations based on analysis of fact for

1 future election and voting integrity
2 legislation. Thank you.

3 DAWN LUSH: Okay. That wraps up the
4 Q&A portion of our call. We have some final
5 words from Senator Dush. Go ahead, Senator.

6 SENATOR DUSH: Yes, thank you, and
7 this is Senator Dush, and I want to thank all
8 the reporters and media outlets for being
9 part of this call.

10 I offer special thanks to Steve for
11 making himself available today, and I think
12 this call was informative and helpful, and I
13 look forward to seeing the great work Envoy
14 Sage is going to do in helping us investigate
15 and strengthen our election system.

16 We will continue to keep you informed
17 as the next steps of the investigation as
18 that information is available. Thank you,
19 all, again, for participating.

20 AUTOMATED VOICE: The Access Live
21 event has ended.

22 (End of Audio Recording.)
23
24
25

CERTIFICATE

I, Wendy Sawyer, do hereby certify that I was authorized to and transcribed the foregoing recorded proceedings and that the transcript is a true record, to the best of my ability.

DATED this 2nd day of December, 2021.



WENDY SAWYER, CDLT

Exhibit A-25

GREAT AMERICA

Taming Thought Engineers

If entities engage in censorship, information manipulation, algorithm-driven deception, speech restrictions, or purposeful news placement they should be appropriately regulated, taxed or punished.

By *Steve Lahr*



October 24, 2020

Big Tech is peddling a new technology cocktail it claims will produce unbiased news and impartial information searches. In truth, Google, Facebook, Twitter, YouTube, and now Spotify, are using new digital tools to manipulate information in a deceptive campaign to influence viewpoints and control behavior

X

social and psychological research, combined with unwitting and unauthorized experimentation on consumers, some of these tech giants have devised ways to change your mind and shape your views about political topics and candidates.

Search engines cleverly elevate or demote items returned on consumer queries to promote a specific point of view. News aggregators blend fact with opinion to change your perception, judgement, and preferences. Algorithms promote positive stories from the Left to the first page, while the opposite is often true for stories coming from the Right.

Information manipulation has become a standard practice for these large tech companies. It is sold as balanced news and neutral data searches. In the past this was called propaganda and brainwashing—now we call it Googling.

The virtually omniscient power to deceive, force speech conformity, and impact the thoughts of millions of consumers, presents a danger to individualism, privacy, and freedom. As with dangerous narcotics or weapons of mass destruction, it should be appropriately monitored and regulated.

This ongoing assault on free speech is justified with waifish claims from the perpetrators and their useful idiots about the need to preserve decency and personal dignity; and more noble yet, to avoid fake news and hate speech. If such claims sound familiar, they should—at least to those who still read history. Book-burners throughout the ages have uttered similar oaths.

China's Qin Dynasty (213–210 B.C.) buried Confucian scholars alive and burned books. The Mongols sacked Baghdad and destroyed its grand library in 1258. That really showed the West how it's done. In the 1930s, university students, academia, and the Nazi party in Germany collaborated to burn hundreds of thousands of books for being “un-German.” Today, tech giants are collaborating with news agencies, students, academia, Hollywood, and the Democratic Party to restrict speech.

control, topic conformity, and serve as self-appointed arbiters of the truth. Intolerance and censorship are the re-imagined weapons of the Left.

How long before we enter a *Nineteen Eighty-Four* scenario when entities or governments arbitrate “the truth”? Or are we already there? The Soviet Union proved this could be done, even by means of low tech, for most of the 20th century. Millions of people who failed to conform were killed or sent to gulags, and nonconforming news articles were routinely spiked. The Cuban revolution allowed no deviation from the approved truth, imprisoning those who failed to comply; while the Khmer Rouge and its truth campaign sowed the killing fields. So it goes with “the truth.”

After President Trump was elected, tech giants, in close collaboration with many Democrats, launched an information war, wielding their version of truth. Facebook recently outsourced truth judgment with its notorious “fact checks.” This farcical business decision was no less leftist than when they did it secretly and internally. Google and Twitter use covert internal censors and algorithms to drive searchers toward a leftist viewpoint.

Some of these companies perfected censorship and information manipulation while servicing authoritarian regimes like China and Russia. Google led the way, growing and prospering under such regimes. They were inspired by this power and are implementing many of the same thought engineering techniques and censorship for a political objective in the United States. In a healthy republic, censoring the executive branch while permitting speech from the nation’s enemies might be considered sedition.

What can be done?

Legislators, attorneys general, and government agencies should move quickly to protect citizens. They should examine appropriate legislation, regulation, taxation, and legal recourse against companies that manipulate information to deceive their customers. These might look similar to previous consumer protection legislation, designed to protect citizens from confusing loans, credit applications, and deceptive

Amendments to the Communications Decency Act could be considered.



of violators to inform consumers. Warning label precedent was set for the tobacco and alcohol industries, and information manipulation is no less insidious. Antitrust suits should be explored where tech giants hold a monopoly, or a disproportionate market segment. Online information companies should be appropriately regulated and taxed based on their respective industry.

In short, if entities engage in censorship, information manipulation, algorithm-driven deception, speech restrictions, or purposeful news placement they should be appropriately regulated, taxed, or punished. Perhaps all three.

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About Steve Lahr

Steven R. Lahr is a retired Army Special Forces Lieutenant Colonel, Security Consultant, and an authority on information operations, terrorism, and revolutionary warfare.


 Archive

 Photo: Akindo/Getty Images

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Exhibit A-26



Elections

Dozens of mail ballots at ward leader's South Philadelphia 'ballot harvesting' concerns

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The effort, which comes as Republicans attack mail voting, may violate state law.



ADVERTISEMENT

Dozens of Republican mail ballot applications submitted in the last week list the address of a P.O. box at this post...

ELIZABETH ROBERTSON / Staff Photographer

by Jeremy Roebuck and Jonathan Lai

Updated May 6, 2022

A mail ballot mystery is unfolding at an otherwise unremarkable post office box in South Philadelphia.

City elections officials last week received applications from more than three dozen Republican voters across a pocket of the neighborhood. Those applications requested



state data.

Many of those voters told The Inquirer they have no idea why their ballots were sent there. Some said they never even applied to vote by mail.

And yet one out of every six Republican ballot requests in the 26th Ward — the section of deep South Philly south of Passyunk Avenue and west of Broad Street that voted twice for Donald Trump — listed the post office box. That made it the largest single destination for ballots in the city other than nursing homes or elections offices.

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“This doesn’t even make any sense,” said Rose DeSantis, 35, who was surprised when told by a reporter that a ballot she says she never requested had been sent to the P.O. box this week. “You would think that would



...falsely portrayed it as rife with abuse, the ballot requests and interviews with voters reveal an effort by one GOP operative to use

mail ballots that may violate or at least push the boundaries of state law.

For example, the mailing address portion of the form — where the P.O. box was written — is in a visibly different handwriting from the rest of the form on many of the applications, according to two sources who have reviewed the documents. And that handwriting appears on multiple forms, suggesting that the same person wrote in the P.O. box for the voters.

The Philadelphia City Commissioners Office, which oversees elections, said it was aware of the situation and had been “actively monitoring” the issue.

”After we were presented with the additional

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deputy to Lisa Deeley, the chair of the city commissioners.

Some ballots had already been sent out to the P.O. box; those will be set aside for the commissioners to review when they're returned, Custodio said.

The District Attorney's Office is also aware of the issue and "that there are inconsistencies with the handwriting" on the applications, spokesperson Jane Roh said.

The ballots appear to be the effort of one man: Billy Lanzilotti, a 23-year-old GOP operative, South Philadelphia ward leader, and chairman of the Republican Registration Coalition, the PAC he registered at the P.O. box earlier this year.

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In an interview, he said everything about the



‘Help pump out the Republican voter turnout’

Lanzilotti, who already runs a nearby ward, also wants to become the Republican leader for the 26th Ward. Aiming “to help pump out the Republican voter turnout,” he said, he began going door-to-door earlier this month and signing up residents of the 26th to vote by mail.

He’d hand them a form on which he or people he works with had already filled out the voter’s name and his P.O. box as the destination, he said. Having the ballots sent there was a “convenience to the voter,” he said, so it could be hand-delivered to them later by someone they trusted.

“There’s been a number of problems with the post office lately,” he said. “Checks are being stolen out of the mail. They like it this

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names.

The Inquirer spoke to 12 of the 39 voters whose applications requested their mail ballots be sent to Lanzilotti. Only two said they knowingly filled out a ballot application with the understanding it would be sent to him instead of their home address.

Five others were unaware their applications had requested their ballots be diverted to Lanzilotti's P.O. box, at the post office at Broad Street and Castle Avenue.

And five more were adamant they hadn't applied to vote by mail at all — or at least didn't know that's what they were doing when a man showed up at their doorstep to talk to them about the May 17 primary election.

Only one said he'd actually received the ballot Lanzilotti applied for in his name.

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Rose Centeno, 59, at first insisted she would never vote by mail, [echoing false Republican claims about mail ballots](#). But when told an application had been submitted last week and a ballot mailed out in her name, Centeno said she wasn't surprised.

"That's what they do," she said. "That's why you can't trust the mail ballots. This whole city's screwed up."

She later recalled that she had filled out some paperwork with the assistance of a man who showed up at her door and offered to help her change her voter registration from Democrat to Republican.

Maria Morris, 55, also remembered agreeing to switch her party registration during an unannounced visit from a man at her doorstep. She signed some papers, she said, not really paying attention to what they were.

"He didn't mention anything about ballots," she said.

And Joseph Tralie III, 63, insisted he hadn't filled out any paperwork at all.

He doesn't vote, he said, and had no plans to do so this month. He learned that a ballot in his name had been sent to Lanzilotti's

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for my ballot to be sent to a random P.O. Box I'm not sure how that can count."

'Smacks of unlawful conduct'

Republicans up and down the ballot have spent two years attacking mail voting, led by Trump's lies about fraud and the 2020 election being stolen.

The top Republican candidates for governor are campaigning on repealing Act 77, the 2019 law that allows any voter to cast a ballot by mail. The reality is voter fraud in any form is vanishingly rare, and the handful of confirmed instances in 2020 involved Republicans seeking to cast votes for Trump. Even in Lanzilotti's case, which lawyers from both parties described as concerning, there's no evidence of fraudulent votes being cast.

It's unclear whether Lanzilotti's behavior crosses legal lines, the lawyers said. Much of it depends on details that aren't yet known.

"There's some things you're describing that I think have arguments that could be made that they're appropriate, there's some arguments that can be made that they're

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It's legal for voters to have ballots sent to an address other than their homes — that's

what absentee ballots were intended for in the first place.

“If the circumstance is, it's mail delivered at a retirement home, and some kindly ward person gets them from the mailroom and hands them out, that's one thing,” Haverstick said. “Going to a P.O. box at the address for a PAC? I have to think about that one. It's certainly one that would give me pause under the election code.”

» **[READ MORE: Everything you need to know about voting in Pennsylvania's May 2022 primary election](#)**

The voters don't have access to the P.O. box to retrieve their ballots. A few said this week they hadn't yet received ballots, which Lanzilotti said was because he's been busy and hasn't yet delivered them.

“I can only do this in my spare time,” he said. “I have a full-time job.”

It's also unclear whether delivering ballots to voters is allowed: State election law isn't explicit on the question, and Act 77 hasn't been tested on it.

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did not sign an authorization for a specific person to help them.

None of the 39 requests noted any help in filling out the form. The two sources who reviewed them said many of the applications featured two different sets of handwriting, in line with Lanzilotti's explanation that he handed voters pre-filled forms.

Ballots are also to be returned only by the voters themselves, with the sole exception for disabled voters who must explicitly authorize a person to help.

Democrats have argued that third-party ballot delivery should be allowed in Pennsylvania, as it is in some other states, because it provides greater access for voters, especially those who need assistance for reasons other than disability. But current law doesn't allow it, as the Pennsylvania Supreme Court affirmed in 2020.

Republicans have focused on reports of voters returning multiple ballots — [Gov. Tom Wolf, a Democrat, voted by mail and his wife returned his ballot](#) along with her own — to criticize the mail voting system.

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Emphasizing that “ballot harvesting.” as



are the only ones who return their own ballots.

Lehigh County's district attorney sparked controversy this week when he said he would send detectives to monitor drop boxes to ensure voters only return their own ballots. Leigh Chapman, who as acting Pennsylvania secretary of state is the highest-ranking elections official, asked him Thursday to reconsider, warning that it could amount to voter intimidation.

Lanzilotti said he's not returning anyone's completed ballots.

But Leonard Armstrong, 71, said Lanzilotti offered to do exactly that.

Armstrong said he's known and trusted Lanzilotti for years as a "kid from the neighborhood." So when Lanzilotti brought him his ballot last week, Armstrong filled it out that same afternoon, he said, and handed it back in the sealed envelope. He said Lanzilotti had offered to deliver the ballot on his behalf.

"I wouldn't have done it if I didn't trust him," Armstrong said.

Lanzilotti insisted Armstrong was mistaken,

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knowledge, Lanzilotti said, “I don’t know what to say.”

“The voters signed those forms saying they wanted their ballot sent [to me,]” he added. “They’re the ones that signed it.”

By Thursday evening, word of the unusual number of ballots being sent to Lanzilotti had begun to spread through the 26th Ward.

“Everybody’s talking about it. Nobody any of us knows has a P.O. Box,” Rose DeSantis said. “This sounds like some fraud or crook stuff.”

Published May 6, 2022



Jeremy Roebuck  

I cover public corruption, white collar crime and the criminal misuse of power.



Jonathan Lai  

I cover voting and elections as The Inquirer’s Data & Democracy reporter. I also lead a data journalism team as Editor of Data-Driven Storytelling.

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Exhibit A-27

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Viviette Applewhite; Wilola :
 Shinholster Lee; Grover :
 Freeland; Gloria Cuttino; :
 Nadine Marsh; Dorothy :
 Barksdale; Bea Bookler; :
 Joyce Block; Henrietta Kay :
 Dickerson; Devra Mirel ("Asher") :
 Schor; the League of Women Voters :
 of Pennsylvania; National Association :
 for the Advancement of Colored People, :
 Pennsylvania State Conference; :
 Homeless Advocacy Project, :
 Petitioners :

v.

No. 330 M.D. 2012

The Commonwealth of Pennsylvania; :
 Thomas W. Corbett, in his capacity :
 as Governor; Carole Aichele, in her :
 capacity as Secretary of the :
 Commonwealth, :
 Respondents :

DISCOVERY ORDER I

AND NOW, this 29th day of April, 2013, after telephone conference with counsel on April 5, 2013, and after consideration of written argument, it is **ORDERED** and **DECREED** as follows:

A. Database Discovery

In response to Petitioners' Eighth Request for Production of Documents, the Court determines the request for further database discovery is relevant and reasonably calculated to lead to the discovery of admissible evidence. Further, based on extensive involvement in prior hearings, the Court determines

that disclosure of partial social security numbers (SSN) from the databases under proposed additional security measures will assist the fact-finder in more accurately estimating the numbers of Pennsylvanians who may be impacted by the voter identification requirements of Act 18, and that privacy concerns will be robustly addressed. Accordingly, for use in this litigation only, Respondents shall produce the following elements from the Department of State (DOS) and the Department of Transportation (DOT) databases as soon as possible, but no later than the close of business on Monday, May 6, 2013:

a. From DOS's SURE database: Voter Table; Name Table; Street Table; CityZip Table; Address Table; VoterIDHistory Table; VotesHistory Table; DOT drivers or non-drivers identification numbers to the extent available in the SURE database; and, the last four digits of SSN without the need for further randomization or encryption.

b. From DOT's database: operator name; operator birth date; operator number; current address; mail address; county code; record type code; sex code; prior mail/operator address; prior name; and, the last four digits of SSN without the need for further randomization or encryption.

To the extent designated as "Confidential Information" at the time of production, disclosure of the above information shall be subject to the Stipulated Protective Order approved by the Court on June 11, 2012, together with any amendments agreed upon by the parties before disclosure. In addition, disclosure shall be

subject to the additional privacy protections proposed in Paragraphs 10 and 11 of the Declaration of Leonard A. Cupingood, Ph.D.

B. Limitation on Further Written Discovery

Respondents shall not be required to provide responses to further written discovery except as set forth by specific court order based upon cause shown.

C. Other Discovery Issues

If necessary, the Court will conduct an additional telephone conference on Friday, May 17, 2013 at noon, to address any outstanding discovery issues. Petitioners shall arrange for a court reporter to be available for the conference.



ROBERT SIMPSON, Judge

Certified from the Record

APR 29 2013

And Order Exit

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

VIVIETTE APPLEWHITE, *et al.*,
Petitioners,
v.
THE COMMONWEALTH OF
PENNSYLVANIA, THOMAS CORBETT,
Governor, and CAROL AICHELE,
Secretary of the Commonwealth,
Respondents.

Docket No. 330 MD 2012

AND NOW, this 6th of May, 2013, the Stipulated Protective Order entered as an Order of this Court on June 11, 2012, remains in full effect, but is modified as follows:

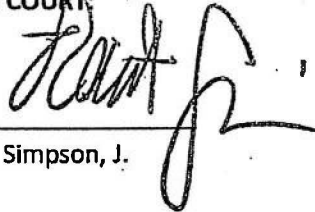
- 1) A new paragraph (22) is added to read: Within sixty (60) days after the termination of this litigation (including any appeals) all "Qualified Persons" as defined in the Protective Order shall comply fully with the Commonwealth of Pennsylvania's Data Cleansing Policy Information Technology Bulletin (ITB-SYM009) incorporated herein and attached hereto as Exhibit A. Although ITB-SYM009 and additional ITBs referenced hereafter in this Order state that they specifically apply to Commonwealth agencies and to equipment that is owned or leased by Commonwealth agencies or used by contractors on behalf of the Commonwealth, the parties understand and agree that all citizen and agency data and all "Confidential Information" as defined in the Protective Order, supplied during this litigation shall be securely erased from all devices/media/equipment regardless of ownership in accordance with the policies, methods, and proper disposal outlined in ITB-SYM009.
- 2) A new paragraph (23) is added to read: Any and all "Confidential Information" released from the Department of Transportation or Department of State databases (data) will be released only to, and maintained in, a secure environment as follows:
 - A) BLDS will be responsible for securing the data. The data will be stored on the internal BLDS network, which consists of a mixed environment of Windows Server 2008 R2 and Linux (Ubuntu) servers with Windows 7 workstations. All workstations within the network will require valid domain credentials for access; with the credentials having industry standard password complexity and expiration requirements. Remote access to the BLDS network will be restricted to encrypted VPN connections and all data will remain local to the BLDS network because all data processing being done will be performed using virtual sessions. The data will be stored on an at-rest encrypted physical drive, separate from other data in the BLDS network. The access rights to this network share will be limited to employees who require access. Data will be housed in a MySQL database and access will be limited to

specific database administrators. Upon completion of the matter, the dedicated drive will be securely deleted using the Department of Defense clearing and sanitizing standard DOD 5220.22-M 1 recognized and defined in the Commonwealth's ITB-SYM009.

- B) There will be full compliance by all qualified persons with the Commonwealth's Encryption Standards for Data at Rest Information Technology Bulletin (ITB-SEC020) Incorporated herein and attached hereto as Exhibit B. The ITB addresses full disk encryption, file encryption and data element encryption.
 - C) There will be full compliance by all qualified persons with the Commonwealth's Encryption Standards for Data in Transit Information Technology Bulletin (ITB-SEC031) incorporated herein and attached hereto as Exhibit C.
 - D) Derivatives made from data that are "Confidential Information" will be subject to the terms of the Protective Order (including this paragraph 23) to the same extent as the original data, except that aggregate data derived from the data are not considered confidential (as agreed in the original Protective Order).
 - E) Back-ups of the data that are "Confidential Information" will be subject to the terms of the Protective Order (including this paragraph 23) to the same extent as the original data, except that aggregate data derived from the back-ups of the data are not considered confidential (as agreed in the original Protective Order).
- 3) The parties understand that "Confidential Information" as used above is subject to the provisions of the Stipulated Protective Order allowing a party to challenge whether citizen and agency data provided are "Confidential Information."

IT IS SO ORDERED.

BY THE COURT:



Robert Simpson, J.

Certified from the Record

MAY 06 2013

And Order Exit

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

VIVIETTE APPLEWHITE, *et al.*, :
Petitioners, :
 : No. 330 M.D. 2012
v. :
 :
The COMMONWEALTH OF :
PENNSYLVANIA; THOMAS :
CORBETT, Governor; and :
and CAROL AICHELE, :
Secretary of the Commonwealth, :
Respondents. :

Exhibit A

**Information Technology Bulletin
Commonwealth of Pennsylvania
Governor's Office of Administration/Office for Information Technology**

ITB Number:	ITB-SYM009	
ITB Title:	Commonwealth of Pennsylvania Data Cleansing Policy	
Issued by:	Deputy Secretary for Information Technology	
Date Issued:	November 20, 2009	Date Revised: December 20, 2010
Domain:	Systems Management	
Discipline:	Configuration Management	
Technology Area:	Disposal	
Revision History Date:	Description:	
12/20/2010	ITB Refresh	

Abstract:

The purpose of this Information Technology Bulletin (ITB) is to provide information pertaining to the sanitization and/or destruction of leased or state-owned computer system hard drives, removable media and hand-held devices.

General:

This ITB applies to all departments, boards, commissions and councils under the Governor's jurisdiction. Agencies not under the Governor's jurisdiction are strongly encouraged to follow this policy.

Policy:

This policy was developed in collaboration with Agency Chief Information Officers and IT Managers, the Office of Administration and the Department of General Services. This policy applies to all agencies under the governor's jurisdiction. It will take effect immediately, and applies to equipment that is:

- Owned or leased by agencies
- Used by contractors on behalf of the Commonwealth

Citizen and agency data are to be securely erased from state-owned and leased devices/media in accordance with policies outlined in this IT Bulletin. Peripheral storage devices including but not limited to floppy diskettes, CD and DVD discs along with external storage devices such as USB drives, are not to be used by end users for storing Commonwealth data. An exception may be made for specific tasks only if the user is directed to do so by his or her agency's IT staff or administrator. In such cases the external storage media used are to follow the same guidelines as hard drives for purging data or are to be physically destroyed once retired or decommissioned. This also includes archive media such as tape backup. Please refer to the "NIST Guidelines for Media Sanitization" (Draft SP 800-88) document for acceptable destruction procedures.

In addition, wireless handheld devices such as a BlackBerry™ are to have the capability to perform an erase procedure remotely from a server so that data confidentiality can be maintained even in the event where a user's device is lost or stolen.

I. Proper Disposal of Retired State-Owned Computers

1. Degauss, Wipe, or Destroy the Hard Drives. All data residing on a physical hard drive is to be destroyed in accordance with the "NIST Guidelines for Media Sanitization" (Draft SP 800-88) or be securely erased by using either an NSA or DoD rated degausser, or by performing a DoD 5220.22-M wipe where data is overwritten using a one pass approach. If an agency is leasing Dell computers then it is suggested that the agency take advantage of the prepaid disk wipe service offered by Dell.

2. Recycle Non-Functional Computers. Wiped or degaussed hard drives that no longer contain Commonwealth data and chain of custody is not an issue. Hard drives already removed from the PCs can be destroyed or recycled by the agency, or packaged and sent to the DGS Recycling Office. Please note that if wiping has been performed, then the hard drives do not have to be removed; they can simply be left in the computer when shipped to DGS Recycling.

3. Surplus Functional Computers. The DGS Bureau of Supplies and Surplus Operations can facilitate reutilization or sales of functional computers with or without hard drives. The value returned to the Commonwealth is greatest, of course, with functional, cleared, overwritten, or wiped hard drives. Consult the agency's Property Control Officer (PCO) to make online surplus system entries; to fill out an identification tag for the users' computers; and to arrange for transportation to DGS. User entries to the online system and physical identification tag are to indicate the type of hard drive, if any, and method used to remove data (i.e., ATA HD-Secure Erase, IDE HD - DoD 5220.22-M single wipe, no HD, etc).

4. Package/Palletize the Computer Equipment. Agencies are to package the equipment for shipment. Please make arrangements for collection with the DGS Recycling Office by contacting them at (717) 772-2300. Shipments to DGS Bureau of Supplies and Surplus are to also be suitably packaged and labeled. Contact them at (717) 787-6159 ext 3224 to facilitate.

5. Store in a Secure Location. The equipment is to be stored in a secure location pending collection.

II. Proper Return of State-Leased Computers

Note: The Department of General Services has issued the following state-wide Contract 4400002819 that includes information regarding disk wiping services provided by Dell: If the agency leases Dell equipment, it is suggested that the agency utilize this prepaid service. No value will be returned to the Commonwealth if this service is used for Commonwealth-owned computers.

1. Degauss or Wipe the Hard Drive. All data residing on a physical hard drive is to be securely erased using an NSA or DoD rated degausser or by performing a DoD 5220.22-M 1 wipe where data is overwritten using a one pass approach. ***If an agency is leasing Dell computers, then it is currently required that the agency take advantage of the prepaid disk wipe service offered by Dell when returning leased Dell computers.***

2. Return the leased Computer. Once the drives have been securely erased, they can be reinserted back into the PC or laptop to be returned with the computer to the vendor/contractor. It is the vendor/contractor's responsibility to reinstall the OS and applications back onto his/her computer.

Note: Be advised that if using the wiping method to securely erase data, then the status log is to be checked each time the process is completed to ensure that the entire disk wiping procedure finished successfully without any errors. Disk wiping is a time-consuming and labor-intensive process that demands high levels of quality control review by IT staff. The agency is fully responsible and liable for taking the necessary measures to ensure that data is securely erased.

III. Computers Owned by Contractors and Used on Behalf of the Commonwealth

Contractor owned computers that are used to perform work for the Commonwealth are to be treated as confidential. Once a contractor has completed his/her engagement, all computer equipment utilized for the engagement is to be securely erased in accordance with the steps below. This can be done by the contractor, a Commonwealth employee or a third party, however, successful completion of this process is to be verified by a Commonwealth employee.

1. Wipe the Hard Drive. All data residing on a physical hard drive is to be wiped by performing a DoD 5220.22-M 1 where data is overwritten using the one pass approach. **Do not use a degausser for this scenario.** Hard drives that are degaussed are not readily usable as they would require a low-level factory format in order to be reused.

2. Re-image Hard Drive. It is the responsibility of the contractor to re-image or manually reinstall the OS and software applications. The contractor is to be made aware of this policy before he begins an engagement with the Commonwealth.

IV. Reassignment of State-Owned PCs Between Employees of the Commonwealth

1. Wipe the Hard Drive. All data residing on a physical hard drive is to be wiped by performing a DoD 5220.22-M 1 wipe where data is overwritten using a one pass approach. If an agency is leasing Dell computers then it is suggested that the agency take advantage of the pre-paid disk-wipe-and-image services offered by Dell. **Do not use a degausser for this scenario.** Hard drives that are degaussed are not readily usable as they would require a low-level factory format in order to be reused if they have not been damaged.

2. Re-image Hard Drive. Once the hard drive has been wiped, use a backup image such as a Norton Ghost Image to reinstall the OS and software applications. It is necessary to wipe prior to re-imaging a computer because imaging does not overwrite the files and data contained in unused areas of a hard drive.

Note: Special cases may exist that do not warrant a DoD disk wipe upon reassignment of a computer between users of Commonwealth owned PCs. In such cases, a Commonwealth department manager has the discretion to determine and request that the wipe procedure not be utilized. By allowing special-case discretion to management, the Commonwealth will be able to promote business efficiency and

prevent unnecessary work from being done, while at the same time, not compromising its ability to maintain the confidentiality of its sensitive and private data.

V. Failed Hard Drives and Devices

Whether the equipment or device is state-owned, contractor-owned or leased, all hard drives or media that fail due to a physical malfunction are to be destroyed. If a contractor has a "Statement of Destroyed Materials" or similar policy/program, the agency will not be required to pay for the replacement of the destroyed hard drive. This policy recognizes that a drive contains confidential, sensitive data and cannot be returned. The contractor will credit the Commonwealth as if the drive had been returned.

VI. Multifunction Fax/Print/Scanner Devices

Many multifunction devices now have a presence on the Commonwealth MAN and can contain storage media such as a hard drive. These devices are therefore subject to the same data cleansing policies as outlined above.

VII. DGS Equipment Handling

Equipment delivered to, or collected by, DGS will be taken to a central storage location. At that point, equipment will be held until it is forwarded to the recycler, claimed by and shipped to another agency, or sold. Agencies may deliver non-functional equipment to the recycler by their own means via agency trucks or contracted movers, after they have conformed to the removal or secure erase procedures as outlined above and remanded to DGS the Media Disposal Log mentioned above.

Definitions of Terms:

Degaussing - Is a procedure that reduces the magnetic flux to virtual zero by applying a reverse magnetizing field.

Disk Wipe - is a procedure that uses a single character to overwrite all addressable locations on a hard drive.

DoD 5220.22-M 1 Wipe - DoD clearing standards, as identified in DoD 5220.22-M 1, require one pass where the entire hard drive is overwritten one time using any single character.

DoD - U.S. Department of Defense.

DoD Rated Degausser - DoD Type degaussers that meet or exceed DoD Type I or Type II media sanitization standards.

DoD Type I Degausser - Equipment rated to degauss magnetic media having a maximum coercivity of 350 Oersteds.

DoD Type II Degausser - Type II Degaussers. Equipment rated to degauss magnetic media having a maximum coercivity of 750 oersteds.

Hard Drive - or "hard disk" is a rigid metal disk coated with a magnetic material on which data for a computer can be stored.

NSA Rated Degausser - A degausser that conforms to NSA/CSS Specification L1-MTC-4A standards for secure erasure.

Related Documentation:

Dell Contract 4400002819 Includes disk wiping services performed by Dell
"NIST Guidelines for Media Sanitization" (Draft SP 800-88)

Refresh Schedule:

All standards identified in this ITB are subject to periodic review and possible revision, or upon request by the Enterprise Architecture Standards Committee (EASC).

Exemption from This Policy:

In the event an agency chooses to seek an exemption, for reasons such as the need to comply with requirements for a federally mandated system, a request for waiver may be submitted via the Community of Practice Procurement and Architectural Review (COPPAR) process. Requests are to be entered into the COPPAR Tool located at WWW.COPPAR.STATE.PA.US. Agency CIO approval is required. Contact your agency [CoP Planner](#) for further details or assistance.

Questions:

Questions regarding this policy are to be directed to ra-oaitb@state.pa.us.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

VIVIETTE APPLEWHITE, *et al.*, :
Petitioners, :
 : No. 330 M.D. 2012
v. :
 :
The COMMONWEALTH OF :
PENNSYLVANIA; THOMAS :
CORBETT, Governor; and :
and CAROL AICHELE, :
Secretary of the Commonwealth, :
Respondents. :

Exhibit B

**Information Technology Bulletin
Commonwealth of Pennsylvania
Governor's Office of Administration/Office for Information Technology**

Number:	ITB-SEC020
Title:	Encryption Standards for Data at Rest
Issued by:	Deputy Secretary for Information Technology
Date Issued: August 17, 2007	Date Revised: January 21, 2011
Domain:	Security
Discipline:	Encryption for Data at Rest
Technology Area:	Encryption for Data at Rest
Revision History Date:	Description:
10/16/2008	Updated to meet newly identified needs for encryption of data at rest.
9/17/2009	Tape media update
1/21/2011	Updated to provide requirements and guidance on encrypting data at rest without specificity to disks and removable media.

Abstract:

The purpose of this Information Technology Bulletin (ITB) is to improve the confidentiality and integrity of data at rest by requiring the use of encryption.

"Data at rest" refers to all data in storage, regardless of the storage device, that is not in motion. This excludes information traversing a network or temporarily residing in non-volatile computer memory. Data at rest primarily resides in files on a file system. However, data at rest is not limited to file data. Databases, for example, are often backed by data files, and their contents can be thought of as rows and columns of data elements instead of as individual files. Agencies should consider all aspects of storage when designing an encryption solution.

Criteria to be taken into account when encrypting data at rest include:

- Data Classification – Refer to SEC019 *Policy and Procedures for Protecting Commonwealth Electronic Data*, to determine the classification of sensitive, protected, and exempt data.
- Statutory or regulatory mandates including, but not limited to, the Health Insurance Portability and Accountability Act (HIPAA), Sarbanes-Oxley Act of 2002, the Gramm-Leach-Bliley Act (GLBA), and any other law or regulation involving data security at rest.

Data encryption supports data privacy and integrity by providing a method to convert electronic information into a format that is readable only by authorized individuals. This policy establishes the use of the following types of encryption for electronic information:

- **Full Disk Encryption:** Full disk encryption is a computer security technique that encrypts data stored on a mass storage or removable device, and automatically decrypts the information when an authorized user requests it. Full disk encryption is often used to signify that everything on a disk or removable device, including the operating system and other executables, is encrypted. Full disk encryption includes hardware encryption, such as configuring a tape drive to encrypt all backup data before write.

- **File Encryption:** File encryption is a technique that encrypts files on a file system, without encrypting the file system itself or the entire disk. A file encrypting application may include functionality to: archive multiple files into a single file before or after encrypting; produce self-decrypting files; or automatically encrypt files or folders based on policies or locations. File encryption is often used to protect files being sent through email or written to removable media.
- **Data Element Encryption:** Data element encryption is a technique that encrypts individual data elements instead of encrypting an entire file or database. Common examples of data element encryption include column level database encryption and encryption of a Social Security Number (SSN) before writing it to a file. Data element encryption is used to selectively apply encryption, and may be used to reduce encryption/decryption overhead, to protect different elements with different keys, or to simplify adding encryption to applications.

General:

This ITB applies to all departments, boards, commissions and councils under the Governor's jurisdiction. Agencies not under the Governor's jurisdiction are strongly encouraged to follow this policy to ensure they implement data encryption that facilitates enterprise-wide interoperability and standardization. The requirements in this document outline the minimum adequate steps to provide an acceptable level of encryption.

Policy:

Agencies must protect stored sensitive, protected, or exempt data at rest through the use of encryption. Additionally, agencies must ensure that any non-commonwealth entity or agency business partner/contractor which stores or has access to such data also protects stored sensitive, protected, or exempt data at rest through the use of encryption. Agencies are to adhere to the Advanced Encryption Standard (AES) for symmetric encryption. For asymmetric encryption, agencies are to follow ITB-SEC013, Identity Protection and Access Management (IPAM) Architectural Standard - Identity Management Services, and ITB-SEC014, IPAM Architectural Standard - Identity Management Technology Standards.

Full Disk Encryption:

Full disk encryption conforming to AES specifications is to be used on laptop computers, other mobile computing devices, and electronic devices for which physical security controls are limited due to the mobile nature of the devices. In cases where these devices will not store any sensitive, protected, or exempt data, exceptions may be granted. Agencies are to comply with product standards as described in STD-SEC020A Encryption Product Standards for Data at Rest for these devices.

Full disk encryption is also to be used on computers or computing devices storing sensitive, protected, or exempt data located in areas not equipped with public access restrictions and physical security controls such as locked doors etc. (reference ITB) Agencies are to comply with product standards as described in STD-SEC020A Encryption Product Standards for Data at Rest for these devices as well.

In order to ensure the highest levels of security and overall effectiveness of disk encryption, devices using full disk encryption are not to be placed in suspend mode when unattended, and are to be shut down completely when not in use or when unattended.

Full disk encryption is to be used for archiving or backing up sensitive, protected, or exempt data to tape or optical media. Software or hardware mechanisms can be used provided they conform to AES specifications. If no conforming mechanisms are available, file encryption techniques may be used to encrypt the data at the file level before it is written to tape or optical media.

File Encryption:

File encryption is to be used when files containing sensitive, protected, or exempt data are transferred on physical media, through email, or across networks, without other forms of encryption or protection.

Data Element Encryption:

Data element encryption is to be used when sensitive, protected, or exempt data elements are stored. Physical security of a data storage device is not a substitute for data element encryption, as it does not prevent accessing data through exploited application vulnerabilities. Likewise, data element encryption should be designed such that exploited access does not provide unencrypted access to sensitive, protected, or exempt data.

General:

Agencies are to heed statutory and regulatory requirements and necessary certifications when selecting encryption products. Most certifications maintain lists of validated products; for Federal Information Processing Standards (FIPS) certifications refer to National Institute of Standards and Technology (NIST) Computer Security Division. Implementations of AES must conform to the test vectors published by NIST.

Agencies are required to follow existing ITB's regarding storing sensitive, classified, or other non-public information, (as referenced in ITB-SEC19).

Where encryption keys are protected by or derived from passwords, agencies are to use passwords in accordance with ITB-SEC007 *Minimum Standards for User IDs and Passwords*. This includes credentials used to access devices using Full Disk Encryption.

Agencies are to conduct an audit of these policies in accordance with ITB-SEC023 *Security Assessment and Testing Policy*.

Refresh Schedule:

All standards identified in this ITB are subject to periodic review and possible revision, or upon request by the Enterprise Architecture Standards Committee (EASC).

Exemption from This Policy:

In the event an agency chooses to seek an exemption, for reasons such as the need to comply with requirements for a federally mandated system, a request for waiver may be submitted via the Community of Practice Procurement and Architectural Review (COPPAR) process. Requests are to be entered into the COPPAR Tool located at WWW.COPPAR.STATE.PA.US. Agency CIO approval is required. Contact your agency CoP Planner for further details or assistance.

Questions:

Questions regarding this policy are to be directed to ra-oaitb@state.pa.us.

Policy Supplements:

STD-SEC020A - Encryption Product Standards for Data at Rest

References:

ITB-SEC007: Minimum Standards for User IDs and Passwords
ITB-SEC019: Policy and Procedures for Protecting Commonwealth Electronic Data
ITB-SEC019A: Data Classification Quick Reference Guide
ITB-SEC023: Security Assessment and Testing Policy

**Information Technology Bulletin
Commonwealth of Pennsylvania
Governor's Office of Administration/Office for Information Technology**

ITB Number:	ITB SEC031	
ITB Title:	Encryption Standards for Data in Transit	
Issued by:	Deputy Secretary for Information Technology	
Date Issued:	August 17, 2007	Date Revised: September 17, 2009
Domain:	Security	
Discipline:	Encryption	
Technology Area:	Encryption Protocols	
Revision History Date:	Description:	
09/17/2009	Rewrote policy section and added transmission mechanism table	

Abstract:

The purpose of this Information Technology Bulletin (ITB) is to improve the confidentiality and integrity of data in transit by prescribing the use of encryption.

The Commonwealth of Pennsylvania is a trusted steward of information. Many solutions and technologies have been put in place to improve connectivity and sharing between Commonwealth entities with external business partners and citizens.

Data in transit is any type of information that is transmitted between systems, applications, or locations. Encryption of data in transit is a critical mechanism to protect that data. Unauthorized disclosure or alteration of data in transit could cause perceivable damage. Criteria to be taken into account when encrypting data in transit include:

- Data sensitivity - Refer to SEC019, *Policy and Procedures for Protecting Commonwealth Electronic Data*, to determine the classification of sensitive, protected or exempt data.
- Mandates of law including, but not limited to, the Health Insurance Portability and Accountability Act (HIPAA), Sarbanes-Oxley Act of 2002, the Gramm-Leach-Bliley Act (GLBA) and any other law or regulation that involves data security in transit.

General:

This ITB applies to all departments, boards, commissions and councils under the governor's jurisdiction. Agencies not under the governor's jurisdiction are strongly encouraged to follow this policy to ensure they implement data encryption that facilitates enterprise-wide interoperability and standardization. The requirements in this document are the minimum adequate to provide an acceptable level of encryption.

Policy:

Agencies are to protect the transmission of sensitive, protected, or exempt data as determined by SEC019. Agencies are to adhere to the Advanced Encryption Standard (AES) for symmetric encryption. For asymmetric encryption, agencies are to follow ITB-SEC013, *Identity Protection and Access Management (IPAM) Architectural Standard - Identity Management Services*, and ITB-SEC014, *IPAM Architectural Standard - Identity Management Technology Standards*.

Internet Protocol Security (IPSec) gateway to gateway implementations utilizing triple data encryption standard (3DES) is to be migrated to IPSec/AES to take advantage of increased security; new IPSec implementations are not to use 3DES.

Any application protocols (e.g., HTTP, file transfer protocol [ftp], secure copy [SCP]) tunneled in an encryption mechanism or combination of encryption mechanisms utilizing approved symmetric or asymmetric encryption algorithms are considered to be secure.

Agencies are strongly recommended to utilize 256-bit key sizes, and hashing algorithms that utilize 160-bit (or greater) digest lengths. Agencies are encouraged to use larger key/digest sizes where performance and client constraints allow.

Encryption products used to protect sensitive information are to conform to the NIST Cryptographic Module Validation Program listing <http://csrc.nist.gov/cryptval/>.

Transmission Mechanism Examples	Meets ITB-SEC031
HTTPS in export mode (40-bit keys)	No, does not meet key size requirements, and does not utilize AES.
HTTPS (TLS 1.0, AES 128, 192, or 256)	Yes
Secure Shell (SSH)-1	No, SSH-1 does not utilize AES encryption.
SSH-2 (DES, 3DES, or Blowfish)	No, these algorithms are not AES.
SSH-2 (AES)	Yes
SCP/SFTP over SSH-2	Yes
HTTP over SSH-2	Yes
VPN Clients (TLS 1.0, passwords or PKI certificates)	Yes
IPSec (3DES for encryption)	No, IPSec/3DES setups are to be migrated to IPSec/AES.
IPSec (AES-CBC for encryption)	Yes
Layer 2 Forwarding (L2F) or Point-to-Point Tunneling Protocol (PPTP)	No, L2F and PPTP do not offer encryption.
HTTPS (TLS 1.0, AES 128, 192, or 256) over L2F or PPTP	Yes, L2F/PPTP is transporting encrypted traffic.

Refresh Schedule:

All standards identified in this ITB are subject to periodic review and possible revision, or upon request by the Enterprise Architecture Standards Committee.

Exemption from This Policy:

In the event an agency chooses to seek an exemption, for reasons such as the need to comply with requirements for a federally mandated system, a request for waiver may be submitted via the Community of Practice Procurement and Architectural Review (COPPAR) process. Requests are to be entered into the COPPAR Tool located at WWW.COPPAR.STATE.PA.US. Agency CIO approval is required. Contact your agency CoP Planner for further details or assistance.

Questions:

Questions regarding this policy are to be directed to ra-oaitb@state.pa.us.

References:

ITB-SEC013: Identity Protection and Access Management (IPAM) Architectural Standard - Identity Management Services

ITB-SEC014: IPAM Architectural Standard - Identity Management Technology Standards

ITB-SEC019: Policy and Procedures for Protecting Commonwealth Electronic Data

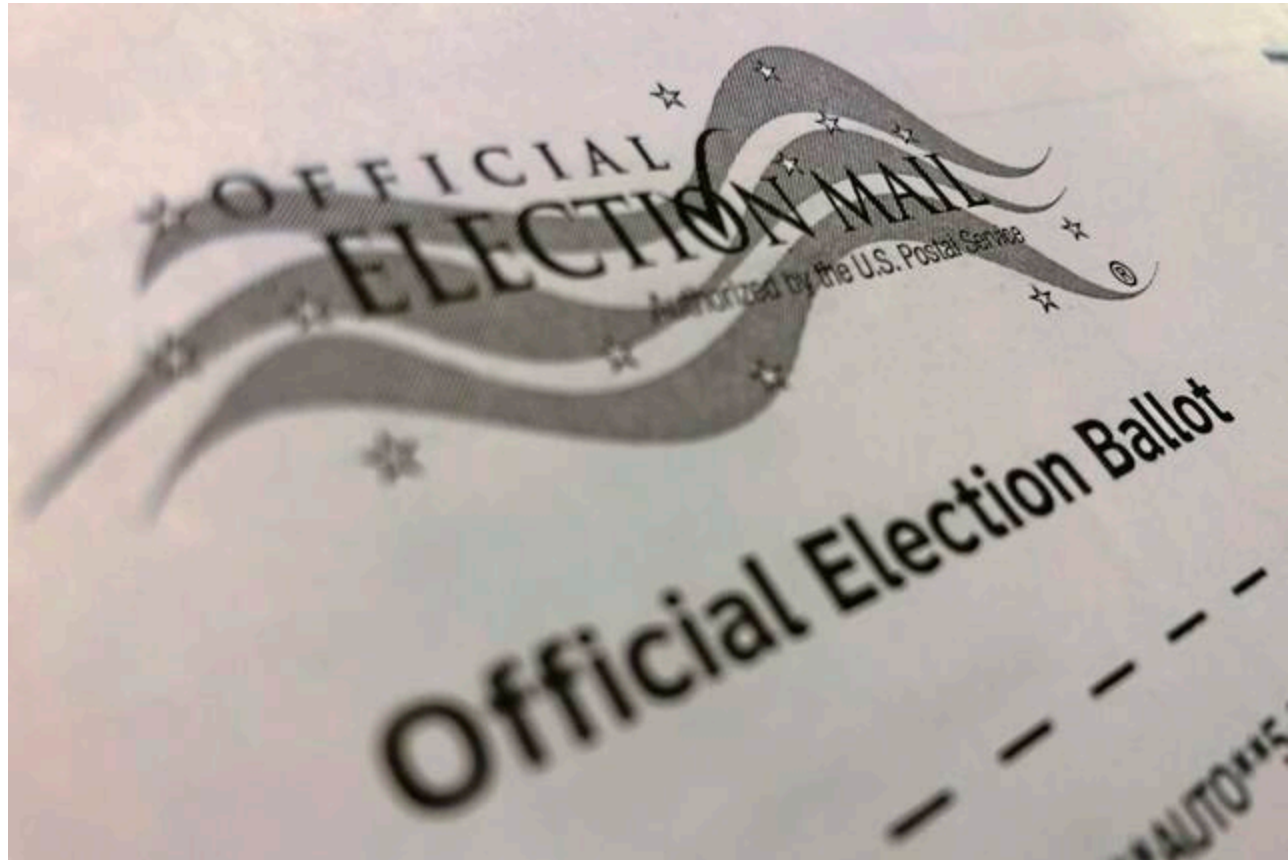
Exhibit A-28

Pennsylvania Democrats ramp up effort to derail GOP election subpoenas

TRIB LIVE [triblive.com/news/pennsylvania/pennsylvania-democrats-ramp-up-effort-to-derail-gop-election-subpoenas/](https://www.triblive.com/news/pennsylvania/pennsylvania-democrats-ramp-up-effort-to-derail-gop-election-subpoenas/)

Deb Erdley

September 23, 2021



Tribune-Review

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Pennsylvania Attorney General Josh Shapiro on Thursday stepped into the legal fray over the a Republican-controlled Senate committee's attempt to subpoena voter and personal data for nearly 9 million Pennsylvanians.

Republicans say they need the data so they can hire a yet to be named private company to conduct what they call a "forensic investigation" of the 2020 election and 2021 primary.

In a lawsuit filed in Commonwealth Court late Thursday, Shapiro seeks to block the Senate Intergovernmental Operation Committee's subpoenas, saying they would "compromise the privacy of every Pennsylvania voter" for an investigation he says was prompted by disproven and false narratives about the 2020 presidential election that Donald Trump lost.

His action came as Senate Democrats, who filed a similar suit last Friday, ramped up efforts to block the Republican plan. On Thursday, they asked the court to prohibit Republicans from hiring a company at taxpayer expense to analyze the data until the court rules upon the subpoenas.

The Republican-controlled Senate Intergovernmental Operations Committee issued the subpoenas last week seeking voter registration and participation data for the November 2020 and May 2021 elections. They are demanding the names, dates of birth, addresses and telephone numbers of the state's more than 8 million registered voters as well as data detailing who voted in person or by mail, and the driver's license numbers and the last four digits of all voters' Social Security numbers.

They plan to hand the data over to a yet-to-be-named company for analysis, a move that has Democrats and cyber security experts up in arms.

David Becker, director of the Center for Election Innovation and Research, a nonprofit that deals with such issues in a number of states, worked closely with state and local officials in Pennsylvania to update voter registration data. He said the state's registration data, which is considered among the most accurate in the nation, and its use of ballots that create a paper trail for every election leave little to question.

"That was the most secure, verified election in Pennsylvania history," Becker said. "There is zero justification for any kind of review where they are seizing personal data, highly confidential data, that is protected under laws they themselves voted for and putting it at risk."

Senate Minority Leader Jay Costa, D-Forest Hills, and Senate Democrats who voted against Senate Committee Chair Cris Dush's proposed subpoenas, said they want to protect "taxpayer dollars from waste and inappropriate expenditures" until the court rules on their legal challenges to the subpoenas.

"Waiting for the courts to review and rule on the subject is warranted due to the sensitive nature of the information being sought," the Democrats maintain.

A spokesman for Senate President pro Tempore Jake Corman, R-Centre County, said the Senate subpoenas are within the chamber's legal purview.

"We look forward to this litigation being resolved quickly and reaffirming the Senate's clear legal authority to provide oversight of our election process in Pennsylvania," Jason Thompson said.

The subpoenas, with an Oct. 1 deadline to respond, were issued last week after the Senate Committee voted 7-4 on party lines to move forward with its investigation of the last two elections. It was the culmination of months of demands from Republicans who insist the

November 2020 election that ended in an 80,000 vote loss for Trump was rife with irregularities despite official post-election audits that found no suggestions of fraud.

The GOP's proposed third-party analysis of voter records marks the most recent in a series of such attempts to call the results of the 2020 election into question. After a series of challenges was rejected in state courts across the nation last year, Republican-led statehouses began clamoring for action. A recent audit effort in Arizona, another swing state that Trump lost, was called into question recently for lack of oversight and issues regarding the contractor's experience.

Shapiro's complaint argues that Pennsylvania Republicans are basing their subpoenas and calls for an investigation on "false partisan narratives" about the election that have been repeatedly refuted.

In Pennsylvania, many Republican lawmakers are highly critical of the expansion of mail-in balloting, which they approved in 2019 and that subsequently played a major role in the 2020 election. But even some Republicans appear hesitant to warmly embrace the move to subpoena voter records.

Senate Majority Leader Kim Ward, R-Hempfield, did not respond to a request for comment. She has said repeatedly that the move was needed to answer questions voters have raised about election integrity, rather than any dispute about the Biden-Trump race.

Ward publicly characterized the subpoenas as "intrusive and overreaching" but said their proposed probe is necessary to put public questions about the election to rest.

She and others insist the effort is about election integrity, not the outcome of the Trump-Biden contest.

Local Republican House members who responded to a request for comment said they are focused on amending the state's election laws and stressed they are not part of the Senate GOP drive for an election investigation.

"I am focused on this election and election reform," said freshman House member Abby Major, R-Ford City.

She said she hopes the chamber will craft legislation to take up some of the changes suggested in a series of House State Government Committee meetings last year to address what she calls flaws in the state's election laws.

Rep. Eric Nelson, R-Hempfield, citing a "crisis of confidence" in elections, said he, too, is focused on reforms the State Government Committee is pursuing.

House freshman Leslie Rossi, R-Unity, also sought to distance herself from any Senate action, but said she supports scrapping ballot drop boxes and no-excuse mail in balloting and as well as a campaign for a constitutional amendment to require voter ID.

Deb Erdley is a Tribune-Review staff writer. You can contact Deb at 724-850-1209, derdley@triblive.com or via Twitter .

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Exhibit A-29

Voters' private info subpoenaed by State Senate Republicans; Democrats challenge move in court



Updated: 10:32 AM EDT Sep 21, 2021

Infinite Scroll Enabled



Bob Mayo  

Reporter

PITTSBURGH — If you voted in the 2020 presidential election in Pennsylvania, there's a battle under way over your personal data, along with that of nearly 7 million other voters.

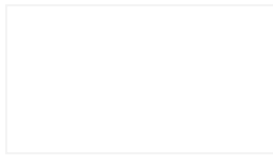
Watch the report in the video player above.

Advertisement

As part of its latest election audit, Pennsylvania state Senate Republicans have subpoenaed that personal data, including your driver's license number, the last four digits of your Social Security number and other personal information which will be turned over to a private contractor for the audit.

State Sen. Jay Costa, Democratic leader in the Pennsylvania Senate, told Pittsburgh's Action News 4, "We don't think it's permissible by law to have the Senate Republicans collect this information from the secretary of state, and then turn it over to a third party. Again, we're talking about Social Security numbers, we're talking about driver's license information, driver's license numbers and other relevant information that's being given to a third party without any level of security that we know of."

Senate Democrats filed suit against the subpoenas late Friday and are expected to the court for an injunction against the Republicans' subpoenas sometime this week.



Pennsylvania Democrats sue over GOP election 'investigation'

Lt. Gov. John Fetterman (D) said, "It's unequivocal. They are risking an identity theft catastrophe here in Pennsylvania. And I want to emphasize to your viewers, that this is Republicans and Democrats (information) too."

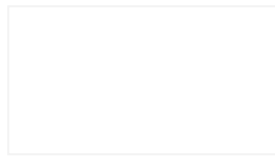
State Sen. Kim Ward (R), the Senate majority leader, said, "I think everybody in Pennsylvania should feel good and confident about our elections. And, if you look at the Franklin & Marshall polling, there is a substantial number of Pennsylvanians who think there was something wrong.

"To get to the bottom of that, if there's not anything wrong, that's great and everybody can feel good about it. And I think the only way for people to feel good about it is when they know for sure."

Fetterman said, "This is just simply an absurd piece of performance art, so they can cater to the extreme elements within their party."

Some of the voter information is public record, like your name, address, and when and by what means you voted. But other personal information at issue is not public.

"Except for the last four digits of your Social Security, which scares people," Ward said. "And yeah, (it's) scary — and the license. So, I don't know what's going to happen with those things."



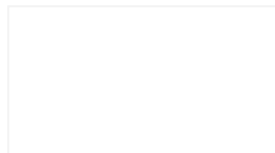
Republicans start election 'investigation' in Pa.

"We believe that they don't have the authority to ask for that data. We don't believe that data should be given to them," Costa said. "We're trying to prevent the release of personal information of seven million Pennsylvanians."

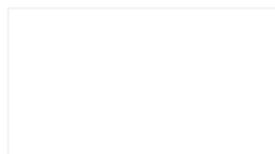
Fetterman said, "It's not going to be secure. It doesn't even have to be hacked. It's going to be assembled and it can be duplicated and dropped on the dark web. Or you could have a rogue employee that could just release it or sell it to the highest bidder."

Costa said Senate Democrats, who filed their legal challenge late Friday, expect to formally request an injunction this week.

"We're asking the court to say, listen, this information is not permitted to be released to not only the senators but also to the third-party audit, whoever that's going to be, that third-party vendor."



Pennsylvania election audit gets GOP campaign trail embrace



Election audit plan a 'disgrace to democracy,' governor says



GOP lawmakers pushing new election-auditing office in budget

Exhibit A-30

1/4/11 States News Serv. 00:00:00

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January 4, 2011

SENATOR SMUCKER NAMED COMMITTEE CHAIRMAN

HARRISBURG, PA

The following information was released by Pennsylvania State Senator Lloyd Smucker (R):

Senator Lloyd Smucker's first committee chairmanship involves a newly created committee and a challenging mission.

The Intergovernmental Operations Committee will have jurisdiction over proposals to restructure state government, such as consolidating state agencies, with the purpose of cutting costs and improving efficiency.

Senate President Pro Tempore Joe Scarnati said the new committee will allow for intensive review of plans to overhaul state agencies or to redirect their operations. "The serious fiscal problem Pennsylvania is confronting mandates that we look for every responsible way to shrink the size of state government and streamline services. Senator Smucker was a successful businessman prior to running for office, making him a good choice for this assignment."

"When there is not sufficient revenue coming in to fund existing programs and services, it is the perfect time to question the continuing value of all the agencies, boards, and commissions scattered across state government," Smucker said.

"This is the way it works in the private sector across our nation. If the money is not coming in to match your spending, you have to find ways to reduce your overhead. Taxpayers clearly want the same kind of economy practiced in state government," he noted.

"The Corbett Administration is expected to have a range of proposals for consolidating state agencies and eliminating ones that are deemed to be of lesser importance. Legislators will be submitting plans for structural changes to state government as well. We will look hard at every proposal to determine where money can be saved and where better results can be realized," Smucker stated.

"The one thing I can promise is that there will be ample opportunity for public input on these changes, because they will affect those paying the bill and those providing and receiving state services," he concluded.

The Senate Rules will be amended later this month to authorize the new committee.

--- Index References ---

Company: PENNSYLVANIA STATE UNIVERSITY (THE); PENNSYLVANIA REAL ESTATE INVESTMENT TRUST; PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE CO; PENNSYLVANIA AVENUE ADVISERS

LLC; PENNSYLVANIA INTERNATIONAL RACEWAY INC; PENNSYLVANIA CONVENTION CENTER AUTHORITY;
PENNSYLVANIA TREASURY DEPARTMENT (THE); PENNSYLVANIA CLINICAL SCHOOLS INC

News Subject: (HR & Labor Management (1HR87); Executive Personnel Changes (1EX23); Government (1GO80); Local
Government (1LO75); Corporate Events (1CR05); Business Management (1BU42); Regulatory Affairs (1RE51))

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Language: EN

Other Indexing: (INTERGOVERNMENTAL OPERATIONS COMMITTEE; PENNSYLVANIA; PENNSYLVANIA STATE;
SENATE; SENATE PRESIDENT PRO TEMPORE JOE SCARNATI) (Corbett; Legislators; Lloyd Smucker; Senator Lloyd;
SENATOR SMUCKER; Smucker; Taxpayers)

Word Count: 324

End of Document

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NewsRoom

Exhibit A-31

« **Mastriano Urges Governor to**

Acknowledge Crisis at Southern Border

Mastriano: Senate Approves Broad

Package of Bills to Combat Opioid

Addiction Crisis »

Mastriano Named Chair of Intergovernmental Operations Committee, Appointed to 5 Others

Posted on Jun 12, 2019

HARRISBURG – Senator Doug Mastriano (R-33) has been named chair of the chamber’s Intergovernmental Operations Committee, Senate President Pro Tempore Joe Scarnati announced today.

In addition to being appointed to five other committees, Mastriano is eager to oversee the Intergovernmental Operations panel, which is responsible for reviewing proposals to reform state government, reduce costs and enhance government efficiencies.

“I am constantly hearing concern about the bloated cost and size of state government from residents of the 33rd District, so I am honored that Senator Scarnati has confidence in me to lead this committee,” said Senator Mastriano, whose district includes Adams County, and portions of Franklin, Cumberland and York counties.

In previous sessions, the committee studied proposals to consolidate state departments and legislative service agencies and reviewed other plans to expand, eliminate or modify existing government programs.

“I am eager to guide efforts to restructure state programs and services, and reorganize and modernize Commonwealth departments to improve efficiency and reduce costs to the taxpayer,” said Mastriano.

Mastriano was also appointed to the Agriculture & Rural Affairs, Game & Fisheries, State Government, Transportation and Veterans Affairs & Emergency Preparedness committees. He will serve as Vice Chair of the Agriculture & Rural Affairs panel.

“I am delighted to serve on these committees because they matter to my constituents and the issues that are important to them,” said Mastriano, a retired U.S. Army colonel and combat veteran. “These committees will allow me to have a vital role in shaping policies that are important to sportsmen, farmers, motorists, veterans and taxpayers throughout the Keystone State.”

CONTACT: Scot Pitzer (717) 787-4651; spitzer@pasen.gov.



Exhibit A-32

[Home](#) / [Bills by Committee](#)

Bills by Committee

SESSION OF 2021 DOCUMENTS EVER IN THE SENATE COMMITTEE ON INTERGOVERNMENTAL OPERATIONS

House General Bills

[HB 72 \(IN\)](#)
 [HB 139 \(IN\)](#)
 [HB 288 \(IN\)](#)
 [HB 939 \(IN\)](#)
 [HB 950 \(IN\)](#)
 [HB 2649 \(IN\)](#)

Senate General Bills

[SB 28 \(OUT\)](#)
 [SB 29 \(IN\)](#)
 [SB 32 \(OUT\)](#)
 [SB 126 \(OUT\)](#)
 [SB 163 \(IN\)](#)
 [SB 233 \(IN\)](#)
 [SB 250 \(IN\)](#)
[SB 426 \(OUT\)](#)
[SB 520 \(OUT\)](#)
[SB 533 \(OUT\)](#)
[SB 700 \(IN\)](#)
[SB 809 \(IN\)](#)
[SB 1081 \(IN\)](#)
[SB 1089 \(IN\)](#)
[SB 1090 \(IN\)](#)

Senate Joint Resolutions

[SB 529 \(IN\)](#)

Senate Simple Resolutions

[SR 227 \(IN\)](#)

	APPROPRIATION BILLS	GENERAL BILLS	CONCURRENT RESOLUTIONS	JOINT RESOLUTIONS	SIMPLE RESOLUTIONS	TOTAL
HOUSE IN		6				6
OUT						
TOTAL		6				6
SENATE IN		9		1	1	11
OUT		6				6
TOTAL		15		1	1	17
TOTAL		21		1	1	23

	APPROPRIATION BILLS	GENERAL BILLS	CONCURRENT RESOLUTIONS	JOINT RESOLUTIONS	SIMPLE RESOLUTIONS	TOTAL
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Document Status:

In - Documents remaining in a specific committee

Out - Documents reported out of a specific committee

Total - All documents ever in a specific committee

Exhibit A-33

[Home](#) / [Senate Committee Roll Call Votes](#) / INTERGOVERNMENTAL OPERATIONS VOTES

Senate Committee Roll Call Votes

Senate of Pennsylvania Session of 2011 - 2012 Regular Session

INTERGOVERNMENTAL OPERATIONS

6-27-2012	House Bill 2438 PN 3659 - Reported as Committed
6-05-2012	Senate Bill 1545 PN 2232 - Reported as Committed
6-05-2012	Senate Bill 1546 PN 2233 - Reported as Committed
3-07-2012	Senate Bill 1080 PN 1255 - Reported as Amended
3-07-2012	Senate Bill 1223 PN 1525 - Reported as Committed

Exhibit A-34

[Home](#) / [Senate Committee Roll Call Votes](#) / INTERGOVERNMENTAL OPERATIONS VOTES

Senate Committee Roll Call Votes

Senate of Pennsylvania Session of 2013 - 2014 Regular Session

INTERGOVERNMENTAL OPERATIONS

10-08-2014	Senate Resolution 430 PN 2259 - Reported as Amended
6-04-2014	Senate Bill 1337 PN 1966 - Reported as Committed
6-04-2014	Senate Resolution 284 PN 1714 - Reported as Committed
1-23-2013	Senate Bill 66 PN 0037 - Reported as Amended

Exhibit A-35

Senate Committee Roll Call Votes

Senate of Pennsylvania Session of 2015 - 2016 Regular Session

INTERGOVERNMENTAL OPERATIONS

- 6-29-2016 [Senate Resolution 294 PN 1637 - Reported as Amended](#)
- 6-29-2016 [Senate Resolution 365 PN 1857 - Reported as Committed](#)

Exhibit A-36

[Home](#) / [Members of the Senate \(2017\)](#) / [Committees \(2017\)](#) / Committee Information

Intergovernmental Operations 2017 - 2018 Session

Officers



Bartolotta, Camera
Chair



Williams, Anthony H.
Minority Chair

Committee Votes

No votes have been recorded for this committee.

Committee Amendments

There are no recent committee amendments.

Legislation Remaining in This Committee

[View All](#)

HB1959 ROTHMAN	An Act providing for the administration of permits by State agencies, for a tracking system for perm...
HB1960 ELLIS	An Act providing for regulatory compliance.
SR279 STEFANO	A Resolution urging the Senate of the United States to quickly consider and pass the Regulatory Acco...
SR249 GREENLEAF	A Resolution urging the President and the Congress of the United States to enact S. 1697 or H.R. 116...
SB828 YAW	An Act amending the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929...
SB746 SCHWANK	An Act amending the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929...
SB396 YUDICHAK	An Act amending the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929...

Majority



Reschenthaler, Guy
Vice Chair



Scarnati, Joseph B., III
Ex-Officio



DiSanto, John



Folmer, Mike



Greenleaf, Stewart J.



Rafferty, John C., Jr.

Minority



Hughes, Vincent J.



Sabatina, John P., Jr.



Tartaglione, Christine M.

Exhibit A-37

[Home](#) / [Senate Committee Roll Call Votes](#) / INTERGOVERNMENTAL OPERATIONS VOTES

Senate Committee Roll Call Votes

Senate of Pennsylvania Session of 2019 - 2020 Regular Session

INTERGOVERNMENTAL OPERATIONS

6-10-2020	Senate Bill 119 PN 0124 - Reported as Committed
6-10-2020	Senate Bill 251 PN 0569 - Reported as Committed
6-10-2020	Senate Bill 252 PN 0570 - Reported as Committed
6-10-2020	Senate Bill 253 PN 0571 - Reported as Committed
5-27-2020	Senate Bill 5 PN 0121 - Reported as Committed
5-27-2020	Senate Bill 609 PN 0676 - Reported as Committed
5-27-2020	Senate Bill 1034 PN 1539 - Reported as Amended
9-25-2019	Senate Bill 398 PN - Reported as Committed

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[Home](#) / [Senate Committee Roll Call Votes](#) / INTERGOVERNMENTAL OPERATIONS VOTES

Senate Committee Roll Call Votes

Senate of Pennsylvania Session of 2021 - 2022 Regular Session Recent Committee Roll Calls

INTERGOVERNMENTAL OPERATIONS

9-15-2021	Motion to table
9-15-2021	Subpoena of Information from Department of State
4-27-2021	Senate Bill 28 PN 0010 - Reported as Committed
4-27-2021	Senate Bill 32 PN 0014 - Reported as Committed
4-27-2021	Senate Bill 126 PN 0098 - Reported as Committed
4-27-2021	Senate Bill 426 PN 0430 - Reported as Committed
4-27-2021	Senate Bill 520 PN 0526 - Reported as Committed
4-27-2021	Senate Bill 533 PN 0511 - Reported as Committed

Exhibit A-39

[Home](#) / [Bills by Committee](#)

Bills by Committee

SESSION OF 2021 DOCUMENTS EVER IN THE SENATE COMMITTEE ON STATE GOVERNMENT

House General Bills

HB 39 (IN)	HB 104 (OUT)	HB 108 (OUT)	HB 120 (IN)	HB 121 (IN)	HB 284 (OUT)	HB 335 (IN)
HB 711 (IN)	HB 746 (IN)	HB 854 (OUT)	HB 978 (IN)	HB 1281 (IN)	HB 1300 (OUT)	HB 1452 (OUT)
HB 1614 (OUT)	HB 1738 (IN)	HB 1823 (OUT)	HB 2044 (OUT)	HB 2051 (OUT)	HB 2115 (OUT)	HB 2146 (OUT)
HB 2159 (IN)	HB 2171 (IN)	HB 2219 (OUT)	HB 2447 (OUT)	HB 2485 (OUT)	HB 2496 (OUT)	HB 2507 (IN)
HB 2524 (IN)	HB 2633 (IN)					

House Concurrent Resolutions

[HR 165 \(OUT\)](#)

House Joint Resolutions

[HB 1010 \(OUT\)](#)

Senate General Bills

SB 11 (IN)	SB 56 (OUT)	SB 59 (IN)	SB 71 (IN)	SB 79 (IN)	SB 93 (IN)	SB 101 (IN)
SB 104 (IN)	SB 113 (OUT)	SB 116 (OUT)	SB 117 (IN)	SB 128 (IN)	SB 136 (IN)	SB 140 (OUT)
SB 141 (IN)	SB 166 (IN)	SB 198 (IN)	SB 222 (OUT)	SB 238 (IN)	SB 274 (OUT)	SB 298 (IN)
SB 309 (IN)	SB 312 (OUT)	SB 322 (OUT)	SB 336 (IN)	SB 346 (IN)	SB 361 (IN)	SB 362 (IN)
SB 363 (IN)	SB 364 (IN)	SB 365 (IN)	SB 367 (IN)	SB 384 (IN)	SB 399 (IN)	SB 401 (IN)
SB 402 (IN)	SB 404 (IN)	SB 422 (IN)	SB 423 (OUT)	SB 428 (OUT)	SB 436 (IN)	SB 441 (OUT)
SB 459 (IN)	SB 488 (OUT)	SB 492 (IN)	SB 500 (IN)	SB 507 (OUT)	SB 510 (IN)	SB 515 (IN)
SB 528 (IN)	SB 552 (OUT)	SB 554 (OUT)	SB 559 (OUT)	SB 561 (OUT)	SB 573 (OUT)	SB 599 (IN)
SB 624 (IN)	SB 636 (OUT)	SB 639 (IN)	SB 640 (IN)	SB 690 (IN)	SB 727 (IN)	SB 738 (OUT)
SB 745 (OUT)	SB 760 (IN)	SB 764 (OUT)	SB 778 (IN)	SB 784 (IN)	SB 789 (IN)	SB 795 (OUT)
SB 801 (IN)	SB 802 (IN)	SB 803 (IN)	SB 804 (IN)	SB 807 (OUT)	SB 812 (OUT)	SB 819 (IN)
SB 820 (IN)	SB 821 (IN)	SB 822 (OUT)	SB 862 (OUT)	SB 863 (IN)	SB 878 (IN)	SB 886 (IN)
SB 914 (IN)	SB 963 (IN)	SB 966 (IN)	SB 980 (IN)	SB 981 (IN)	SB 982 (OUT)	SB 991 (OUT)
SB 992 (OUT)	SB 996 (IN)	SB 1007 (IN)	SB 1018 (OUT)	SB 1020 (OUT)	SB 1029 (OUT)	SB 1043 (OUT)

SB 1087 (IN) SB 1097 (IN) SB 1115 (IN) SB 1122 (OUT) SB 1129 (IN) SB 1130 (OUT) SB 1137 (IN)
 SB 1140 (IN) SB 1166 (OUT) SB 1175 (OUT) SB 1176 (IN) SB 1178 (IN) SB 1200 (OUT) SB 1203 (OUT)
 SB 1206 (IN) SB 1248 (IN) SB 1268 (IN) SB 1292 (IN)

Senate Concurrent Resolutions

SR 67 (OUT) SR 127 (IN) SR 152 (OUT)

Senate Joint Resolutions

SB 30 (IN) SB 106 (OUT) SB 246 (IN) SB 519 (OUT) SB 538 (IN) SB 551 (OUT) SB 584 (IN)
 SB 585 (IN) SB 735 (OUT) SB 774 (IN) SB 882 (IN) SB 884 (IN) SB 940 (OUT) SB 946 (IN)
 SB 947 (IN) SB 959 (OUT) SB 1042 (IN) SB 1127 (OUT) SB 1182 (OUT) SB 1209 (OUT)

Senate Simple Resolutions

SR 36 (OUT) SR 291 (IN)

	APPROPRIATION BILLS	GENERAL BILLS	CONCURRENT RESOLUTIONS	JOINT RESOLUTIONS	SIMPLE RESOLUTIONS	TOTAL
HOUSE IN		14				14
OUT		16	1	1		18
TOTAL		30	1	1		32
SENATE IN		76	1	11	1	89
OUT		40	2	9	1	52
TOTAL		116	3	20	2	141
TOTAL		146	4	21	2	173

Document Status:

In - Documents remaining in a specific committee
 Out - Documents reported out of a specific committee
 Total - All documents ever in a specific committee

Exhibit A-40

[Home](#) / [Statutes](#) / Statute References

Statute References

2021-2022 Legislation Amending Act 320 of 1937



These bills amend the act of [June 3, 1937 \(P.L.1333, No.320\)](#), known as the "Pennsylvania Election Code". To view a list of all statutes that amend this act, visit the [Chronological History](#).



Session:

[# of House Bills: 90](#)

[# of Senate Bills: 30](#)

Bill	Sponsor	Memo
House Bill 18	Rep. PUSKARIC	Election Day as Legal Holiday
House Bill 25	Rep. PUSKARIC	Abolishing the No Excuse Mail in Vote former HB 2971
House Bill 28	Rep. DAY	Election Fraud Witness Immunity
House Bill 29	Rep. DAY	Ballot Security with No Negative Impact on Voter Access
House Bill 30	Rep. DAY	Ballot Security with No Negative Impact on Voter Access
House Bill 31	Rep. DAY	Ballot Security with No Negative Impact on Voter Access
House Bill 32	Rep. DAY	Poll Watchers
House Bill 33	Rep. DAY	Statistical Analysis
House Bill 34	Rep. DAY	Cargo Securement during Transportation of Ballots
House Bill 188	Rep. CIRESI	Cross-filed School Board Petition Circulation (Former HB 1707)
House Bill 195	Rep. GREGORY	Repeal of No Excuse Absentee Ballot Mail-In Voting
House Bill 316	Rep. DeLUCA	Early Voting
House Bill 317	Rep. DeLUCA	Polling Place Buffer Zone
House Bill 366	Rep. KENYATTA	Early Voting and Ballot Pre-Canvassing
House Bill 470	Rep. CARROLL	Bipartisan Adjustments to the Election Code

Bill	Sponsor	Memo
House Bill 502	Rep. WARREN	Campaign Finance Report Transparency and Uniformity - Itemizing Campaign Expenditures
House Bill 621	Rep. MARKOSEK	Braille Absentee Ballots (Former HB 1235)
House Bill 650	Rep. SCHWEYER	Local Candidate Campaign Finance Transparency
House Bill 666	Rep. DeLUCA	Resign to run for another office
House Bill 706	Rep. McCLINTON	Ending Prison Gerrymandering
House Bill 711	Rep. STAMBAUGH	Electronic Filing of Campaign Finance Reports
House Bill 808	Rep. T. DAVIS	Extending the absentee voting deadline
House Bill 851	Rep. MULLERY	Requiring Background Checks for School Board Candidates
House Bill 852	Rep. MULLERY	Nonprofit Campaign Donations Disclosure
House Bill 853	Rep. WHEELAND	Voter ID Law
House Bill 892	Rep. ISAACSON	Your Vote Shouldn't Cost Your Job
House Bill 893	Rep. HANBIDGE	Voter Accessibility (formerly HB 1328)
House Bill 894	Rep. SOLOMON	
House Bill 895	Rep. GAINNEY	Automatic Issuance of Mail-in Ballots (Part of Election Protection Package)
House Bill 905	Rep. BRIGGS	Protecting our Democracy
House Bill 982	Rep. PASHINSKI	Allowing for Pre-Processing of Mail-in Ballots by County/City size
House Bill 1118	Rep. B. MILLER	Fiscal Note Requirement for Public Debt Ballot Questions
House Bill 1201	Rep. ZIMMERMAN	Wording and Explanation of Ballot Questions for Proposed Constitutional Amendments
House Bill 1266	Rep. DeLUCA	Absentee and Mail-In Ballot Deadlines
House Bill 1270	Rep. WEBSTER	One Voter, One Ballot Application
House Bill 1272	Rep. WEBSTER	Ethics Reform Package
House Bill 1300	Rep. GROVE	
House Bill 1333	Rep. PUSKARIC	Remove County Designation from Ballot
House Bill 1369	Rep. QUINN	Pennsylvania Open Primaries (Former HB192)
House Bill 1423	Rep. WHEATLEY	Public Official Drug Screening

Bill	Sponsor	Memo
House Bill 1424	Rep. WHEATLEY	Prison Gerrymandering
House Bill 1425	Rep. WHEATLEY	Modernizing Petition Gathering Process
House Bill 1482	Rep. CUTLER	Post Election Audits
House Bill 1498	Rep. MOUL	Mail in Ballot Package
House Bill 1499	Rep. MOUL	Mail in Ballot Package
House Bill 1501	Rep. MOUL	Mail in Ballot Package
House Bill 1502	Rep. MOUL	Mail in Ballot Package
House Bill 1519	Rep. LONGIETTI	Elimination of Certain Filing Fees for Delegate to National Convention Legislation
House Bill 1614	Rep. WARNER	Increasing the Required Amount of Ballots on Election Day
House Bill 1618	Rep. DAVIDSON	
House Bill 1619	Rep. DAVIDSON	
House Bill 1620	Rep. DAVIDSON	
House Bill 1663	Rep. DOWLING	Limiting election machines to American built equipment
House Bill 1672	Rep. DAY	Congressional Redistricting Standards
House Bill 1703	Rep. DAVIDSON	Democratic Omnibus Election Proposal
House Bill 1704	Rep. DAVIDSON	Ballot Pre-Canvassing
House Bill 1706	Rep. SNYDER	Necessary Changes to Aid Our County Boards of Elections
House Bill 1771	Rep. RABB	Requiring Background Checks for Political Candidates
House Bill 1797	Rep. RABB	Establishing rotating ballot positions for candidates
House Bill 1800	Rep. GROVE	Pennsylvania Voting Rights Protection Act 2.0
House Bill 1838	Rep. SOLOMON	Randomized Ballot Positions
House Bill 1913	Rep. WEBSTER	Election Website Domain Requirements
House Bill 1916	Rep. WEBSTER	Ensuring Fully Staffed Polling Places
House Bill 1971	Rep. CONKLIN	
House Bill 2044	Rep. E. NELSON	3rd Party Election Grants
House Bill 2090	Rep. McCLINTON	Comprehensive Election Reform Legislation

Bill	Sponsor	Memo
House Bill 2093	Rep. MUSTELLO	Transparency in Voting for School Board Directors
House Bill 2105	Rep. M. MACKENZIE	Party Designation Legislation
House Bill 2163	Rep. SILVIS	Amending the Pennsylvania Election Code
House Bill 2187	Rep. MUSTELLO	Increasing the Signature Requirements for School Board Candidates
House Bill 2217	Rep. O'MARA	Early Voting
House Bill 2218	Rep. GREINER	Legislation for an Earlier Presidential Primary Date in Pennsylvania - Former HB 1183
House Bill 2248	Rep. YOUNG	Let Voters Fix Their Signatures
House Bill 2249	Rep. YOUNG	Pre-Canvassing Mail-in and Absentee Ballots
House Bill 2250	Rep. YOUNG	Allow Earlier Pre-Canvassing
House Bill 2261	Rep. SANCHEZ	Ballot Question Reform
House Bill 2279	Rep. FREEMAN	Campaign Finance Reports for State House and Senate Candidates
House Bill 2312	Rep. LAWRENCE	COSPONSOR MEMO – Drug Testing for Elected Officials
House Bill 2335	Rep. R. MACKENZIE	Reforming Order of Candidates on Ballot
House Bill 2433	Rep. ROTHMAN	Canvassing of Mail-In and Absentee Ballots Immediately Upon the Close of Polls on Election Day
House Bill 2540	Rep. HERSHEY	Election Reform Package
House Bill 2543	Rep. WEBSTER	Town Hall Meetings for Constitutional Amendments
House Bill 2598	Rep. DAWKINS	Expanding Voting Opportunities for those Incarcerated in Philadelphia
House Bill 2602	Rep. SCHLOSSBERG	The Decriminalizing Spouses Act
House Bill 2623	Rep. BOYLE	Preventing Faithless Electors
House Bill 2624	Rep. BOYLE	Small Dollar Financing of State Legislative Campaigns
House Bill 2625	Rep. CONKLIN	
House Bill 2647	Rep. GROVE	Election Complaint Procedure
House Bill 2706	Rep. BURNS	Prohibiting the Use of Public Funds for Campaign Activities
House Bill 2719	Rep. RABB	Providing Absentee Ballots and Voter Access for Incarcerated Individuals
Senate Bill 11	Sen. COSTA	Campaign Finance Reform

Bill	Sponsor	Memo
Senate Bill 56	Sen. MARTIN	Number of Votes to Qualify as a Write-In Winner
Senate Bill 59	Sen. A. WILLIAMS	Nonpartisan Municipal Elections
Senate Bill 93	Sen. MENSCH	Providing the ability for a voter to electronically cancel their permanent absentee voter status
Senate Bill 104	Sen. STREET	Ending the Practice of Prison Gerrymandering in Pennsylvania
Senate Bill 128	Sen. FONTANA	Mail-In Ballots
Senate Bill 140	Sen. BROWNE	Requiring the Electronic Filing of Campaign Finance Reports
Senate Bill 309	Sen. BOSCOLA	Employee Time Off to Vote
Senate Bill 322	Sen. J. WARD	Absentee and Mail-In Ballot Reform
Senate Bill 346	Sen. BOSCOLA	Allow Independents to Vote in Primaries
Senate Bill 402	Sen. STEFANO	Repeal of No-Excuse Mail-In Ballots
Senate Bill 404	Sen. BOSCOLA	Establishing a Statement of Voter's Rights
Senate Bill 422	Sen. J. WARD	Voter ID Law
Senate Bill 428	Sen. GORDNER	Presidential Primary Date Change
Senate Bill 515	Sen. STEFANO	Mail-In Ballot Safeguards
Senate Bill 573	Sen. MASTRIANO	Poll Watcher Empowerment Act
Senate Bill 599	Sen. SANTARSIERO	Permitting Counties to Pre-Canvass Mail-in Ballots 21 Days Prior to Election Day
Senate Bill 690	Sen. LAUGHLIN	Pennsylvania Open Primaries
Senate Bill 738	Sen. PHILLIPS-HILL	Constitutional Amendment Accountability Act
Senate Bill 784	Sen. ARGALL	
Senate Bill 819	Sen. MASTRIANO	Creation of the Pennsylvania Elections Commission
Senate Bill 862	Sen. COSTA	Use of Political Action Committee Residual Funds
Senate Bill 878	Sen. ARGALL	Implementation of Recommendations of Senate Special Committee on Election Integrity and Reform
Senate Bill 886	Sen. GEBHARD	Elimination of Option to Cross-File in All Judicial Races
Senate Bill 914	Sen. AUMENT	Suspension of No-excuse Mail-in Ballots
Senate Bill 966	Sen. SCHWANK	Cross Filing Party Listing

Bill	Sponsor	Memo
Senate Bill 982	Sen. BAKER	Prohibiting Outside Groups from Contributing to Election Operations
Senate Bill 1129	Sen. CAPPELETTI	Campaign Finance Reform
Senate Bill 1200	Sen. DUSH	
Senate Bill 1292	Sen. LANGERHOLC	Ensuring Election Fairness

Exhibit B

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Pennsylvania Senate Intergovernmental
Operations Committee,

Petitioner,

v.

No. 95 MD 2022

Pennsylvania Department of State, et al.,
Respondents.

EXPERT DECLARATION OF ANTHONY J. FERRANTE

I, Anthony J. Ferrante, declare and affirm under the penalties of 18 Pa.
Cons. Stat. § 4904 as follows:

1. I am a Senior Managing Director and the Global Head of Cybersecurity at FTI Consulting, Inc. (“FTI”). I have more than 25 years of top-level cybersecurity and cyber-related experience, providing incident response and preparedness planning to more than 1,000 private sector and government organizations, including to more than 175 Fortune 500 companies and 70 Fortune 100 companies. I maintain first-hand operational knowledge of more than 60 criminal and national security cyber threat sets and have extensive practical expertise researching, designing, developing, and hacking complex technical applications and hardware systems.

2. Prior to joining FTI, I served as Director for Cyber Incident Response at the U.S. National Security Council at the White House, where I

coordinated U.S. responses to unfolding domestic and international cybersecurity crises and issues. Building on my extensive cybersecurity and incident response experience, I led the development and implementation of Presidential Policy Directive 41: United States Cyber Incident Coordination, the federal government's national policy guiding cyber incident response efforts.

3. Before joining the National Security Council, I was Chief of Staff of the Federal Bureau of Investigation ("FBI") Cyber Division. I joined the FBI as a special agent in 2005, assigned to the FBI's New York Field Office. In 2006, I was selected as a member of the FBI's Cyber Action Team, a fly-team of experts who deploy globally to respond to the most critical cyber incidents on behalf of the U.S. government.

4. My curriculum vitae is attached as Exhibit B-1.

5. I have been retained by the Pennsylvania Department of State and asked to provide my professional opinion as to the potential security and privacy risks surrounding the subpoena issued by the Pennsylvania State Senate's Intergovernmental Operations Committee ("SIOC").

MATERIALS REVIEWED

6. I have reviewed the subject subpoena and the above-captioned Petition, including all exhibits, Respondents' Preliminary Objections, Petitioner's Answer to Respondents' Preliminary Objections, and the Brief in

Support of Petitioner’s Application for Summary Relief. I have also reviewed all relevant material in the previous case involving the subpoena, *see Pennsylvania. v. Dush* No. 322 MD 2021 (Pa. Commw. Ct.), and listened to the entire SIOC hearing on September 15, 2021.

COMPENSATION

7. Professionals from FTI, who worked under my direction, have assisted me on this engagement. Their billing rates range from \$400 to \$525 per hour. The fees paid to FTI are not contingent on the outcome of this matter or the opinions expressed herein. My billing rate for this matter is \$1,200 per hour.

STATEMENT OF FACTS

8. It is my understanding that on September 15, 2021, Senator Cris Dush, Chair of the SIOC, issued a subpoena to Veronica Degraffenreid, the then Acting Secretary of the Pennsylvania Department of State (“DOS”).

9. Within the subpoena, the SIOC ordered the delivery of personally identifiable information (“PII”) of millions of Pennsylvania voters. Specifically, paragraphs 4 through 14 ordered access to and disclosure of their names, addresses, dates of birth, driver’s license numbers, and last four digits of Social Security Numbers (“SSN”).

10. It is also my understanding that within the subpoena, the SIOC ordered the delivery of Protected Critical Infrastructure Information (“PCII”).

Specifically, paragraph 16 ordered a copy of all reports of audits and/or reviews of the Statewide Uniform Registry of Electors (“SURE”) system conducted by or for the DOS between 2018 and the present.

11. In response to the subpoena, the DOS and Secretary Degraffenreid filed an action, requesting that the subpoena be quashed and enjoined by the Court. That case is still pending. On March 11, 2022, the SIOC purported to file this action, requesting mandamus relief, or in the alternative, enforcement of the subpoena.

SUMMARY OF OPINIONS

12. It is my opinion that the DOS should not be ordered to deliver the PII demanded in the subpoena because neither the SIOC nor Envoy Sage LLC is prepared to receive, handle, or transfer it. It is apparent that the SIOC and Envoy Sage’s approach to data security is inadequately defined. There has been no demonstrated consideration for the necessary safeguards, processes, or procedures required to ensure the PII will remain secure at all times throughout the data lifecycle.

13. It is my opinion that the DOS should not be ordered to deliver the PCII demanded because the SIOC has not demonstrated that it or Envoy Sage is prepared or authorized to receive, handle, or transfer it in accordance with the requirements of the PCII Program.

14. Given the high desirability and sensitivity of the PII and PCII requested, and the lack of consideration given to ensuring it remains secure, it is my opinion that if DOS is forced to deliver the PII and PCII, there is a high likelihood that it will be subject to misuse by unauthorized actors and leveraged for nefarious purposes, resulting in the harm of potentially millions of Pennsylvania citizens and the Pennsylvania SURE election system.

DETAILED OPINIONS

A. The DOS Should Not be Ordered to Deliver the PII Demanded in the Subpoena Because the SIOC is Not Prepared to Receive, Handle, or Transfer it.

PII and its Desirability

15. Generally, PII is any information that can be used to distinguish or trace an individual's identity, such as name, date of birth, SSN, or driver's license number.¹

16. In 2018, the Information Security Oversight Office² ("ISOO") provisionally³ approved the inclusion of *Privacy Information and Sensitive*

¹ *Personally Identifiable Information*, IAPP, <https://iapp.org/resources/article/personally-identifiable-information/> (last visited August 10, 2022).

² ISOO develops security classification policies for classifying, declassifying, and safeguarding national security information generated in Government and industry. *Information Security Oversight Office (ISOO)*, National Archives (October 6, 2021), <https://www.archives.gov/isoo>.

³ When an agency determines that a type of information qualifies as Controlled Unclassified Information but the inclusion of the information in the CUI Registry is not required by an existing law, regulation, or government-wide policy, it may submit a proposal to the CUI EA to approve the information as a provisional category. Mark A. Bradley, CUI Notice 2018-04:

Personally Identifiable Information (“SPII”) as information types within the Controlled Unclassified Information (“CUI”) Registry based on a proposal from the Department of Homeland Security (“DHS”).⁴

17. Within the CUI Registry, Privacy Information is assessed as a class of “[i]nformation referred to as Personally Identifiable Information (PII). PII embodies information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual.”⁵

18. SPII is assessed as a “subset of PII that, if lost, compromised, or disclosed without authorization could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual.”⁶

19. According to the DHS, some forms of PII are considered SPII as stand-alone elements, including SSNs and driver’s license numbers.

Provisional Categories, ISOO (November 16, 2018), <https://www.archives.gov/files/cui/documents/20181116-cui-notice-2018-04-provisional-categories.pdf>.

⁴ Mark A. Bradley, *Memorandum for the Senior Agency Official for the Controlled Unclassified Information (CUI) Program at the U.S. Department of Homeland Security (DHS)*, ISOO (September 7, 2018), <https://www.archives.gov/files/cui/documents/provisional-approval-dhs-categories-20180917.pdf>.

⁵ *CUI Category: Privacy Information*, National Archives (May 27, 2021), <https://www.archives.gov/cui/registry/category-detail/privacy-info>.

⁶ *CUI Category: Sensitive Personally Identifiable Information*, National Archives (May 27, 2021), <https://www.archives.gov/cui/registry/category-detail/sensitive-personally-identifiable-info>.

20. Groupings of information can also be SPII, including groupings that contain an individual's name or other unique identifier plus one or more of the following elements: truncated SSN (such as last four digits); date of birth (month, day, and year); citizenship or immigration status; ethnic or religious affiliation; sexual orientation; criminal history; medical information; and system authentication information, such as mother's maiden name, account passwords, or personal identification numbers.

21. According to the Identity Theft Resource Center's ("ITRC") 2020 Data Breach Report, the top breached PII types in 2020 included among others: name, SSN, date of birth, home address, and state ID/driver's license.⁷

22. These PII types in particular are highly desirable to threat actors because they can be utilized to engage in identity fraud crimes. For example, an online application for a credit card generally requires a name, date of birth, address, SSN, and annual income. To access your Online Driver Services Login on the PennDOT website, it appears that you only need a driver's license

⁷ The ITRC is a non-profit organization established to empower and guide consumers, victims, business, and government to minimize risk and mitigate the impact of identity compromise and crime. Each January, the ITRC releases its annual data breach report, breaking down the numbers, trends, attack methods and much more. For the last 15 years, the ITRC has tracked publicly-reported data breaches in an effort to make businesses and consumers aware of the latest information. Identity Theft Resource Center, 2020 in Review Data Breach Report, (January 28, 2021), 16.

number, date of birth, and the last four digits of a SSN.⁸ A screenshot of the PennDOT Online Driver Service Login page is attached as Exhibit B-2. Certain transactions require no fee including a change of address for a non-commercial driver's license.⁹

23. SSNs in particular are extremely valuable given their widespread use as a unique identifier for financial transactions.

24. Even if only the last four digits, known as the Serial Number, are available, the first three digits, known as the Area Number, have historically followed a geographic assignment pattern prior to 2011 and the specific parameters in which they have been issued are publicly available.¹⁰

25. For example, in Pennsylvania, the minimum voting age is 18, thus the youngest eligible voter that could be in the SURE system would have been born in 2004. Therefore, the geographic assignment process would be applicable to every person's SSN demanded in the subpoena. Accordingly, it would follow that many Pennsylvania voters' Area Numbers are between 159

⁸ *Online Driver's License/Photo Id. Login*, PennDOT, https://www.dot3e.penndot.gov/driver_services/dllogin.jsp#top?2021101314073601=2021101314073601 (last accessed Aug. 10, 2022).

⁹ *Payments and Fees*, PennDOT Driver and Vehicle Services, <https://www.dmv.pa.gov/Information-Centers/Payment/Pages/Payments-and-Fees-Page.aspx> (last visited August 10, 2022).

¹⁰ *Social Security Number Allocations*, United States Social Security Administration, <https://www.ssa.gov/employer/stateweb.htm> (last visited August 10, 2022).

and 211.¹¹

26. The middle two digits, the Group Number, range from 01 to 99 but are not assigned in consecutive order.

27. It has been proven in the past that once a Serial Number is available, the Area and Group Numbers can be predicted through the use of algorithms based on publicly available data.¹²

28. Additionally, if Pennsylvania citizens' SSNs are already being sold on the dark web without additional PII, a malicious actor could utilize the information demanded in this subpoena to cross-reference and build a more complete profile for victims.

29. Each additional data point aids in building a more complete profile for a potential victim. Even if certain pieces are missing, a resourceful malicious actor can find ways to obtain the desired information. The more complete a profile, the more opportunities a malicious actor has to commit identity fraud.

Given the Desirability of PII by Malicious Actors, it Must be Protected

30. Based on the ITRC's latest findings, the number of data breaches in 2021 increased 68% from 2020, for an all time record number of data

¹¹ *Id.*

¹² Alessandro Acquisti, *Predicting Social Security Numbers From Public Data*, PNAS (July 7, 2009), <https://www.pnas.org/content/106/27/10975>.

compromises, 23% more than the previous record.¹³

31. According to a Javelin Strategy and Research study, the total cost of identity theft in 2020 amounted to \$56 billion, costing victims \$13 billion for traditional identity fraud and \$43 billion for identity fraud scams. The average loss for a victim amounted to more than \$1,000.¹⁴

32. Given the desirability of PII, the increasing number of data breaches, and the devastating financial and emotional impact of identity fraud, it is imperative that any exchange of sensitive information, especially PII, be thoroughly considered and planned to protect individuals from potentially malicious and unauthorized actors. Protective measures must be factored into every step of the data lifecycle.

The SIOC has not Demonstrated an Ability to Protect the Requested PII

33. On September 15, the SIOC held a public hearing to consider the issuance of the subpoena at issue in this case. Based on discussions in that hearing, it is not clear to me that proper processes and procedures are in place to ensure that the PII will remain secure at all times, for a number of reasons.

¹³ Alex Achten, *Identity Theft Resource Center's 2021 Annual Data Breach Report Sets New Record for Number of Compromises*, Identity Theft Resource Center (August 4, 2021), <https://www.idtheftcenter.org/post/identity-theft-resource-center-2021-annual-data-breach-report-sets-new-record-for-number-of-compromises/>.

¹⁴ *How Much Does Identity Theft Cost*, Privacy Bee, <https://privacybee.com/blog/howmuch-does-identity-theft-cost/> (last visited August 10, 2022).

34. First, the SIOC initially maintained that the data would be held in the Senate Republican legal counsel's office until a contract with a vendor was finalized. Senator Dush stated that the information would be "held in a secure location" and they would "take proper care of it", without articulating what specific technical controls and governance processes would be put in place to adequately protect and secure the data in question.

35. It is my understanding that the SIOC subsequently entered a contract with a vendor—Envoy Sage, LLC ("Envoy")—to analyze the data sought by the subpoena.

36. Second, although the SIOC has now entered into a contract with a vendor, it remains unclear whether the SIOC still expects the DOS to transfer the data to them in the first instance before it is delivered to Envoy. If this is the case, SIOC has yet to demonstrate that it is prepared to receive, handle, or transfer the data requested in a secure manner.

37. Additionally, a provision in the contract with Envoy refers to Envoy's responsibility to maintain the privacy, security and integrity of information and materials *in its subcontractors' possession*. Envoy's use of subcontractors is by itself concerning. The use of subcontractors would allow additional unidentified vendors to access the requested data. This reintroduces the previous issues of evaluating unknowns, including additional transfers of

data under unknown parameters and handling by unknown additional entities. In addition to creating additional data transfer points where security may not be adequately considered or implemented, the use of subcontractors increases the likelihood of the data being held in an unsecure environment.

38. Third, it appears that the SIOC entered into the contract with Envoy without performing sufficient or possibly any security due diligence. There is no evidence, for example, that the SIOC submitted any security questionnaires, conducted interviews, reviewed documents, or performed on-site visits. These are standard practices to verify a vendor's security infrastructure and competence. There is also no evidence or indication that the SIOC plans to carry out any diligence-related activity before or after Envoy receives any data.

39. Fourth, it appears that Envoy has not provided sufficient detail on its security infrastructure, competence, or practices. The only inquiry related to security appears in the form of a letter from Envoy's president, Steven Lahr, to the Senate Republic Caucus General Counsel (Ms. Clark). In the letter, Mr. Lahr references provisions in the Master Services Agreement and provides general statements related to security methods employed by Envoy.

40. Specifically, Mr. Lahr states the following:

- a. Envoy "follows Industry Best Practices for Information

Security, Handling and Disposal.”

- b. Envoy’s information security policies, standards and procedures “adhere to, or are more rigorous than” guidance from the National Institute of Standards and Technology Cybersecurity Framework (NIST CSF), the SANS Institute, and the Multi-State Information Sharing & Analysis Center (MS-ISAC).
- c. Envoy’s tools use military grade encryption (256-bit AES), and provide users with two-factor authentication (2FA) and biometric logins.

41. It is unclear, however, how the above statements are implemented in practice. For example, which specific tools use 256-bit AES and 2FA? Are they the tools that will be used to transfer, store, and analyze the data requested? Furthermore, in the absence of the policies, standards, and procedures in question and the lack of provision for subsequent scrutiny of them, it is impossible to comment on Envoy’s adherence to the frameworks specified above.

42. Additionally, Mr. Lahr uses the phrase “Industry Best Practices for Information Security, Handling and Disposal” as if it is a set term of art. However, this phrase is broad and can be interpreted differently depending on the type of industry and information in question.

43. Fifth, there is no evidence that the SIOC took any steps to verify or validate any of the above claims made by Mr. Lahr. Again, it is standard practice to verify or validate security claims by a vendor prior to entering into a contract.

44. Finally, there are multiple other crucial considerations that appear to have not been contemplated by the SIOC. Where will the data be stored, for example? If Envoy owns and operates its own servers, how are they securing stored data? If Envoy utilizes the cloud, has due diligence been conducted to ensure that the cloud provider is capable of securely storing its data?

45. Additionally, does Envoy have a physical office, a remote environment, or a combination of the two? Remote or hybrid environments in particular introduce a lack of control over cybersecurity methods employed by an organization's workforce. If such environments are not properly managed, remote workers may engage in risky behavior, such as utilizing insecure Wi-Fi, thus increasing an organization's attack surface.

46. The answers to both of these questions have significant ramifications for the technological and procedural controls that would need to be applied in each case to ensure that the data was adequately protected as it was transferred, stored, accessed, and handled.

47. The noticeable lack of inquiry into these questions further

underscores the weakness of the diligence process carried out by the SIOC in relation to their arrangement with Envoy and their security-related claims.

48. Apparently, the SIOC believed that Mr. Lahr's statements were sufficient for it to enter into the contract with Envoy. Notably, this letter from Mr. Lahr to Ms. Clark is dated November 18, 2021, one day before the contract was signed – a strikingly short timeframe which further suggests the impossibility of SIOC carrying out an appropriate level of due diligence to ensure an adequate level of protection for the data in question.

49. It is unclear how the SIOC plans to enforce the provisions in the contract or how Envoy plans to implement them. It is also unclear that they will be verified or enforced before Envoy receives any data.

50. Given the above-enumerated inadequacies in the SIOC's due diligence, as well as the lack of facts relating to Envoy's security infrastructure and practices, I reiterate and reaffirm my opinion that providing confidential data on millions of Pennsylvania voters to the SIOC and then to Envoy entails significant and grave security risks to the confidentiality of that data.

B. The DOS Should Not be Ordered to Deliver the PCII Demanded Because the SIOC is Not Prepared or Authorized to Receive, Handle, or Transfer it in Accordance With the Requirements of the PCII Program

The PCII Program

51. The PCII Program encourages public and private sector owners and

operators of physical and cyber critical infrastructure to voluntarily share sensitive security and proprietary data with the DHS.

52. The PCII Program protects all information designated as PCII through its lifecycle. All PCII recipients share responsibility for ensuring that PCII is properly safeguarded in accordance with the Critical Infrastructure Information Act of 2002 (CII Act) and the Final Rule: Procedures for Handling Protected Critical Infrastructure Information, 71 Fed. Reg. 52,262 (Sept. 1, 2006) (Final Rule).

Safeguarding measures must ensure that:

- a. Precautions are taken to prevent unauthorized persons from overhearing conversations, observing PCII materials, or otherwise obtaining such information;
- b. PCII is accessed only by authorized users;
- c. To the extent feasible, submitted information is not at risk of inappropriate use; and
- d. PCII is not disseminated inappropriately.

53. Only authorized users can access PCII. PCII is made available only to those federal, state, tribal, and local government employees and their contractors who:

- a. Are trained in the proper handling and safeguarding of PCII.
- b. Have homeland security responsibility as specified in the Critical Infrastructure Information (CII) Act of 2002, the Final Rule, and the policies and procedures issued by the PCII Program;
- c. Have a need to know the specific information; and
- d. Sign a Non-Disclosure Agreement (nonfederal employees).

54. Individuals who do not follow these procedures may be subject to disciplinary action, including criminal and civil penalties and loss of employment.

The SIOC has not Demonstrated it is Authorized to Access the Requested PCII

55. It is my understanding that information requested in the subpoena, paragraph 16, properly falls under the PCII Program.¹⁵

56. Because this information falls under the PCII Program, the requirements as stated above apply and must be met prior to a user being able to access PCII.

57. Based on my review, there is no indication that the SIOC nor anyone on the SIOC has been authorized to access PCII.

58. If the SIOC is unauthorized to access PCII, and the DOS is forced to deliver the PCII as demanded in the subpoena, it would be in violation of the safeguarding requirements under the PCII Program.

The SIOC has not Demonstrated an Ability to Protect the Requested PCII

59. There is no indication that the SIOC has any ability to implement the safeguarding requirements as required by the PCII Program.

60. As stated above, the SIOC's approach to security is inadequately

¹⁵ Petition for Review ¶ 254, *Pennsylvania v. Dush*, No. 322 MD 2021 (Pa Commw. Ct. filed Sept. 23, 2021).

defined. It is not clear to me that proper processes and procedures are in place to ensure that the PCII will remain secure at all times.

C. If the DOS is Ordered to Deliver the PII and PCII, there is a High Likelihood that it Will be Subject to Theft and Leveraged for Nefarious Purposes

61. Too frequently, the mishandling and mismanagement of sensitive data has led to tangible repercussions for American citizens. I fear that if precautions are not taken in this case, similar consequences will occur.

62. For example, in 2012, the South Carolina Department of Revenue experienced a data breach exposing 3.6 million SSNs and 387,000 taxpayers' credit and debit card numbers. The sensitivity of the data exposed prompted South Carolina to offer a year of free credit monitoring and identity theft protection to victims.

63. In 2015, the United States Office of Personnel Management experienced one of the largest data breaches involving government data as a result of a cyber-attack attributed to Chinese state actors. Approximately 22.1 million records were impacted which exposed personally identifiable information such as names, social security numbers, addresses, fingerprint scans, and government clearance. Victims that sued the government cited time and money loss as a result of addressing fraudulent credit charges, tax filings, and other forms of identity theft that could be credibly traced back to the

breach. Arrangements to protect affected government workers against identity theft have cost the U.S. government \$133.3 million at minimum.

64. Reactive remedies such as credit monitoring may not be adequate to guarantee a victim's identity remains secure. That is why the best approach is to proactively safeguard a person's data to ensure it never is stolen in the first place.

65. Every transfer of PII increases the risk of a data exposure both as a result of the act of transferring data, which creates new opportunities for unauthorized and potentially malicious actors to access it, and because every additional location in which data is stored can be an additional target for unauthorized and potentially malicious actors to gain access.

66. At its most basic level, a data breach is defined as the unauthorized access to sensitive or private data by an unauthorized party. A data breach can occur through the exploitation of technical vulnerabilities or through the manipulation of human emotions, actions and/or judgements. The latter falls into an attack category widely referred to as "social engineering." The most common and successful form of social engineering is "phishing," an event in which an attacker will send an action-inducing email to their victim in order to gain fraudulent access to their account, information, or system. Due to the increasing sophistication of phishing emails, they can often appear as

legitimate communications from parties known to the recipient, such as coworkers, friends, or third-party partners. An untrained employee may not realize that they are engaging with a phishing email and may inadvertently divulge sensitive information to an attacker, thinking they are communicating with a trusted individual.

67. Social engineering can also manifest itself physically. For example, an attacker may impersonate a third-party vendor claiming that their presence was requested to perform maintenance on certain systems. If granted access to these systems, it is entirely possible that this individual would be able to exfiltrate sensitive data or install malware.

68. In thwarting social engineering attacks, it is crucial to define upfront who has and who does not have authorized access to systems or data and ensure that individuals who handle sensitive data are properly trained on how to identify social engineering. In addition, therefore, to the technological defenses that would be required to adequately safeguard the data demanded by SIOC, there would also be an equally pressing need to demonstrate the training of staff who would be handling it; neither of which have been competently demonstrated by the SIOC during proceedings thus far.

69. The SIOC's promise to establish security requirements after it has acquired the data implies that the data will not be protected in transit and that

it is not aware of the potential vulnerabilities associated with data in this state. Depending on the mechanism used, there are a number of different ways for data to be compromised in transit. If utilizing physical transfer mechanisms such as paper or USB drives, the data could easily be misplaced, diverted, or lost without proper security protocols in place and end up on the wrong hands. If data is transferred electronically without utilizing encryption-in-transit, it could be intercepted and read in plain text, (through what is known as a “man in the middle” attack). Even if encryption-in-transit is implemented, the data may be stored unencrypted at-rest on an intermediary server before it reaches its final destination if end-to-end encryption is not utilized; in short, this means that the data would be stored unencrypted at-rest in multiple locations, creating additional avenues and opportunities for attack.

70. In addition to the data privacy and data security risks that would be incurred during the transmission process, there are also multiple scenarios in which the data demanded by the SIOC could be compromised once in their possession. Although by no means exhaustive, the following are real possibilities for exploitation that could occur in an unregulated environment:

- a. It is quite common for data to be stored in shared drives within corporate and office environments. These shared drives’ permissions may not be regularly reviewed and adjusted based on

the industry best practice deployment of the principle of least privilege. If this was the case, it is entirely possible that an unauthorized individual would be able to access the highly sensitive data the SIOC is demanding. The danger in this scenario is further increased if anyone with access to the shared drive falls victim to a phishing scam, and has their credentials revealed to an attacker in the process. In this scenario, an attacker would be able to freely access the shared drive without too much difficulty.

- b. In the majority of organizations, endpoint (i.e. devices such as laptops or desktops) updates are the responsibility of the end user. Updates are critical to the remediation of vulnerabilities identified by the software provider, fixing irregularities in code or software flaws that render that endpoint vulnerable. Attackers are known to actively look for these vulnerabilities in order to exploit them and gain unauthorized access to the information and credentials these endpoints store. In a scenario in which an end user has not updated their endpoint, it is entirely possible that an attacker could exploit a known vulnerability and access data that they should not have access to. For this reason, transferring sensitive PII data to an organization that has not explained or demonstrated the safeguards

or processes around data privacy poses a grave risk to the data itself and the individuals to which it pertains.

- c. Data stored on physical devices within office buildings is also potentially insecure. If left unattended and in view, external hard drives and USBs are vulnerable to theft, loss, and damage. In addition, therefore, to the technological defenses outlined above, this emphasizes the need for the explicit demonstration of strict policies governing the use and storage of media of this kind. These types of policies have not yet been evidenced or mentioned by the SIOC in their arguments for the possession of the dataset in question.
- d. Insider threats are another risk that must be considered when discussing data security and data privacy. Data housed within an organization may be vulnerable to the actions of malicious insiders, disgruntled workers, employees being manipulated by a third-party, or a vendor with elevated access privileges. In order to combat these threats, it would be expected that any organization intending to handle sensitive data of the kind in question would be able to evidence processes, technologies and procedures intended to ensure appropriate levels of Data Loss Prevention (DLP) – none of which

has been seen within SIOC's statements around data protection thus far.

71. Based on my experience, if the DOS were a client of mine, I would strongly recommend that it does not transfer any information until a robust due diligence analysis is performed to ensure that whomever they are sending the sensitive information to has implemented robust data security measures to receive, protect, and properly dispose of the data in question. At present, this includes the SIOC and Envoy.

72. A due diligence analysis of this kind should consist of a thorough independent assessment to ensure that the SIOC's and Envoy's security controls are verified and validated. It could involve a combination of questionnaires, interviews, documentation review, and on-site visits. Such an assessment could cost tens of thousands of dollars and take months to complete; potentially more depending on the size of the organization and the intricacy of the assessment requirements.

73. In addition to the financial and emotional impacts, stolen PII can have national security implications. For example, many states require PII to update a voter registration or apply for an absentee or mail-in ballot. Registered voters in Pennsylvania can update their voter registration (including changing address or party affiliation) or apply online to vote by

absentee or mail-in ballot in an election with a name, date of birth, address, and a valid Pennsylvania driver's license and the last 4 digits of their SSN. With this information, malicious actors could change voters' registration information or request absentee or mail-in ballots in the name of a voter without the voter's knowledge. This risks causing serious confusion and diminishing trust in our electoral system and results.

74. Hostile foreign governments have targeted state election systems in the past. The National Intelligence Council reported that during the 2020 election cycle, federal, state, and local officials and agencies "identified thousands of reconnaissance or low-level, unsuccessful attempts to gain access to county or state government networks." Defensive cyber measures such as firewalls and up-to-date patching helped to thwart these compromise attempts and prevent network intrusions.¹⁶

75. Stolen PCII can have serious national security implications as well. As early stage of a cyber-attack is the reconnaissance phase, in which a malicious actor identifies weak points within the target. If a malicious actor obtains access to PCII, for example a system penetration test report, much of the reconnaissance phase is completed for them as they have a clear understanding how the system

¹⁶ *Foreign Threats to the 2020 US Federal Elections*, National Intelligence Council (March 10, 2021), <https://www.dni.gov/files/ODNI/documents/assessments/ICA-declass-16MAR21.pdf>.

works and insight into potential exploitable vulnerabilities.

76. Audits and assessment reports of systems are meant to discover weaknesses. Therefore, they must remain secret and secure at all times or the system in question will be at serious risk of attack.

77. For an election system such as SURE, any insight into vulnerabilities could lead to malicious actors and nation-state actors interfering in the system. As stated above, any interference in an electoral system could cause serious confusion and diminish trust in the results.

I declare under penalty of perjury under the laws that the foregoing is true and correct.

Executed on August 10, 2022.

DocuSigned by:



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Anthony J. Ferrante

EXHIBIT B-1

Curriculum Vitae of Anthony J. Ferrante

Mr. Ferrante is an expert in data privacy, compliance, and cybersecurity readiness, prevention, incident response, remediation, recovery, and complex investigation services. Mr. Ferrante has more than 25 years of top-level cybersecurity experience, providing incident response and readiness planning to more than 1,000 private sector and government organizations, including over 175 Fortune 500 companies and 70 Fortune 100 companies. Further, Mr. Ferrante is versed in cybersecurity regulation and legislation, including DFARS, HIPAA, ITAR, GDPR, CCPA, NYDFS, and PCI DSS.

Mr. Ferrante maintains first-hand operational knowledge of more than 60 criminal and national security cyber threat sets, and extensive practical expertise researching, designing, developing, and hacking technical applications and hardware systems, allowing for unparalleled client advisory and support in complex investigations and litigation.

Prior to joining FTI Consulting, Mr. Ferrante served as Director for Cyber Incident Response at the U.S. National Security Council at the White House where he coordinated U.S. response to unfolding domestic and international cybersecurity crises and issues. Building on his extensive cybersecurity and incident response experience, he led the development and implementation of Presidential Policy Directive 41 – United States Cyber Incident Coordination, the federal government’s national policy guiding cyber incident response efforts.

Before joining the National Security Council, Mr. Ferrante was Chief of Staff of the FBI’s Cyber Division. He joined the FBI as a special agent in 2005, assigned to the FBI’s New York Field Office. In 2006, Mr. Ferrante was selected as a member of the FBI’s Cyber Action Team, a fly-team of experts who deploy globally to respond to the most critical cyber incidents on behalf of the U.S. Government.

Mr. Ferrante was an Adjunct Professor of Computer Science at Fordham University’s Graduate School of Arts and Sciences, where he served as the founder and co-director of the Master’s of Science in Cybersecurity Program in the Graduate School of Arts and Sciences. During his time at Fordham University, he served as the co-director of the undergraduate and graduate cybersecurity research program.

He is a member of the Ethics & Integrity Committee at Cellebrite, and a member of the World Economic Forum’s (WEF) Centre for Cybersecurity where he works to strengthen digital trust and promote the responsible development of technology.

Mr. Ferrante received the 2019 Global Leaders in Consulting award for his Excellence in Execution from Consulting magazine and has been recognized as a Data Expert by Who’s Who Legal (2021) and in the global-wide Cybersecurity Risk, Crisis & Risk Management Chambers & Partners 2021 guide.

Expert Retention

- In the Commonwealth Court Of Pennsylvania (Case No.: 322 MD 2021). **Commonwealth of Pennsylvania, Pennsylvania Department of State, and Veronica Degraffenreid, Acting Secretary of the Commonwealth of Pennsylvania**, v. Senator Cris Dush, Senator Jake Corman, and the Pennsylvania State Senate Intergovernmental Operations Committee. Declaration issued October 2021.
- United States District Court Northern District of California (Case No.: 3:19-cv-4238). Proofpoint, Inc.; Cloudmark LLC, Plaintiffs, v. **Vade Secure, Incorporated; Vade Secure SASU; Olivier Lemarié, Defendants**. Expert report issued March 2021. Deposition taken April 2021. Testimony provided August 2021.
- United States International Trade Commission, Investigation No. 337-TA-1159. **In The Matter Of CERTAIN LITHIUM ION BATTERIES, BATTERY CELLS, BATTERY MODULES, BATTERY PACKS, COMPONENTS THEREOF, AND PROCESSES THEREFOR**. Expert witness for LG Chem Ltd. regarding cybersecurity measures.
- **CDK Global, LLC, a limited liability company, and The Reynolds and Reynolds Company, a corporation, Plaintiffs** vs. Mark Brnovich, Attorney General of the State of Arizona, and John S. Halikowski, Director of the Arizona Department of Transportation, Defendants. Expert report issued October 2019. Deposition taken February 2020. Testimony provided June 2020.

- United States District Court for the Southern District of Florida Miami Division (Case No. 1:17-CV-60426-UU). Aleksej Gubarev, XBT Holdings S.A., and Webzilla, Inc., Plaintiffs, v. **Buzzfeed, Inc. and Ben Smith, Defendants.** Expert report issued May 2018. Deposition taken July 2018.
- United States District Court for the Northern District of California (Case No. 16-MD02752-LHK) **Yahoo! Inc. Customer Data Security Breach Litigation.** Expert report issued September 2018.

Awards

- Ranked Individual, Band 1, Cybersecurity Risk, Crisis & Risk Management Global-wide, *Chambers & Partners* (2022)
- Thought Leader, Data, USA, Data Experts 2022, *Who's Who Legal* (2022)
- Thought Leader, Data, USA, Information Technology 2022, *Who's Who Legal* (2022)
- Ranked Individual, Spotlight Table, Cybersecurity Risk, Crisis & Risk Management Global-wide, *Chambers & Partners* (2021)
- Data Experts, Data 2021, *Who's Who Legal* (2020)
- Global Leaders in Consulting, Excellence in Execution, *Consulting Magazine* (2019)
- Tech 25 Innovators & Disruptors, *Washington Life* (2019)

Notable Professional Activities

- Founder, Federal Bureau of Investigation Chief Information Security Officer (CISO) Academy, September 2015
- Co-Founder, Master's Degree in Cyber Security at Fordham University, September 2012
- Founder, International Conference on Cyber Security, Fordham University, January 2007

Featured Media Appearances

- CNN, *Putin's Army of Hackers are Targeting America*, October 2021
- CNN, *Websites and Apps Go Dark Around the World*, June 2021
- CNN, *FBI Director Wray Compares Ransomware Threat to 9/11*, June 2021
- GovInfoSecurity, *Microsoft's Smith SolarWinds Attack Involved 1,000 Developers*, February 2021
- CNN, *Analyst explains why hospitals are vulnerable to hackers*, October 2020
- CNN, *Feds: Russia & Iran Have Interfered with Presidential Election*, October 2020
- Fordham, *2020 President Report: Cybersecurity and a Networked World*, March 2020
- USA Today, *Will Your Vote Count? Veil of Secrecy Makes It Impossible for Florida Voters to Know*, February 2020
- CNN, *Here's How Iran Could Bring This Fight into American Homes*, January 2020
- CNN, *DHS May Update Terror Threat Advisory After U.S. Killing of Top Iranian General*, January 2020
- CNN, *Police: Six Officers Shot in Philadelphia*, August 2019
- CNN, *FBI: Dayton Shooter Was Exploring Violent Ideologies*, August 2019
- CNN, *Death Toll Rises to 31 in Mass Shootings*, August 2019
- Fordham News, *Former FBI Agent Sounds Alarm on Cyber Security*, August 2019
- CNN, *Senate Report: Russia Targeted All 50 States in 2016 Election*, July 2019
- CNN, *Senate Intel Report Details Russia's Wide-Ranging Election Interference in 2016*, July 2019
- Fordham News, *Panel Finds Election System Sound, but Voices Concern About Social Media and Turnout*, July 2019

- Connected World, *AI is Both Friend and Foe in Cybersecurity*, July 2019
- CNN, *“Person of Interest” in Student’s Disappearance*, June 2019
- CNN, *At Least 12 Dead in Mass Shooting in Virginia Beach*, May 2019
- CNN, *“Close Collaborator” of Assange Under Arrest*, April 2019
- CNN, *Wikileaks Founder Julian Assange Facing Extradition to U.S. on Conspiracy Charge After Dramatic Arrest in London*, April 2019
- CNN, *Experts Detail Alleged Intruder’s Sophisticated Tools*, April 2019
- The Washington Post, *How Nest, designed to keep intruders out of people’s homes, effectively allowed hackers to get in*, April 2019
- IT Pro Today, *RSA 2019: Experts Consider AI as a Security Topic to Watch*, February 2019
- The Washington Post, *The Cybersecurity 202: FBI cyber investigations hit hard by shutdown*, January 2019
- CNN, *Manhunt for Serial Bomber Behind Mass Assassination Attempt*, October 2018
- 60 Minutes, *When Russian hackers targeted the U.S. election infrastructure*, April 2018
- Bloomberg CityLab, *Are Dockless Bikes a Cybersecurity Threat?*, February 2018
- CNN, *Special Report: The Trump-Russia Investigation*, January 2018
- Expansión Newspaper (Spain), *Cybercriminals act every day of the year*, November 2017
- Bloomberg Tech TV, *Equifax Data Breach*, September 2017
- National Public Radio, *Russian Cyberattack Targeted Elections Vendor Tied To Voting Day Disruptions*, August 2017
- Time Magazine, *Inside the Secret Plan to Stop Vladimir Putin’s U.S. Election Plot*, July 2017
- Bloomberg Tech TV, *Hackers Find Flaws in Voting Machines*, July 2017

Recent Publications

- The Hill, *Unaccounted Consequences of a War Between Russia and Ukraine*, February 2022
- Intelligent CIO, *Why Cyber-risk Mitigation Should be Top Priority for Every Organization*, January 2022
- Security Magazine, *A Disturbing Trend – Road to a Cyber Dark Age*, January 2021
- The Hill, *The US Presidential Election is Under Attack*, October 2020
- The Expert Briefing with FTI Cybersecurity, *The COVID-19 Cyber Threat Landscape*, October 2020
- The Hill, *States Must Take Action to Protect Against Unemployment Fraud*, June 2020
- Law360, *9 Post-Coronavirus Cybersecurity Predictions for Cos.*, June 2020
- The Hill, *COVID-19: Attempts to Influence and Deceive*, April 2020
- *COVID-19: New Cyber Threats*, March 2020
- The Hill, *2020 Cybersecurity Predictions: Evolving Vulnerabilities on the Horizon*, January 2020
- The Hill, *Playing With Fire: Global Offensive Cyber Operations*, October 2019
- FTI Journal, *How Can I Tell If My Third-Party Vendors Are Adequately Protecting Organizational Data From Hackers?*, October 2019
- High Performance Counsel, *Business Email Compromise: How To Avoid Becoming A Victim*, April 2019

- Corporate Compliance Insights, *10 Corporate Cybersecurity Predictions What You Need to Know for 2019 - and Beyond*, February 2019
- FTI Journal, *C-Suite Alert: US DOJ Updates Guidelines for Managing Cyber Attacks*, January 2019
- FTI Journal, *How Asset Management Firms Can Combat the Growing Threat of Cyber Attack*, January 2019
- ISSA, *Cryptocurrency and Corporate Security*, August 2018
- Cyber Security: A Peer-Reviewed Journal, *The Impact of GDPR on WHOIS: Implications for Businesses Facing Cybercrime*, July 2018
- *Connected Risks: Cybersecurity Regulations and Mitigation Approaches in US, Europe & Asia*, April 2018
- Corporate Board Member, *The Insiders: Cybersecurity*, April 2018
- CSO Online, *3 Top Cyber Experts Speaking Out*, January 2018
- FTI Journal, *Should I Fear the Reaper?*, January 2018
- Yahoo! News, *Cyberwar is our era's Cuban missile crisis. We need to de-escalate, now*, November 2017
- Power Magazine, *Why CrashOverride Is a Red Flag for U.S. Power Companies*, November 2017
- New York Law Journal, *Vulnerability Management: A Holistic View*, October 2017
- Insurance Journal, *What Insurance Companies Need to Know About Part 500 Cybersecurity Compliance*, October 2017
- Risk Management Magazine, *Enhancing Security with Big Data Analytics*, October 2017
- *Equifax Breach a Category 4 or 5 Attack, but By No Means Unique*, September 2017
- Information Systems Security Association Journal, *Battening Down for the Rising Tide of IoT Risks*, August 2017

Notable Speaking Engagements

- New York Stock Exchange Board Advisory Council, *Cybersecurity Panel*, New York, NY, June 2022
- Maine Law Privacy & Security Conference, *Cyber Solutions: Building the Team to Prepare and Respond to Incidents*, Portland, ME, June 2022
- Spring Lumen Customer Advisory Board, *Seized: Assessing the Situation and Seized: Make a Plan*, Webinar, March 2022
- Morgan Lewis, *A View from the Experts: DOL Cybersecurity Guidance: What It Means and How to Implement It*, Webinar, January 2022
- Florida General Counsel's Forum for Public Companies, Palm Beach, FL, November 2021
- Privacy + Security Forum, *Ransomware Trends, Pitfalls, and Best Practices*, Webinar, September 2021
- Wall Street Journal Pro, *Don't Forget about Nation-state Attacks*, Webinar, September 2021
- Hogan Lovells, *Cybersecurity Risks and Preparedness*, Webinar, September 2021
- Financial Markets Association Securities Compliance Seminar, *Cybersecurity and Data Privacy: Practical Considerations for Mitigating Risk, Responding to Incidents and Addressing COVID-19*, Webinar, April 2021
- Securities Enforcement Forum, *Cybersecurity and Cryptocurrency Regulation, Enforcement and Litigation*, Webinar, October 2020
- ABA Cybersecurity, Privacy and Data Protection Committee, *Cyber-Related Litigation and Best Practices for Incident Preparedness and Response*, Webinar, August 2020
- International Association of Privacy Professionals, *The New Normal: Navigating "Work From Home" Privacy and Cybersecurity Risks*, Webinar, May 2020

- AICPA Forensic & Valuation Services Conference, *A Look into the Future of Blockchain Litigation*, Las Vegas, NV, November 2019
- Institutional Investor Legal Forum Fall Roundtable, *Cybersecurity: Confronting an Existential Threat*, Washington, DC, October 2019
- Privacy + Security Forum, *Best Practices for Preparing a Ransomware-Related Cyber Incident Response Plan*, Washington, DC, October 2019
- Kirkland & Ellis, *Cybersecurity Trends Impacting Healthcare Businesses*, New York, NY October 2019
- DEF CON 27, *Coffee Talk with Anthony Ferrante*, Las Vegas, NV, August 2019
- ICCS, *The Tipping Point: Cyber Risks to Election Systems*, New York, NY, July 2019
- Security & Risk Leadership Academy, *Anything You Say Can and Will Be Used Against You*, Skytop, PA, June 2019
- Securities Enforcement Forum West, *Cybersecurity Disclosure and Enforcement: Will the SEC Drop the Hammer in 2019*, East Palo Alto, CA, May 2019
- Spark Leadership Forum, *Anything You Say or Do May Be Used Against You*, Napa, CA April 2019
- Greenberg Traurig, *Cybersecurity Incident Response and Crisis Management Seminar*, New York, NY, March 2019
- RSA Conference, *AI: Hacking without Humans How Can Human Brains Be Hacked?*, San Francisco, CA, March 2019
- RSA Conference, *Investigating IoT Crime: The Value of IoT Crime Classification*, San Francisco, CA, March 2019
- The Americas Lodging Investment Summit Law Conference, *Battling Cybersecurity Challenges & Elevating Cybersecurity Posture*, Los Angeles, CA, January 2019
- World Economic Forum's Centre for Cybersecurity, *Why We Need Global Cyber Response Principles*, Geneva, Switzerland, November 2018
- U.S.-China Economic and Security Review Commission, *Hearing on China, the United States, and Next Generation Connectivity*, Washington, DC, March 2018
- ILS Forum on International Law, *Digital Currencies in a Connected World*, Miami, FL, February 2018
- Bloomberg, *In-House Counsel's Growing Role in Cybersecurity Risk Management*, Washington, DC, January 2018
- The Conference Board, *Cybersecurity: Crucial Collaborations*, New York, NY, January 2018
- IESE Global Alumni Reunion, *New Rules in Cybersecurity*, Madrid, Spain, November 2017
- Perez-Llorca, *Cybersecurity Panel*, Madrid, Spain, November 2017
- IAWatch, *Incident Response: Planning for and Reacting to Potential Events*, Washington, DC, October 2017
- Federal Bar Association, *Litigating Cybersecurity and Defending Privacy Class Actions*, Atlanta, GA, September 2017
- Compliance Governance Oversight Council, *Cybersecurity Landscape*, Minneapolis, MN, June 2017
- Hogan Lovells, *Ready, Set, Respond*, Washington, DC, September 2016
- PKF O'Connor Davies, *Financial Issues and Trends Affecting Your Club*, New York, NY, May 2013
- Coalition Against Domain Name Abuse, *The Evolution of Cybercrime*, Washington, DC, October 2010
- National Committee on American Foreign Policy, *Cyber War: Perception, Reality, and Strategy*, New York, NY, October 2010

EXHIBIT B-2

Online Driver's License/Photo ID Login

Am I eligible for Online Driver's License or Photo ID Services?

Step 1. Read Instructions

To perform a Driver's License or Photo ID transaction online you will need:

- Your Driver's License, Permit or Photo ID card number.
- A printer.
- A valid credit or debit card for transactions requiring a fee. Visa, MasterCard, American Express and Discover are the only forms of credit or debit cards accepted online.



Available Online Services:

- **Driver's License Renewal** (Non-Commercial Drivers)
Please Note: If you currently have an out-of-state address listed on your PA driver's license or currently hold a PA driver's license without a photo, you will not be able to renew online
- **Photo ID Renewal**
- **Renewal of REAL ID Driver License or REAL ID Photo ID**
- **Change of Address** (Non-Commercial Drivers)
- **Purchase Your Online Driver's History**
- **Request Your Driver's License Restoration Requirements Letter (FREE)**
- **Pay Your Driver's License Restoration Fee**
- **Emergency Contact Information**
- **Driver's License Duplicate** (Non-Commercial Drivers)
- **Photo ID Duplicate**
- **Add Veterans Designation** (Non-Commercial Drivers)
- **Print School Bus Recertification Letter**

Step 2. Online Driver Services Login

Please provide your driver license/photo ID number, date of birth, and last four digits of your social security number for identity verification.

Driver's License or Photo ID Number:

(With no spaces or dashes. Example: 12345678)

[Where can I find my Driver's License or Photo ID Number?](#)

Date of Birth:

(Example: MM/DD/YYYY)

Last 4 digits of Social Security Number (SSN):

I certify under penalty of law that I am accessing MY OWN driver/vehicle information, or I have written authorization from the driver/vehicle record holder to access the requested information, and that all information contained herein is true and correct. I understand that any misstatement of fact is a misdemeanor of the third degree punishable by a fine up to \$2,500 and/or imprisonment up to 1 year (18 PA. C.S. Section 4904(b)).

Login

Cancel

Be sure to review PennDOT's [Online Transactions FAQ page](#) if you have any questions about completing an Online Service.

Exhibit C

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Pennsylvania Senate Intergovernmental Operations
Committee,

Petitioner,

v.

Pennsylvania Department of State, et al.,
Respondents.

No. 95 MD 2022

DECLARATION OF JONATHAN M. MARKS

I, Jonathan M. Marks, declare and affirm under the penalties of 18 Pa.C.S. § 4904 that:

1. I am the Deputy Secretary for Elections and Commissions at the Pennsylvania Department of State (the Department). I have been employed as Deputy Secretary since February 2019. Prior to serving as Deputy Secretary, I served as Commissioner for the Bureau of Commissions, Elections and Legislation, and before that, the Division Chief for the Statewide Uniform Registry of Electors (SURE). I have worked at the Department since 1993 and been involved with the Department's election-related responsibilities since 2002.

2. My duties as Deputy Secretary for Elections and Commissions include overseeing the Bureau of Election Security and Technology, the Bureau of Campaign Finance and Civic Engagement and the Bureau of Elections and Notaries. The Bureau of Election Security and Technology is responsible for overseeing election technology, ensuring data integrity, and developing secure

administrative procedures related to election administration in Pennsylvania, including administration of the Statewide Uniform Registry of Electors database (SURE).

3. I submit this Declaration in support of Respondents' opposition to summary relief. Given my role and years of experience at the Department, I am personally knowledgeable about the matters referenced in this Declaration and the business records of the Department of State. If called as a witness, I could and would testify competently to the matters set forth below.

I. The Pennsylvania Statewide Uniform Registry of Electors (SURE)

4. The SURE system is Pennsylvania's centralized voter registration and election management system. 25 Pa.C.S. § 1222. The Department developed the SURE system to comply with the Help America Vote Act, 52 U.S.C. § 21083, and with Act 3 of 2002. The Department manages and oversees the SURE system, which ensures the accuracy and integrity of voter registration records maintained by the election authorities in each county. The SURE system also facilitates determinations of voter eligibility, maintains precinct data, and produces poll books. 25 Pa.C.S. § 1222.

5. The SURE system is not a single database; instead, it is a suite of databases, portals, and applications protected by layers of security and designed to securely hold the personal information of millions of Pennsylvania voters.

6. The Department is statutorily charged with maintaining the SURE system. 25 Pa.C.S. § 1201. By statute, counties are connected to the SURE system so that they may process voter registration applications, maintain voter registration records, and perform election-related tasks assigned to them by state law. 25 Pa.C.S. § 1222. While I use the word “county” throughout my Declaration as shorthand, the more precise term is county voter registration commission. *See, e.g.*, 25 Pa.C.S. §§ 1102 (defining commission); 1203 (establishing commissions to oversee voter registration).

7. The Department and counties use three components of the SURE system to administer elections: SURE Voter Registration, the SURE Agency Portal, and the SURE County Portal. Because these components can access personal voter information, including driver’s license and Social Security numbers, only officials authorized by the Department and by counties can access them.

8. SURE Voter Registration (SURE VR) is an application used by counties to process and maintain voter registration records and to perform a number of election-related tasks, including the management of vote history, absentee and mail-in ballots, poll books, election-related reports, and voter registration correspondence to voters. Special equipment and user credentials are required to access and use SURE VR. The Department has access to SURE VR as part of its management and oversight responsibilities.

9. The SURE Agency Portal is used by Department personnel to maintain elections and campaign finance data. The Department uses the portal to maintain and retrieve the archive of historic election results by precinct and county, manage nomination petitions, and manage campaign finance records.

10. The SURE County Portal provides counties with voter search, provisional ballot processing/certification, and other basic capabilities through a secure web service rather than the specialized equipment required to access SURE VR. Counties can use the portal for seasonal and temporary staff who may need to access basic SURE functionality during an election or other busy period. Additionally, counties use the portal to upload election results, certify election results, and certify voter registration statistics.

11. The SURE system also includes additional portals and interfaces accessible by Pennsylvania residents and voters: the SURE Public Portal, SURE Kiosks, and the SURE Online Voter Registration Web Application Programming Interface (OVR Web API). These portals and interfaces cannot access driver's license or Social Security numbers and do not provide direct or indirect access to SURE VR, the SURE County Portal, or the SURE Agency Portal.

II. Voter Registration in Pennsylvania

12. In Pennsylvania, voter registration is entrusted by statute to the counties. 25 Pa.C.S. § 1203. All voter registration applications are reviewed, verified, approved, and retained by the respective county. 25 Pa.C.S. § 1328.

13. To register to vote, a qualified resident must provide the county in which they reside with certain personal information, including their name, address, date of birth, and either their driver's license or last four digits of their Social Security number. *See* 52 U.S.C. § 21083(a)(5)(A); 25 Pa.C.S. § 1327.

14. Once a voter registration application is approved by the county, the voter's personal information is stored in SURE VR.

15. Counties' limited access to parts of the SURE system allows them to perform their statutorily assigned duties related to voter registration.

16. When a commission is processing a voter registration application, it must, among other things, verify that the voter is eligible and not already registered. 25 Pa.C.S. § 1328(a)(2). As part of the registration approval process, the SURE system helps county voter registration commissions verify whether an applicant is eligible. The SURE system also allows the commission to perform a duplicate check. *See* 25 Pa.C.S. § 1222(17); 4 Pa. Code § 183.6.

17. To ensure efficient administration and facilitate the accuracy of information in the SURE system, the Department has created a uniform process for

each county voter registration commission to use when entering information into the SURE system. The Department provides commissions with information they can use to identify and remove duplicate records, and it works with them to regularly and systematically update information in the system. The Department provides county voter registration commissions with training and documentation on the SURE system, including user manuals and “job aids.” It has also established a help desk for commissions to utilize.

18. County voter registration commissions have access to the SURE system only as necessary to carry out their statutory obligations. A commission can only access the voter registration records for voters *in that county*. The commission cannot access or change voter records for voters in other counties, and it does not have access to the voter registration applications in other counties. The only time a commission can view (in read-only mode) voter data from voters in another county is when the commission is processing a voter registration application and searching for potential duplicate records or when the commission is transferring a voter’s record after the voter moves between counties.

19. Allowing counties to perform these searches is one of SURE’s essential functions. 25 Pa.C.S. § 1222(7), (17).

III. Pennsylvania Law and Department Practice Limit Access to Voter Information

20. Both Pennsylvania law and the Department carefully control access to voter's personal information.

21. Only persons authorized by the Department or by a county can access SURE VR, the SURE Agency Portal, or the SURE County Portal and view driver's license and partial Social Security numbers.

22. If the Department provides persons outside the Department with access to SURE VR, the SURE Agency Portal, or personal voter information, it does so only under contractual agreements that limit access to the SURE system, restrict how personal voter information can be used, and prohibit retention or dissemination of personal voter information. The Department conducts background checks, including criminal background checks, on any person the Department hires or retains who will have access to the SURE system.

23. The Department does not make the driver's license or partial Social Security numbers of voters accessible by the public.

24. Pennsylvania law requires the Department to release certain voter information on "public information lists" and "street lists." 25 Pa.C.S. §§ 1404, 1403; 4 Pa. Code §§ 183.14, 183.13. These lists are subject to strict requirements on the use of voter information and the Department does not release driver's

license or partial Social Security numbers on these lists. *See* 25 Pa.C.S. §§ 1404(a)(1), 1403(a); 4 Pa. Code §§ 183.14(c)(3), 183.13(a), (c)(5)(iii).

25. The Department must allow public inspection of certain election and voter records. 25 Pa. Stat. § 2622; 25 Pa.C.S. § 1207. When complying with these requests, the Department does not allow public inspection of driver's license or partial Social Security numbers.

26. Occasionally, a court will need access to SURE data as part of a nomination petition or nomination paper challenge or other election matter. To protect voter privacy and security, the county official will use the default County Portal voter search page, which does not display partial Social Security or driver's license numbers. This avoids displaying partial Social Security and driver's license numbers in open court. If the court asks to see a part of the County Portal that does display partial Social Security or driver's license numbers, the Department has instructed county officials to ask that the projector be turned off.

27. Pursuant to state law, the Address Confidentiality Program (ACP) protects the addresses of victims of domestic violence, sexual assault, stalking, and their families by requiring the Department and counties to use substitute personal information in the SURE database and in election materials. 23 Pa.C.S. §§ 6701-13. When an ACP participant registers to vote, the county enters in the SURE system the participant's ACP number as their first name, "ACP" as their last name,

“ACP [precinct number]” as the street address, a P.O. Box in Harrisburg as the mailing address, and 01/01/1900 as the date of birth. The county does not enter the ACP participant’s driver’s license or Social Security number into the SURE VR. ACP participants appear in poll books and on public information lists under the substitute information.

IV. The Department Maintains and Improves the SURE System.

A. The Department’s Security Practices

28. In recognition of the paramount importance of protecting the security of confidential voter information, the Department uses a layered set of protections for the SURE system. These layered protections for the SURE system include: 24/7 continuous network monitoring, multiple firewalls, encryption of data in transit and at rest, password protection, and continuity of operations (COOP) planning, among other controls to protect its systems.

29. In addition, the Department’s operation, maintenance and oversight of the SURE system fully comports with information technology policies (ITPs) issued by the Office of Information Technology (OIT) within the Pennsylvania Office of Administration. As explained below, those ITPs are extensive and detailed. They concern, among other things, the protection of Commonwealth data, as well as software, hardware, and other informational technology resources.

30. OIT is the Commonwealth's lead agency on information technology for executive agencies. Among other responsibilities, OIT "establishes and implements policies, standards, and guidelines regarding planning, management, acquisition, and security of IT assets in all commonwealth agencies under the Governor's jurisdiction." OIT also "provides direct oversight for large, enterprise-wide initiatives, such as IT consolidation, commonwealth shared services, and cyber security, as well as enterprise IT technology support." See About IT, <https://www.oa.pa.gov/Programs/Information%20Technology/Pages/AboutIT.aspx>

31. OIT has issued a broad range of ITPs, including policies for information security and for protecting confidential data and personally identifying information (PII).

32. One such ITP, titled Policy and Procedures for Protecting Commonwealth Electronic Data (ITP-SEC019), establishes policies and procedures for the identification of safe transmittal, transport, storage, and overall protection of Commonwealth electronic data. Among other things, the ITP establishes protocols for the use of a "C" designation, which indicates that all or part of the record requires "special treatment and/or heightened protections."

33. Another such ITP, titled Encryption Standards (ITP-SEC031), establishes standards for the encryption of Commonwealth data while in transit and at rest.

34. Another such ITP, titled Data Cleansing Policy (ITP-SEC015), establishes policies, responsibilities, and procedures for the sanitization and or destruction of Commonwealth data.

35. Another such ITP, titled Enterprise Data Loss Prevention (DLP) Compliance Standards (ITP-SEC032), sets standards to protect sensitive data from data breach and provides solutions designed to detect and act upon unauthorized use and transmission of confidential information.

36. One of the most relevant ITPs is entitled Proper Use and Disclosure of Personally Identifiable Information (PII) (ITP-SEC025). This policy sets guidelines to assist agencies in determining procedures for the handling of PII. PII includes, among other things, a person's name, place and date of birth, driver's license number, and Social Security number. The policy states that OIT "is committed to protecting the privacy of PII of its employees, contractors, constituents, and other individuals associated with the Commonwealth. All agencies shall take appropriate measures, implement necessary technology, and/or establish operating procedures to ensure data privacy is maintained." To that end, "[a]gencies must limit the generation, collection, storage, use, and disclosure of PII to that which is necessary for business purposes only and must further limit generation, collection, storage, use and disclosure of PII to the minimum extent necessary for the accomplishment of those business purposes." Agencies must

provide for encryption when transferring such information. In addition, “[a]ll agency entities maintaining files utilizing PII for any purpose shall ensure that access or use of such information is properly controlled, encrypted, and restricted to prevent unauthorized use or disclosure and that the retention period is minimized based upon business requirements.”

37. These are among the myriad of OIT information technology policies that govern the Department’s activities, in addition to those of other Commonwealth agencies.

38. Many ITPs, including all of the ITPs listed above, also apply to third parties who contract with the Department to provide services for the SURE system.

39. In addition to ITPs, the Department in 2019 established a Policy on Election System Security Measures, known as a traffic light protocol. The traffic light protocol establishes how the Department must mark, handle, store, and protect election infrastructure information, which includes information about voter registration database and associated IT systems and about IT infrastructure and systems used to manage elections. The traffic light protocol requires all election infrastructure information to be marked with one of four colors (red, amber, green, or white), which corresponds with how freely the information can be shared. Information marked red cannot be disclosed to any parties outside of a specific exchange or meeting; information marked amber can only be shared with members

of the participants' organization or with others who need to know; information marked green can be shared with peers and partner organizations within the relevant sector or community, but not publicly; and information marked white can be freely distributed.

40. The Department scrupulously adheres to ITPs and its security policies to protect confidential data such as PII, and it employs encryption consistent with the Commonwealth's policy for encryption of data in transit and at rest, among other layers of protection, to prevent unauthorized uses or disclosures. Through adherence with Commonwealth ITPs, the Department ensures that Pennsylvanian voters' information in the SURE system is only used for limited lawful purposes and remains protected by layers of security.

B. Transitioning to SUREVote

41. The SURE system is now over fifteen years old and, while fully secure, has limitations in terms of data input, use, and reporting. Technological advances as well as security needs warrant an upgrade of the SURE system.

42. Consistent with its statutory obligation to develop and administer the SURE system, 25 Pa.C.S. § 1201(3), the Department since 2018 has been taking steps to transition to a new SURE system, which the Department calls SUREVote. That system will go live after the November 2022 election, and the Department is already working on SUREVote infrastructure and a suite of services.

43. The new SUREVote system will securely hold confidential voter information for millions of Pennsylvanians. It will have layered security protections, including 24/7 continuous network monitoring, firewalls, encryption, password protection, multi-factor authentication, robust reporting capabilities, and continuity of operations (COOP) planning, among other controls. As such, SUREVote will enhance the tools available to county voter registration commissions, while preserving the Department's ability to keep voter information secure from a variety of bad actors who have reportedly attempted to hack state voter registration systems. It will also expand the options available to the Department for password maintenance and multi-factor authentication.

44. To build SUREVote, the Department has contracted with a vendor called BPro, Inc., a software provider that offers voter registration software solutions that are protected by multiple layers of security. BPro was acquired by KNOWiNK and KNOWiNK was assigned the rights and duties under the Commonwealth's contract with BPro.

45. The Department selected BPro after a lengthy and thorough competitive procurement process. The Department worked with federal, state, and county partners for more than a year to finalize and post a Request for Proposal (RFP) to replace the current SURE system. The Department evaluated the submitted proposals using a panel of Department personnel along with

Commonwealth security experts and county election personnel. After a thorough review of the submitted proposals, which included reference reviews inquiring about BPro's past projects, the Department, in coordination with the Department of General Services, determined that BPro's proposal was the most advantageous to the Commonwealth, and a final contract was executed on December 28, 2020.

46. The Department's contract with BPro requires the contractor to maintain the confidentiality of PII and other data shared with it in the process of building and implementing the SUREVote system.

47. Specifically, the contract with BPro provides that the contractor must comply with all ITPs and policies issued by OIT. The contractor must ensure that all services and supplies procured under the contract comply with the applicable standards and policies, including those concerning data privacy and security. The contract also references the full list of ITPs issued by the OIT.

48. The contract also requires BPro to conduct and complete background checks on all employees or subcontractors who will have access to Commonwealth IT facilities. The contract prescribes the procedure for the background checks and requires them to be completed prior to initial access as well as annually for the duration of the contract.

49. The contract requires BPro to "protect the confidentiality of the Commonwealth's confidential information" and further states that "all Data

provided by, or collected, processed or created on behalf of the Commonwealth is Confidential Information unless otherwise indicated in writing.” The contract bars BPro from copying, in whole or in part, using, or disclosing confidential information except when essential for authorized activities. It also provides terms for the return of confidential information upon termination of the contract.

50. Finally, the contract requires BPro to comply with “all applicable data protection, data security, data privacy and data breach notification laws,” with specific requirements elaborated. For example, any unauthorized use, loss, or destruction of data or confidential information must be reported by the contractor within two hours of learning of any such incident, and the contractor must take immediate reasonable steps to mitigate the harm or loss.

51. While these are among the most important provisions of the contract with BPro for purposes of protecting confidential information, the contract also contains other provisions, such as the contractor’s agreement to comply with all relevant federal and state laws regarding the protection of data, as well as agency-specific requirements relating to sensitive or confidential information.

52. By referencing the entire catalog of Commonwealth OIT ITPs, providing for the handling of confidential information, requiring background checks, and treating all SURE data as confidential, the Department’s contract

ensures to the fullest extent possible that BPro will safely maintain the confidential information of Pennsylvania voters as it develops the new SUREVote system.

C. The Department's Maintenance Contracts are Necessary and Zealously Protect the Security of Confidential Voter Information.

53. Consistent with its statutory obligations, 25 Pa.C.S. § 1201(3), the Department contracts with an information technology company to support and maintain the current SURE system. The contractor acts as an agent of the Department. The contractor can only access sensitive information in the SURE system as necessary to perform essential maintenance and support functions. The Department ensures that its maintenance and support contractor adheres to Commonwealth ITPs and takes all appropriate steps to maintain the security of personal voter information.

54. When the Department contracts for maintenance and support of the SURE system, the contractor must comply with all ITPs issued by the Governor's Office of Administration and with all applicable state and federal data protection, data security, data privacy, and data breach notification laws. To help ensure that all confidential voter information accessed by the contractor remains under the Department's control, the Department requires the contractor to perform its work on Department-provided hardware, software, and networking systems; the contractor cannot store data from the SURE system outside of Department property. The Department requires the contractor's employees to undergo

background checks prior to being permitted to access sensitive information in the SURE system. The Department does not allow the contractor to copy, use, or disclose, in whole or in part, personal voter information except when essential for authorized activities and with Department consent.

55. In 2014, the Department engaged a firm named Diverse Technologies Company (DTC) to provide help desk support and maintenance of the SURE system. The Department terminated its contract with DTC in 2015. The Department has subsequently contracted with Acclaim Systems to provide maintenance and development services for the SURE system.

56. The Department takes seriously its obligations to maintain the security and confidentiality of voter information in the SURE system, and its contracts with vendors reflect its commitments to data security and privacy. The Department hires vendors with the necessary skills and expertise to maintain the integrity of the SURE system and to reduce the risk that the PII that voters are statutorily required to supply when registering to vote is not misused.

V. The Department Works with County Voter Registration Commissions to Improve the Accuracy of Voter Records in the SURE System.

A. List Maintenance Improves the Accuracy of Pennsylvania Voter Rolls.

57. Pennsylvania law does not authorize the Department to perform voter registration list maintenance or to verify the accuracy or completeness of voter

registration information. Only county voter registration commissions are authorized to investigate a registrant's eligibility to vote and to cancel or alter voter registrations. 25 Pa.C.S. § 1203(a), (h), (i), (k).

58. In Pennsylvania, voter removal programs are codified in 25 Pa.C.S. §§ 1501-05, 1901. Section 1901(a)(2) directs that voter registrations may be canceled only upon the request of the voter, upon the death of the voter, upon confirmation that the voter has moved outside the county, or pursuant to a voter removal program designed to identify registered voters whose address may have changed. 25 Pa. Cons Stat. § 1901(a)(1)-(4).

59. Voter registration list maintenance also is regulated by two federal laws, the National Voter Registration Act (NVRA), 52 U.S.C. § 20501 *et seq.*, and the Help America Vote Act, 52 U.S.C. § 20901 *et seq.* *See also* 25 Pa.C.S. § 1513.

60. Although the Department cannot itself remove or update voter records, the Department assists county voter registration commissions in list maintenance by providing job aids and reminders about statutory deadlines and best practices.

1. Removing voters who have moved.

61. Each year, county voter registration commissions review their lists to determine whether voters may have moved using data from the National Change of Address (NCOA) program. The NCOA is a commercial dataset of permanent

change-of-address records (names and addresses) for individuals, families, or businesses who have filed a change-of-address with the Postal Service, which is sold by the U.S. Postal Service.

62. The Department facilitates the NCOA list maintenance process by obtaining the data through ERIC, and then providing that information to county voter registration commissions. The Department also obtains further data generated by ERIC to attempt to identify voters who may have moved in state or out-of-state. It conveys that information to the commissions.

63. In June 2020, 2021, and 2022, the Department distributed three data sets provided by ERIC regarding possible residence changes by voters that county voter registration commissions can use to update their lists. The three data sets were: National Change of Address, In State Moves, and Out of State Moves.

64. County voter registration commissions are required by the NVRA to follow a specific procedure before altering the registration status of a voter who has been identified as potentially having moved. In only two circumstances can a commission remove a voter from the rolls on the grounds that she has changed residence. First, if a voter confirms in writing that she has moved, the rolls may be updated. Second, the commission can mail a notice to the voter asking her to return a postage prepaid and pre-addressed card confirming her residence. If the voter affirmatively indicates that her residence has not changed, no further action is

taken. If the voter confirms she has moved, her record is updated appropriately. If the voter does not reply or the notice is returned as undeliverable, she is placed on inactive status, but can return to active status upon confirming her address. Inactive status does not prevent a voter from legally voting. If the voter does not return to active status or vote in the two federal general elections following the mailing of the notice, her name can then be removed from the rolls. 52 U.S.C. § 20507(d)-(f).

65. In 2020, 2021 and, 2022, the Department provided county voter registration commissions a job aid or a step-by-step manual, for them to use to generate the various types of correspondence to mail to voters who may have moved. The job aid also provided a step-by-step guide for managing and updating residence information in SURE Voter Registration (SURE VR).

2. *Removing voters who have died.*

66. Ordinarily, a commission can only remove a deceased voter if it has received a report from the Pennsylvania Department of Health or if it identifies the voter as deceased using published newspaper obituaries, letters testamentary, or letters of administration issued by the office of the registrar of wills. 25 Pa.C.S. § 1505(a)-(b).

67. The Department receives death records from the Department of Health twice monthly and transmits that data to the commissions every few weeks. The

Department has also encouraged commissions to perform list maintenance to remove deceased voters using approved statutory sources.

68. In 2020, the Department entered into a stipulated agreement allowing the Department to provide county voter registration commissions with a report from ERIC identifying deceased voters drawn from Limited Access Death Master File from the Social Security Administration.

3. *Removing duplicate and inactive voter registration records.*

69. In 2020, 2021, and 2022, the Department distributed a data set from ERIC that identified potential duplicate registrations. This data set can help county voter registration commissions identify potential duplicate registrations and then take steps to investigate them. The Department produced a job aid to assist commissions in using the data.

70. Each year county voter registration commissions are required by law to send a notice to voters who have not had any activity on their record or have not voted in the last five years. 25 Pa. Cons Stat. § 1901(b)(3). This is known as the “Five Year Notice.” Voters sent such notices are deemed inactive. An inactive voter who does not respond to the notice stays on the rolls in that status until two consecutive federal general elections have passed without further activity, at which point her registration will be cancelled by the commission. If the voter responds to the “Five Year Notice” confirming she wishes to remain registered, then she is

returned to active status. If she responds saying she wishes to have her registration cancelled, then her inactive status is converted to cancelled without waiting for the passage of two consecutive federal general elections.

* * *

71. The Department regularly communicates with county voter registration commissions to encourage their timely compliance with these obligations. In 2021, the Department sent the commissions ten separate reminders of the deadline for their yearly list maintenance activities and in 2022 the Department sent the commissions 5 reminders regarding the deadline for yearly list maintenance.

72. The Department prepares an annual report for the General Assembly on the administration of voter registration in the Commonwealth. 25 Pa.C.S. § 1406(b). The report for 2020 was provided to the General Assembly in June 2021 and the report for 2021 was provided to the General Assembly in June 2022. The annual reports provide detailed information about various list maintenance efforts undertaken by the county voter registration commissions.

B. Dates of Birth

73. Prior to the creation of the SURE system, each county voter registration commission maintained its own system for voter registration. Those systems were not uniform and often lacked certain categories of information,

including full birth dates, years of birth, or registration dates. This is because some commissions had previously only recorded whether a voter had reached legal age, not the voter's date of birth.

74. When the Department implemented the SURE System, the Department migrated voter registration information into SURE VR as it had been maintained by the county voter registration commissions in their voter registration systems. If the commission had not previously collected full birthdates, the Department and commission used "dummy birthdates" as placeholders to indicate that more detailed information was unavailable. The dummy birthdates in these "legacy" voter records account for many of the obviously incorrect years of birth that DAG auditors noted.

75. Once Pennsylvania implements SUREVote, the Department will work with county voter registration commissions to fill in missing data in legacy voting records.

76. In addition, the Department places "dummy birthdates" for some voters whose information is confidential, including voters in the state's Address Confidentiality Program. This helps the Department and county voter registration commissions readily identify that these individuals' information must be kept confidential.

VI. The Department works with other state election officials to improve the accuracy of Pennsylvania voter rolls without compromising data security or confidentiality.

77. To improve the accuracy of its voter rolls, Pennsylvania is a member of ERIC. As explained below, voter information in the SURE system is never accessed by unauthorized personnel or otherwise compromised because of the Department's involvement with ERIC. Indeed, all transfers of information between ERIC and Pennsylvania are subject to multiple layers of security protection, including limited credentialing, encryption, and the use of a hash application to mask Social Security numbers, driver's license numbers, and dates of birth.

78. ERIC's sole mission is to assist its member States in improving their voter rolls and registering eligible citizens to vote.

79. Each member State, including Pennsylvania, must agree to a number of policy guidelines and technical protocols to maximize the accuracy of voter lists while maintaining the privacy and security of voter data.

80. Pursuant to these guidelines and protocols, the Department provides ERIC with voter registration records from the SURE system and state licensing and identification records from the Pennsylvania Department of Transportation (PennDOT). The Department uploads this data to Pennsylvania's folder on ERIC's secure server using multiple rounds of encryption. Access to the ERIC server is limited and it is only provided to persons with credentials. Only two officials in the

Department have credentials to ERIC data and only one official in the Department is credentialed to access Pennsylvania's folder on the ERIC server. The Department cannot access data uploaded by any other member State, and no other member State can access Pennsylvania's data.

81. Before the Department uploads driver's license numbers, Social Security numbers, or dates of birth, the Department runs these through a one-way cryptographic hash application that turns this sensitive data into a seemingly random string of letters and numbers. Only one official in the Department has access to the ERIC hashing application used to encrypt or scramble the data before it is transmitted to ERIC. This data is then decrypted or unscrambled only by authorized personnel at ERIC.

82. ERIC uses the uploaded information to provide the Department with reports of Pennsylvania voter records that may be duplicates or out of date. The reports do not contain Social Security numbers, driver's license numbers, or dates of birth. Downloading data from the ERIC server employs the same security protocols and encryption as uploading data. Only one credentialed official in the Department is able to download these reports from ERIC's secure server. The Department can only access reports for Pennsylvania and no other member State can access Pennsylvania reports.

VII. The Auditor General's Audit of the SURE System

83. In June 2018, the Department asked the Pennsylvania Department of Auditor General (DAG) to perform an audit of the SURE system to assess its accuracy, operability, and efficiency. The Department asked the DAG to assess SURE's accuracy, operability, and efficiency so that the Department could confirm that SURE was fulfilling its statutorily defined requirements. The audit was conducted pursuant to an Interagency Agreement between the Department and DAG.

84. The audit covered the period of January 1, 2016, to April 16, 2019.

85. The DAG published its final report in December 2019.

86. The terms of the Department's Interagency Agreement made clear that DAG would protect the security and privacy of all data exchanged during the audit and would maintain data integrity as required by Pennsylvania Office of Administration/Office of Information Technology requirements. DAG agreed to destroy all data provided by the Department once the data was no longer needed. Only authorized personnel from DAG and the Department with a business need would have access to the data exchanged during the audit.

87. Data and systems security concerns were paramount in the Department's negotiations and dealings with the DAG in the course of their performance of the audit.

A. The Department Provided DAG Auditors with Restricted Access to the SURE System Under Controlled Conditions

88. The Department and the DAG established protocols to address all aspects of data security. The Department provided DAG auditors with limited and restricted access to the SURE system and SURE system data under carefully controlled circumstances to reduce the risk of inadvertent intrusions into or tampering with the SURE system and prevent the unauthorized disclosure of information, including private, personal voter information.

89. For example, DAG auditors were given access only to snapshots of several tables in SURE VR containing sensitive personal information about registered voters in Pennsylvania. Giving DAG auditors only snapshots and only some tables of data allowed the DAG auditors to conduct their review while minimizing access to voter data and minimizing any risk from such access.

90. To ensure the security of the snapshot, it was stored on an encrypted external hard drive, which was kept in the Department's Office of Chief Counsel in a secure lock box within a locked cabinet. Only the auditors had a key to the lockbox, and only Department Chief Counsel personnel had a key to the cabinet.

91. The Department also gave "read-only" user credentials to certain DAG auditors to allow them to review the SURE system. Because the access was "read-only," DAG auditors could not input or change any information in the SURE system. They could not copy any information in the SURE system to duplicate it.

Although DAG auditors could view private, personal voter information in the SURE system, DAG auditors were not permitted to carry such information out of the building, either in their working papers or by other means.

92. To access the snapshot and the read-only version of the SURE system, DAG auditors had to come to the Department's office in the North Office Building and use Department equipment and hardware. When needed during the audit, DAG auditors and Department personnel would retrieve the hard drive from the lock box in the locked cabinet. The auditors would then connect the hard drive to a Department workstation with no wireless access in a room in the basement of the Department. If the auditors wanted to check a specific voting record in the SURE system, they would use their read-only credentials on a Department workstation in the same room. One member of Department staff, typically an employee of the Bureau of Elections Security and Technology, was physically present in the room to monitor use of the snapshot and access to the SURE system. Each evening, on the days when they needed the hard drive, DAG auditors and Department personnel would replace the hard drive in the lock box, which would then be placed back inside the locked cabinet.

93. The Department also provided DAG auditors with a copy of the full voter export, which does not contain driver's license or partial Social Security numbers.

94. DAG auditors also visited with select county election officials as part of the audit. The Department facilitated these visits by providing a Department staff member to be present for the auditors' discussions with counties. The purpose of having a Department staff member present was to ensure data and system security to the maximum extent possible.

B. The Department Withheld PCII relating to the SURE system from the Auditor General in Accordance with Federal Law

95. Because election systems are critical infrastructure, *see* Part III, *supra*, federal law governs what information about election systems can be shared, even with other state agencies when they perform audits.

96. In the course of conducting the audit, the DAG requested security reports related to the SURE system. The Department's Office of Chief Counsel explained to DAG auditors that the requested reports were PCII and could not be released.

97. In order to cooperate with the DAG while respecting the information-sharing restrictions imposed by federal law, the Department provided DAG auditors with an affidavit regarding information technology security protocols relating to the SURE system.

VIII. The Subpoena Requests Protected Critical Infrastructure Information

98. In January 2017, the U.S. Department of Homeland Security designated election systems as critical infrastructure. Among the election infrastructure so designated were voter registration databases, voting systems, and other technology used to manage elections and to report and validate results.

99. “Critical infrastructure” are “systems and assets” that are “so vital to the United States” that their incapacity or destruction “would have a debilitating impact on security, national economic security, national public health[,] or safety.” 42 U.S.C. § 5195c.

100. Federal law protects critical infrastructure and critical infrastructure information. 6 U.S.C. §§ 671-674; 42 U.S.C. § 5195c. Critical infrastructure is “information not customarily in the public domain and related to the security of critical infrastructure or protected systems” and includes “the ability of any critical infrastructure to resist interference,” “any planned or past assessment . . . of the vulnerability of critical infrastructure,” and “security testing, risk evaluation thereto, risk management planning, or risk audit.” 6 U.S.C. § 671(3).

101. The Protected Critical Infrastructure Information (PCII) Program protects critical infrastructure information from public disclosure. 6 U.S.C. § 673; 6 C.F.R. §§ 29.1-29.9. To be covered by the PCII Program, a State must voluntarily submit critical infrastructure information not in lieu of compliance with

any regulatory requirement. 6 U.S.C. § 673(a)(1); 6 C.F.R. § 29.5. When reports are submitted for PCII protection, those reports have the presumption of protection pending review. Once covered, the information cannot be made available under any State or local public records law, be disclosed or distributed to any party without written consent of the person or entity submitting the information, or be used other than for the purpose of protecting critical infrastructure or protected systems. 6 U.S.C. § 673(a)(1); 6 C.F.R. § 29.8.

102. In accordance with federal law and U.S. Department of Homeland Security practice, the Department has properly submitted critical infrastructure information about the SURE system to the U.S. Department of Homeland Security. This information is PCII.

103. Paragraph 16 of the Subpoena demands disclosure of certain records that have been and will continue to be submitted to the U.S. Department of Homeland Security for PCII designation and protection. Every record that the Department has submitted to the U.S. Department of Homeland Security for validation as PCII has been validated as PCII. Records that provide detail about the Department's IT architecture and identify potential risks and vulnerabilities in the SURE system and the Department's IT infrastructure are PCII. These records would create a roadmap for how to attack the SURE system.

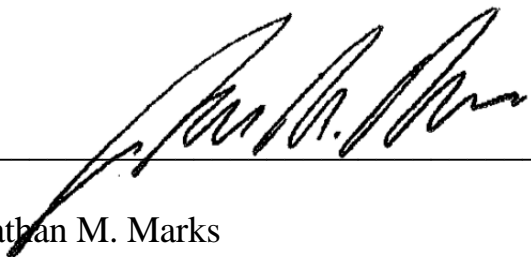
104. As required by federal law, each time the Department submits a report to the PCII program, the Department affirms that it is voluntarily submitting the report to the Federal government in expectation of protection from disclosure as provided by the Critical Infrastructure Act of 2002. See 6 C.F.R. § 29.5(a)(3)(i).

105. These records can only be accessed in accordance with strict safeguarding and handling requirements, and only by those with an absolute need to know in order to perform homeland security duties.

106. It is vital to the security of the Commonwealth and Pennsylvania's election systems that these records remain protected and for use only to protect critical infrastructure systems.

I declare that the facts set for in this Declaration are true and correct. I understand that this Declaration is made subject to the penalties for unsworn falsification to authorities set forth in 18 Pa.C.S. § 4904.

Executed on this 10th day of August, 2022



Jonathan M. Marks
Deputy Secretary for Elections and Commissions
Pennsylvania Department of State

EXHIBIT D

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Senator Jay Costa, Senator Anthony H. Williams,
Senator Vincent J. Hughes, Senator Steven J.
Santarsiero, and Senate Democratic Caucus,
Petitioners

v.

Senator Jacob Corman III, Senate Pro Tempore,
Senator Cris Dush, and Senate Secretary-
Parliamentarian Megan Martin,
Respondents

Commonwealth of Pennsylvania, Pennsylvania
Department of State, and Veronica
Degraffenreid, Acting Secretary of the
Commonwealth of Pennsylvania,
Petitioners

v.

Senator Cris Dush, Senator Jake Corman, and the
Pennsylvania State Senate Intergovernmental
Operations Committee,
Respondents

Arthur Harwood, Julie Haywood
Petitioners.

v.

Veronica Degraffenreid, Acting Secretary of
State Commonwealth of Pennsylvania
Respondents

CASES CONSOLIDATED

No. 310 MD 2021

No. 322 MD 2021

No. 323 MD 2021

DECLARATION OF SARAH A. CHARLES

I, Sarah A. Charles, declare and affirm under the penalties of 18 Pa. Cons. Stat. § 4904 that:

1. I am Director of the Office of Public Engagement (OPE) at the Pennsylvania Office of Attorney General (OAG). I have been employed as Director of OPE since September 2019. Prior to serving as Director of OPE, I was employed with the Borough of Conshohocken in Montgomery County, PA from September 2015 through July 2016, and employed with the Pennsylvania State Senate between the years 2007-2015.

2. In my current position, I am responsible for managing and directing all community outreach across the Commonwealth, overseeing a team of region specific Outreach Specialists. Additionally, I manage a team of constituent service staff handling incoming communications to OAG. As the Director of OPE, I am uniquely aware of constituent communication with the Pennsylvania Office of Attorney General.

3. I submit this declaration based on my personal knowledge in support of the application for relief filed by the Commonwealth of Pennsylvania, the Department of State, and Acting Secretary of the Commonwealth Veronica Degraffenreid. If called as a witness, I could and would testify competently to the matters set forth below.

Pennsylvania Office of Attorney General Constituent Communication

4. Pennsylvania citizens have several ways to communicate with the Pennsylvania Office of Attorney General's constituent services office, including via phone/voicemail, via e-mail (directly through website or via our info mailbox), via contact form submissions, via paper mail, via fax and/or via in-person appointments

5. Constituent Services takes all constituent outreach very seriously, and does its best to direct incoming messages to the most appropriate location, whether to an OAG division or an external resource. Constituent outreach allows the citizens of Pennsylvania to inform OAG of issues throughout the state that relate to our various jurisdictions. When we receive a call or email from a constituent it is directed to the appropriate division, and if additional information is needed, our office contacts constituents directly.

6. On average OPE receives 130 points of contact each day.

7. Pennsylvania citizens have additional ways to contact the Pennsylvania Office of Attorney General. Constituents may directly contact different sections of the Office of Attorney General, including the Civil Rights Enforcement Section, the Bureau of Consumer Protection, and the Communications Office. Complaint forms via the website, direct phone lines and emails can all be utilized to contact specific OAG divisions.

Pennsylvania Citizens' Concerns about the September 15, 2021 Subpoena

8. I am aware that on September 15, 2021, the Pennsylvania State Senate Intergovernmental Operations Committee issued a subpoena to the Pennsylvania Department of State. I am aware that the Subpoena requests the name, address, date of birth, driver's license number, partial Social Security number, and voting history of all Pennsylvania voters registered who were registered as of the November 2020 general election or the May 2021 municipal primary election.

9. I am also aware of outreach from Pennsylvania citizens to the Pennsylvania Office of Attorney General about the September 15, 2021 subpoena.

10. From September 15 to September 17, the Office of Attorney General received 360 instances of constituent outreach regarding the Subpoena, the total of which were comprised of 160 voicemails, 175 emails (162 sent directly through the OAG website and 13 sent by email to our Info Box), 23 contact forms, 1 paper mail, and 1 fax.

11. From September 15 to September 17, the Office of Attorney General received 346 instances of outreach from constituents who expressed concern about the disclosure of their personal information, the total of which were comprised of 150 voicemails, 172 emails (161 sent directly through the OAG website and 11 sent by email to our Info Box), 22 contact forms, 1 paper mail, and 1 fax.

12. From September 18 to September 25, the Office of Attorney General received 255 instances of constituent outreach regarding the Subpoena, the total of which were comprised of 68 voicemails, 144 emails (138 sent directly through the OAG website and 6 sent by email to our Info Box), 39 contact forms, 3 paper mail, and 1 fax.

13. From September 18 to September 25, the Office of Attorney General received 208 instances of outreach from constituents who expressed concern about the disclosure of their personal information. This can be further broken down into 52 voicemails, 118 emails (112 sent directly through the OAG website and 6 sent by email to our Info Box), 34 contact forms, 3 paper mail, and 1 fax.

14. Constituents who have contacted the Office of Attorney General to express concerns about the Subpoena have identified as Republican, Democrat, and Independent.

15. As an example of concerns that constituents have expressed, one constituent wrote in an email sent on September 16, 2021, “[H]ow do I as a registered voter enjoin state election officials from revealing my information to the state GOP and its to-be-named contractor? The information demanded is sufficient to obtain credit in my name or otherwise commit all manner of mischief. Under no circumstances do I agree to let any official, of any party, give contractors my DOB,

address, name, SSN, etc.” A copy of this email is attached to this Declaration as Exhibit 1.

16. Another constituent said in an email sent on September 22, 2021, “A year ago I had my wallet stolen from my purse and then returned, but it required that I change out my credit cards etc. For the Republicans to approve subpoena seeking my voter information to press forward with a forensic investigation of last year’s presidential election is FAR WORSE!” A copy of this email is attached to this Declaration as Exhibit 2.

17. A different constituent wrote in an email sent on September 23, 2021, “Please, please don’t let the PA Republicans harvest my personal information and turn it over to an unnamed third party. I do not want my personal information in the public domain. What can I do to prevent this?” A copy of this email is attached to this Declaration as Exhibit 3.

18. One more constituent said in an email sent on September 23, 2021, “I wanted to thank you for filing a suit to stop the subpoena demanding release of my personal information for in designated [sic] use by unknown recipients. . . . [T]he real threat is the potential discouragement from voting in the future. [] In exchange for my constitutional right, I take care to keep my personal identity safe and private to protect myself from financial disaster, and privilege to vote, I realize that it was necessary to provide that info to election board identify myself. I take care to keep

my personal identity safe and private in order to protect myself from financial disaster.” A copy of this email is attached to this Declaration as Exhibit 4.

19. As another example, one constituent said in an email sent on September 24, 2021, “The info I provided to register as a voter had but one purpose. To properly enroll so that I could vote. There is no permission to interlope into this domain by any person, political party, or any other entity. This must be the position of almost all registered Pennsylvania voters.” A copy of this email is attached to this Declaration as Exhibit 5.

20. Another constituent said in an email sent on September 24, 2021, “I am enraged by the PA GOP lawmakers’ attempt to grab my personal information and am registering my concern and complaint. I received an acknowledgment of receipt of my complaint submitted to Corman, and have received no valid reason or justification for the GOP proposal. Regardless of party, NO ONE has a valid reason or need to access citizens’—especially voters’—personal information and the only reasons one would ask for it are to perform illegitimate and scurrilous reviews and actions. I vociferously object to this invasion of privacy and fully support AG Shapiro’s actions to shut this down.” A copy of this email is attached to this Declaration as Exhibit 6.

21. Another constituent said in an email sent on September 24, 2021, “My husband and I work hard at protecting our personal information against identity

theft. To think that this kind of info will be handed over to some type of ‘ninjas’ trying to justify the big lie that trump won. To say we are concerned about this possible action is an understatement.” A copy of this email is attached to this Declaration as Exhibit 7.

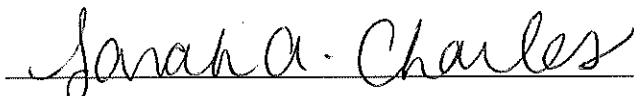
22. In a September 24, 2021 email, another constituent wrote, “My husband and I have had our identity stolen twice. When I heard that our personal info was wanted by the GOP to prove the big lie, I was very concerned.” A copy of this email is attached to this Declaration as Exhibit 8.

23. Another constituent sent an email on September 24, 2021, saying, “I am a resident of Pennsylvania and extremely distressed to hear that you must sue Senate Republicans to stop them from acquiring voter’s private data. . . . Is there anything I can do to stop them from getting my personal voting information as I can only speak for myself? . . . P.S. I am a registered Republican who puts country before party!” A copy of this email is attached to this Declaration as Exhibit 9.

24. And another constituent said in an email sent on September 24, 2021, “I voted in the 2020 Presidential Election. I’m also, a Pennsylvania, licensed insurance producer. I have a duty to protect my policy holders personally identifiable information (PII) and financial identifiable information (FII). Under protection of law, I don’t want my voter information given to any, entity or person.” A copy of this email is attached to this Declaration as Exhibit 10.

I declare that the facts set for in this Declaration are true and correct. I understand that this Declaration is made subject to the penalties for unsworn falsification to authorities set forth in 18 Pa. Cons. Stat. § 4904.

Executed on this 12th day of October, 2021

A handwritten signature in cursive script that reads "Sarah A. Charles". The signature is written in black ink and is positioned above a horizontal line.

Sarah A. Charles
Director of the Office of Public Engagement

Exhibit 1

From: "PA Office of Attorney General"
Sent: Thursday, September 16, 2021
Subject: General OAG Questions

TEMPLATEID: 345
FIRST: [REDACTED]
ISSUE: General OAG Questions
MSG: My question is elemental: how do I as a registered voter enjoin state election officials from revealing my information to the state GOP and its to-be-named contractor?

The information demanded is sufficient to obtain credit in my name or otherwise commit all manner of mischief. Under no circumstances do I agree to let any official, of any party, give contractors my DOB, address, name, SSN, etc.

Once this information is in third party hands it can follow a voter, even if the voter relocates out of state. The Republican party can hunt voters down in all corners of our country. Or prevent us from registering to vote, which is certainly their goal.

Is there a mechanism for the PA OAG or the Governor to instruct non-compliance with the subpoena? I am willing to join a class action lawsuit.

WFUD_Description: My question is elemental: how do I as a registered voter enjoin state election officials from revealing my information to the state GOP and its to-be-named contractor?

The information demanded is sufficient to obtain credit in my name or otherwise commit all manner of mischief. Under no circumstances do I agree to let any official, of any party, give contractors my DOB, address, name, SSN, etc.

Once this information is in third party hands it can follow a voter, even if the voter relocates out of state. The Republican party can hunt voters down in all corners of our country. Or prevent us from registering to vote, which is certainly their goal.

Is there a mechanism for the PA OAG or the Governor to instruct non-compliance with the subpoena? I am willing to join a class action lawsuit.

Exhibit 2

From: "PA Office of Attorney General"
Sent: Wednesday, September 22, 2021
Subject: General OAG Questions

TEMPLATEID: 345

FIRST: [REDACTED]

ISSUE: General OAG Questions

MSG: Democrats sue over GOP Pa. vote probe:

Dear Mr. Shapiro:

This lawsuit is music to my ears! A year ago I had my wallet stolen from my purse and then returned, but it required that I change out my credit cards etc.. For the Republicans to approve subpoena seeking my voter information to press forward with a forensic investigation of last year's presidential election is FAR WORSE! Thank you for proceeding with the lawsuit to stop it. I am deeply grateful and relieved.

Sincerely,

[REDACTED]

WFUD_Description: Democrats sue over GOP Pa. vote probe:

Dear Mr. Shapiro:

This lawsuit is music to my ears! A year ago I had my wallet stolen from my purse and then returned, but it required that I change out my credit cards etc.. For the Republicans to approve subpoena seeking my voter information to press forward with a forensic investigation of last year's presidential election is FAR WORSE! Thank you for proceeding with the lawsuit to stop it. I am deeply grateful and relieved.

Sincerely,

[REDACTED]

Exhibit 3

From: "PA Office of Attorney General"
Sent: Thursday, September 23, 2021
Subject: General OAG Questions

TEMPLATEID: 345
FIRST: [REDACTED]
ISSUE: General OAG Questions
MSG: Please, please don't let the PA Republicans harvest my personal information and turn it over to an unnamed third party. I do not want my personal information in the public domain. What can I do to prevent this? I contacted my State Senator's office (Scott Martin) and was told it was a committee that is doing this and he is not on that Committee. In other words, he is ducking my questions! I applaud your lawsuit to stop this but I am very worried. I am in my 70s and don't even bank by mail. Please stop this!!!

WFUD_Description: Please, please don't let the PA Republicans harvest my personal information and turn it over to an unnamed third party. I do not want my personal information in the public domain. What can I do to prevent this? I contacted my State Senator's office (Scott Martin) and was told it was a committee that is doing this and he is not on that Committee. In other words, he is ducking my questions! I applaud your lawsuit to stop this but I am very worried. I am in my 70s and don't even bank by mail. Please stop this!!!

Exhibit 4

From: "PA Office of Attorney General"
Sent: Thursday, September 23, 2021
Subject: General OAG Questions

TEMPLATEID: 345

FIRST: [REDACTED]

ISSUE: General OAG Questions

MSG: Regarding Republican-led efforts to continue election lies through so-called "audit."

I wanted to thank you for filing a suit to stop the subpoena demanding release of my personal information for in designated use by unknown recipients.

This is an obvious attempt to discredit my past (legitimate) votes. However, the real threat is the potential discouragement from voting in the future. in order to fulfill my constitutional right. In exchange for my constitutional right, I take care to keep my personal identity safe and private to protect myself from financial disaster, and privilege to vote, I realize that it was necessary to provide that info to election board identify myself.. I take care to keep my personal identity safe and private in order to protect myself from financial disaster; I did not commit to giving that information to a partisan group for free use in some nefarious "fraud it" which only provides them opportunity for perpetual fundraising efforts.

For the record, I also oppose Georgia-style changes that will effectively give the majority party freedom to decide whether they want to reject votes for an opposing party just because they don't like the election results.

Thank you for your effort on our behalf.

WFUD_Description: Regarding Republican-led efforts to continue election lies through so-called "audit."

I wanted to thank you for filing a suit to stop the subpoena demanding release of my personal information for in designated use by unknown recipients.

This is an obvious attempt to discredit my past (legitimate) votes. However, the real threat is the potential discouragement from voting in the future. in order to fulfill my constitutional right. In exchange for my constitutional right, I take care to keep my personal identity safe and private to protect myself from financial disaster, and privilege to vote, I realize that it was necessary to provide that info to election board identify myself.. I take care to keep my personal identity safe and private in order to protect myself from financial disaster; I did not commit to giving that information to a partisan group for free use in some nefarious "fraud it" which only provides them opportunity for perpetual fundraising efforts.

For the record, I also oppose Georgia-style changes that will effectively give the majority party freedom to decide whether they want to reject votes for an opposing party just because they don't like the election results.

Thank you for your effort on our behalf.

Exhibit 5

From: "PA Office of Attorney General"
Sent: Friday, September 24, 2021
Subject: General OAG Questions

TEMPLATEID: 345

FIRST: [REDACTED]

ISSUE: General OAG Questions

MSG: The info I provided to register as a voter had but one purpose. To properly enroll so that I could vote. There is no permission to interlope into this domain by any person, political party, or any other entity. This must be the position of almost all registered Pennsylvania voters. If possible, include this position in the suit against the party attempting to seize this personal and proprietary interest of mine and ours.

WFUD_Description: The info I provided to register as a voter had but one purpose. To properly enroll so that I could vote. There is no permission to interlope into this domain by any person, political party, or any other entity. This must be the position of almost all registered Pennsylvania voters. If possible, include this position in the suit against the party attempting to seize this personal and proprietary interest of mine and ours.

Exhibit 6

From: "PA Office of Attorney General"
Sent: Friday, September 24, 2021
Subject: General OAG Questions

TEMPLATEID: 345

FIRST: [REDACTED]

ISSUE: General OAG Questions

MSG: Not a question. This is a comment. I am a registered Democrat residing in West Goshen Township, Chester County. I am enraged by the PA GOP lawmakers' attempt to grab my personal information and am registering my concern and complaint. I received an acknowledgment of receipt of my complaint submitted to Corman, and have received no valid reason or justification for the GOP proposal. Regardless of party, NO ONE has a valid reason or need to access citizens'—especially voters'—personal information and the only reasons one would ask for it are to perform illegitimate and scurrilous reviews and actions. I vociferously object to this invasion of privacy and fully support AG Shapiro's actions to shut this down.

WFUD_Description: Not a question. This is a comment. I am a registered Democrat residing in West Goshen Township, Chester County. I am enraged by the PA GOP lawmakers' attempt to grab my personal information and am registering my concern and complaint. I received an acknowledgment of receipt of my complaint submitted to Corman, and have received no valid reason or justification for the GOP proposal. Regardless of party, NO ONE has a valid reason or need to access citizens'—especially voters'—personal information and the only reasons one would ask for it are to perform illegitimate and scurrilous reviews and actions. I vociferously object to this invasion of privacy and fully support AG Shapiro's actions to shut this down.

Exhibit 7

From: "PA Office of Attorney General"
Sent: Friday, September 24, 2021
Subject: General OAG Questions

TEMPLATEID: 345

FIRST: [REDACTED]

ISSUE: General OAG Questions

MSG: With the PA republican legislators pushing for voter registration information to audit the 2020 election,(including last 4 digits of ss # and drivers' license #), is possible to file a lawsuit against this action as residents of PA? My husband and I work hard at protecting our personal information against identity theft. To think that this kind of info will be handed over to some type of "ninjas" trying to justify the big lie that trump won. To say we are concerned about this possible action is an understatement. Please advise. PS Keep up the great work AG Shapiro!

WFUD_Description: With the PA republican legislators pushing for voter registration information to audit the 2020 election,(including last 4 digits of ss # and drivers' license #), is possible to file a lawsuit against this action as residents of PA? My husband and I work hard at protecting our personal information against identity theft. To think that this kind of info will be handed over to some type of "ninjas" trying to justify the big lie that trump won. To say we are concerned about this possible action is an understatement. Please advise. PS Keep up the great work AG Shapiro!

Exhibit 8

From: "PA Office of Attorney General"
Sent: Friday, September 24, 2021
Subject: General OAG Questions

TEMPLATEID: 345

FIRST: [REDACTED]

ISSUE: General OAG Questions

MSG: Thank you for standing up for the voters of PA. My husband and I have had our identity stolen twice. When I heard that our personal info was wanted by the GOP to prove the big lie, I was very concerned. You are doing an outstanding job sir and I am proud that I voted for you.

WFUD_Description: Thank you for standing up for the voters of PA. My husband and I have had our identity stolen twice. When I heard that our personal info was wanted by the GOP to prove the big lie, I was very concerned. You are doing an outstanding job sir and I am proud that I voted for you.

Exhibit 9

From: "PA Office of Attorney General"
Sent: Friday, September 24, 2021
Subject: General OAG Questions

TEMPLATEID: 345
FIRST: [REDACTED]
ISSUE: General OAG Questions
MSG:

Dear Mr. Shapiro,
I am a resident of Pennsylvania and extremely distressed to hear that you must sue Senate Republicans to stop them from acquiring voter's private data. I cannot tell you how outraged I am that Republicans are even attempting it. I did not know about the Republican subpoena. Another attempt to act on the ridiculous lie that President Biden did not win the 2020 election.

Is there anything I can do to stop them from getting my personal voting information as I can only speak for myself? Not that it is of great impact to the situation, but you have my full support. Please put me on your email list for updates on this and other issues. We are in trying times, where I feel as if we are in the middle of a fight for civil rights, women's rights, constitutional rights – all things that have been fought and died over long ago. On top of that, we are in a climate crisis that is only just beginning. I won't go into campaign finance reform and how that needs to change to eliminate dark money in politics that fund sinister and greedy policies.

Getting back to the issue at hand, if possible, please keep me informed of the status of the suit to block Republican's subpoena. I will, of course, keep my eye out for updates. Outraged, frustrated, and scared,

[REDACTED]
p.s. I am a registered Republican who puts country before party. I'm thankful we elected President Biden!

WFUD_Description:

Dear Mr. Shapiro,
I am a resident of Pennsylvania and extremely distressed to hear that you must sue Senate Republicans to stop them from acquiring voter's private data. I cannot tell you how outraged I am that Republicans are even attempting it. I did not know about the Republican subpoena. Another attempt to act on the ridiculous lie that President Biden did not win the 2020 election.

Is there anything I can do to stop them from getting my personal voting information as I can only speak for myself? Not that it is of great impact to the situation, but you have my full support. Please put me on your email list for updates on this and other issues. We are in trying times, where I feel as if we are in the middle of a fight for civil rights, women's rights, constitutional rights – all things that have been fought and died over long ago. On top of that, we are in a climate crisis that is only just beginning. I won't go into campaign finance reform and how that needs to change to eliminate dark money in politics that fund sinister and greedy policies.

Getting back to the issue at hand, if possible, please keep me informed of the status of the suit to block Republican's subpoena. I will, of course, keep my eye out for updates. Outraged, frustrated, and scared,

[REDACTED]
p.s. I am a registered Republican who puts country before party. I'm thankful we elected President Biden!

Exhibit 10

From: "PA Office of Attorney General"
Sent: Friday, September 24, 2021
Subject: General OAG Questions

TEMPLATEID: 345

FIRST: [REDACTED]

ISSUE: General OAG Questions

MSG: I am a registered voter in Philadelphia, PA, zip code [REDACTED]. I voted in the 2020 Presidential Election. I'm also, a Pennsylvania, licensed insurance producer. I have a duty to protect my policy holders personally identifiable information (PII) and financial identifiable information (FII). Under protection of law, I don't want my voter information given to any, entity or person. I commend this office for the law suit, blocking the Pennsylvania Republicans from receiving my voter information. Right is might!

WFUD_Description: I am a registered voter in Philadelphia, PA, zip code [REDACTED]. I voted in the 2020 Presidential Election. I'm also, a Pennsylvania, licensed insurance producer. I have a duty to protect my policy holders personally identifiable information (PII) and financial identifiable information (FII). Under protection of law, I don't want my voter information given to any, entity or person. I commend this office for the law suit, blocking the Pennsylvania Republicans from receiving my voter information. Right is might!

EXHIBIT E

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Senator Jay Costa, Senator Anthony H. Williams, Senator Vincent J. Hughes, Senator Steven J. Santarsiero, and Senate Democratic Caucus,

Petitioners

v.

Senator Jacob Corman III, Senate Pro Tempore, Senator Cris Dush, and Senate Secretary-Parliamentarian Megan Martin,

Respondents

Commonwealth of Pennsylvania, Pennsylvania Department of State, and Veronica Degraffenreid, Acting Secretary of the Commonwealth of Pennsylvania,

Petitioners

v.

Senator Cris Dush, Senator Jake Corman, and the Pennsylvania State Senate Intergovernmental Operations Committee,

Respondents

Arthur Harwood, Julie Haywood

Petitioners.

v.

Veronica Degraffenreid, Acting Secretary of State Commonwealth of Pennsylvania,

Respondents

CASES CONSOLIDATED

No. 310 MD 2021

No. 322 MD 2021

No. 323 MD 2021

AFFIDAVIT OF DIANE M. ELLIS-MARSEGLIA

I, Diane M. Ellis-Marseglia, declare and affirm under the penalties of 18 Pa. Cons. Stat. § 4904 that:

1. I am a Commissioner for the Bucks County Board of Elections and the Bucks County Registration Commission. I have served in that role since January 2008. Since January 2020, I have also served as Chair of the Bucks County Board of Commissioners.

2. As a Commissioner on our Board of Elections (“BOE”) and Registration Commission, I am responsible for overseeing the administration of Bucks County’s elections and

voter registration. It is my job to ensure the integrity of the election process through an array of methods, including (but not limited to): protecting the safety and rights of voters and workers; issuing rules, regulations and instructions; and investigating fraud, irregularities, and violations of the Election Code. My fellow Commissioners and I take considerable measures to safeguard the privacy and personal information of voters. Broadly, we have invested significant resources into protecting the County, including the BOE, against the vast array of cybersecurity threats facing county governments in the modern era. The BOE also takes great care to protect personal identifying information of voters from public disclosure. For example, when requests for information are made pursuant to such provisions as 25 Pa. C.S. Sections 1403(c) and 1404(b)(1) as well as the SURE Regulations at 4 Pa. Code Section 183.13(c) and 184.14(b), BOE staff manually redacts each voter's signature, phone number, driver's license number, and Social Security number before producing those records. All of this is done to protect the privacy rights of voters, ensure compliance with the law, and safeguard the integrity of the electoral process.

3. I serve with two other Commissioners, one a fellow Democrat and the other a Republican. Since they joined me on the BOE in January 2020, the three of us have worked hard to ensure that our elections are conducted fairly and, just as importantly, that the public has confidence in the integrity of the electoral process. Despite differences in our party registrations, we have been successful in governing largely by consensus and without the rancor that has become too commonplace in American politics. We are supported in our efforts by the dedicated BOE staff, which work incredibly hard (sometimes around the clock) to protect the rights of Bucks County voters while meeting stringent deadlines and other requirements. As a result, the integrity of our BOE – and its ability to conduct safe, free, and fair elections – has the trust of

voters, candidates, and both the County's Democratic and Republican parties, whose leaders jointly authored an op-ed defending the BOE's administration of the 2020 general election.

4. Recent efforts by the Pennsylvania Senate Intergovernmental Operations Committee (the "Committee") to stoke division, distrust and disinformation threaten to jeopardize the trust we have worked so hard to build and preserve.

5. I am aware that on September 15, 2021, the Committee issued a subpoena (the "September 15 subpoena") to the Pennsylvania Department of State. I am aware that the September 15 subpoena requests the name, address, date of birth, driver's license number, partial Social Security number, and voting history of all registered Pennsylvania voters as of November 1, 2020 and May 1, 2021. I am aware that the Department of State received much of this data through lawful and secure means from the county Boards of Elections.

6. Over the last four weeks, I have received – both directly as well as through my staff and other elected officials representing my constituents – complaints from between three and four hundred Bucks County voters who have expressed their concerns about the September 15 subpoena.

7. These voters are outraged that their taxpayer dollars are being wasted on a cynical political stunt. They are dismayed that the Committee is abusing the powers and prestige of the Pennsylvania State Senate to undermine confidence in a free and fair election. And they are alarmed by this blatant attack on their individual privacy rights.

8. In particular, voters have expressed their concerns that their personal information, which the BOE has taken great pains to protect, is now in danger of being leaked to nongovernmental actors with unknown identities, motives, and capabilities. Voters have shared their fears that this intrusion of privacy will put them at risk of identity theft. And they have

condemned the way that this effort to misuse their data undermines the sanctity of their constitutional right to vote.

9. I share the concerns of my constituents. I also fear that the disclosure of Bucks County voters' personal information will make it harder for the BOE to administer elections in the future.

10. If voters believe that providing information to the BOE puts them at risk of dangers such as identity theft, they will be less likely to trust the BOE. Such a loss of trust would undermine our staff's ability to serve voters.

11. This problem would be especially pronounced due the high volume of direct interactions that the BOE has with Bucks County voters, particularly in the days and weeks leading up to Election Day.

12. For example, the BOE serves voters who wish to securely receive, complete, and return a mail-in ballot during a single visit to our offices, a process commonly known as "on demand voting." To accommodate the high level of interest in this secure method of voting, the BOE established "on demand" operations in all three regions (Lower, Central, and Upper) of Bucks County. This is a time-consuming and manpower-intensive process that BOE staff manages very well with limited resources. They cannot afford to spend their limited time addressing the anxieties, accusations, and suspicions that would be triggered by a loss of faith in the BOE's ability to safeguard voter information from hackers, con artists, and identity thieves. Undermining the public's trust in the BOE, would result in "on demand" operations grinding to a halt.

13. There are innumerable other ways in which BOE interfaces directly with voters and poll workers (who are themselves voters), including updating registration information,

applying for absentee or mail-in ballots, and fielding inquiries about the election in-person and over the telephone.

14. BOE navigates these interactions smoothly and efficiently because they have the trust of the public.

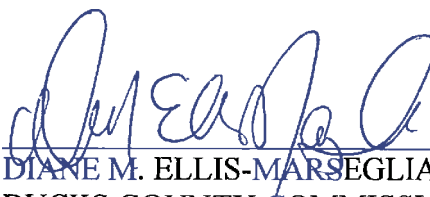
15. And once trust is lost, it is difficult to regain.

16. Honoring the September 15 subpoena would also frustrate our mission to facilitate active participation by every eligible voter, by discouraging new voters from registering to vote. And by enflaming and agitating current voters, honoring the September 15 subpoena would increase the number of difficult interactions for poll workers, which would make it even more challenging for the County to secure poll workers during our current national and local labor shortage. We cannot afford this at a time that county boards of elections struggle to retain staff because of the stressful conditions under which elections have been conducted since the onset of the COVID-19 pandemic.

17. On a bi-partisan basis, my fellow Commissioners and I have urged the Pennsylvania General Assembly to enact common sense reforms, such as allowing staff to begin the pre-canvassing of mail-in ballots prior to Election Day, which would allow the BOE to perform its duties more efficiently and provide the public with election results faster than the current laws permit. Unfortunately, the September 15 subpoena does absolutely nothing to promote the types of needed reforms which have the bipartisan support of County Commissioners from across the Commonwealth. It is outrageous that instead of focusing on actually improving the administration of future elections, members of the Committee are wasting precious resources on a pointless probe that their own Majority Leader has acknowledged is “intrusive.”

18. I submit this affidavit in support of Petitioners' application for relief and based on my personal knowledge. If called as a witness, I could and would testify competently to the matters set forth above. I declare that the facts set for in this Affidavit are true and correct. I understand that this Affidavit is made subject to the penalties for unsworn falsification to authorities set forth in 18 Pa. Cons. Stat. § 4904.

Executed on this 12 day of OCTOBER, 2021



A handwritten signature in blue ink, appearing to read "Diane M. Ellis-Marseglia", is written over a horizontal line.

DIANE M. ELLIS-MARSEGLIA, LCSW
BUCKS COUNTY COMMISSIONER

EXHIBIT F

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Senator Jay Costa, Senator Anthony H. Williams,
Senator Vincent J. Hughes, Senator Steven J.
Santarsiero, and Senate Democratic Caucus,
Petitioners

v.

Senator Jacob Corman III, Senate Pro Tempore,
Senator Cris Dush, and Senate Secretary-
Parliamentarian Megan Martin,
Respondents

Commonwealth of Pennsylvania, Pennsylvania
Department of State, and Veronica
Degraffenreid, Acting Secretary of the
Commonwealth of Pennsylvania,
Petitioners

v.

Senator Cris Dush, Senator Jake Corman, and the
Pennsylvania State Senate Intergovernmental
Operations Committee,
Respondents

Arthur Harwood, Julie Haywood
Petitioners.

v.

Veronica Degraffenreid, Acting Secretary of
State Commonwealth of Pennsylvania
Respondents

CASES CONSOLIDATED

No. 310 MD 2021

No. 322 MD 2021

No. 323 MD 2021

AFFIDAVIT OF RICHARD W. BLOOMINGDALE

I, RICHARD W. BLOOMINGDALE, declare and affirm under the penalties
of 18 Pa. Cons. Stat. § 4904 that:

1. I am the President of the Pennsylvania AFL-CIO, the State Central Body and Federation of Labor Organizations, operating in the Commonwealth, whose Affiliates represent approximately 750,000 members who live, work and have voting rights in every County in Pennsylvania. The principal Offices of the Pennsylvania AFL-CIO are situated at 600 North Second Street, Harrisburg, Dauphin County, Pennsylvania. I was initially elected to a four (4) year term as President of the Pennsylvania AFL-CIO in April of 2010 and have been subsequently reelected to that position and have been continuously employed in that capacity through the present. Prior to serving as President, I served as the elected Secretary Treasurer of the Pennsylvania AFL-CIO for approximately sixteen (16) years having been elected to an initial four (4) year term in 1994 and reelected to three subsequent terms. Before my election to that position, I served as the Legislative Director of the American Federation of State, County and Municipal Employees (AFSCME) Council 13, the Pennsylvania statewide affiliate of that Organization, representing public employees of the Commonwealth and its political subdivisions including, but not limited to, workers involved in all aspects of Election Administration at the state and county levels.

2. In my current position, I serve as the Chief Executive Officer of the Pennsylvania AFL-CIO, and I am responsible for the operation, administration and implementation of its broadly arrayed activities and programs.

3. I submit this affidavit in support of Petitioners' application for relief and based on my personal knowledge. If called as a witness, I could and would testify competently to the matters set forth below.

4. The Pennsylvania AFL-CIO is the *central address* for the Labor Movement in our Commonwealth and it operates as a Federation of Labor Organizations and State Central Body, including affiliated public and private sector Local Unions, District and Regional Councils, Regional Building Trades Councils, Central Labor Councils and similar entities that serve as the exclusive collective bargaining representative of their members at their places of employment as well as their legislative and community services voice across the Commonwealth.

5. The Affiliated Labor Organizations of the Pennsylvania AFL-CIO represent Workers in every phase and type of employment and in every community in Pennsylvania including, but not limited to, Building and Construction Trades, Professional and Technical Workers, Professional and Supporting Staff Health Care Workers, Pharmaceutical Industry Workers, Food Processing, Meat Packing, Grocery and Retail Workers, Food Service Workers, Industrial and Manufacturing Workers, Transportation, Trucking and Logistics Workers, Airline and Rail Occupations, Longshore Workers, Port, Seafaring and Piloting Workers, Professional Educators and Support Staff, University Faculties, Printing and Newspaper Workers, Communications and Information Technology Occupations,

Mine, Mill, Smelter and Factory Workers, Hospitality Industry Workers, Public and Private Sector Clerical Workers, First Responders and other Uniformed Public Service workers, Highway and Road Crew Workers and Heavy Equipment Operators and the entire gamut of occupations performed by Pennsylvanians.

6. In its capacity as the *central address* of Organized Labor in the Commonwealth, the Pennsylvania AFL-CIO is in constant, bilateral, communication with its Executive Council Members who are elected as representatives of their individual Unions to serve as the governing entity of the State Central Body and are possessed of Constitutional governance responsibility and authority over the operation of the Pennsylvania AFL-CIO. Through that Executive Council, as well as directly to the democratically elected leadership of the Organization's Affiliated Organizations, the Pennsylvania AFL-CIO is in constant personal, printed and electronic contact with its statewide rank and file leadership and membership on the widest possible range of issues including, but not limited to, voting, voting rights, voting systems, voter suppression efforts and potential impediments to the full exercise of the franchise for eligible citizens.

7. To the best of my present knowledge, information and belief, I understand, and am aware, that certain personal information with respect to the Members of the Affiliated Organizations of the Pennsylvania AFL-CIO, such as

Federally issued Social Security numbers and Pennsylvania Department of Transportation issued Operator's License and Personal ID Card numbers are subject to security measures that are intended to keep such information confidential and are subject to narrowly tailored restrictions on their release, publication and/or circulation to any third parties.

8. I am aware that on September 15, 2021, the Pennsylvania Senate Intergovernmental Operations Committee, issued a subpoena to the Pennsylvania Department of State. I am aware that the Subpoena requests the name, address, date of birth, driver's license number, partial Social Security number, and voting history of all Pennsylvania voters registered to vote as of a date certain or who voted in the November 2020 General Election or the May 2021 Municipal Primary election.

9. Our Organization, and I personally, have been contacted by representatives of our Affiliated Organizations and their members directly, via telephone, email, text and other forms of communication, as well as in person in public and organizational gatherings, expressing grave concerns over the protection and security of their personal information should the Pennsylvania Department of State determine to comply with the Pennsylvania Senate Committee subpoena and specifically inquiring as to their right to object to the release and/or publication and circulation to the Senate Committee and, by that Committee to

unidentified, private commercial entities whose capacity and/or ability to maintain the security and confidentiality of that personal information is not, and has not been, verified or in any fashion, independently assured, nor has it been the subject of any specifically identified remedy in the event of an unintentional or deliberate breach by either the Committee or its as yet unidentified commercial vendor or vendors or any subcontractor of any tier designated by such vendor or vendors.

10. Additionally, our Affiliates' members have responded to the issuance of the Senate Committee subpoena in multiple fashions, including not only expressed trepidation over the release and circulation of their personal and family information, but also the potential for an essential breach of their relationship with their government and its potentially invasive processes, along with palpable concern over a disregard for their basic right to privacy secondary to their individual exercise of their franchise as an essential form of engagement in their democratic processes; and doing so without fear of reprisal, retribution and/or coercion. Additionally, Members of Organizations affiliated with the Pennsylvania AFL-CIO have expressed specific concerns over the potential of identity theft and compromise of their personal credit standing in the event that the personal information sought by the subpoena gets into the "wrong hands;" and they have separately expressed fear and uncertainty regarding personal and family security

concerns related to the potential misappropriation of the personal information sought by the Senate Committee subpoena.

11. Based upon the significant and unsolicited reactions and concerns expressed by Members of our Affiliated Organizations, I believe that Pennsylvania Department of State's compliance with the Senate Committee subpoena of September 15, 2021, including disclosure of the demanded confidential information will have the effect of chilling participation in elections by significant numbers of them as voters and as election workers, as well as impose suspicion on the part of many regarding the election process as well as the use and allocation of taxpayer funds for what they have expressed to be viewed as nakedly political purposes.

I declare that the facts set for in this Affidavit are true and correct. I understand that this Affidavit is made subject to the penalties for unsworn falsification to authorities set forth in 18 Pa. Cons. Stat. § 4904.

Executed on this 13th day of October, 2021



Richard W. Bloomingdale, President
Pennsylvania AFL-CIO

EXHIBIT G

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Senator Jay Costa, Senator Anthony H. Williams,
Senator Vincent J. Hughes, Senator Steven J.
Santarsiero, and Senate Democratic Caucus,
Petitioners

v.

Senator Jacob Corman III, Senate Pro Tempore,
Senator Cris Dush, and Senate Secretary-
Parliamentarian Megan Martin,
Respondents

Commonwealth of Pennsylvania, Pennsylvania
Department of State, and Veronica
Degraffenreid, Acting Secretary of the
Commonwealth of Pennsylvania,
Petitioners

v.

Senator Cris Dush, Senator Jake Corman, and the
Pennsylvania State Senate Intergovernmental
Operations Committee,
Respondents

Arthur Harwood, Julie Haywood
Petitioners.

v.

Veronica Degraffenreid, Acting Secretary of
State Commonwealth of Pennsylvania
Respondents

CASES CONSOLIDATED

No. 310 MD 2021

No. 322 MD 2021

No. 323 MD 2021

**AFFIDAVIT OF MONTGOMERY COUNTY COMMISSIONER VALERIE
ARKOOSH**

I, Valerie Arkoosh, declare and affirm under the penalties of 18 Pa. Cons.

Stat. § 4904 that:

1. I am a Commissioner for Montgomery County, serving on the Montgomery County Board of Elections. I have served in that role since January of 2015.

2. As a Commissioner serving on the Montgomery County Board of Elections, I am responsible for overseeing the administration of Montgomery County's elections. My responsibilities include approving polling place relocations, appointing emergency poll workers, approving members of canvass, tabulation, and provisional ballot review boards, and conducting any hearings to determine voter credit on ballots or the validity of any challenged ballot applications.

3. I submit this affidavit in support of Petitioners' application for relief and based on my personal knowledge. If called as a witness, I could and would testify competently to the matters set forth below.

4. I am aware that on September 15, 2021, the Pennsylvania Senate Intergovernmental Operations Committee issued a subpoena to the Pennsylvania Department of State. I am aware that the Subpoena requests the name, address, date of birth, driver's license number, partial Social Security number, and voting history of all registered Pennsylvania voters as of November 1, 2020 and May 1, 2021.

5. Since issuance of the September 15, 2021 subpoena, the Montgomery County Board of Elections has been contacted by voters concerned about the disclosure of their personal information.

6. I am concerned that disclosing voters' personal information will make it harder for the Montgomery County Board of Elections to administer elections in the future. It threatens to deter eligible voters from registering for fear that their personal information might be exposed to third parties, and may erode the trust already registered electors have in the elections process by lending legitimacy to false and dangerous claims that the November 2, 2020 election was somehow fraudulent.

I declare that the facts set for in this Affidavit are true and correct. I understand that this Affidavit is made subject to the penalties for unsworn falsification to authorities set forth in 18 Pa. Cons. Stat. § 4904.

Executed on this 12th day of October, 2021



Valerie A. Arkoosh, MD, MPH,
Chair, Montgomery County Board of
Commissioners