

**IN THE COMMONWEALTH COURT OF HARRISBURG, PENNSYLVANIA  
CIVIL DIVISION  
CIVIL ACTION - ELECTION LAW**

**JOY SCHWARTZ,**  
and  
**GREGORY STENSTROM,**  
and  
**LEAH HOOPES,**  
And  
**PAUL RUMLEY,**  
**Plaintiffs,**

v.

**ACTING SECRETARY OF THE  
COMMONWEALTH OF PENNSYLVANIA  
AL SCHMIDT**  
and  
**DELAWARE COUNTY**  
and  
**DELAWARE COUNTY PARK POLICE  
DEPARTMENT**  
and  
**JAMES ALLEN, Delaware County Director of  
Elections, in his personal capacity**  
and  
**JOHN S. DIEHL, Delaware County Park Police  
Chief, in his personal capacity**  
**Defendants.**

No.: 258 MD 2023

**PRO SE MEMORANDUM OF LAW IN  
SUPPORT OF RULE 1532 APPLICATION  
FOR SPECIAL AND SUMMARY RELIEF**

CIVIL ACTION: ELECTION MATTER

ORAL ARGUMENTS REQUESTED

JURY TRIAL REQUESTED

**MEMORANDUM OF LAW IN SUPPORT OF RULE 1532  
APPLICATION FOR SPECIAL AND SUMMARY RELIEF**

1. Per 210 Pa. Code § 1532, Plaintiffs seek injunctive Special and Summary Relief from continued violations of election law 25 P.S. § 3146.8, Act 77 § 1309, and 42 U.S. Code § 1983 civil rights, being committed by Defendants under color of law and election directives issued by the Pennsylvania Department of State to deny Plaintiffs access to election materials and public records related to the May 2023 primary election in Delaware County, Pennsylvania.

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42 Pa. C.S.A. § 4132

42 U.S.C. § 1983

Black's Law Dictionary (5th Ed.)

## **I. STATEMENT OF JURISDICTION**

2. This Court has 210 Pa. Code § 106 original jurisdiction over this Verified Petition and the 210 Pa. Code § 1532 Application(s) for Special and Summary Relief under 42 Pa. C.S. § 761(a)(1) because this matter is asserted against Commonwealth officials in their official capacities.

## **II. MATTER BEFORE THE COURT**

3. Plaintiffs seek injunctive Special and Summary Relief from continued violations of election law 25 P.S. § 3146.8, Act 77 § 1307, § 1308, § 1309, and 42 U.S. Code § 1983 civil rights, being committed by Defendants under color of law and election directives issued by the Pennsylvania Department of State to deny Plaintiffs access to election materials and public records related to the May 2023 primary election in Delaware County, Pennsylvania.
4. Plaintiffs are seeking all physical, absentee, expended (opened), Mail In Ballot (“MIB”) envelopes on which the executed “declarations” of “qualified electors” appear, and all, original, scanned images of all MIB envelopes, with image metadata, taken by the BlueCrest mail sorter, and Pitney Bowes mail sorter(s), used by Defendants to scan and sort MIB’s prior to, during, and after elections.
5. Plaintiffs have exhausted all administrative remedies to exercise their statutory and civil rights to obtain these public records, and been unlawfully barred and denied from inspecting them by Defendants, who have gone to extraordinary lengths to prevent said access and inspection of these public records before, during, and after the May 2023 primary election.
6. The specific subject of this petition and request for injunction relief being order to Defendants to provide:
  - a. the approximately 27,500 physical, expended (opened), empty, MIB envelopes from the May 16<sup>th</sup>, 2023, primary election, including “declarations” and signatures which

attest under penalty of law that the signer is a “qualified elector,” most recently stored in boxes in the main room of the Delaware County Wharf Centralized Counting Center on Seaport Ave, in Chester City, PA, and,

- b. the electronic image files, with metadata, of all MIB envelopes, including the signer’s “declarations,” attesting that they are “qualified electors,” that are scanned before, during, and after elections, by the BlueCrest mail sorter in the Wharf Centralized Counting Center, and images from the Pitney Bowes mail sorters in other rooms and locations in the county, for which the software of those machines is designed to provide said ~27,500 envelope images, that were processed by Defendants for the May 2023 primary election.
7. An image of a Pennsylvania Mail in Ballot envelope, and declaration, is depicted in **Exhibit A**. (*Note: “A declaration is an official statement, or proclamation, such as an affidavit. If the person making the declaration (called the declarant) lies in it, the declarant may be guilty of perjury.”* (See legal definitions per WEX definitions: <https://www.law.cornell.edu/wex/declaration>)).

### **III. STATEMENT OF QUESTIONS INVOLVED**

8. Are expended (opened), absentee, Mail In Ballot ("MIB's") envelopes public records?  
Suggested answer: **YES**.
9. Do candidates, and their Authorized Representatives, have a right to examine expended (opened), absentee, Mail In Ballot ("MIB's") envelopes? Suggested answer: **YES**.
10. Do candidates, and their Authorized Representatives, have a right to examine expended (opened) absentee, Mail In Ballot ("MIB's") envelopes in their entirety, to include signatures of the makers of the envelopes? Suggested answer: **YES**.
11. Does the “public,” as the “people” and "citizenry," have a right to examine expended (opened), absentee, Mail In Ballot ("MIB's") envelopes in their entirety, to include

- signatures of the makers of the envelopes? Suggested answer: **YES**.
12. Did Defendant's attempts to mechanically cover portions of the MIB envelopes with glue faced tape constitute spoliation of evidence? Suggested answer: **YES**.
  13. Did Defendants denial to inspect MIB envelopes before, during, and after the May 2023 primary election violate Pennsylvania election law and Plaintiff's civil rights? Suggested answer: **YES**.
  14. Is an order from the Commonwealth Court of Pennsylvania for Litigation Hold with specificity of election materials and evidence from the May 2023 primary election to be preserved, without spoliation, required to protect Plaintiffs' civil rights? Suggested answer: **YES**.

#### **IV. PROCEDURAL HISTORY**

15. The following dates and brief summary of events describe the procedural history:
  - a. May 17th, 2023: Candidate (Plaintiff) Schwartz initiates request to examine expended (opened), absentee, Mail In Ballot ("MIB's") envelopes with Defendants.
  - b. May 25th, 2023: Authorized Representative (Plaintiff) Stenstrom initiates RTK request to examine expended (opened), absentee, Mail In Ballot ("MIB's") envelopes, and other election materials that are public records, with Defendants via the Area Open Records Officer (AORO).
  - c. May 31st, 2023: Defendant Allen denies both Plaintiff (Candidate) Schwartz's and Plaintiff (Authorized Representative) Stenstrom's requests for transparency and public records.
  - d. June 1st, 2023: Plaintiffs file subject Petition (Application) for Relief with Commonwealth Court.

- e. June 2nd, 2023: Plaintiffs file Rule 1532 Request (Application) for Special and Summary (Injunctive) Relief with Commonwealth Court.
- f. June 2nd, 2023: Commonwealth Court orders (Per Curiam) that Plaintiffs cure service to Defendant Schmidt at different address, and further serve the Pennsylvania Attorney General, to which Plaintiffs immediately comply.
- g. June 2nd, 2023: Defendants offer to permit Plaintiffs to examine and photograph envelopes in compliance with Plaintiffs' request, but when Plaintiffs arrive at the appointed time, Defendants rescind offer, citing PADOS email directives that signatures on the ballots are "private" information, and shortly thereafter commence spoliation of MIB envelopes.
- h. June 2nd, 2023: Plaintiff Stenstrom requests Defendants cease spoliation of MIB envelopes, and only upon advising Defendant Delaware County attorney (and solicitors) that Defendants are committing 3rd degree felonies, and advising Solicitor of his duties under Pa.R.P.C. Rule 1.4 to advise Defendant Allen and BOE staff that spoliating MIB envelopes are criminal actions, do Defendants cease spoliation.
- i. June 4th, 2023: (This) Second (new) Rule 1532 Request (Application) for Special and Summary Relief is submitted to address expanded scope of controversies, with expanded proposed order attached.
- j. June 5th, 2023: Additional candidates for Delaware County and Pennsylvania statewide elections request to be added to Petition as Plaintiffs (Amended Petition forthcoming with Praecipe for leave to amend will be filed under separate cover and submission to Court).



## V. FACTS OF THE CASE

16. The subject envelopes, including signatures, and other named records above, are public records, in accordance with the Pennsylvania Election Code – Omnibus Amendments, Act of Oct. 31, 2019, P.L. 552, No. 77, ("ACT 77"), Section 1309. "Public Records." (See CITATIONS for all applicable ACT 77 Sections).
17. Defendants DELCO and Allen, have created an election process within Delaware County where the only surface area provided to challenge either absentee mail in ballots ("MIB's") or application for ballots is in the Wharf Centralized Counting Center, and further have classified it as "not" a polling location, making it a "no mans land" where MIB's are precanvassed, canvassed, processed, counted, the vote is allegedly "reconciled," and all election materials are stored, without meaningful observation or access by the public or candidates, authorized representatives, or certified poll watchers, for what has become either the majority, or a substantial percentage of votes within the county.
18. Defendants DELCO and Allen have further purposefully misapplied PA Supreme Court *In re Canvassing Observation*, 241 A.3d 339 (Pa. 2020) to classify all candidates, authorized representatives, and certified poll watchers as merely "observers," and denied any lawful, meaningful observation or intervention in accordance with the authority, rights, and privileges accorded to them by 25 P.S. § 3146.8, ignoring the fact that Attorney Mercer, the subject "observer" in *In Re Canvassing*, was neither a candidate, authorized representative, certified poll watcher, or named attorney for the Trump party, and as such was merely an unofficial public "observer" without standing or authority.
19. With the implementation of changes to the configuration of the voting process and centralized counting centers, the surface area for meaningful observation and justifiable election challenges by candidates, authorized representatives, and certified poll watchers has been administratively and unlawfully obliterated in the Delaware County Wharf Centralized Counting Center where votes are sent, received and stored before elections, and further pre-canvassed, canvassed, counted and stored after the election.

20. On May 16<sup>th</sup>, 2023, primary Election Day Plaintiffs Stenstrom and Hoopes observed approximately 7,500 Mail In Ballot (“MIB”) envelopes pre-staged in racks located next to envelope processing machines designed to slice the envelopes and inner secrecy envelopes and extract ballots for further processing, and their subsequent processing and movement throughout the floor of the counting center.
21. Contrary to election law regarding pre-canvassing and canvassing that permits candidates, “certified poll watchers,” “authorized representatives,” and public “observers” to observe the pre-canvassing and canvassing process, the MIB envelopes had already been run through the BlueCrest mail sorter at some previous time to Election Day, and were placed in colored plastic trays (green, blue, yellow, red, and tan), and staged on the aforementioned racks, which were in place at 0700 US EST as observed by Authorized Representative (Plaintiff) Stenstrom.
22. Plaintiff Stenstrom was present from approximately 0650-to-1230 US EST and again from 1900-to-0100 US EST in the Wharf Counting Center, Plaintiff Hoopes was present approximately 1000-to-1300 US EST, Plaintiff Rumley was present from 1600-to-2200 US EST, and Plaintiff Schwartz was present from 2300-to-0100 US EST.
23. At approximately 1130 US EST, Plaintiff Stenstrom asked former Deputy Chief Sheriff Mike Donahue if he would ask election officials who were in back room if they would clarify where the opened (expended) MIB envelopes were being stored in the main counting room, as the process obfuscated their whereabouts, and that Plaintiffs Stenstrom and Hoopes believed they were being placed in plastic tubs with blue closing tops in the rear right corner of the Counting Room. (See Exhibit C Screen Image of Wharf Counting Center Camera #7 showing expended MIB envelope staging area bins).
24. Donahue returned shortly thereafter, and related that he had spoken with Defendant Allen and Delaware County Solicitor William Martin, who denied our request, specifically stating “tell them they can go f\*ck themselves,” and further threatening Donahue that he would be terminated if he continued to interact with Plaintiffs. Donahue thereafter moved

his desk from the front center of the counting room to the front left corner, and had no further interactions with Plaintiffs.

25. At 2005 US EST (5 minutes after close of the election), the count for MIB votes was presented on the tabulation screens, with a total of 24,289 MIB's having been counted during the day.
26. At 2030, Plaintiff Rumley, having conferred with Plaintiff Stenstrom, and discussed an apparent discrepancy between the number of MIB's processed, and number of expended MIB envelopes in the right rear corner of the counting center, which they approximated to be no more than 10,000, asked Defendant Allen if he (Rumley) could briefly inspect the number of opened, expended MIB envelopes. Defendant Allen denied the request.
27. Sometime after Election Day, another rack with plastic tubs with blue closing tops, and what appear to be additional MIB envelopes, was placed in the staging area, adding to the overall total. (See Exhibit D).
28. As of 0800, June 1<sup>st</sup>, 2023, (the time this request for special relief is being prepared), a series of text messages have been exchanged between Delaware County Republican Executive Committee Chair (DCREC GOP Chair) Frank Agovino and Candidate (Plaintiff) Schwartz, indicating the Defendant Allen is now apparently willing to allow Plaintiffs to count the expended MIB's with no further indication of whether they will be permitted to further examine the opened (expended) MIB envelopes, nor whether the MIB envelope images from the BlueCrest mail sorter will be provided for comparison.
29. Defendant Allen denied Plaintiff Stenstrom's May 25<sup>th</sup>, 2023, Right to Know (RTK) request for examination of the public records, as specified and permitted in Act 77 Section 1309, which include the MIB envelopes and image files, directing him to the PA Department of State (DoS) website, and has similarly denied Candidate (Plaintiff) Schwartz's requests through email, text, and phone correspondence.

30. DCREC GOP Chair has corresponded via text with Defendant Allen that Plaintiffs should be allowed to count and examine the expended MIB envelopes prior to the June 1<sup>st</sup>, 2023, 0900 US EST (today), meeting and certification of the May 2023 primary election, and to the knowledge of Plaintiffs, Defendant Allen has not responded.
31. As discussed in the Petition before the Honorable Court, Plaintiffs Stenstrom and Hoopes have repeatedly filed litigation since 2020 and RTK requests to gain election transparency required by federal, state, and local election law, and been thwarted and refuted by Defendant Allen, who remains recalcitrant, secretive, and intent on blocking any access to election materials which are public records in accordance with Act 77.
32. Given the sequence of events discussed in the underlying Petition and this request for Special and Summary Relief for access to these public records, their high relevance to lawful certification of the May 2023 primary election, and documented and admitted spoliation and curation of election materials from the 2020, 2021, and 2022 elections, as directed under the supervision of Defendant Allen, and are still subjects of controversy in pending appellate litigation before this Honorable Court (*Stenstrom and Hoopes v Boockvar CD 876 22*), it is not unreasonable to state that time is of the essence.
33. Plaintiffs merely request that their rights to inspect public records and election materials germane to Candidate (Plaintiff) Schwartz's and Candidate Jeff Jones (for Delaware County Council) May 2023 campaigns for election and its results, from which an election challenge could potentially emanate, or not.
34. Without transparency, and immediate relief and order from this Honorable Court, Candidate (Plaintiff) Schwartz cannot ascertain whether there might be cause to question the election results, a situation that the Plaintiffs have singularly fomented of their own accord, with their continued USC 42 1983 violations of Plaintiffs rights, and violations of federal, state and local election laws cited in the underlying petition.

35. Plaintiffs have the right to inspect public records regardless of their motivations and reasons, and while they have provided said reasons for the sole purpose of persuading the Honorable Court to issue an immediate order of compliance to Defendants (and specifically Defendants Allen and Diehl) to permit Plaintiffs inspection of election materials, Plaintiffs cannot and should not be compelled to explain why public officials should have to provide public records, as it is their (the public officials) duty to comply, and not vacillate and bureaucratically demand Plaintiffs reasons for requests.
36. Hence, having sought previous similar remedies in the Courts, and having exhausted all administrative remedies, Plaintiffs collectively seek this Honorable Court's intervention and order to Defendants to immediately comply with 25 P.S. § 3146.8, and Act 77 § 1309, and to cease from denying Plaintiffs their Constitutional Civil Rights in violation of 42 U.S. Code § 1983, with order to Defendants to produce the public records requested without further delay, impediment, or restriction.
37. Upon filing the underlying Petition, Defendants subsequently offered to permit Plaintiffs to inspect, and photograph expended (opened) Mail In Ballot ("MIB") envelopes.
38. Plaintiffs, and their representatives, accordingly, arrived at the appointed time at 1000 US EST on Friday, May 26th, 2023.
39. Moments before commencing inspection, Defendant Allen related that he had received a phone call from the Pennsylvania Department of State ("PADOS"), and been directed to deny Plaintiffs' inspection, as the signatures on the envelopes were allegedly "private information."
40. Upon further clarification via email correspondence, it was disclosed that the Delaware County Solicitor William Martin, and his appointee as Board of Elections ("BOE") Solicitor, J. Manly Parks, had ordered Defendant Allen not to proceed, citing two (2) October 2022, PADOS emails as authority to stop proceedings, with all Defendants having been fully aware in advance of the scheduled inspection. (See Exhibit B)

41. Subsequent to Plaintiffs departure from aborted inspection of expended MIB envelopes, Plaintiffs noted on public video streams of Delaware County Wharf centralized counting center, that Defendant Allen was apparently directing BOE staff to place glue faced tape on the envelopes, presumably over the signatures. (see Exhibit E screen capture photo and [https URL link to video capture](#))
42. Plaintiff Stenstrom immediately contacted Defendant Allen, and Delaware County Solicitor Martin, that they were presiding over spoliation of election materials, public records, and potential evidence, a 3rd degree felony (under 18 Pa. C. S. § 4911), which they ignored, and Plaintiffs observed BOE staff continuing to spoliage the envelopes under Defendant Allen's direction in the public video stream.
43. Plaintiff Stenstrom again contacted Defendant Allen and Solicitor Martin, asking Martin if he had duly informed Defendant Allen and the BOE staff that in spoliating the envelopes they were committing criminal acts in violation of 18 Pa. C. S. § 4911, to which Martin responded, "Save your breath, asking for the Solicitor to share with you or your compatriots, my advice to my clients." (See Exhibit B).
44. Plaintiff Stenstrom thanked Solicitor Martin for his acknowledgement of his duties under Pa. R. Prof'l. Cond. 1.4, and while Plaintiffs cannot know if said communication from Solicitor Martin to his clients occurred, or not, Defendant Allen and BOE staff then ceased their spoliation.
45. At the time of submission of this Second (new) Rule 1532 Request (Application) for Special and Summary Relief, Defendants remain recalcitrant to provide meaningful access to public records, and specifically the expended (opened) MIB envelopes for inspection.
46. Plaintiffs hold no immediate interest in the ballots, or images of the ballots, or the CVR records with images of the ballots, at this time, and point out that the "Risk Limiting Audits" offered by public officials since 2020 as "evidence" of honest elections only test

the efficacy and accuracy of the scanners that record the marks on those ballots, and have little use, or practically nothing to do with gauging the "honesty" of elections.

47. Plaintiffs' interest and subject of controversy before the Honorable Court is (are) the forensic origins and legitimacy of cast absentee ballots, for which only the absentee MIB envelopes and declarations (with signatures) of electors remain as critical and germane evidence of election integrity to ascertain if the votes which were cast by absentee MIB voters were those of verified "qualified electors," and that the signatures on the MIB envelopes were genuine.
48. Given that Plaintiffs were denied their rights to inspect or observe prec canvassing and all canvassing of absentee MIB's by Defendants in violation of both federal and state election law, and USC 42 § 1983, and erroneously classified as merely "observers" by Defendants in contradiction to PA Supreme Court *In Re Canvassing* exclusion of "candidates," "authorized representatives," "certified poll watchers" and "named attorneys," both pre-election, and during the election, the only remedy to this is a post-election order from this Honorable Court to enforce Act 77 public records inspection of the now expended (opened), absentee MIB envelopes.
49. Defendants have spoliated (destroyed) election materials from 2020 and 2022, which is a matter of public record, and the subject of an appellate matter before this Honorable Court (*CD 876 2022*), and Plaintiffs have good cause to believe Defendants will do so again, and request order from this Honorable Court to preserve all election materials from the May 2023 primary election presently in the Defendant's custody.

## **VI. BOARD OF ELECTIONS INSPECTION PREPARATIONS**

**(SEE EXHIBIT F)**

50. The BOE has been active in the Wharf Centralized Counting Center setting up plastic barriers on the tables next to the envelope racks, and continuing to stage boxes with unknown contents in the secure storage room with closed door access immediately next

to the expended, opened Mail In Ballot racks.

51. Multiple people have access to the back office and side storage room. This room has two access doors to the back office where there are no cameras, and to the main counting room door next to the racks where they are storing expended MIB envelopes.
52. In 2020, Plaintiff Gregory Stenstrom was told by Delaware County, Clerk of Elections, Laureen Hagan that only she and James Allen had keys to the storage area where there are controlled election results that include primarily ballot bags from the precincts with cast ballots. Multiple people entering and exiting these areas without access control and sign in / out, is a problem by itself, as these are official election records.
53. On June 21st, 2023, Lauren Hagan, BOE IT Director Robert Wright, and an unidentified male BOE employee, were observed entering the back storage room together (Camera 9) with a hand cart and placing brown cardboard boxes, that were on the floor behind stacked precinct ballot bags out of sight of the cameras, onto the cart. The boxes are somewhat heavy based on the effort they exerted lifting them and estimated to be about 20-30 pounds. They were placed on the cart and wheeled next to the door that opens next to the racks of expended MIB envelopes.
54. On June 23rd, 2023, Robert Wright supervised two BOE employees setting up large clear plastic barriers with a slot on the bottom, placing them on the 8'x4' card tables set up next to the racks that are lined up along the windows with opaque plastic boxes with blue folding lids that contain expended MIB envelopes.
55. Also on June 23<sup>rd</sup>, 2023, another unidentified male wheeled in another hand truck with two brown cardboard boxes sealed with red tape and a white shoe box into the room, transferring the boxes to the hand truck staged by the door that opens to the racks with the expended MIB envelopes, and the right rear corner of the main counting room.
56. The unidentified male returns to the hand car by the door with access to the MIB racks, after wheeling the hand cart he used to wheel the (new) boxes in the room and seems



concerned with the logo and label and moves the white shoe box on top of the newly placed brown cardboard boxes.

57. In the videos of remarkable behavior to date, IT Director Robert Wright appears to be acting in a supervisory role, and is aware of the public access monitoring cameras.
58. The County BOE seem to be preparing and staging materials in anticipation of the July 11th, 2023, hearing at the Commonwealth Court and a subsequent order from the Court that Plaintiffs be granted their Act 77 rights to inspect the expended MIB envelopes for their declarations.

## **VII. ARGUMENT**

59. The law is clear that mail in ballots, files (images of mail in ballot envelopes), and the declarations, and applications for ballots and envelopes are public records as defined by Pennsylvania legislative Act 77. § 1307-D. Public Records, which states:
  - a. *“(a) General rule. - All official mail-in ballots, files, applications for ballots and envelopes on which the executed declarations appear and all information and lists are designated and declared to be public records and shall be safely kept for a period of two years, except that no proof of identification shall be made public, nor shall information concerning a military elector be made public which is expressly forbidden by the Department of Defense because of military security.”*
60. Plaintiffs Stenstrom and Hoopes, as “Certified Poll Watchers” and “Authorized Representatives,” have filed multiple previous petitions, complaints, requests for injunctive relief, and Pennsylvania Open Records (Right to Know (“RTK”)) requests, against the Defendants, the Delaware County Board of Elections, and other public officials, since November 4<sup>th</sup>, 2020, in the Delaware County Court of Common Pleas, citing election, civil, and criminal violations of law, seeking transparency and accountability in the People’s elections, but the Defendants have remained defiantly recalcitrant in compliance with federal, state, and home rule charter laws, not once

permitting any party with standing to assert their rights to inspect or challenge any election materials.

61. Most recently, Plaintiffs Stenstrom and Hoopes filed a complaint, and requests for injunctive relief, for election transparency in *Missino, Stenstrom, and Hoopes v Delaware County Board of Elections, et al* in the Delaware County Court of Common Pleas (CV-2022-008091) on October 31<sup>st</sup>, 2022. Despite testimony of multiple election violations, in a nine (9) hour injunctive relief hearing where the Clerk of Elections, Lauren Hagan, testified that Defendant James Allen, IT Director Robert Wright, and the “solicitors” (while pointing to the County solicitors) had unlawfully ordered her to mail out over 25,000 MIB’s to unverified, registered voters, and Defendant Allen openly admitting to election law violations, including being “not sure” if he had ordered the destruction of all electronic images of the MIB envelopes scanned by the BlueCrest mail sorter, Judge Barry C. Dozer stated there was “no evidence” of election law violations, and denied Plaintiffs Mission (as candidate), Stenstrom and Hoopes (as certified poll watchers and authorized representatives) request to canvas and examine the MIB public records and applications BEFORE they were opened, processed, and counted in the November 2022 primary election, and Defendant Allen summarily denied Plaintiff Stenstrom’s RTK to examine public records subsequent to the election. Judge Dozer has since refused to assign a Judge to the underlying complaint of breach of fiduciary duty (CV-2022-008091) with 240 days (8 months) having passed, “strategically mooting” the petitions for transparency. To Plaintiffs’ knowledge, no candidate, certified poll watcher, or authorized representative has been permitted to prec canvass, canvass, or inspect a single MIB envelope or public record related to elections in Delaware County since November 2020 primary election, and all RTK’s have been denied by Defendant Allen.

62. With respect to Act 77. § 1308 (i), which states “*The county board shall open the envelope of every unchallenged absentee elector and mail-in elector in such manner as not to destroy the declaration executed thereon,*” Defendant Allen has ordered previous election materials to be destroyed in violation of multiple federal and state laws, and in response to Plaintiffs requests to examine the subject expended MIB public records, Defendant Allen, Delaware County Solicitors William Martin, and BOE Solicitor J. Manly Parks, ordered BOE employees to apply tape over the MIB declarations, and only

ceased and desisted when Plaintiff Stenstrom asked them (via email) if they had informed the BOE employees that they had been ordered to commit multiple misdemeanors and 3<sup>rd</sup> degree felonies in spoliating the MIB envelope declarations.

63. With respect to mail-in ballots, 25 P.S. § 3150.17 maintains that “[a]ll official ... ballots, ... and envelopes on which the executed declarations appear ... are hereby designated and declared to be public records.” Thus, the envelopes are explicitly made public under the Election Code. See *Pa. Dep’t of Labor & Indus. v. Heltzel*, 90 A.3d 823 (Pa. Commw. Ct. 2014) (explaining that “a statute should be clear when it establishes the public nature of the records” by stating the records “‘shall be public,’ or the like”); see also *Towne v. Allegheny Cnty.*, OOR Dkt. AP 2021-2542R, 2022 PA O.O.R.D. LEXIS (holding that because the Election Code makes the declaration envelopes public, a requester may view the envelopes pursuant to the Code’s access provisions).
64. The Pennsylvania Department of State (“PADOS”) October 11th, 2022, email directives cited by Defendants as cause to deny Plaintiffs' requests, were electronically signed via email by Deputy Secretary for Elections and Commissions, Jonathan Marks (included inline and in context with other emails in Exhibit B), which cites *Pennsylvania State Education Association v. Department of Community and Economic Development (PSEA)*, 637 Pa. 337, 148 A.3d 142 (2016), as authority to direct County officials in the Commonwealth of Pennsylvania to protect signatures on MIB envelopes, conflating them with “declarations.”
65. This legal hyperbole, which has not been tested before any trier of fact in Pennsylvania, is a tenuous application of a single unrelated ruling in justifying superseding legislative Act 77, which concisely and unequivocally states that absentee (MIB) envelopes are public records, without any mention of exclusion of information on that MIB envelope for protection of an electors privacy.
66. In fact, the aforementioned citation used by Deputy Secretary Marks refers to the privacy of a person’s home address in education related RTK requests, which makes no mention

of signatures, or makes any remark that a resident of Pennsylvania, or their children, need not be “qualified electors,” as is the case in Pennsylvania election law.

67. Even without this important distinction between purpose and subject matter, the ruling citation states *"the right to informational privacy is guaranteed"* includes the exception that it *"may not be violated unless outweighed by a public interest favoring disclosure."*
68. Plaintiffs controversy before the Honorable Court is unrelated to the rights of Pennsylvania citizens with regard to their education, and privacy of their home addresses, but rather within the scope, and juris, of Pennsylvania election law, and "qualified electors."
69. Deputy Secretary Marks also hyperbolically cites the 2016 *Pennsylvanians For Union Reform v. Pa. Dept. of State, 138 A.3d 727 (Pa. Cmwlth. 2016)* ruling as "holding that access to voter registration records is governed exclusively by the PA Voter Registration Act" which inappropriately conflates "registration records" with the physical election materials alliterated by the superseding 2020 Act 77 definition of public records in § 1307 (2019) and § 1309 (2020).
70. With regard to the electronic records, envelope images, and their associated metadata that records the date, time, and other forensic information germane to the authenticity of images and the origin of absentee MIB's, that have also been requested by Plaintiffs, Defendants can make these records available to Plaintiffs using readily available software applications that are included with the BlueCrest mail sorter used by Defendants to process absentee MIB's.
71. While Plaintiffs immediate interest is in the physical expended (opened), absentee MIB envelopes, Plaintiffs seek adjudication by this Honorable Court with regard to electronic election records and cite the 1999 *Pennsylvania Electronic Transactions Act (73 P.S. Trade and Commerce §§ 2260.1010-2260.5101)* regarding electronic signatures as legally binding authentication, and Plaintiffs' rights to inspect the electronic images of

declarations (with signatures attesting that the signer is a qualified elector) taken and maintained by the BlueCrest mail sorter of the MIB envelopes, before they were further processed, the outer and inner envelopes were sliced open, and the ballots were extracted, as forensic proof of said authenticity.

72. The US Supreme Court's 8-1 2010 decision in that upheld Washington State's law that stated that signatures on ballot-measure petitions are public records applies here, as "qualified electors" signatures on public petitions, as components of lawfully binding "declarations," can be of no lesser a measure a testament of authenticity on a public petition than an absentee MIB (see *Doe v. Reed*, 586 F.3d 671 (9th Cir. 2009)).
73. The only caveat to the *Doe v Reed* decision was that a lower court could potentially decide if a petition should be disclosed, but the Pennsylvania Legislature's enactment of Act 77 and its inclusion of the subject matter election materials as already being public records, with the germane qualified elector signature being germane to the controversy of the Petition before the Court, as an identifying, critical component of the authenticity of those records, is squarely aligned with Plaintiff's argument that qualified elector signatures cannot be redacted from their declaration.
74. While Plaintiff Stenstrom's open records Right to Know ("RTK") request was denied by Defendant Allen in its entirety with relation to the MIB envelopes, Plaintiff Schwartz, a candidate in the May 2023 primary election, simultaneously exhausted her administrative remedies and was denied her rights to inspect the expended MIB envelopes, despite enlisting the support of the County GOP Chair, Frank Agovino, and the Delaware County BOE (Republican) minority member, John McBlain, in demanding that Plaintiff Schwartz's rights for inspection be honored by the Defendants.
75. Hence, the controversy before this Honorable Court is not singularly seeking adjudication of RTK request(s), but also corresponding, simultaneous requests by (now) multiple candidates in the May 2023 election in Delaware County, that were made through appropriate, and lawful channels, which remains squarely within the juris of the

Commonwealth Court as a matter of election law, if not related RTK law specific to elections, with regard to the adjudication of election materials that are also public records.

76. A forged or unauthorized signature, by definition, cannot be protected by privacy laws. Should the Court interpret privacy laws to protect qualified electors signatures, as critical components of “declarations,” from public disclosure, even though no such protection exists to the knowledge of the Plaintiffs, multiple simple remedies are available to the Court to order that Plaintiffs protect genuine qualified elector's signatures after their lawful inspection, just as any commercial merchant might be obliged to do. Certainly, a merchant's rights to protect its business from fraud, and not even the government's rights, cannot supersede the citizenry's rights in this regard.
77. It is unlawful, without precedent, and beyond the juris of any Court to presciently adjudicate the future, or the purpose, motivations, or intent of the citizenry, qualified electors, candidates, authorized representatives, certified poll watchers, or the general public, as to what they might do subsequent to viewing public records.
78. It is only the duty of public officials and servants to comply with the law, and provide meaningful inspection under the *Pennsylvania Open Records Act 3 of 2008*, and the *Act 77 Election Reform Act of 2019 (amended in 2020)* and that this Honorable Court to order Defendants to comply with law.
79. The office of the Secretary of the Commonwealth Department of State (PADOS) is a cabinet level state agency, and it is not recognized as a 4th branch of government in Pennsylvania, but rather a bureaucratic agency with delegated administrative responsibilities.
80. The PADOS has no power to create laws, any more than Delaware County BOE Director of Elections, James Allen, does. Laws, according to the Pennsylvania constitution Article III are created by the Legislature.

81. We the people do not understand, and do not recognize the self-imposed authority of either PADOS or Defendant Allen. The legislature cannot delegate Commonwealth of Pennsylvania Constitutional power. Amending the Constitution requires the consent and oversight of the governed.
82. We the people, have not consented to give authority to the PADOS, nor the BOE Director of Elections, Defendant Allen.
83. The Delaware County Park Police Chief, Defendant Diehl, took an oath to the Constitution – not an oath to obey Defendant James Allen.
84. Defendant Allen has zero authority to direct an officer of the law, and if he has followed such orders, Defendant Diehl is acting under the color of law while simultaneously infringing upon our civil rights, violating *Article VI of the Pennsylvania Constitution. § 3*, which states:
  - a. *“Senators, Representatives and all judicial, State and county officers shall, before entering on the duties of their respective offices, take and subscribe the following oath or affirmation before a person authorized to administer oaths. We have also sought the oath of James Allen via the prothonotary's office which at this time we are unable to locate. If he is without an oath than he is in direct violation of the Pennsylvania Loyalty Act of Dec. 22, 1951, P.L. 1726, No. 463 Cl. 65, The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:*
  - b. *Section 1. This act shall be known and may be cited as the "Pennsylvania Loyalty Act."*
  - c. *Section 2. Definitions.--For the purposes of this act:*
  - d. *"Organization" means an organization, corporation, company, partnership, association, trust, foundation, fund, club, society, committee, political party, or*

*any group of persons, whether or not incorporated, permanently or temporarily associated together for joint action or advancement of views on any subject or subjects.*

- e. *"Subversive organization" means any organization which engages in or advocates, abets, advises or teaches, or a purpose of which is to engage in or advocate, abet, advise or teach, activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States or of the Commonwealth of Pennsylvania, or of any political subdivision of either of them, by force or violence.*
- f. *"Subversive person" means any person who commits, attempts to commit, or knowingly aids in the commission of any act intended to overthrow, destroy, alter, or to assist in the overthrow, destruction or alteration of the constitutional form of government of the United States or of the Commonwealth of Pennsylvania, or any political subdivision of either of them, by force or violence, or who with the specific intent to further the unlawful aims thereof, is knowingly a member of a subversive organization or a foreign subversive organization as defined in this act.*
- g. *"Appointing authority" means any person, department, board, commission, or other agency of the Commonwealth, or of any political subdivision thereof, who appoints or employs officers or employes. (2 amended June 29, 1967, P.L.146, No.35)*
- h. *Section 3. Ineligibility for Employment or Appointment to Office.--No subversive person, as defined in this act, shall be eligible for employment in or appointment to any office or any position of trust or profit in the government of or in the administration of the business of this Commonwealth, or of any school district, county, municipality or other political subdivision of this Commonwealth. also, can be deemed impersonating a public officer. If he has taken an oath to the*



*constitution and can produce said record, than he has violated such oath, by violating Article 1 section 5 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. Article 1 Section 26 Neither the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right. Violation of 42 USC 1983 Civil action for deprivation of rights. Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia. (R.S. § 1979; Pub. L. 96-170, § 1, Dec. 29, 1979, 93 Stat. 1284; Pub. L. 104-317, title III, § 309(c), Oct. 19, 1996, 110 Stat. 3853.)*

85. In the Pennsylvania Department of State Ballot and Envelope Guidance of January 30<sup>th</sup>, 2020, Version 1 (Exhibit G), the very first sentence refers to the Pennsylvania Legislature's Act 77 (law).
86. Should an election challenge emanate from inspection of the public records, or per chance, litigation for breach of fiduciary duty by public officials and their government agencies, or even referrals to law enforcement officials for criminal charges emerge, as the result of said inspection of public records, one cannot occur without the other.
87. Until that future time, the public election records requested by the Plaintiffs can only be

currently considered as benign objects, of no threat to any law-abiding citizen or public official, and there can be no reason for government officials to hide what they have already affirmed, by oath, punishable by fines and incarceration of their persons, to be true and faithful public voting records of qualified electors.

88. As a matter of commerce and civil law, if not election law, the candidates, and political parties, all expended substantial financial resources with their expectation that the Defendants would adhere to federal, state and local laws, and administer true and honest elections on their behalf, if not the citizenry's behalf.
89. Without inspection and verification that said laws and duties were faithfully observed, the candidate Plaintiff(s) have no avenue to recover their campaign costs, if they are not permitted to inspect the public records from which they could potentially bring legal action.
90. Regardless of the vagaries and contradictions of current election law in the Commonwealth of Pennsylvania, and in particular the procedural aspects of laches, standing, and certification of elections that might take years to meander through the Courts at their judicial leisure, as has been the case with election law litigation since the 2020 general election, certainly candidates and political parties at least have a right to potential recompense for casting their campaign monies on potentially fallow ground, should it be determined that public officials did not lawfully and diligently carry out their duties.
91. Nor can this possibly, or at least not yet, be a matter for law enforcement or government agencies given that they have shown no concern, or even curiosity, in investigating allegations of election fraud brought forward by Plaintiffs Stenstrom and Hoopes since November 2020 in the Commonwealth.
92. Indeed, the former Attorney General, and now Governor, Josh Shapiro; Delaware County District Attorney Jack Stollsteimer; former US Attorney for Eastern Pennsylvania

William McSwain; and former US Attorney General William Barr, all refused to investigate Plaintiff Stenstrom and Hoopes allegations of election law violations in 2020.

93. At present time, there can be no potential crime for law enforcement to investigate without inspection by the Plaintiffs of the election material public records that are the subject of the controversy before this Honorable Court, hence this matter remains within the civil and election law juris of this Honorable Court, and not within the venue of law enforcement.
94. While Plaintiffs cannot predict the future anymore than the Court has juris to do so, if inspection of the public records per chance does reveal information that might be adverse to candidate Plaintiff(s)' and their respective political parties' interests in deciding whether to participate in future government bureaucrat administered elections, then at worst, the specific controversy before this Honorable Court would be self-remedying, and be of no further burden to the citizenry, or the Courts.
95. With regard to the "public," meaning the citizenry's access, in general, to the election materials that are the subject of this controversy, Act 77 makes no distinction that the election materials that are public records should be limited to candidates, authorized representatives, and certified poll watchers, and there should be no distinction, as there may be no willing personage as defined by § 5.1 of the PENNSYLVANIA ELECTION CODE - OMNIBUS AMENDMENTS Act of Oct. 31, 2019, P.L. 552, No. 77, and modified by Act of Mar. 27, 2020, P.L. 41, No. 12, willing to come forward in other Pennsylvania Counties for the May 2023 primary, or in future elections, to represent said "public."
96. Denying a "common" citizen's right to access election materials that are public records would be an unlawful exclusionary omission that can be cured with the Honorable Court specifying as much in the order requested here by Plaintiffs.

## VIII. REMEDY

97. That Defendants provide immediate, unfettered access to ALL empty MIB envelopes from the May 2023 primary election (~27,500), currently stored in boxes in the main room of the Delaware County Wharf Centralized Counting Center on Seaport Ave, in Chester City, and, that Plaintiffs be permitted to take photographs of the envelopes, and cease denying Plaintiffs their civil rights, in violation of USC 42 § 1983.
98. That Defendants immediately provide the image file report with electronic images, and metadata, for all MIB envelopes for the May 2023 primary election that were scanned by the BlueCrest and Pitney Bowes mail sorters, which the software of those machines are designed to provide said envelope images, that were scanned on Election Day.
99. That Defendants, having already provided due and required notice, immediately provide all public records requested by the Plaintiffs for the election, in accordance with Act 77.

(Signatures Next Page)

Respectfully submitted:



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JOY SCHWARTZ

Date: 28JUN2023

514 Lombardy Road  
Drexel Hill, Pennsylvania 19026  
[jschwartzpro@gmail.com](mailto:jschwartzpro@gmail.com)  
610-622-1958




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PAUL RUMLEY

28JUN2023

1038 Crozer Pl  
Springfield, PA 19064  
[prumley@rumleyrealty.com](mailto:prumley@rumleyrealty.com)  
609-280-2949



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LEAH HOOPES

Date: 28JUN2023

241 Sulky Way  
Chadds Ford, PA 19317  
[leahfreedelcopa@protonmail.com](mailto:leahfreedelcopa@protonmail.com)



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GREGORY STENSTROM

Date: 28JUN2023

1541 Farmers Lane  
Glen Mills, PA 19342  
[gstenstrom@xmail.net](mailto:gstenstrom@xmail.net)

## VERIFICATION

We, Joy Schwartz, Paul Rumley, Gregory Stenstrom and Leah Hoopes, state that we are Pro Se Defendants in this matter and are authorized to make this Verification on its behalf. We hereby verify that the statements made in the foregoing Petition and Request for Emergency Injunctive Relief are true and correct to the best of our knowledge, information and belief. This verification is made subject to the penalties of 19 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



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JOY SCHWARTZ

Date: 28JUN2023

514 Lombardy Road  
Drexel Hill, Pennsylvania 19026  
[jschwartzpro@gmail.com](mailto:jschwartzpro@gmail.com)  
610-622-1958



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PAUL RUMLEY

28JUN2023

1038 Crozer Pl  
Springfield, PA 19064  
[prumley@rumleyrealty.com](mailto:prumley@rumleyrealty.com)  
609-280-2949



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LEAH HOOPES

Date: 28JUN2023

241 Sulky Way  
Chadds Ford, PA 19317  
[leahfreedelcopa@protonmail.com](mailto:leahfreedelcopa@protonmail.com)



---

GREGORY STENSTROM

Date: 28JUN2023

1541 Farmers Lane  
Glen Mills, PA 19342  
[gstenstrom@xmail.net](mailto:gstenstrom@xmail.net)


# **EXHIBIT A**

## **Official Mail In Ballot Envelope DECLARATION in accordance with Act 77**

Commonwealth of Pennsylvania  
 County of Allegheny  
 November 8, 2022

Official Mail In Ballot  
 Pittsburgh Ward 4 Dist 11

**Instructions**  
**Making Selections**



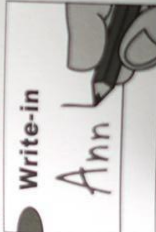
Fill in the oval to the left of the name of your choice. You must blacken the oval completely, and do not make any marks outside of the oval. You do not have to vote in every race.

Do not cross out or erase, or your vote may not count. If you make a mistake or a stray mark, ask for a new ballot from the poll workers.

**WARNING:** If you receive an absentee or mail-in ballot, and return your voted ballot by the deadline, you may not vote at your polling place on election day. If you are unable to return your voted absentee or mail-in ballot by the deadline, you may only vote a provisional ballot at your polling place on election day, unless you surrender your absentee or mail-in ballot and envelope to the judge of elections to be voided to vote by regular ballot.

**Optional write-in**

**Write-in**



To add a candidate, fill in the oval to the left of "write-in" and print the name clearly in the space provided.

**Representative in the General Assembly**  
 3rd District  
 Two Year Term  
 Vote for One

Dan Frankel  
 Democratic

Jay Ting Walker  
 Green

Write-in

**United States Senator**  
 Six Year Term  
 Vote for One

John Fetterman  
 Democratic

Mehmet Oz  
 Republican

Erik Gerhardt  
 Libertarian

Richard L. Weiss  
 Green

Daniel Wassmer  
 Republican

Write-in

**County of Allegheny Proposed Home Rule Charter Amendment Special Election Question**

Shall Article III, Subsection 6(b) of Allegheny County's Home Rule Charter be repealed in order to allow Members of County Council the same freedom of right to seek other elected office as is accorded to all other independently elected officials in Allegheny County, such that Council Members are permitted to run for nomination or election to elected office other than that of County Council Member without first having to resign from County Council?

Yes

No

**Governor and Lieutenant Governor**  
 Four Year Term  
 Vote for the candidates of one party for Governor and Lieutenant Governor or insert the name of candidates.

Josh Shapiro  
 Austin Davis  
 Democratic

Douglas V. Mastriano  
 Carrie Lewis DeRossio  
 Republican

Matt Hackenburg  
 Tim McMaister  
 Libertarian

Christina DiGiullo  
 Michael Bagdas-Canning  
 Green

Joe Soloski  
 Nicole Shultz  
 Republican

Write-in

**OFFICIAL ELECTION BALLOT**

**Voter's Declaration**

I hereby declare that I am qualified to vote in this election, that I have not previously voted in this election, and that I understand and accept the consequences of my vote. I understand that I may only vote once by ballot, and that I am not permitted to vote at the polling place. I understand that I am not permitted to vote at the polling place if I have already voted by ballot, and that I am not permitted to vote at the polling place if I have already voted by ballot. I understand that I am not permitted to vote at the polling place if I have already voted by ballot, and that I am not permitted to vote at the polling place if I have already voted by ballot.

**Witness 1** (Required)  
 Today's Date (Required)

**Witness 2** (Required)  
 Today's Date (Required)

**Witness 3** (Required)  
 Today's Date (Required)

**IF YOU DO NOT follow the instructions**  
 Contact the Election Office for assistance.  
 YOUR BALLOT WILL NOT BE COUNTED UNLESS  
 You sign and date the voter's declaration.  
 Seal your ballot inside the voter's declaration and place the seal on the back of the ballot.



# **EXHIBIT B**

Email Exchanges between Plaintiffs and Defendants, and include full body of PA Department of State email referenced herein.

RTK Requests - May 2023 Primary Election RTKs Inbox x



**Gregory Stenstrom** <gregorystenstrom@gmail.com>

May 25, 2023, 2:57 PM (9 days ago) ★ ↶ ⋮

to openrecords, leahfredelcopa, Robert, bcc: Joy, bcc: Paul, bcc: Joan, bcc: scott, bcc: Deborah, bcc: cellucci, bcc: Robert, bcc: Gregory, bcc: Players02, bcc: k

Dear Mrs. Coogan,

Attached are four (4) RTK requests for public records for the May 2023 primary. I will be sending similar emails for each election going back to Nov 2020. They are essentially the same four requests for records for each election. I split them out for ease of handling and tracking, and discrete requests for particular records.

The Board of Elections has been recalcitrant in responding to RTK's, and I was at Robert Mancini's RTK hearing yesterday, where the contracted Solicitor Scott recited, with feigned, exasperated boredom, that Judge Dozer wrote a 2003 opinion that open record requests had to go directly to the BOE (bypassing you, the AORO), where presumably, they will unilaterally reject whatever they please, or repeatedly request 30-day extension, after 30-day extension, appeal, and then still not respond at all even when ordered to, as has been the case with too many public records requests they they have been directed to fulfill.

Judge Dozer's order and opinion was in 2003, and the RTK law - an Act by the PA legislature was in 2008, and clearly supersedes a municipal court Judge's order, a fact that was pointed out by Mr. Mancini, and apparently dumbfounded Solicitor Scott, and seemed to perplex Judge Angelos, who said he would rule on the County's complaint against Mr. Mancini this week.

In the case of the attached RTK's and the additional ones I will be sending afterwards, both the RTK law, and Act 77, specify that the records requested, are indeed, public records, and further, that they only have 48 hours to respond. The 48 hour response time intent was to allow candidates and authorized representatives and attorneys to be able to act on them in time to meaningfully intervene and respond within the laches and timelines specific to election law.

I expect the BOE will, per usual, immediately ask for a 30 day extension, appeal, and continue to be unresponsive and do everything possible to avoid transparency.

My request, and ask of you, is to remain firm on compliance with both the Open Records law of 2008 AND the Act 77 law of 2019 and its amendments of 2020, in responding that they have 48 hours to respond, in accordance with law and PA legislative Acts.

If they decline or insist on doing as they please, I will immediately file a complaint with the Commonwealth Court requesting their intervention and an order to make the Delco BOE comply with law.

Please call me with any questions at 856-264-5495 or email me - anytime.

Thank you,

Gregory Stenstrom

[gregorystenstrom@gmail.com](mailto:gregorystenstrom@gmail.com)

856-264-5495

4 Attachments • Scanned by Gmail



**From:** Allen, Jim  
**Sent:** Friday, May 26, 2023 2:14 PM  
**To:** Gregory Stenstrom <gstenstrom@xmail.net>  
**Cc:** OpenRecords <OpenRecords@co.delaware.pa.us>  
**Subject:** RE: Stenstrom Requests 23-235 through 23-258

Mr. Stenstrom:

Six of the **RTK** requests that you filed yesterday were forwarded to me to begin processing under the Election Code. Thus, this is a partial response to your 24 requests – focused solely on the six requests that relate to files that list the absentee/mail-in voters, mail dates and ballot return dates from various elections.

For the 2023 Primary, the files have been made available and continue to be made available through the Department of State. The request information is available below.  
Webform: [Mail-In Voter File Request \(powerappsportals.us\)](https://powerappsportals.us)

-OR-

Physical form: [https://www.dos.pa.gov/VotingElections/BEST/Documents/PADOS\\_Statewide\\_Mail-Ballot\\_File\\_Request\\_Rev.3.2023.pdf](https://www.dos.pa.gov/VotingElections/BEST/Documents/PADOS_Statewide_Mail-Ballot_File_Request_Rev.3.2023.pdf)

More information regarding the Statewide Mail-Ballot File Request can be found on the DoS Data Hub webpage: <https://www.dos.pa.gov/VotingElections/BEST/Pages/Data-Hub.aspx>

We are working toward preparing the files from the 2020 General Election, the 2021 Primary Election, the 2021 Municipal Election, the 2022 Primary Election and the 2022 General Election to make those available to you on a thumb drive as early as 4 pm on Sat., May 26 at the security desk at the Government Center in Media. Given that this is a holiday weekend and we will need to verify that we are providing the records to the correct individual, we will require that you present ID and sign the receipt.

**James P. Allen**  
Director of Election Operations  
Delaware County, Pennsylvania

## Re: Stenstrom Requests 23-235 through 23-258 ▷ Inbox x



**Gregory Stenstrom**  
to Jim, OpenRecords ▾

Tue, May 30, 10:42 AM (4 days ago) ☆ ↶ ⋮

Mr. Allen,

Your response is not responsive to my RTK.

The physical envelopes and envelope images of all physical scanned by the Bluecrest mail sorter in the Wharf Counting Center, as one example of the records requested, are public records, and intermediate to what it stored in the DoS online database you referred me to. Act 77, Sect 1309 (Amended March 2020) is quite clear that the election materials I have requested are, in fact, public records, and you have 48 hours to provide access to both physically and electronically.

I also remind you that Judge Dozer, the County and BOE Solicitor and yourself plainly stated during our injunctive hearing in Nov 2022, were not "official" or "certified" records, and that I would need an "expert" from DoS to validate that they were "genuine."

The RTK's are self explanatory as written and were filed with the Delaware County AORO (Ms. Coogan), and not DoS. Referring me to DoS is non-responsive.

I want to see the physical envelopes - all of them - and the images of those envelopes, as well as the other election materials specified.

R,

Gregory Stenstrom 856-264-5495 [gregorystenstrom@gmail.com](mailto:gregorystenstrom@gmail.com)

Petition and Request for Special and Summary Relief No. 258 MD 2023 Inbox x

**Gregory Stenstrom** <gregorystenstrom@gmail.com> Thu, Jun 1, 10:13 AM (2 days ago) ☆ ↶ ⋮  
to commcourtfiling, Joy, Paul, leahfreedelcoba, me, Gregory, William, Jim, DeihlJ, RA-Elections, bcc: scott, bcc: cellucci

Attn: Michael F. Krimmel, Prothonotary, and Theresa

Dear Sirs/Madams,

Please find attached Plaintiffs new Rule 1532 Request for Special and Summary Relief for submission to the docket (as Application for Relief) for the subject petition No. 258 MD 2023.

Attached please also find our corrected underlying Petition (spelling, signatures, and Notice to Plead, Verification subject). We wrote it largely on the drive from Delaware County to Harrisburg and there were some resulting technical errors. Please let me know if you require a separate Praecipe for this correction or if this email is sufficient for inclusion in the docket. The attached version will be that which is served to the Defendants. We have not yet accessed Pacfile and are using the Commonwealth Court filing email in the interim.

I have cc'd the Delaware County Solicitor, William Martin, and Defendants Allen and Diehl, and the general mailbox for the Secretary of the Commonwealth (Elections), as well as all Plaintiffs, and will be headed to the Delaware County Courthouse and Government Center, and USPS to personally serve the Defendants and mail via certified mail the Secretary.

As I type this, I understand from text messages that the Delaware County Board of Elections meeting to certify the May 2023 primary is ongoing, and has become a dynamic and lively exchange between BOE members, solicitors, and the public, with the subject Petition and inspection of Mail In Ballot expended (opened) envelopes being of keen focus. Accordingly, I will make all haste to send Certification of Service to complete the filing.

Please call me on my cell if there are any immediate issues with the filings.

Respectfully,  
Gregory Stenstrom (Pro Se Plaintiff)  
856-264-5495  
[gregorystenstrom@gmail.com](mailto:gregorystenstrom@gmail.com)

**RE: (EXTERNAL) Re: Petition and Request for Special and Summary Relief No. 258 MD 2023** Inbox x

**Allen, Jim** Thu, Jun 1, 2:07 PM (2 days ago) ☆ ↶ ⋮  
to me, commcourtfiling@pacourts.us, jmparks, William

Mr. Stenstrom,

As stated at the certification meeting, with the recitation of the relevant section of the election code, our reading of the law is that the envelopes are to be available after the completion of the canvass and the certification of the election results, barring any need for them in the examination(s) that can occur in one or more recount(s).

The certification occurred at a meeting that concluded about 11:15 am this morning. Additionally, this afternoon, I received a call from the solicitor for the losing candidate in the close Democratic primary contest in Chichester School District Region 2 (which is separated by three votes), and the solicitor reported that he has made the determination not to pursue a recount.

Therefore, the review of the envelopes can commence soon. I will be writing back to you with a start time – either for tomorrow or Monday at the Union Power Plant (formerly known as the Wharf).

Best,  
Jim

**James P. Allen**  
Director of Election Operations  
Delaware County, Pennsylvania

## Requests from candidate Joy Schwartz and voter Greg Stenstrom Inbox x



**Allen, Jim**

Jun 1, 2023, 4:27 PM (2 days ago) ☆ ↶ ⋮

to Joy, Gregory, me, Laureen, jmparks ▾

We will begin to make the physical envelopes from the 2023 Primary available at 10 a.m. on Fri., June 2 at the Union Power Plant (formerly known as the Wharf). Rules will be provided at the outset, and participants will sign in.

Because of deferred time off and a staff member who is now on leave, we anticipate being able to provide for a maximum of five individuals at a time between the two requests. Individuals will be one-on-one with staff – one examiner and one staff member per table. If fewer than five Bureau staff are available on any given day or any portion of the day, we will have to reduce the number of examiner slots accordingly. Further, additional persons inspecting are not allowed to be waiting in the offices but can wait in the lobby area of the Union Power Plant or in the cafeteria during the hours that it is open.

The Bureau of Elections offices will be continue to be under video surveillance that will be livestreamed.

No writing implements will be allowed at the tables where inspections occur; however, we will have tables behind the voters who are inspecting the envelopes so that those voters may turn around to a table where they may keep writing implements and paper to make notes.

This is an inspection. Photocopies will be made upon request at the usual cost. Photography and videotaping will not be allowed.

When there are breaks and lunches, the five (or fewer) voters who are examining the envelopes will be required to leave the office.

**James P. Allen**

Director of Election Operations  
Delaware County, Pennsylvania

**Gregory Stenstrom** <gregorystenstrom@gmail.com>

Thu, Jun 1, 4:57 PM (2 days ago) ☆ ↶ ⋮

to commcourtfiling, William, DeihlJ, Paul, Leahfreedelcopa, Jim, Joy, Gregory, Laureen, jmparks, bcc: Bill, bcc: Felice, bcc: Joshua, bcc: scott ▾

Dear Mr. Allen,

Your terms are unacceptable and are not compliant with law. As these terms have already been described in the petition and request for special relief, there is little need to elaborate here and we can either await adjudication by the Commonwealth Court, or appellate courts if necessary,

in short, we expect to take photographs of the envelopes - all of them - and are prepared to do so quite quickly, and efficiently, or alternatively provide our own high speed scanners. It is unreasonable, if not ridiculous, for you to expect that Plaintiffs can meaningfully inspect the entirety of the MIB envelopes, commit 34,000 images to memory, and be left with nothing to potentially issue an election challenge or further litigative relief.

As such, unless you will ascribe to our terms, tand meaningful inspection of expended (opened) MIB envelopes, there is no point in meeting at 10am tomorrow, unless you intend to comply with law.

Please advise if you would like to discuss further.

R,  
Gregory Stenstrom  
856-264-5495

RE: (EXTERNAL) Re: Requests from candidate Joy Schwartz and voter Greg Stenstrom > Inbox x



Allen, Jim

Thu, Jun 1, 5:59 PM (2 days ago) ☆ ↶ ⋮

to me, Joy, Gregory, Laureen, jmparks, commcourtfiling@pacourts.us, William, John, Paul, Leahfreedelcopa ▾

Greg,

It sounds from your response as if your primary concern is the inability to make your own scans or copies. We are prepared to permit you to use your personal cell phones to photograph or scan the ballot envelopes. Please confirm that this addresses your concerns.

Jim

Gregory Stenstrom <gregorystenstrom@gmail.com>

Fri, Jun 2, 3:14 AM (2 days ago) ☆ ↶

to Jim, John, Gregory, Laureen, Joy, William, Paul, jmparks, Leahfreedelcopa ▾

Mr. Allen,

We will see you at 10am.

Thank you,  
Gregory STENSTROM

RE: (EXTERNAL) Re: (EXTERNAL) Re: (EXTERNAL) Re: Requests from candidate Joy Schwartz and voter Greg Stenstrom > Inbox x



Allen, Jim

Fri, Jun 2, 1:37 PM (20 hours ago) ☆ ↶ ⋮

to me, John, Gregory, Laureen, Joy, William, Paul, jmparks, Leahfreedelcopa ▾

Dear Mr. Stenstrom,



While you and I were at the Union Power Plant shortly after you arrived in the office, I called Mr. Parks about your request about filming a video. As we conferred on that, Mr. Parks asked me if I had reviewed emails he forwarded from the Department of State. I had not at that time. Mr. Parks informed me then, before I saw the emails, that we had to redact the signatures on the envelopes. I relayed that to you, and you left. Attached are the documents that Mr. Parks forwarded to me shortly before 9 am, shortly after Mr. Parks received word from the Department of State about the need to redact.

Next, we are using a covering that protects the integrity of the documents and signatures. Our intent is to be able to begin offering you access to the redacted envelopes at the earliest possible moment. **If you have an interest in seeing the redacted envelopes, let us know, and we will resume with this process. However, if you do NOT have an interest in seeing the redacted envelopes, also please advise immediately and we can stop redacting the envelopes.**

Lastly, if or when the court confirms the guidance from the Department of State on protecting the voters' signatures through redaction, the redactions would need to occur *before* any requesters start taking photographs.

Regards,  
Jim

From Marks, Jonathan <jmarks@pa.gov>

 Reply  Reply All  Forward  Archive  Junk  Delete  More

To Marks, Jonathan <jmarks@pa.gov>

11-Oct-22, 16:51

Subject **DOS Email - RTKL Requests**

Dear county election official,

In addition to recent requests for cast vote records (CVRs), the Department has been made aware of Right-to-Know requests in several counties seeking copies of voted mail ballots and mail ballot outer envelopes from various recent elections. It is the Department's position that voted ballots are **not** subject to disclosure under the Election Code. Unfortunately, there have been a few OOR decisions that have concluded that the Election Code potentially permits disclosure of said ballots. Requestors have cited Section 1307-D of the Election Code, 25 P.S. § 3150.17(a), a records provision which provides that "official mail-in ballots. . . and envelopes on which the executed declarations appear" are public records "except that no proof of identification shall be made public, nor shall information concerning a military elector be made public. . ." The Department submits that "official mail-in ballots" refers to the official, un-voted ballots (*i.e.* sample ballots) and not *voted* ballots. Indeed, Section 308 of the Election Code, 25 P.S. § 2648, specifically provides that the contents of ballot boxes and voting machines are **not subject** to public inspection. A voted mail ballot and a CVR are the equivalent of the contents of ballot boxes and thus not subject to public inspection.

And as to outer envelopes, while section 1307-D provides that they are subject to public inspection, a county is required to redact "proof of identification" and "information concerning [] military elector[s]." What is more, it is the Department's position that a voter's signature and potentially other personal information should be redacted after conducting a privacy analysis pursuant to the Pennsylvania Constitution and *Pennsylvania State Educ. Ass'n v. Commonwealth Department of Economic Development*, 148 A.3d 142 (Pa. 2016).

The attached email, which was sent to counties regarding similar Right to Know requests, also contains helpful information, including information related to who can inspect these records and how these records are to be inspected. As always, please consult first with your solicitor, but do not hesitate to contact the Department if you should have further questions.

Warmest regards,

**Jonathan Marks** | Deputy Secretary for Elections and Commissions (*he, him, his*)  
Office of the Secretary  
302 North Office Building, Harrisburg, PA 17120  
Office: 717.787.6458 Direct: 717.783.2035  
[dos.pa.gov](http://dos.pa.gov) | [vote.pa.gov](http://vote.pa.gov) | [Facebook](#) | [Twitter](#)

**Subject:** DOS Email: Potential Right To Know Requests

**From:** "Mathis, Jessica" <jesmathis@pa.gov>

**Date:** 08-Nov-21, 13:02

**To:** "Mathis, Jessica" <jesmathis@pa.gov>

Dear County Election Officials:

The Department of State has learned of a record requests made under the Right to Know Law (RTKL) and recently received by a county board of election. The Department urges county boards of election to consider the provisions outlined below in formulating responses to any similar requests. **As always, please consult with your county solicitor and your Agency Open Records Officer (AORO) before responding to the requests.**

The request at issue is for a "digital copy of the ... Cast Vote Record (CVR) file for every precinct tabulator and central tabulator used in the 2020 General Election."

First, Section 3101.1 of the Right-to-Know Law provides that, "[i]f the provisions of this act regarding access to records conflict with any other federal or state law, the provisions of this act shall not apply." 65 P.S. § 67.3101.1. As the Pennsylvania Election Code establishes the procedure to access election records and what types of records are subject to inspection, any request for access to these types of records must be made pursuant to the provisions of the Election Code and not under the RTKL. See, *Pennsylvanians For Union Reform v. Pa. Dept. of State*, 138 A.3d 727 (Pa. Cmwlth. 2016) (holding that access to voter registration records is governed exclusively by the PA Voter Registration Act). The Pennsylvania Election Code governs these requests, through Section 308 of the Election Code, which provides "[t]he records of each county board of elections . . . **except the contents of ballot boxes and voting machines and records of assisted voters**, shall be open to **public inspection**, except as herein provided, and **may be inspected and copied by any qualified elector of the county during ordinary business hours**, at any time **when they are not necessarily being used by the board, or its employees having duties to perform thereto**: Provided, however, That such public inspection thereof shall **only be in the presence of a member or authorized employee of the county board**, and shall be subject to proper regulation for safekeeping of the records and documents . . ." 25 P.S. § 2648 (emphasis added).

Stated another way, the statute provides that: 1) voted ballots are NOT subject to public inspection; 2) voting machines are NOT subject to public inspection; 3) all other records are subject to inspection and copying by a qualified elector of the county, *i.e.*, a registered voter of the county, but need not be produced for the requester as is the case under the Right-to-Know Law; and 4) the records are subject to inspection and copying only when not in use by the board, and only in the presence of an employee of the board.

As such, **the statutory provision cited above can be used to deny any request to inspect voted ballots, or to receive copies of voted ballots, or to examine voting machines, as the Election Code specifically exempts these records and equipment from public disclosure.** Regarding the CVR, the CVR is the raw record that is created by a single tabulator, and is created as part of the Election Management System (EMS) of the particular electronic voting system used in that county. The CVR of any one tabulator has not been added to the CVR found on other tabulators in an election district, or added to the central tabulator CVR developed from processing absentee and mail-in ballots for that election district. Thus, the CVR for any tabulator is a subset of the record for a particular election district. In addition, the tabulation and computation of votes has not occurred when a tabulator's CVR has been produced. Overvotes may be displayed, being resolved through other aspects of the EMS software. In other words, the data will be unprocessed and considering it on its face will be problematic. Further, different electronic voting systems create CVRs in different ways, using unique proprietary software. And some of the systems even capture scans of the ballots, similar to photocopies or photographs.

**It is the Department's perspective that CVR data is a modern version of those items excluded from public review under Section 308 of the Election Code, where "the contents of ballots boxes and voting machines" are unavailable for public review.** This position recognizes that a CVR is a raw evaluation of ballots, even capturing overvotes contained on the ballots. In some cases the ballots themselves are scanned, producing a facsimile of the ballot. It is logical that the exclusion of a ballot from the records available for public review under Section 308 would lead to the exclusion of an exact copy of the ballot, as well.

Section 308 also excludes voting machines from access. "Voting machines" is a term referring to mechanical voting devices, but is also commonly used to refer to modern electronic voting systems. The Department believes that this exclusion also applies to the modern components of electronic voting systems and their contents, one of which is the CVR of any tabulator. The exclusion would also apply when considering what was excluded from public examination with an older, all mechanical voting machine. Those devices included counters for each race, similar to odometers, that were available for checking only by removal of locked covers. The CVR is the modern analog of the counters of the voting machines, in that the CVR and the counters both represented raw, unreviewed data.

Further, to the extent CVR data is not randomized, that information, considered together with an election district's numbered list of voters, could create insight into how a person voted. This would be a direct violation of the Pennsylvania Constitution's secrecy in voting guarantee. Pa. Const. Art. VII, sec. 4.

For these various reasons the Department does not believe CVR data should be provided to any requester.

**Lastly, counties should review requests for election information to ensure the requester is a registered elector of their county. A registered elector in Pennsylvania would only be entitled to inspect the records in the county where he or she is registered.**

Again, please share this email with your solicitor and agency open records officer.

Thanks,  
Jess

Jessica Mathis, Director  
Bureau of Elections and Notaries  
PA Department of State  
210 North Office Building | Harrisburg, PA 17120  
Phone: 717. 787.5280 Fax: 717.705.0721  
[www.dos.pa.gov](http://www.dos.pa.gov)



**Gregory Stenstrom** <gregorystenstrom@gmail.com>  
to Jim, John, Gregory, Lauren, William, jmparks, Leahfreedelcoba, Joy, Paul ▾  
Jim,

Fri, Jun 2, 12:55PM (21 hours ago) ☆ ↶ ⋮

Need further clarification. Is this yours, or Manley Park's, or Bill Martin's, interpretation of a PADOS directive, or did you actually receive direction from DOS? If the former, then I need to add whoever gave you that direction as a new Defendant on the Petition in their personal capacity for USC 42 Section 1983 civil rights violation, and which PADOS directive they are citing as authority to redact the signatures. If the latter, then that means Secretary Schmidt (DOS) has been materially served, and we will submit that information to Commonwealth Court in response to their Per Curiam (administrative) order we just received to correct service to Secretary Schmidt at the new addresses they provided, and save some USPS overnight postage.

In the meantime - regardless of who gave you the direction - I must advise you that we have noted on the cameras at the Wharf that you have BOE staff taping over signatures on the envelopes, which are public records, and this constitutes spoliation of evidence, a felony, and you and the Solicitors are advised to inform the staff that they are spoliating evidence, and that if they continue to do so, even at your direction, that we will be adding them to the Petition and prospective future litigation in their personal capacities for USC 42 Section 1983 violations.

There are multiple ways to redact signatures, and in the event the Court might order that the Plaintiffs not release any signatures (which I cannot fathom why they would, but is possible), I can run a simple program to redact the signatures from the photographic images we intend to take of each envelope in a matter of minutes and save the taxpayers quite a bit of money, and help you and your staff avoid civil and criminal spoliation charges.

A public record, is a public record, including the electors signature, which is clearly the intent of Act 77, Section 1309, for the public to examine. It is not up to you, or the Delaware County Solicitors, or even Acting Secretary of the Commonwealth to bureaucratically decide what part of the public record you will allow us to see, regardless of our motivations or purpose for what we will do with the images of the public records. Act 77 is law - passed by PA Legislature - and the language is clear, precise, and does not leave any wiggle room for "interpretation."

Please advise asap. I am typing amendment to petition and new 1352 relief now.

R,  
Gregory Stenstrom

**Gregory Stenstrom** <gregorystenstrom@gmail.com>  
to Jim, John, Gregory, Lauren, Joy, William, Paul, jmparks, Leahfreedelcoba ▾

Fri, Jun 2, 1:29PM (21 hours ago) ☆ ↶ ⋮

At a minimum, please acknowledge that the Solicitor has advised BOE employees that they will be held personally accountable for spoliating evidence, or conversely that the Solicitor has refused to make such notice to the BOE employees, denying them their rights to make informed decisions as to their personal litigative exposure to felony spoliation charges.

We do not need to disclose our motives, purpose, or plans, of what we intend to do with the public records, but applying glue - even non-stick glue - to each ink signature is absolutely spoliation of evidence, and I will leave it to the Solicitors to find supporting case law, or they can wait to see our citations, but either way, you are personally jeopardizing your employees financial well-being and exposure to litigation if you do not meaningfully inform them that they - and you - all need to CEASE AND DESIST from spoliating the evidence.

R,  
Gregory Stenstrom  
856-264-5495

**Martin, William**

Fri, Jun 2, 1:38 PM (21 hours ago) ☆ ↶ ⋮

to me, Jim, John, Gregory, Lauren, Joy, Paul, jmparks, leahfreedelcopa ▾

Save your breath, asking for the Solicitor to share with you or your compatriots, my advice to my clients.

William F Martin

Solicitor

Delaware County, PA

201 W. Front St.

Media, PA 19063

610-891-4074

[martinw@co.delaware.pa.us](mailto:martinw@co.delaware.pa.us)

**Gregory Stenstrom** <gregorystenstrom@gmail.com>

Fri, Jun 2, 1:49 PM (21 hours ago) ☆ ↶ ⋮

to William, Jim, John, Gregory, Lauren, Joy, Paul, jmparks, leahfreedelcopa ▾

Solicitor Martin, Thank you for your acknowledgement that you have been so advised of your responsibilities as Solicitor of under 204 Pa. Code § 81.4. Rules of Professional Conduct. I understand that while your specific communications are privileged, your duty to inform them is a matter of statute.

Having noted reports in the news media of your invitation to "sue me," please be advised that you are fomenting a situation and creating surface area for me to do so - again. Note that in this specific regard, I am speaking for myself, and not for the other Plaintiffs in regard to the Petition and Request for Special Relief I served you with yesterday.

R,

Gregory Stenstrom

856-264-5495

**Gregory Stenstrom** <gregorystenstrom@gmail.com>  
to Jim, John, Gregory, Laureen, Joy, William, Paul, jmparks, LeahFreedelCopa ▾

Fri, Jun 2, 2:30 PM (19 hours ago) ☆ ↶ ⋮

Jim,

We absolutely have an interest in photographing the expended MIB envelopes, which are public records per Act 77 Section 1309, whether the signatures are redacted, or not. We do, however, want to have the complete record, which includes the signatures. Given that there is a controversy regarding these records, we have appropriately placed the matter before the Commonwealth Court (for now), for their adjudication as arbiters of the law, and all beholden to wait until they have made that adjudication.

I am advising you that the mechanical method you are employing to redact MIB envelope signatures constitutes spoliation of evidence, regardless of any manufacturer's guarantee of efficacy of their non-sticking glue, and that there are multiple other means of redaction available to avoid any future related complications and legal belly button contemplation.

We have asked for oral arguments before the Commonwealth Court in our Petition and Request for Special Relief (No. 258 MD 2023), and are curing service they specified to the Acting Secretary of the Commonwealth in their order of a couple of hours ago.

If I may make a suggestion, I recommend you stand down from covering up the signatures with glue backed tape until the Commonwealth Court has the opportunity to adjudicate the matter, and if they affirm that the signatures must be redacted, we will work with you to come up with a mutually agreeable method for redaction that will hopefully not involve mechanically taping over thousands of MIB envelopes.

Our intent is NOT to create any unreasonable administrative burden on the County, BOE, or the taxpayers with regard to asserting our rights as citizens, qualified electors, candidates for public office, and their authorized representatives, and certified poll watchers.

I hope this will be a satisfactory interim solution that will spare any unnecessary waste of time, on either of our parts.

R,  
Gregory Stenstrom  
856-264-5495

**RE: (EXTERNAL) Re: (EXTERNAL) Re: Requests from candidate Joy Schwartz and voter Greg Stenstrom** > Inbox x ✕ ☰ ☑

**Allen, Jim**  
to me, John, Gregory, Laureen, Joy, William, Paul, jmparks, LeahFreedelCopa ▾

Fri, Jun 2, 10:48 AM (23 hours ago) ☆ ↶ ⋮

Mr. Stenstrom,

As we discussed this morning at the Union Power Plant, a directive from the Department of State states that the signatures on the envelopes constitute personal information, and that we are required to first redact the signature sections of the envelopes. We will keep you informed of progress on redacting items in the containers so that this process may resume as soon as possible.

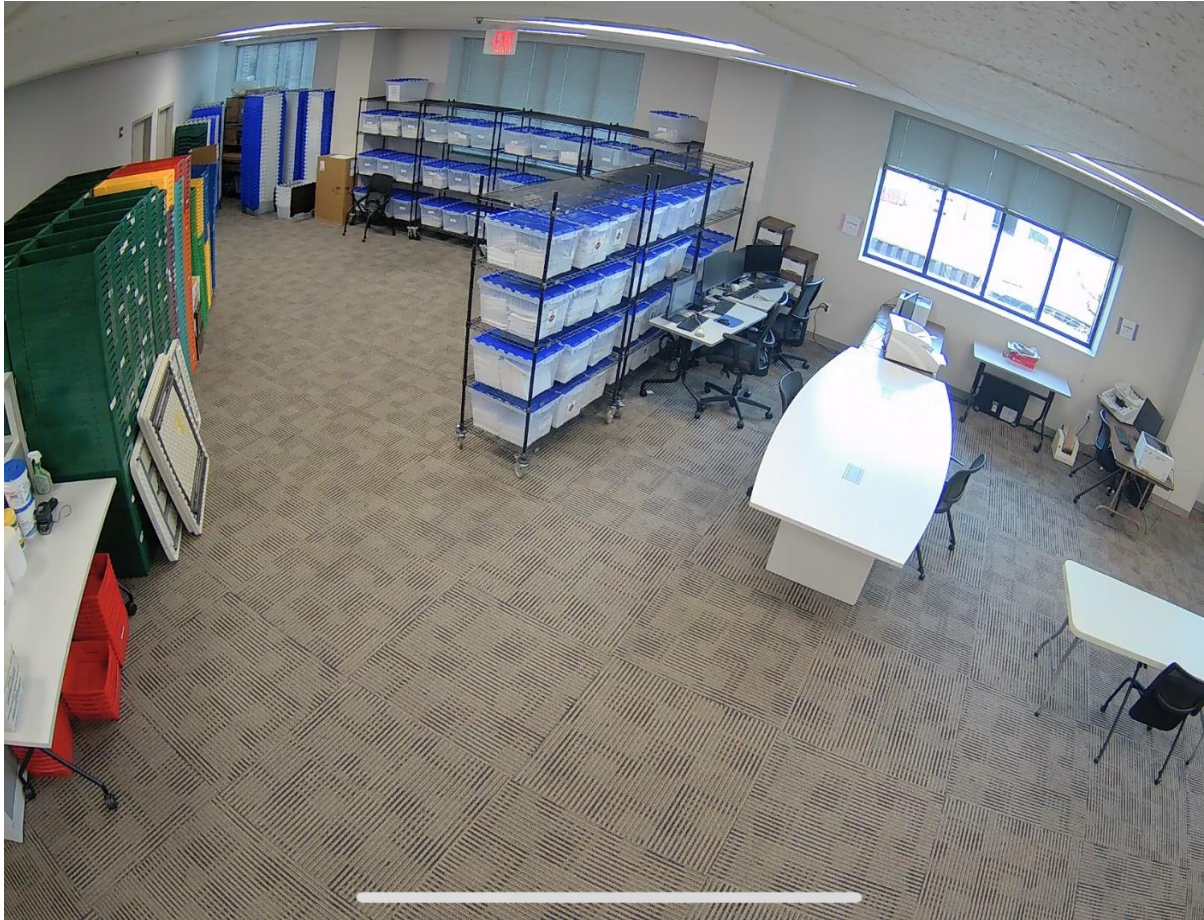
Thanks.  
Jim

# **EXHIBIT C**



*Figure 1 - Delco Wharf Centralized Counting  
Center MIB Envelope Storage Area at 1133 US EST  
16MAY2023 Camera #7 Screenshot  
(taken by Plaintiff Stenstrom)*

# **EXHIBIT D**



*Figure 2 - Delco Wharf Counting Center MIB Envelope Storage Area at 0713 US EST 30MAY2023 Camera #7 Screenshot (taken by Plaintiff Stenstrom)*

# **EXHIBIT E**





*Figure 3- Delaware County Board of Elections Staff Placing Glue Faced Tape over May 2023 Primary Election Absentee Mail In Ballot Envelopes (presumably) Over Signatures Blocks on June 2<sup>nd</sup>, 2023.*

A one Minute Video of the above June 2<sup>nd</sup>, 2023, screen capture is available for viewing in High Definition at:

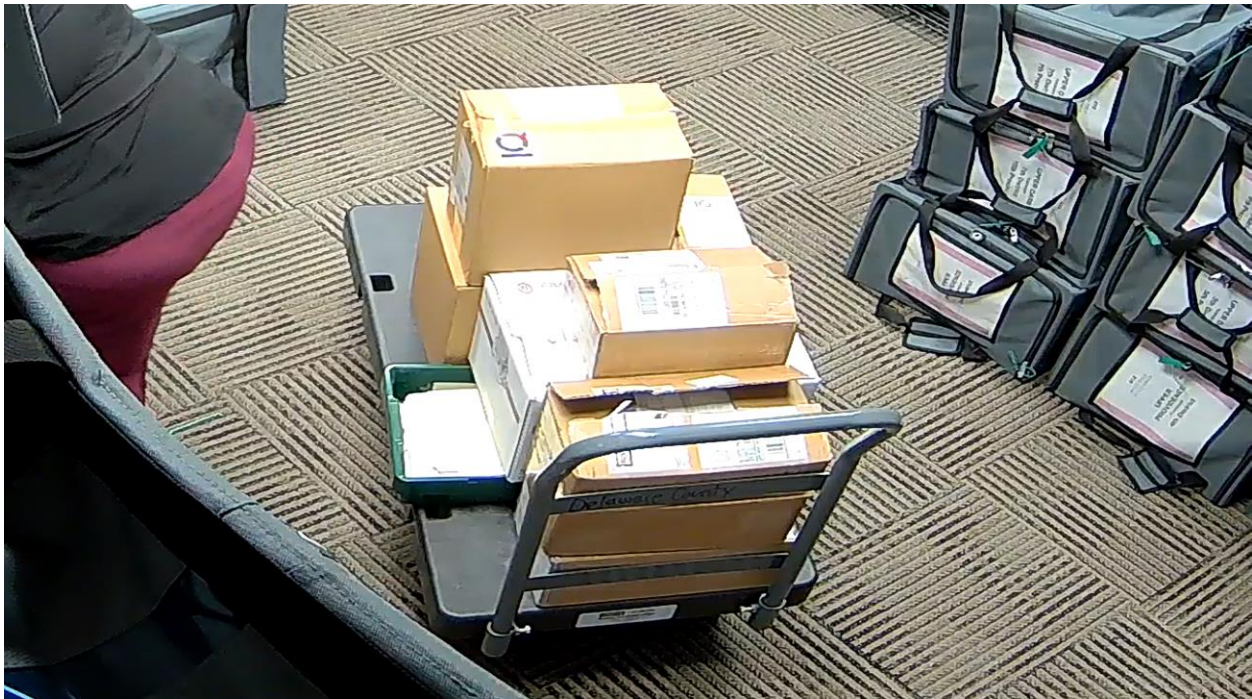
<https://cloud.patriot.online/s/3ZAAw932s6x336E>

Note: Image and video captures are from Delaware County (Delco) public video stream cameras which are transmitted via 1-minute video increments on Delco public website.

# **EXHIBIT F**



Delaware County Clerk of Elections staging boxes on cart in storage room with immediate door access to expended, opened Mail in Ballot envelope racks June 21<sup>st</sup>, 2023, @ 1:41pm



Close-up of Boxes staged by access door to expended, opened Mail in Ballot envelope racks. June 21<sup>st</sup>, 2023, @ 1:41pm



Unidentified male staging more boxes by with immediate door access to expended, opened Mail in Ballot envelope racks on June 22<sup>nd</sup>, 2023, @ 2:14pm

Video:

<https://cloud.patriot.online/s/EsnqxDpTKDnQ5ZQ>



Delaware County Board of Elections employees placed large, plexiglass barriers with envelope slot at the bottom of the barriers, on desks adjacent to expended, opened Mail In Ballots envelopes.

Video:

<https://cloud.patriot.online/s/zAXKEpK7aB4xBgq>

# **EXHIBIT G**

## **Pennsylvania Balloting and Envelope Guidance**

[https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/PADOS\\_BallotingandEnvelope\\_CountyGuidance\\_v1.0.pdf](https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/PADOS_BallotingandEnvelope_CountyGuidance_v1.0.pdf)

TLP: WHITE



## Pennsylvania Balloting and Envelope Guidance

Date: January 30, 2020  
Version: 1.0

Page 1 of 13

TLP: WHITE

Act 77 of 2019 provides that voters in Pennsylvania now have two options to cast their vote early by either civilian absentee or mail-in ballot. Additionally, county election officials have new administrative requirements and the envelope templates have been updated to meet the new requirements of the Election Code. The following guidelines define both what is required by Act 77 and what is permissible under Act 77 or some other portion of the Election Code. The Department of State (DOS) will continue to update this guidance leading up to the 2020 Primary Election.

#### Who May Vote by Civilian Absentee Ballot<sup>1</sup>

- Absentee ballots are for voters, who are not military or overseas voters, who have a reason for absence, including voters who will not be in their municipality on Election Day due to work or vacation, voters who are celebrating a religious holiday, voters with disabilities, and voters such as college students who also may be away from the municipality on Election Day, if they don't choose to vote where they go to school. Absentee ballots are also for those who are unable to attend their polling place due to illness or physical disability.

#### Who May Vote by Mail-in Ballot<sup>2</sup>

- If a voter does not qualify as an absentee voter, they are eligible for a mail-in ballot. An excuse is not required for a mail-in ballot. For example, if the voter won't be absent from a municipality on Election Day and would prefer to vote from home, they may request a mail-in ballot.

#### Deadlines

- Absentee and Mail-in Ballot Request Deadline
  - The deadline to request a mail-in ballot mirrors the absentee deadline. So, both application deadlines are 5:00 p.m. on the Tuesday before the election.
    - 2020 Primary Election Absentee/Mail-In Application Deadline – April 21, 2020
    - 2020 General Election Absentee/Mail-In Application Deadline – October 27, 2020
- Absentee and Mail-in Ballot Return Deadline
  - Act 77 of 2019 changed the deadline for voters to return their completed ballot to the county election office. The deadlines to return the ballot for both absentee and mail-in ballots are the same. The completed ballot must be returned to the county board of elections by 8:00 p.m. on Election Day.
- Emergency Absentee Period (following the initial deadline to request an absentee ballot)

<sup>1</sup> Election Code § 1301, 25 P.S. § 3146.1.

<sup>2</sup> Election Code § 1301-D, 25 P.S. § 3150.11.



- An emergency absentee period is still in effect. If a voter learns, after the normal 5:00 p.m. application deadline on the Tuesday before the election, that they will be absent from the municipality on election day, they may apply for an emergency absentee ballot. It's also available for voters who become ill or physically disabled after the normal deadline. The emergency period lasts until 8:00 p.m. on Election Day. Please note the deadline to return a completed emergency absentee ballot is still 8:00 p.m. on Election Day.

#### Implementation

- Per Act 77 of 2019, the election reform changes will not go into effect until the 2020 Primary Election. Therefore, all previous rules are in effect for special elections prior to the 2020 Primary Election.
  - If there is a special election that falls on 4/28/2020, the new rules will apply to that election as well.
- The new mail-in application form is only effective for the 2020 Primary Election and future elections.
- The new or old absentee form may be accepted by counties prior to the 2020 Primary Election.
  - This means that county boards of election may honor the new absentee ballot request form and the older absentee form

#### Process for the Voter

- **Requesting a Ballot**
  - **Mail a Paper Ballot Request**
    - A voter may submit a paper application via mail to the county board of elections for absentee and mail-in ballot applications.
    - The new absentee and mail-in forms may be found at the links below:
      - [Paper Absentee Ballot Request Application Form](#)
      - [Paper Mail- in Ballot Request Application Form](#)
  - **Over the Counter Ballot Request**
    - Act 77 of 2019 allows voters to request an absentee or mail-in ballot over the counter. They may also receive and vote the ballot, if it's available, over the

counter.

- Voters still need to adhere to ID requirements for absentee and mail-in ballot requests.
- The county board of elections **must** ensure voter secrecy is maintained throughout the process, **if** a voter has requested to vote their ballot in person. The Department is currently developing voter secrecy guidance to provide additional detailed direction to county boards of elections.
- **Submit an Online Ballot Request**
  - A voter may submit either an absentee or mail-in ballot request online via the Department's online portal at PA Voter Services.
  - A voter may access the online application website at the links below:
    - Online absentee ballot request application
      - It's important to note only a paper application can be submitted for a permanent absentee ballot request due to the physician's certification requirement.
    - Online mail-in ballot request application
      - An applicant may submit a permanent mail-in ballot request when completing their online mail-in ballot request application.
- **Emergency ballot period**
  - Voters that become eligible for absentee ballots after the deadline may apply for an emergency absentee ballot after the normal application deadline on the Tuesday before the election.
    - For example, if a voter finds out they will be absent from the municipality but did not learn they would be absent until after the Tuesday before the election, they may apply for an emergency ballot.
  - In order to apply for an emergency ballot, the voter must complete an Emergency Application for Absentee Ballot. The emergency application must be received by the county board of elections by the close of polls on election day, which is 8:00 p.m.
  - In the event the voter is unable to appear at the county board of elections to deliver their application and receive their ballot, they may designate an

authorized representative. This designation must be made in writing.<sup>3</sup>

- The designated individual must be authorized, and documentation must be completed prior to handling the ballot on behalf of the voter.
- Multiple voters may designate the same authorized representative.
- **Ballot Request Limit**
  - A voter may only qualify for one type of ballot. They will need to determine their qualification between an absentee or mail-in ballot. The Department will have helpful information on VotesPA.com to help the voter determine the appropriate ballot request. In either case, the application request must be submitted by 5:00 p.m. on the Tuesday before the election, unless the voter later qualifies for an emergency absentee ballot.
- **Ballot Return**
  - A voter must return their completed ballot by 8:00 pm on Election Day to the county board of elections. Postmarks are not accepted for civilian absentee ballots or for mail-in ballots.
- **Provisional Balloting**
  - Once a voter requests a civilian absentee or mail-in ballot, they may only vote a provisional ballot if they show up at their polling place on election day, and the district register shows the voter has not voted an absentee or mail-in ballot.<sup>4</sup>
  - If a voter returns their ballot timely, they are no longer permitted to vote at the polling place.
  - A provisional ballot remains available for those that didn't request a mail-in or absentee ballot, but aren't in the poll book.

#### Process For County Elections Officials

- **Accepting Ballot Requests**
  - The county board of elections must begin processing civilian absentee and mail-in ballot requests no later than the 50<sup>th</sup> day before the election.
    - However, the county may choose to accept ballot requests prior to the 50<sup>th</sup> day before the election.

<sup>3</sup> Election Code § 1302.1, 25 P.S. § 3146.2a(a.3)(4).

<sup>4</sup> Election Code § 1210, 25 P.S. § 3050(a.4)(1).

- The county boards of elections are still required to accept civilian absentee ballot requests until 5:00 p.m. on the Tuesday before the election. This also applies for mail-in ballot requests.
    - However, the emergency absentee period is still in effect and counties must accept those applications after the 5:00 p.m. deadline on the Tuesday before the election and up to 8:00 p.m. on Election Day.
  - The county board of elections **must** only accept the new mail-in request forms for the upcoming 2020 Primary Election.
    - If a voter in a county with a special election scheduled prior to the April 2020 primary submits one of the new mail-in forms, the county is not required to accept those forms as ballot requests for the special election(s). However, counties should contact the voters to inform them that they will only receive a ballot for the April primary, unless they qualify to vote by absentee in the special election.
    - Consistent with Act 77, counties must accept the mail-in applications as a request for the upcoming primary election.
  - As mentioned above, the county should accept either the old or new absentee ballot request form.
- **Tracking Ballot Requests**
    - Now voters have the ability to track their absentee and mail-in ballot requests, which also includes mailing ballots to the voter and receiving the completed ballot in the county election office.
      - The voter will have the opportunity to visit PA Voter Services to look up their ballot request status online. The functionality will be available online no later than early March 2020.
    - A voter will receive notifications via email, if an email was supplied on their civilian absentee or mail-in ballot application. The voter will be notified:
      - when the ballot request is approved;
      - when the ballot label is queued for printing; and
      - when the completed ballot is returned and marked as received in the county board of elections.
  - **Poll Books**
    - As soon as a voter requests a civilian absentee ballot or mail-in ballot, they are only entitled to vote by provisional ballot if they show up at their polling place, and the voter is not shown on the district register as having voted an absentee or mail-in

ballot.<sup>5</sup> The poll book will be marked to indicate the voter may only vote provisionally to prompt the poll worker when checking in voters.

- Additionally, if the voter returns their completed ballot timely to the county board of elections, the poll book will indicate the voter's ballot was cast and they are not eligible. This will aid the poll worker when checking in voters to determine if the voter is permitted to vote in person, or to even receive a provisional ballot.
- The watermarks in the poll books as listed above also apply to voters with a permanent flag on their voter record. In either case, the poll worker will be able to determine the best course of action when reviewing the poll book on election day.

- **Provisional Balloting**

- Act 77 of 2019 establishes provisional balloting as the only option for voters to cast their vote in the event their absentee or mail-in ballot is not returned to the county by 8:00 p.m. on election day.
- If a voter returns their ballot timely, they are no longer permitted to vote at the polling place.
- However, if the voter's ballot is not timely returned to the county, they are entitled to vote by provisional ballot only at the polling place.

- **Ballot Design Requirements**

- With the implementation of Act 77 of 2019, absentee ballots and mail-in ballots must be separately marked.
  - Absentee ballots must be marked with "Official Absentee Ballot"<sup>6</sup>
  - Mail-in ballots must be marked with "Official Mail-in Ballot"<sup>7</sup>
- A warning notice is required to be listed on both the absentee and mail-in ballots.
  - Example for Absentee Ballot: "WARNING: If you receive an absentee ballot and return your voted ballot by the deadline, you may not vote at your polling place on election day. If you are unable to return your voted absentee ballot by the deadline, you may vote a provisional ballot at your polling place on election day."
  - Example for Mail-in Ballot: "WARNING: If you receive a mail-in ballot and return your voted ballot by the deadline, you may not vote at your polling place on election day. If you are unable to return your voted mail-in ballot

<sup>5</sup> Election Code § 1210, 25 P.S. § 3050(a.4)(1).

<sup>6</sup> Election Code § 1303, 25 P.S. § 3146.3.

<sup>7</sup> Election Code § 1303-D, 25 P.S. § 3150.13.

by the deadline, you may vote a provisional ballot at your polling place on election day.”

- **Envelope Design**

- The civilian absentee and mail-in ballot envelopes were streamlined for voter understanding as well as processing at the county election office.
- The new envelope templates make use of white space to optimize instructions and information to the voter in addition to the ballot materials contained within the package.
- The new envelope designs make use of best practices and usability in other state jurisdictions.
- The templates also incorporate visual cues to county election officials to quickly identify types of ballots based on the color and letter designation on the envelope.
- Envelope Packaging
  - County Election Boards are encouraged to share their envelope artwork designs with the Department to ensure compliance with the new envelope templates. This is also an opportunity for the Department to assist the county elections board while implementing the new envelope template.
  - Currently, the Department has developed two (2) variations for absentee or mail-in balloting material
    - Absentee and Mail-in Envelope Variation #1
      - The first variation make use of the #12, #11, and #10 sized windowless envelopes.
      - County election boards have the option to use a county logo on the outer and return envelope.
      - County election boards also have the option to provide their contact information on the outer most envelope.
    - Absentee and Mail-in Envelope Variation #2
      - The second variation make use of the #11, #10, and #9 sized windowless envelopes.

- Similar to variation #1, County election boards have the option to use a county logo on the outer and return envelope.
- Similar to variation #1, County election boards also have the option to provide their contact information on the outer most envelope.
- The county board of elections should be mindful of envelope weight between the two envelope variations as the amount of ballot material could increase the cost of postage.
- If the core elements are assembled in the balloting material (i.e. outer envelope, return envelope, secrecy envelope, instructional handouts), the county should choose the envelope template that best meets their balloting needs.
- Please see the supplemental document containing more detailed information about the revised envelope templates [here](#).
- Counties may print one outgoing outer envelope to be used for both absentee and mail-in ballots.
- The return envelopes must be separate as civilian absentee and mail-in ballots require different declarations and are required to be named either "Official Absentee Ballot" or "Official Mail-in Ballot."
- The secrecy envelopes must also be separate, as civilian absentee and mail-in ballots require different titles. They must either be printed as "Official Absentee Ballot" or "Official Mail-in Ballot."
- The return envelopes must include a declaration from the voter stating their qualifications.
- Instructional inserts
  - The Department recommends adding helpful instructions for the voter when they receive the ballot material.
  - Suggested text for consideration will be distributed during the week of January 27, 2020.
- The Department is currently developing a template for larger ballot styles as needed by the county and will issue them in the next week.

- Counties are encouraged to contact the DOS at [RA-STBEST@pa.gov](mailto:RA-STBEST@pa.gov) with their envelope size requirements.
  - The Department is also developing bilingual templates for county election offices that are required to produce language-compliant balloting material.
  - If a county election office requires a different size, they should notify the DOS Bureau of Election Security and Technology for assistance immediately. The Department will quickly update the template to fit your ballot size requirements. You may reach out to the Bureau at [RA-STBEST@pa.gov](mailto:RA-STBEST@pa.gov).
- Types of Ballot Envelopes
  - Absentee Ballot
    - Outer Envelope (1<sup>st</sup> envelope) – this is the outer most envelope that contains all balloting material including the return envelope and secrecy envelope. This is the envelope package that is initially sent to the voter.
      - If the county is considering a merged envelope, the outermost envelope should be titled with “Official Election Ballot.”
      - If the county is considering a separate outermost envelope for a civilian absentee ballot, the envelope must be titled “Official Absentee Ballot.”
      - The outermost envelope must contain blue coloring and two horizontal bars containing the envelope title.
    - Return Envelope (2<sup>nd</sup> envelope) – this is the return envelope on which the voter will sign their declaration, and within which the voter will seal their secrecy envelope prior to mailing their completed ballot to the county.
      - The return envelope must contain blue coloring and two horizontal bars containing the envelope title.
        - This must read “Official Absentee Ballot.”
        - The specific color palette will be distributed to the county election offices.
    - Absentee Secrecy Envelope (3<sup>rd</sup> envelope) – this is the secrecy envelope into which the voter will place their voted ballot.
      - The civilian absentee secrecy envelope must be separate from a mail-in secrecy envelope and it must be titled



“Official Absentee Ballot.”

- The secrecy envelope may not contain any marks other than the envelope title.

▪ Mail-in Ballot

- Outer Envelope (1<sup>st</sup> envelope) – this is the outermost envelope that contains all balloting material, including the return envelope, ballot, and secrecy envelope. This is the envelope package that is initially sent to the voter.
  - If the county is considering a merged envelope, the outermost envelope should be titled with “Official Election Ballot.”
  - If the county is considering a separate outermost envelope for mail-in ballots, the envelope must be titled “Official Mail-in Ballot.”
  - The outer most envelope must contain blue coloring and two horizontal bars containing the envelope title.
    - This shade of blue will be lighter versus the absentee ballot envelope and the outer envelope to easily distinguish between the two.
      - The specific color palette will be distributed to the county election offices.
- Return Envelope (2<sup>nd</sup> envelope) – this is the return envelope on which the voter will sign their declaration, and within which the voter will seal their secrecy envelope prior to mailing their completed ballot to the county.
  - The return envelope must contain blue coloring and two horizontal bars containing the envelope title.
    - The specific color palette will be distributed to the county election offices.
  - This must read “Official Mail-In Ballot.”
- Mail-in Secrecy Envelope (3<sup>rd</sup> envelope) – this is the secrecy envelope into which the voter will place their voted ballot.
  - The mail-in secrecy envelope must be separate from a civilian absentee secrecy envelope and it shall be titled

“Official Mail-in Ballot.”

- The secrecy envelope shall contain no other marks other than the envelope title.
- UOCAVA Ballot
  - The template for the UOCAVA ballot remains unchanged. However, the Department intends to update the template following the 2020 Primary Election.
- Provisional Ballot
  - Outer Envelope (1<sup>st</sup> envelope) – this is the envelope upon which the voter will sign their declaration, and within which the voter will seal their secrecy envelope.
    - The Department anticipates a release of the revised provisional ballot envelope during the week of January 27<sup>th</sup>
  - Provisional Secrecy Envelope (2<sup>nd</sup> envelope) – this is the secrecy envelope into which the voter will place their voted ballot.
    - The Department anticipates a release of the revised provisional ballot envelope during the week of January 27<sup>th</sup>
- Emergency Ballot
  - The Department anticipates the release of a new emergency ballot envelope during the week of January 27<sup>th</sup> if the county wishes to utilize an envelope for their emergency ballots.
- **Canvassing Ballots**
  - County boards of election may not open civilian absentee or mail-in ballots prior to 8:00 p.m. on Election Day. The canvass is set to begin no earlier than the close of polls.
  - County boards of election are required to keep civilian absentee and mail-in ballots in a sealed or locked container(s) until the canvass begins.
- **Challenging Ballots**

- The absentee ballot challenge process remains mostly unchanged and now applies to mail-in ballots in addition to civilian absentee ballots.
  - The challenge process now happens at the county board of elections instead of the polling place.
  - Also, an absentee ballot issued due to absence from the municipality may no longer be challenged on the basis the voter was within the municipality on Election Day.
- The county board must give any candidate or party representative an opportunity to challenge an elector’s ballot.
- The following are the only grounds for challenging an absentee or mail-in ballot:
  - The absentee or mail-in elector is not a qualified elector;
  - An absentee elector claiming illness or physical disability was able to appear at the polling place.
- Upon challenge of a civilian absentee or mail-in elector, the board shall mark “Challenged” on the envelope with the appropriate challenge reason.
- The challenged civilian absentee or mail-in ballot shall remain unopened until a final determination is made by the county board of election during canvass.

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Version History:

Version	Date	Description	Author
1.0	1.30.2020	Initial document release	Bureau of Election Security and Technology

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_ 2023 upon consideration of the PETITION AND REQUEST FOR SPECIAL AND SUMMARY RELIEF, it is hereby ORDERED that:

1. That Defendants provide IMMEDIATE, unfettered access to ALL empty MIB envelopes from the May 2023 primary election (~27,500), primary election, currently in boxes in the main room of the Delaware County Wharf building centralized counting center on Seaport Ave, in Chester City, and, that Plaintiffs be permitted to take photographs, as they require of the envelopes.
2. That Defendants immediately provide the image file report with images of all MIB envelopes for the May 2023 primary election that were scanned by the BlueCrest mail sorter in the same room, for which the software of that machine is designed to provide said ~27,500 envelope images, that were scanned on Election Day.
3. That Defendants, having already provided due and required notice, immediately provide all public records for the election, in accordance with Act 77.
4. That a Litigation Hold is in place for ALL election materials in the custody of the Defendants from the May 2023 primary election, in the broadest possible application of the law.

**BY THE COURT**

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