

PENNSYLVANIA

PROGRAM

The Pennsylvania Election Protection Coalition covered the state in 2012. With the assistance of the Committee of Seventy, which runs a perennially-strong field program in Philadelphia, Election Protection was present in at least 12 counties on Election Day, with field command centers in Philadelphia, Pittsburgh, and Harrisburg. The Election Day field program was anchored by two local call centers in Philadelphia, receiving calls from Pennsylvania voters to the Election Protection Hotline. Finally, with the assistance of Coalition partners at the ACLU of Pennsylvania, there were lawyers on hand in many more counties across the state, prepared to advocate on behalf of voters when the need arose. Election Protection established relationships with local election officials, including a convening organized by Common Cause in mid-October, which invited local registrars to learn about Election Protection and make recommendations for seamless cooperation on Election Day.

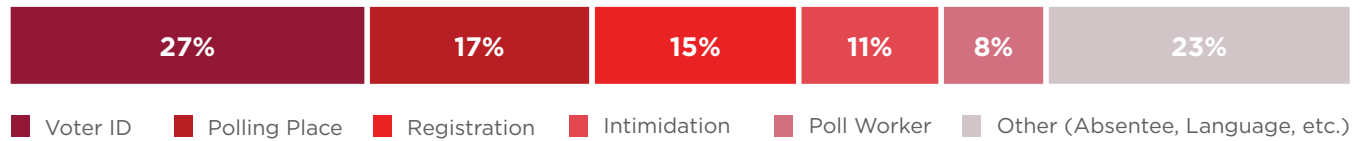
The 2012 elections were undeniably chaotic in Pennsylvania. The Hotline received over 9,000 calls on Election Day from voters with questions and concerns – the second highest call volume of all the states, behind only California. Much of this confusion, such as that surrounding the identification law, came at the hands of state officials themselves and likely could have been avoided with a more measured approach, conscious to the obstacles that many voters face. In addition to concerns about voter identification, Pennsylvania voters encountered polling place and registration problems.

BEFORE ELECTION DAY

Voter Identification

Substantively, Pennsylvania Election Protection was defined by the issue of voter identification from start to finish. Coalition members began preparing well before Election Day as the state enacted one of the most aggressive voter identification laws in the country. The bill, which would ultimately become law as Act 18, generally required Pennsylvania voters to show unexpired government-issued photo identification when they went to the polls. As the bill worked its way through the Pennsylvania legislature, passing the Pennsylvania House in

2012 VOTING PROBLEMS IN PENNSYLVANIA



August of 2011 and taken up in the Pennsylvania Senate in early 2012, the Election Protection Coalition worked tirelessly to block its passage. The bill ultimately passed the Senate in a 26-23 vote and Governor Tom Corbett signed it into law in March 2012.

Legal challenges to the law were filed almost immediately, and as those made their way through the Pennsylvania courts, the Election Protect Coalition transitioned to intensive voter outreach, hoping to educate voters about the law's new requirements and empower them with the tools they would need to obtain the necessary identification. To this end, groups and individuals across the state joined together to form the Pennsylvania Voter ID Coalition to organize efforts to reach voters on the identification issue. The Election Protection Hotline went live in early May, with volunteers answering voters' questions about identification.

By summer, the Pennsylvania Commonwealth Court heard a challenge to the voter identification law, made on the grounds that the law - and the haste which with the state sought to implement it - would disenfranchise large numbers of Pennsylvanians, a disproportionate number of whom would be minorities. Commonwealth Court Judge Robert Simpson, refused to enjoin the law, however, believing that by the time the November elections arrived the state would take ample steps to ensure that all Pennsylvania voters who wanted identification could get it. This decision was immediately appealed to the state Supreme Court, which disagreed with Judge Simpson in mid-September, and remanded the case to his court to reevaluate whether, given the difficulties in obtaining identification that massive numbers of Pennsylvanians had reported since the judge's initial ruling.

Taking hints from the Supreme Court's suspicion of the state's rapid implementation of the identification law, Judge Simpson temporarily enjoined the law on October 2, 2012, allowing voters in the 2012 general election to cast a regular ballot without showing photo ID. This was an undoubted victory for Election Protection and the voting rights of Pennsylvanians; however Judge Simpson's ruling also sought a dangerous compromise. Though he forbid poll workers from requiring photo identification to vote in this election, he left the law in place for future elections and so permitted the state to continue its so-called voter education

campaign. The state thus continued to run confusing advertisements stating “If you have it, SHOW IT” and allowed poll workers to still request to see photo identification on Election Day, providing voters who did not have it with information on the requirement for future elections.

Thus, although Election Protection celebrated the law’s injunction for the 2012 election, the state’s continued messaging on photo identification set the stage for widespread voter confusion about the status of the identification law. This confusion was exacerbated in the final weeks and months before the election by misinformation and deceptive practices that sought to take advantage of the chaos. Throughout the state, there were numerous instances of information about the law’s pre-injunction requirements being disseminated after the law was blocked. In the Philadelphia area, for example, the PECO local utility company sent a mailing with its bills informing voters that photo identification would be required in November, but the mailing didn’t reach voters until after the law had been blocked. In a more malicious example, a truck was spotted in several Pittsburgh neighborhoods with a large sign posted on it reading “PHOTO ID REQUIRED TO VOTE” the week before the election.

To combat both deliberate and inadvertent misinformation, Election Protection partners in the state, disseminated mailers, radio ads, and automated telephone calls to spread the correct word about ID.

Litigation concerning the constitutionality of the law and its implementation in future elections is ongoing, with a trial likely to occur in Summer 2013.

ELECTION DAY

Voter Identification

On Election Day, the voter identification saga continued, but was also joined by a bevy of other unanticipated voting rights issues. From the time the polls opened, it was clear that confusion among both voters and poll workers persisted over the identification law – as did the campaign of misinformation. Many voters across the state were greeted by signs at their polling place stating that “ALL VOTERS must show one of the following approved forms of Photo Identification to vote” as were provided to polling places in Dauphin County. A voter in Ambler, Pennsylvania in Montgomery County reported a sign at her polling place that said, “Have your ID out to vote.” The voter, who was informed about the law’s injunction, felt that the sign was misleading and intimidating, and complained to the polling place’s Judge of Elections. The Judge told her, however, that the county made poll workers put the sign up. The voter was persistent and, with the assistance of an Election Protection volunteer,

argued with the Election Judge about the signs, but the judge said the signs wouldn't be removed. Finally, misinformation even came from the state itself, with the Department of State issuing a mailing the weekend before the election telling voters that "If you want to vote, SHOW IT....Under a new law, voters are supposed to show a form of ID." The notice contained no mention of the identification law's injunction.

In addition, voters across the state reported confusion over being asked for photo ID, even though the law did not require voters to produce it, with many voters justifiably fearful that the request was confusing and deterring voters who did not have ID. Many informed voters asserted their rights, declining to show identification when it was asked of them. In some instances, these voters reported poll workers becoming defensive and hostile, and asking voters why they would not just cooperate, and accusing them of being "difficult."

One voter in Highland Park, a neighborhood of Pittsburgh, was told at the polls that identification was required to vote. As she was not a first time voter, this requirement did not apply to her, however, and she was steadfast in asserting her right to vote without showing an ID. It was only after the women "made a scene" that another poll worker approached her and agreed that she did not need ID. The voter was able to vote successfully.

Most concerning, some poll workers proceeded as if the injunction were not in place, in fact requiring voters to show photo identification in order to get a ballot. One voter in Erie County, Pennsylvania was turned away for lack of identification and told that "some places may not require ID, but this one does." It was not until he returned with a newspaper article about the injunction of the photo identification law that he was able to vote.

Throughout the identification chaos, hundreds of volunteers were at the polls, informing voters of their rights and providing them correct information about the voter identification law. They were integral in getting misleading signs taken down and channeling poll worker problems to Election Protection command centers in Philadelphia, Harrisburg, and Pittsburgh so that Election Protection leadership could talk to local officials.

Voter Registration and Provisional Ballots

Another problem that plagued Pennsylvania elections this year was voter registration and provisional balloting. As voting began, it became apparent that unprecedented numbers of voters were not appearing on the poll books. In some cases, this was a problem of poll workers not checking the supplemental pages that are given to polling places of late-processed registrants. In one Philadelphia precinct, a Judge of Elections acknowledged that she had simply asked many voters to fill out provisional ballots without checking the supplemental list. In other cases, the supplemental pages were altogether missing from poll books, as

happened in numerous districts across the state. One voter at Harrity Elementary School in Philadelphia was told she was not on the rolls and was not offered a provisional ballot. She returned to the polling place to request that the poll workers check the supplemental pages, only to find that the polling place did not have them on hand. In still other locations, long-time voters who were in the correct polling place were also missing from the regular poll books. One voter, who said he had voted for the past 26 years, reported his name missing from the poll books. Several others in counties across the state reported that although their names appeared in the Department of State's own voter registration database, they were not on the rolls and were not allowed to cast regular ballots. The Election Protection Hotline even received calls from Judges of Elections who wanted to report problems to which their county officials had not been responsive. One judge at the Pathway Church precinct in Philadelphia called to report that many newly registered voters who even came with their voter registration cards in hand were not on their lists. Another Philadelphia judge reported the same problem, and noted that she had been unable to get through to the county to resolve the issue.

Election Protection volunteers were instrumental in assisting voters with registration concerns. Throughout the day, they used the Hotline and their smartphones to locate voters' registration records on the Election Protection app to verify that voters were registered and in the right place. In some instances where voters were clearly registered but still not found on the poll books, Election Protection volunteers helped voters use the app to present Judges of Elections with proof of their registration, who in some cases then permitted voters to cast a regular ballot. And where poll workers turned away voters who did not appear on the rolls, volunteers helped encourage voters to cast provisional ballots before they left.

Although the total number of voters who were disenfranchised due to missing registration records can never be ascertained, and the number of provisional ballots cast across the state is still coming in, it is clear that record numbers of Pennsylvanians were affected. In Philadelphia alone, more than 27,000 provisional ballots were cast on Election Day, approximately double the number cast in 2008. Of these, approximately 5,000 were voters whose names were improperly omitted from the poll books, many apparently due to a Department of State programming error.

Polling Place Problems

A third major cause for concern in Pennsylvania was the availability of language assistance, particularly (though not exclusively) in Philadelphia, Berks, and Lehigh Counties, which are covered by section 203 of the Voting Rights Act. Specifically, Sections 203 and 4(f)(4)

of the Voting Rights Act (VRA) require that these covered jurisdictions provide all voting information such as registration or voting notices, forms, instructions, assistance, and ballots in the applicable minority group language. According to the October 2011 determinations issued by the U.S. Census Bureau, the Counties of Philadelphia, Lehigh, and Berks have an obligation to provide materials and assistance to Spanish-speaking voters. Additionally, Section 2 of the VRA prohibits voting practices and procedures that discriminate on the basis of membership in a language minority group.

However, in many locations, voters reported that there were no interpreters on hand to assist Spanish-speaking voters. One Spanish-speaking voter in Philadelphia reported to the Spanish-language Election Protection Hotline that the Police Athletic League did not have Spanish interpreters as required by law, and that Spanish-speaking voters were becoming frustrated by the lack of assistance. To make matters worse, this polling location had a history of not allowing voters to select their own interpreter – such as a family member – to assist them in casting their ballots, as is required under federal law.

Of course, the lack of language assistance was a problem in itself, as federal laws mandate such support. But the lack of interpreters and other language assistance also exacerbated the problems noted above with registration and identification. For example, a Spanish-speaking voter in Allentown, Pennsylvania in Lehigh County reported that poll workers could not locate her name on the list, but that there were no interpreters for Spanish speakers to help her resolve the issue at the polling place when she was told she couldn't vote. Thus, Spanish-speaking voters may have particularly borne the brunt of Election Day problems.

Many other polling place and voting issues added to these two systemic issues. Several polling places, for example, reported long lines as a result of the identification and registration issues. There were also numerous instances of polling places being relocated without notifying voters. In Pittsburgh, for example, at the University of Pittsburgh campus, many students showed up at the polling place on their registration cards only to find that their precinct had been moved, though thanks to Election Protection volunteers on hand, they were able to successfully redirect many of them to the correct location. Also, in Philadelphia, one polling place had been moved to a different building without notifying voters or other officials. The Department of State's own website reported the wrong building on Election Day.