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

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

FROM: Senator Doug Mastriano

DATE: July 7, 2021

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

Chairwoman Deeley,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In addition, please instruct all employees of the Commissioner's Office to cooperate and, if requested, participate, under the direction of the Intergovernmental Operations Committee, or its designees, in the inspection, testing, or sampling of the items.
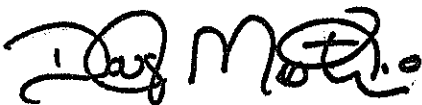
Please respond declaring that the Commissioner's Office will plan to comply with the Senate Intergovernmental Operations Committee's request by **July 31, 2021** with a proposed timeline regarding inspection, testing, or sampling of items.

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

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

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

Sincerely,

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

Exhibit A

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

1. All ballot production, processing, and tabulation equipment from satellite election offices and any other location used to count votes.

2. The software and bootable media, hardware tokens (security keys) for the equipment described in item #1, and the election management system that was used.

3. Forensic images of all election equipment:
   ➢ Servers – Election management server, file servers, network servers, dial-up servers, or any other server utilized for the processing or storage of election results or data required to run an election.
   ➢ Tabulators – high speed and normal speed
   ➢ Ballot marking devices – including accessibility, or for normal voting
   ➢ Desktops & laptops – Utilized within the Election Management System for any purpose including but not limited to: EMS Client, adjudication, registration, creation of ballots or designs, processing results, uploading results or anything similar
   ➢ Signature matching and ballot sorting equipment
   ➢ Switches, routers or other network equipment – This includes normal networking equipment as well as any specialized systems such as Intrusion Detection Systems, Firewalls, Intrusion Prevention Systems or similar

4. Forensic images of all removable media (including, but not limited to USB thumb drives, external hard drives, backup tape cassettes, memory cards, PCMIA cards, Compact Flash, CD/DVD or similar) used as part of the election process or to load software, configuration, or programming.

5. Forensics images of the firmware of any device associated with the election that does not have a hard drive; including any tooling required to extract that firmware, if applicable.

6. Forensic images of all SIM cards used for wireless 3G/4G LTE/5G communications.

7. Forensics on all machines utilized for absentee ballot processing to include:
   ➢ All logs from the system
   ➢ Backups of the system
   ➢ Offsite cloud storage associated with the system
   ➢ Media used to transfer data (USB drives, compact flash, external hard drives)

8. Logs from all routers, switches, firewalls, IDS, IPS or similar devices. This includes, but is not limited to:
   ➢ Netflows (or equivalent)
   ➢ DHCP logs
   ➢ Access logs
   ➢ VPN logs
   ➢ PPP logs
   ➢ RDP logs
   ➢ Splunk logs

➢ Any remote administration tool logs

9. Logs from all computer systems, servers, desktops, laptops, or similar including but not limited that was used in the design, management, and running of the election:
➢ Windows Event logs
➢ Access logs
➢ Firewall logs
➢ IDS / IPS / Malware / Virus Scan Logs
➢ Database logs
➢ All logs generated from applications associated in any way with the election

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

11. Election Log Files XML, EML, JSON, DVD and XSLT other election files and logs for:
➢ Tabulators
➢ Result pair resolution
➢ Result files
➢ Provisional votes
➢ RTM logs
➢ SQL database files and logs
➢ Signature checking & sorting machine

12. List of all IP addresses utilized at any location where election equipment was utilized during the entire election period. This includes the time from when the election equipment was ready to receive a cast ballot to when the certified results were officially published. This shall include, but is not limited to:
➢ IP addresses of any cellular modems utilized by voting equipment
➢ IP addresses of any routers utilized at any location where votes were cast, counted, tallied, or reported
➢ IP addresses of any dial-up connections utilized
➢ IP addresses of any computers utilized to process, send or upload election results

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

14. Election Settings:
➢ Ranked profiles and entire change history of audit trail logs
➢ Ranked contests and entire change history audit trail logs
➢ Rejected ballots report by reason code
➢ All configuration files utilized to control the election

15. Accounts and Tokens:
➢ Username & Passwords (Applications, Operation Systems, Routers, Switches, Firewalls, etc)
➢ File and/or Hardrive Encryption Passwords or keys (Bitlocker, Veracrypt, Etc)
➢ Security Tokens (iButton, Yubikey, SmartCard, Etc)

16. ES&S Express VoteXL Specific:

> - All Paper Vote Summary Cards
> - All USB Flash Drives

17. Voter Rolls:
> - Database of voter rolls
> - Forensic Image of computer/device used to work with voter rolls
> - Copy of media device used to transfer voter rolls

18. Records required from the voting system- Daily and cumulative voter records for those who voted with sufficient definition to determine:
> - Voter's name and Registered Voting address
> - Address for correspondence (mailing address)
> - D.O.B.
> - Voter ID number
> - How Voted (mail, in-person early, in person Election Day)
> - Where Voted (if applicable)
> - Date voted (if applicable)
> - Party affiliation (if recorded)
> - Ballot by mail Request Date
> - Ballot by mail sent date
> - Ballot by mail voted date (if applicable)
> - Ballet cancelled date (if applicable)
> - RAW, HTML, XHTML and SVG files (Ballot Images)

19. Access needed to physically and forensically examine all date and time-stamped paper ballots as required:
> - Voter Tally Paper Rolls, Test Ballots, Ballot Test Matrix

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

21. All ballots cast or attempted to cast during the 2020 General Election. This includes, but is not limited to:
> - Mail in and absentee ballots
> - Provisional Ballots
> - Early Voting Ballots
> - Accessibility Ballots
> - Spoiled Ballots
> - UOCAVA ballots
> - Election Day Ballots

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

23. All envelopes for mail in and absentee ballots.

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

25. All cartridges from all voting machines and scanners.

26. All affidavits for assistance.

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

28. All training materials used to train County Employees including temporary employees, Judges of Election, Inspectors, Clerks, and all persons who staffed the satellite voting offices.

29. All duplicated ballots and all logs that would allow the duplicate to be compared to the original.

30. Chain of custody records and procedures for all ballots from the start of the election through the current date.

31. All pollbooks from all precincts, wards, and divisions.

32. All supplemental pollbooks from all precincts, wards and divisions.

33. A list of all voters who cast an absentee or mail ballot and voted on the machines at the polls on Election Day.

34. All contracts and agreements between the Philadelphia Commissioners Office and the City of Philadelphia Office of Innovation and Technology.

35. All contracts and agreements between the Philadelphia Commissioners Office and the City of Philadelphia Office of the Managing Director.

36. All contracts and agreements between the Philadelphia Commissioners Office and the City of Philadelphia Office of the Mayor including all Departments under the direction of the Mayor.

37. All contracts and agreements between any vendor or contractor that supplies voting equipment of any type, software utilized in the election process, ballot paper, election design support, election equipment support, or election support. This includes, but is not limited to contracts dealing with:
   ➢ Ballot Marking Devices, Tabulators, Election Management Systems, or similar
   ➢ Election Design Software, Tabulation Software, Voting Registration Software, Duplication Software, Adjudication Software, Signature Verification Software, or anything similar related to the election
   ➢ Ballot Paper, Printing Services, Mailing Services, Scanning Services, Address Validation Services
   ➢ Election Design Services, Election Equipment Repair, Election Equipment Service, Election Processing, or other Election support services
   ➢ Internet service provider, cellular service provider

38. Timeline (1 month prior to the election to 1 month after the election) for each location that utilized a piece of election equipment that includes:
   ➢ Who accessed the equipment (the organization they represent and their position in the organization), on what date, for what purpose, what electronic media was used, and what records were kept
   ➢ Any tests that were performed during the access of the equipment (voters on election day are not to be included)

39. A complete end-to-end election setup for use in a laboratory:
   ➢ This would include all the equipment necessary to simulate an election and recreate the precise scenarios of election day in 2020
   ➢ Central Server, tabulators (high speed and normal), poll pads, etc.
      o This specifically includes all of the passwords, security tokens, physical keys, key fobs, etc., needed to use each piece of equipment
   ➢ Instruction manuals on how to use the end-to-end setup
   ➢ Duplicate copy of election tabulator bootable media for multiple selected locations
   ➢ Ballots used in the locations selected

40. All precincts return sheets with the paper tapes:
   - Any return sheets that were unusable, needed to be recreated, or fixed in somehow should also be included with their notes (front and back)

41. Dates/times of the technicians/people of LAT testing that had access to election equipment.

42. Dates/times of software updates on election computers and servers.

43. Dates/times of certification of the equipment (servers, election computers, election hardware devices).

44. Details of all CTCL related activities, included but not limited to:
   - Equipment purchased by CTCL
   - Number and locations of drop boxes installed
   - List of resources CTCL had access to, including voter rolls or other data

45. Details and data surrounding the SURE system including:
   - A full copy of the database holding all records and change records in the SURE system
   - A copy of all logs showing all changes to the voter rolls as well as the username, name, IP address, or other details of the individual making the change
   - A list of individuals and organizations with access to the SURE system and any of its Application Programming Interfaces
   - Manuals and programmer documentation for interfacing with the SURE system

46. List of where the clerk stores all election equipment and data along with list of individuals that have access to these areas.

47. Information related to voting system design, architecture, and configuration.

48. Information pertaining to cybersecurity protocols and settings put into place.