



May 31, 2006

Mr. John DeFazio  
Chair of Board of Elections  
Allegheny County, Pennsylvania  
Elections Board  
604 County Office Building  
Pittsburgh, PA 15219

Dear Mr. DeFazio:

I am writing on behalf of People For the American Way Foundation (“PFAWF”) and voters across Allegheny County concerning the serious problems experienced by many County voters during the recent May 16 primary election. As you are aware, the County decided only five weeks before the election to replace its lever voting machines with a combination of iVotronic electronic voting machines and optical scan ballots. Although a federal court permitted this late change to go forward, many County voters were concerned about the likely problems as a result. Accordingly, PFAWF conducted a sample monitoring program in 15 county election districts to survey voters on their experience. Coupled with reports from other County organizations, such as the League of Women Voters of Greater Pittsburgh and VotePA, statements by election officials, and media reports, these surveys document significant problems during the primary that must be remedied well in advance of the November elections.

Most of the problems related to the voting technology used for the first time during the primary were directly connected to the lack of adequately trained election workers regarding the use of the new voting machines. Procedures for confirming their vote were unnecessarily complicated and daunting for many voters; election and poll workers were too few and inadequately trained; same-day remedies for fixing the electronic machines were rare and in some cases possibly purged votes in attempting to remedy the “zero-count” problem for the machines. Specifically, the problems encountered can be divided into four categories:

- 1) Problems experienced by disabled voters;
- 2) Barriers preventing voters from being able to independently and privately verify their ballot;
- 3) Lack of compliance with certification and other standards, including late poll openings; and
- 4) Problems undermining reliability and voter confidence in the electoral process.

Specifics concerning these problems, as well as recommendations for helping resolve them are discussed below, along with several news reports concerning these problems and a declaration from a County election judge. Along with other Allegheny County voters, we hope to work collectively with you to resolve these problems before November, and thus help bring increased numbers of voters to the polls and foster an atmosphere where voters have confidence in our electoral system.

### **1) Problems experienced by voters with disabilities**

The ability of individuals with disabilities to privately and independently cast their vote, as provided by federal law, is of vital concern to all Americans. Unfortunately, a number of problems were experienced in this area. In Ward 4 District 11, a voter in a wheelchair with limited mobility was rushed out of the voting booth and did not get the opportunity to complete her ballot. Visually impaired voters at Craig Towers reported that they had substantial difficulties with the iVotronic machines, and could not understand all of the commands given via the earphones. One voter also noted that it was extremely difficult, took quite a bit of time, and it was not easy to decipher the process. Another voter in Ward 4, District 10 complained that there were no provisions for the blind, and as a result, he was forced to have a friend read the names off of the ballot for him.

Although federal funds have been allocated to make polling places physically accessible, several persons reported that their polling sites did not have a machine that was wheelchair accessible. It was also reported that some of the poll workers were too intrusive and assumed that a blind voter in Ward 2, District 21 needed help and proceeded to follow him into the booth, violating his privacy.

As the County prepares for November, it is crucial that a sufficient number of accessible voting systems be made available at all polling places so that disabled voters can exercise their right to vote. In addition, it is clear that more training is needed for election workers, with respect to such matters as helping disabled voters cope with voting technology (including simpler instructions for visually impaired voters), allowing persons with disabilities extra time in the polls, and understanding the distinction between being helpful and being intrusive.

### **2) Barriers preventing voters from independently and privately verifying their ballots**

It is imperative that the voting processes are as secure as possible to avoid problems like those encountered in the past. One of the most frequent complaints we received was that many voters were concerned that their votes were not counted because of the last step in the process for the iVotronic machine that many persons found confusing. For example, one voter at Ward 5, District 12 stated that her machine started to ring a few minutes after she assumed she had completed the process and she had to be called back in to confirm her vote.

Another voter stated that her vote was cast before the tech support people came out and reset the machine she voted on. She strongly believes that the technicians restarting the machines canceled her vote. A related deficiency identified was the issue of the “zero-count.” A voter from Ward 5, District 12 stated that poll workers informed him that they did not get a “zero-count” and was worried that once the machine was reset that the previous

votes were not counted. This problem was prevalent throughout the county and was also reported by the local press. The lack of time to train poll workers thoroughly so that this function is understood is perhaps one of the causes for the problem. This will require careful, mandatory training so that poll workers can verify their ability to handle this function prior to the November elections.

Voter privacy was also reported as a problem. For example, one voter at Saint Agnes church stated that she felt extremely uncomfortable without being behind a curtain and that while poll monitors were giving instructions while standing over her, it was very easy for the workers to see who she was voting for. Steps must be taken to ensure voter privacy.

### **3) Lack of compliance with certification and other standards, including late poll openings.**

The proper administration of elections is crucial to maintain the security of the election process. But observations from Ward 4, District 10 and Ward 5, District 12, as well as statements by an election judge affiliated with VotePA (whose declaration is enclosed), strongly indicated that there were two distinctly different types of iVotronic voting machines being used. The election judge could not identify the machine that was certified and the other that was not. Much of this confusion is highlighted in the attached declaration where he explains in detail his concerns about the possibility of two iVotronic machines. Of course, only one iVotronic system has been properly certified in Pennsylvania and if two systems were used, that would violate state standards. We call on the county to make a clear and public determination about whether there were two different voting systems used and, if so, to take steps to guarantee that this does not happen again.

Another problem identified was a voter who contacted us after the elections and stated that he requested a paper ballot at his site and was told by a poll worker that he was not allowed to use a paper ballot and he had no choice but to use the electronic machines. We understand, however, that voters in Allegheny County were supposed to have had the choice to fill out a paper ballot. In light of the problems with and lack of confidence by many voters in the electronic machines, we recommend that in November, voters should also have a choice as to whether or not they wish to use the machines or the paper ballots. Poll workers must be fully aware of all of the ways in which a voter can cast a ballot and must be thoroughly and properly trained for dealing with Election Day scenarios that are new and uncomfortable for many voters.

In examining the sample polling sites in which our volunteers were located there were 10 broken machines in 6 of the 15 voting districts that we monitored. This is an extremely significant number for our small sample size. Evidence that this was not an isolated incident was further reported on by the *Pittsburgh Post-Gazette*. The *Post-Gazette* article highlighted that more than 100 machines had problems the morning of the election. The article also quotes County Chief Executive Onorato, stating that “120 machines wouldn’t produce ‘zero-count’ printouts to start the day confirming that there were no voters registered in the machines.” By 11 a.m. on Election Day, the article also reports, there were still more than 20 polling places with problems. Such a number of broken machines are unacceptable. It is also significant to note that the districts that had almost no complaints were also districts

that had an extremely low voter turnout. That will not be the case in November when the mid-term elections will draw much larger crowds to polling sites.

We received four reports from 15 of our election sample survey sites about the late opening of polling places. For example, a voter from Saint Hyacinth in Ward 4, District 2 stated that the polls did not open until 7:20 a.m. In a report from the League of Women Voters Pennsylvania, a poll worker at the Penn Center stated that they had an extremely late start. At that point; voters were directed to call the Elections Division to express their dissatisfaction, where they instructed the voters to “put it in writing.”

Additionally, we documented complaints about voters concerned about using the paper ballots. A voter from Ward 13, District 1 stated that there were no machines working at her polling site and she was concerned about the security of the boxes used to hold the paper ballots. She stated that the ballot boxes were left unattended for the time she observed them in the polling site, and that there was not a locking mechanism to ensure that ballots could not be removed later. Enclosed press reports also document the woeful lack of security for paper ballots. This is unacceptable. Higher standards must be implemented by the County for collecting and securing the boxes used to hold the paper ballots.

#### **4) Problems undermining reliability and voter confidence in the electoral process**

The overall effectiveness of the voting process is dependent upon a variety of factors, not the least of those being the proper training of poll workers and elections officials and the education of voters about new registration and voting requirements.

One voter polled at Cheswick stated that in attempting to vote in the Lieutenant Governor race she pressed the on-screen button for the candidate listed just below the candidate endorsed by the Democratic Party. Rather than her candidate's box being checked, however, a checkmark appeared in the box for the candidate appearing above her preferred candidate on the list. She then consistently tried to remove the checkmark and eventually had to call upon an Elections Judge for help. He also tried several different combinations of pressing buttons above and below the box that was selected, and was finally able to get the checkmark to go next to the correct candidate's name. Had it not been for this voter's perseverance, she would have been unable to vote for the person she intended to vote for and in persevering she was forced to allow a violation of her privacy. Another voter in Ward 5, District 12 found it extremely difficult to decipher whether or not he made the confirming vote. He stated that he had a problem understanding that to confirm his vote he needed to press a button that was not particularly obvious, nor did it have an identifying label. Problems like this simply cannot occur.

One of the significant problems that the Board must attend to is the issue of the failure to promptly secure and count some 2,300 absentee and optical scan ballots, as reported by the *Pittsburgh Post-Gazette*. Of the 4,000 absentee ballots cast during the May 16 primary, 750 reportedly went uncounted because of errors by poll workers. Additionally, 1,571 optical-scan ballots were not run through counting machines until Wednesday for the same reason. In some of the close races in the county, 2,300 ballots will make a significant difference in the outcome of those races. To prevent a repeat of the 2000 and 2004 elections,

the Board must make a concerted effort to secure and organize the procedures for tabulating all of the absentee ballots in a method that is secure, prompt, and easily verifiable.

A number of other problems undermining voter confidence were also reported. In Ward 4, District 11 many voters stated that their poll workers did not seem to have the skills required to help solve problems and that there was a general distrust of the machines. The best possible solution to improve the confidence and total security of Allegheny County elections would be providing a voter verified audit or paper trail for each ballot cast, whether for optical scan ballots or for the iVotronic system. It is clear that before November, the technical problems with the voting process must be remedied and election workers must be adequately trained so that all voters will have confidence in the County's elections.

### **Conclusion**

Every eligible Allegheny County voter must be guaranteed the right to vote and have that vote counted. Our volunteers have gathered concrete evidence and deepened our understanding, and we hope yours as well, as to the problems facing County voters, ranging from confusion about machines and their certification, to problems related to final vote confirmations, to problems with access to the ballots for persons with disabilities. We and voters throughout the County urge you to take prompt steps to remedy these problems, and we stand ready to work with you to do so.

Sincerely,

Sharon Lettman  
Director  
National Programs and Outreach  
People For The American Way Foundation

Celeste Taylor  
PA State Coordinator  
For African American Outreach  
People For the American Way  
Foundation

CC:

David B Fawcett, County Councilman - Member of the Board of Elections  
Dan Onorato, Allegheny County Chief Executive and Member of the Board of Elections  
Mark Wolosik, Elections Division Manager  
Michael J. Wojick, County Solicitor