

## **LOST AND LATE IN 2016: *Why thousands of Pennsylvanians weren't able to cast a ballot at their poll on Election Day***

**SUMMARY:** Fourteen nonpartisan organizations ran a coordinated voter registration effort in 2016 that collected 24,996 applications. However, some of these applicants were not added to the voter rolls for weeks or even months after their applications had been submitted. Some were never registered at all.

Leaders from the organizations asked Keystone Votes—a coalition of 39 member organizations dedicated to modernizing elections—to conduct an analysis to determine what happened. Two key problems have been identified:

### Voter registration applications processed too late:

55,708 applications statewide weren't finalized by counties until within eight days of the general election: 46% were ultimately added to the rolls, but too late to receive an identification card or appear in the main poll book. The majority of these late processed applications—17,000—were in Philadelphia.

### Voter registration applications potentially lost or unprocessed:

Among more than 2,000 voter registration applications submitted in eight large counties across the state, more than 350—or 19%—were potentially lost or misprocessed. In addition, three small non-partisan voter registration drives are certain that the Philadelphia City Commissioners' office lost or incorrectly entered about 15% of applications they submitted.

**At least 26,000 Pennsylvanians were potentially disenfranchised, despite having submitted a valid voter registration application on time.** That number could increase if the Department of State or other agencies investigate further.

**The majority of disenfranchised voters are in Philadelphia. An immediate remedy is required in that county. More information follows in this report.**

The problem of lost or late-processed applications experienced in the other sixty-seven counties is likely the result of systemic challenges. These issues can and should be addressed by the Pennsylvania General Assembly by:

- 1) Providing funding for simple technological updates to county and state databases that would drive more registrants to online voter registration
- 2) Providing county election offices with funding for extra staff in busy years
- 3) Updating the 1937 election code, as it creates unnecessary bureaucracy which leads to delays and mistakes.



THE COALITION FOR MODERN ELECTIONS

[www.keystonevotes.org](http://www.keystonevotes.org)

May 23, 2017

## PROBLEM 1: VOTER REGISTRATION APPLICATIONS PROCESSED LATE

A review of statewide data provided by the Pennsylvania Department of State at the request of the Public Interest Law Center found that 25,429 complete and on-time applications were not completely processed by counties until October 31, 2016 or later. These voters likely experienced problems, principally:

1. **Late distribution of voter identification cards:** Registrants whose applications were finalized so close to the election likely did not receive voter identification cards. These cards provide voters with written verification of their eligibility to vote, as well as their precinct name and location. Without receiving an identification card, some voters may have assumed they were not registered and thus did not attempt to vote at all. And not providing an identification card to a voter before the election potentially conflicts with the Pennsylvania Election Code.<sup>1</sup>
2. **Voters relegated to supplemental poll books:** The names of registrants who were not added to the State's master voter file after October 31, 2016 were likely not included in counties' pre-printed poll books used on Election Day; instead, they were part of a supplemental poll book.

The supplemental poll book creates confusion for volunteer election workers, especially during high turnout presidential elections. Some poll workers know to find a voter in the supplemental book if they are not listed in the pre-printed poll book. Voters listed in either book cast a regular ballot. However, some voters may have been inappropriately required to cast a provisional ballot. Other voters turned away altogether.

Across the state, and in the vast majority of counties, very few voter registration applications were added to the State's master voter file after October 31. The statewide average was only 0.4%. Delaware County, with 340 voter registration applications processed after the October 31, 2016 deadline, exemplifies this 0.4% average.

Five of the state's twenty largest counties beat the .04% average:

- Cumberland: 0.03% (or 15) processed late of 43,605
- Beaver: 0.06% (or 12) processed late of 18,747
- Lackawanna: 0.09% (or 23) processed late of 25,627
- Lehigh: 0.1% (or 66) processed late of 66,249
- Dauphin: 0.1% (or 23) processed late of 49,594

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<sup>1</sup> After accepting an application and entering it into SURE, the commission must mail a voter identification card to the voter, 25 Pa.C.S.A. § 1328(c).

However, voter registration applications that were not fully processed (meaning that the county decided to accept or reject the application) until on or after October 31 occurred at significantly higher rates in five counties:

County	Rate of good applications processed late	Discrepancy between County rate and statewide average	Number of good applications processed late
Philadelphia	3.8%	8.5x higher	17,164
Mifflin	3.4%	7.5x higher	192
York	2.8%	6x higher	1,440
Montgomery	2.0%	4x higher	3,074
Centre	1.3%	2.25x higher	455

The statewide late processing rate average drops from 0.4% to 0.2% when the five counties above are removed. Allegheny County, with 386 late-processed applications out of 163,949 total, exemplifies this 0.2% average.

## PROBLEM 2: LOST VOTER REGISTRATION APPLICATIONS

The Committee of Seventy and volunteers from the University of Pennsylvania School of Law analyzed a sample of 2,149 voter registration applications<sup>1</sup> drawn from non-partisan voter registration drives<sup>2</sup> conducted in eight large counties:

- 87% appeared to be complete and valid; 13% did not.
- Of the 87% complete applications that appeared to contain all of the statutory information required to have been added to the rolls:
  - 1,528 were added to the voter registration rolls.
  - 352 voter registration applications were not.

This sample was not representative and therefore cannot be extrapolated to the voting public at large. **However, it is alarming that 19% of valid and on-time applicants may have never been registered to vote.**

<sup>1</sup> All registrants in the sample submitted on-time applications. Each registrant was searched in the “FIND VOTER REGISTRATION STATUS” look-up tool on the Pennsylvania Department of State website. Additionally, a copy of the original paper voter registration application form for each applicant was reviewed to identify any possible errors such as illegibility or missing essential information such as date of birth, signature or address.

<sup>2</sup> These registration drives were led by the following organizations: CASA, Community Voters Project, Make the Road PA, PICC, and Pittsburgh United.

The problems in Philadelphia County were particularly egregious:

- **Asian Americans United:** On 7/21/16 Asian American United staffer Wei Chen delivered a package of registration applications to the Philadelphia City Commissioners' Office. A staff member accepted the package and confirmed that it contained 37 applications. As of 9/21/16, none of the applicants appeared in the state's "FIND VOTER REGISTRATION STATUS" web tool. Chen called the Commissioners' office, where a staff member reported that they had been lost and asked Chen to provide photocopies of the applications so the office could process them. As of May, 5 of the 37 have still not been added to the rolls.
- **Project HOME:** On 10/11/16 Project HOME submitted 131 complete, valid registration applications to Voter Registration staff in the Philadelphia City Commissioners' office on Delaware Avenue. On 2/9/17, Project HOME staff reviewed copies of these applications and determined that 29 of 131 applications, over 22%, were not on the rolls.
- **Penn Law American Constitution Society:** Student leaders could not find 16% (13 of 83) of applications submitted in Philadelphia using the state's lookup tool. On 1/17/17, they met with Deputy Commissioner Seth Bluestein in Commissioner Al Schmidt's office. Bluestein determined that four of the applications had been approved but entered incorrectly by staff; the remainder could not be found. He also stated that of the 197,222 total applications received in 2016, 49,627 were not approved. At 25.1%, if true, this rejection rate is twice the statewide average.

#### **ADDITIONAL INSIGHTS:**

Two other issues emerged that warrant investigation by individual county election officials and the PA Department of State:

- **Managing rejected voter registration applications:** In 2016, 195,312 voters across the Commonwealth who tried to apply for or change an existing voter registration were rejected. 59,489, just over 30%—forgot to fill out just one box on the form. How many registrations could have easily been approved if counties had more leeway to address obvious omissions?
- **Inconsistent application of HAVA law:** The Department of State's voter registration activity data demonstrates disparate treatment among counties: some reject registration applications that fail the HAVA check<sup>1</sup> whereas others move these applicants into "pending" status.

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<sup>1</sup> A 2002 federal law (the Help America Vote Act, or HAVA) requires counties to check all applicants' driver's license numbers and/or social security numbers against a statewide electronic registry. However, if

## **RECOMMENDATIONS FOR NEXT STEPS:**

In our democracy, the prospect of even one vote going uncounted merits follow-up; 26,000 potentially disenfranchised voters require it.

In Philadelphia, an immediate remediation plan is required, not to mention a determination of the total number of potentially disenfranchised voters.

The rate of problems outside of Philadelphia is smaller, but systemic.

Further—and more comprehensive—investigation of potentially lost or late-processed voter registration applications across the state is required.

Here are some initial recommendations to solve the problems named in this report:

### **The Pennsylvania Department of State should:**

- Issue guidance to county Election Directors to standardize: 1) the timeline for voter registration processing, and 2) county election office hiring, recognizing the seasonal nature of voter registration work. Research might clarify, for example, the per capita needs of a voter registration office during presidential cycles.
- Offer counties simple, scalable technological solutions to allow voters to upload missing information rather than spending time and money on mail and phone-based follow-up, or outright rejecting applications that are missing this information. 8,659 voter registration applications were rejected in 2016 because the signature field was blank. Another 16,499 were rejected because they did not respond to a mail piece from their county asking them to correct a mistake.

### **The Governor and the executive branch of state government should:**

- Significantly reduce paper-based registration. The Pennsylvania Department of State's decision to build the most innovative and robust online voter registration system in the U.S. was an important first step. Voter registration volume was significantly greater in 2016 than in 2012 (because of online voter registration). However, hundreds of thousands of voters still relied on traditional paper voter registration forms. Paper voter

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these numbers don't match, HAVA says simply that the applicant must be assigned a unique identifier—not that the applicant should be rejected. Of note, the HAVA check is largely automated in the online voter registration system.

registration forms are costly to process and more prone to error.

To make voter registration a truly paperless process, as many State and County agencies as possible should automate voter registration. Simple technical updates to existing database programs are low-cost and the registration applications obtained through these means are much less prone to being lost or processed late.

**The General Assembly should:**

- Fund the entire amount requested by the Department of State in its FY 17-18 budget request.
- In consultation with the state's county election directors, the Department of State, and advocates, update the 1937 election code and voter registration statute. Much of current election practice is rooted in an antiquated understanding of technology and communications, which poorly serves voters in the 21<sup>st</sup> century.
- Provide additional funds to the Department of State and to County election offices to hire additional staff during busy elections, not to mention provide flexibility for counties to peruse innovative ideas such as electronic poll books which would obviate the need for a 30-day pre-election registration deadline. Traditional paper poll book print deadlines should not drive voter registration application deadlines.

**In conclusion,** At least 26,000 voters were likely disenfranchised in 2016. The high volume of paper voter registration applications in presidential years is causing delays that prevent voters from having a normal voting experience. It is also possible that counties sometimes lose voter registration applications.

One county stands apart from the rest. In Philadelphia, the number of applications approved too late was twice the statewide average. And it is possible that between 2 out of every 10 voter registration applications submitted in Philadelphia were lost. Local leaders need to investigate further.

While the problems were particularly egregious in Philadelphia, all across the state, county election offices are facing challenges they cannot overcome on their own. These are important to address for the sanctity of our democracy. The Pennsylvania General Assembly—with the assistance of the Pennsylvania Department of State, Governor Wolf, elected county leaders, the state's election directors, and advocates—must modernize Pennsylvania's elections and guarantee that all voters have access to the ballot box.

## Appendix A: Penn Law American Constitution Society President Glen Forster Letter to City Commissioner Al Schmidt:

Dear Commissioner Schmidt,

Thank you for meeting with me on January 17th concerning the major problems the Penn Law American Constitution Society encountered with the Philadelphia Voter Registration Office. As you know, we held voter registration drives on campus in advance of the May 2016 Primary (the “Spring Drive”) and the November 2016 General Election (the “Fall Drive”). Numerous students who submitted a registration form in the Spring Drives told us that on Primary Day they were unable to vote because they were not registered. Because of these issues, in the Fall Drive we kept meticulous records of the students who submitted a registration form and followed up with your office to see if these students were successfully registered. **Tragically, of the 83 forms we turned in following the Fall Drive, 14 forms (15.6%) were not successfully entered into the SURE system—meaning that the students were not registered to vote.**

Upon further investigation, you determined that four forms were entered incorrectly by the Philadelphia Voter Registration Office (the “Registration Office”). Additionally, nine other forms could not be found in the system, which means that they were either lost by the Registration Office or entered so incorrectly that they could not be found via searching. Furthermore, your office determined that the forms of three other Penn Law students, who registered independently of our voting drives, were entered incorrectly by the Registration Office. It is unacceptable that the Registration Office operates with such gross negligence.

**Additionally, I was deeply concerned to learn from your office that in 2016, of the 197,222 new voter registration applications processed by the Registration Office, 49,627 forms were not successfully entered into the voter registration system. This amounts to 25.1% of all new registrations forms processed by the Registration Office.**

It should not go unacknowledged that an applicant's failure to write down their social security number or date of birth, an applicant's failure to sign or submit a signature, or an applicant's undecipherable handwriting could cause forms to not be entered successfully. However, the mishandling of forms submitted by the Penn Law American Constitution Society and other Penn Law students suggests that many of the 49,627 unsuccessful registrations citywide could also be due to transcription errors made by the Registration Office, or perhaps the outright loss of registration forms.

The number of Penn Law voting applications that were mishandled and the number of unsuccessful applications citywide are appallingly high. **This is not only a serious violation of the basic Constitutional right of Philadelphians to participate in democracy but could have a profound effect on local, state, and federal elections.**

We hope you take quick action to rectify this serious problem. I have attached a more in depth analysis of the problems at the Registration Office along with a series of policy recommendations. I have also attached a list of students we registered and those who came to us with registration problems, along with the status of their registration.

Sincerely,

Glen Forster  
President, Penn Law American Constitution Society

The Philadelphia Voter Registration Office (the “Registration Office”) is in urgent need of reform. If the following changes are made the process will become more transparent and effective.

I will first give a brief overview of the current voter registration process for paper voter registration forms, and online registration:

- When the paper voter registration forms (the “forms”) are turned into the Registration Office, each form is scanned. Employees transmit information from the scanned forms into the SURE voter registration system. A voter registration is only successful if the name, social security number and date of birth match the federal social security database or Pennsylvania’s driver’s license database. If there is not a match between these databases and the information entered into the SURE system, a letter asking the applicant to resubmit information is sent to the address that was entered into the system. In presidential election years, there is no reexamination of the form to ensure that the information was correctly entered into the SURE system before a letter is sent out.
- For online registrations, the information is not automatically entered into the SURE system. Instead, an employee must manually transmit this information from the online voter registration system into the SURE system. If there is not a match with the database, or if the person who submitted the online form does not have a signature on file with the state, a letter is sent asking the applicant to resubmit the mismatched information or submit a signature.

It is important to note that the Registration Office incorrectly entered the address of one of the forms we turned in, so the letter was sent to the wrong address. Furthermore, because many of the forms were processed only several days before the election (in 2016, forms were still being entered in the Friday before Election Day), many of the letters are received without enough time to respond by Election Day or even after Election Day. While these individuals could request a provisional ballot and then work to correct the information in the SURE system after the election, we fear this is rare.

In light of the failure of the Registration Office to successfully enter 15.6% of the forms we submitted, along with the failure of 49,627 voter registrations citywide, the following policy changes are needed to solve the problems at the Registration Office.

1. Before a letter is sent to the voter registration applicant informing them that their information did not match the database, an employee should review the scan of the registration form to ensure all of the information was entered correctly.
2. If a mismatch indeed exists, the person should be notified of the issue through a phone call, a text message, or an email; in addition to a mailed letter. The email address and phone number of the individuals are already collected, and this form of communication is more likely to result in a response from the applicant than a letter.
3. To prevent loss of forms and enable more transparency into any errors in the voter registration process, accurate records should be maintained at each step of the process. This includes:



- a. when an individual turns forms into the Registration Office, an employee should record how many forms were turned in, and provide the individual with a receipt as proof of the number of forms turned in.
  - b. ensuring that the number of forms received equals the number of forms scanned.
  - c. tracking which individuals did not match the databases, how the Registration Office attempted to contact the individual, if the individual responded, and if the individual eventually voted.
  - d. publishing the list of people who were not successfully entered on the Registration Office's website, in order to make it easy for the individual to determine if they were registered, and to allow third parties to help ensure the individual will be successfully registered. This should be done in a manner to avoid privacy violations.
4. Integrate the City's other databases containing resident names, contact information, and other information with the SURE system.
    - a. Currently, the employee entering the voter registration information is notified if they are entering an address that does not exist. If the employee were also given a warning that the name or other information entered does not match anything in Philadelphia's system, this would give the employee an opportunity to double check that the information entered into the SURE system matched the form.
    - b. Additionally, when a registration is not successful, the Registration Office should compare the information with the City's other databases. If two or three data points match up (e.g. birthdate, address, or SSN) but the fourth does not (e.g. name) the office should reexamine the form to ensure all information was entered successfully into the SURE system.
  5. Online registrants should be able to submit a signature online to complete an online voter registration. If that is not possible, it should be made clear that online registrants need a signature on file with the state to register online. Currently, the signature requirement is not prominently displayed until the online registration form is submitted. This will cut down on additional work for the Registration Office.
  6. The information that is entered online should automatically be added to the SURE system. This will eliminate the possibility for transcription errors.
  7. Poll Workers should be required to attend training, and pass an election law comprehension test (similar to the test required in New York City) before Election Day. The training should make it clear that people may vote by provisional ballot if they are not on the voter rolls, and that people can respond to the mismatched letters with the correct information after Election Day if they voted provisionally. For example, many students reported being told that they could not vote provisionally if their name was not on the voting roll.
  8. The Registration Office should publish the number and nature of the complaints they receive throughout the year and during the Election Day.

Many of these policies can be adopted by you and your fellow Commissioners. We urge you to encourage City Council, the Mayor's Office, and the State of Pennsylvania, to adopt the policies outside of your authority. Together we can significantly cut down or even eliminate the errors at the Registration Office. We look forward to working with you to ensure that every Philadelphian can exercise their constitutional right vote.

## **Appendix B: Asian Americans United Executive Director Alix Webb's email to Gregory Irving in the City Commissioners' office:**

**Date:** Wed, Sep 21, 2016 at 2:06 PM

**Subject:** Attention Greg Irving, Voter Registration Divisions - URGENT - missing registration applications

**From:** Alix Webb <alix.webb@aaunited.org>

**To:** Gregory.Irving@phila.gov

**Cc:** wei.chen@aaunited.org, ray@statevoices.org, erin@statevoices.org

Dear Mr. Irving -

I am emailing to be sure that a matter of great concern to us has come to your attention. On July 21st, 11:45 am, Asian American United's Civic Engagement Coordinator, Wei Chen, delivered a package of voter registration applications to the Philadelphia County Office where they were received by a middle-aged white man name Al who accepted the package and counted and confirmed a total of 37 forms delivered. We have since learned that none of the applicants have received their voter ID's or any communication from the county office. Furthermore, when Wei Chen has checked the applicants' status on the state website he receives the following message for all of the applicants:

**We are unable to match your information with our records. You may edit your information and try your search again or you may contact your county voter registration office to confirm your voter registration status.**

As the deadline for voter registration for this upcoming election is quickly approaching, we are extremely anxious that this matter be dealt with expediently and thoroughly. At the request of a staff person at the voter registration office we have been asked to deliver copies of the forms so that they can be re-registered. Wei Chen will be re-delivering these copies to the office within the next day.

We are hoping that you can offer us some assurance that this matter will be dealt with effectively so that these applicants will be able to receive the required documents to take part in the November election. We also ask that you send us information on the exact timing by which these documents should be processed and the registrants can expect to receive the needed information. We also hope that we at AAU may receive some assurance that this mishap has been dealt with adequately so that it won't happen in the future. Again, we do consider this a matter of urgency and importance.

We look forward to hearing from you - thank you for your attention this matter!

Sincerely,

Alix Webb

Executive Director Asian Americans United 1023 Callowhill Street Philadelphia, PA 19123 (215) 925-1538 [alix.webb@aaunited.org](mailto:alix.webb@aaunited.org)