

5. I believe that our system to respond to the rare machine malfunctions we experience works very well. Most machine malfunctions are the result of poll worker error. Poll workers are trained to dial a hotline number. The vast majority of machine failures are resolved over the phone in a matter of minutes. In the unlikely event that a malfunction is not resolved over the phone, the county has twelve roving mechanics driving around the county throughout the day.

6. Around 7:15 a.m. on the morning of the April, 22, 2008 primary election, I received reports from the Judge of Elections in the Cheltenham 4-1 precinct that their two voting machines were not working. Upon speaking to them, my technicians believed that one machine was properly functioning, but the Judge of Elections had inadvertently "closed the polls" on the machine. As a result, the machine could no longer be used that day. During the time they believed that both machines were down, the poll workers gave voters provisional ballots. On arriving at the precinct, the technician found that the other machine was in fact fully functional and the provisional ballots were no longer needed. We proceeded to send a replacement machine for the closed machine within a couple of hours.

7. We are even more prepared to address machine malfunctions now than we have been in the past. As noted above, we recently purchased an additional 75 voting machines. We are also increasing the number of roving technicians on the streets to be able to respond to any reported malfunctions. Additionally, we will have 30 backup machines ready to be deployed as replacements.

8. There are not always long lines on election day, and, further, voting machine malfunction is not the most common reason for long lines at polling places in Montgomery County. Rather, the two most common reasons for long lines are (a) the time that it

takes to check voters' names in the poll books at the precinct entrance; and (b) the length of the ballot in the particular election.

9. Montgomery County has increased the number of poll books from two to three at polling places that have had high voter registration numbers for the upcoming election. This measure is expected to speed up the lines at the polling place check-in.

10. The ballot is very short this year. Only five or six offices are on it, and consequently the time it takes to vote is expected to be much faster than in elections where many names appear on the ballot. For example, in the recent April 2008 presidential primary, the ballot contained many more names. The number of names and offices appearing on the ballot caused voters to take more time to complete their voting than I expect it will take to vote in the upcoming November election.

11. I understand that Plaintiffs in this case have asked the court to grant an injunction ordering the Secretary of the Commonwealth of Pennsylvania to issue a new directive requiring that voting places immediately switch to paper ballots whenever 50% or more voting machines are down, and requiring that every voting place have enough emergency ballots for 20% of registered voters.

12. If Plaintiffs' requests for relief are granted so close to the coming election, it will be impossible to comply with. Montgomery County would be unable to properly retrain our poll workers on the 50% rule and will be unable to print and secure enough paper ballots to meet the 20% rule at every polling place.

13. Retraining poll workers to comply with the new 50% Directive would be disastrous. We have been training our poll workers in a manner consistent with the existing Directive for the past three weeks. To date, we have completed 15 of 18 classes to train

Montgomery County poll workers. Training began on October 11. By Wednesday, 17 of the 18 scheduled classes will have been completed. Poll workers were trained on the Secretary's Directive to use back-up ballots only when all machines are down in a precinct. If the Court orders the Secretary to direct us to begin using back-up ballots when 50% of the machines in a precinct are down, we will have to re-train the overwhelming majority of our poll workers to comply with the new rule. This is not possible to do by election day.

14. Montgomery County does not have the resources to retrain our poll workers in such a short time. Even without the burden imposed by having to retrain our poll workers, my staff and I are currently working long hours, seven days a week to prepare for the upcoming election.

15. If a new directive on the number of back-up ballots we are to have on-hand is issued Tuesday or Wednesday, printing and distributing enough paper ballots so that every polling place in Montgomery County meets the new standard will be very difficult, if not impossible. First, there is not one uniform ballot form that is used all over Montgomery County, because of local races. Instead, there are 48 different ballot styles in Montgomery County. Also, we place the voting district on every emergency ballot. There are 418 polling places, and due to split precincts, 423 different precinct ballots. Each different ballot style must be printed, sorted, and distributed. When we ordered the 100 emergency ballots that will be at every Montgomery County polling place, it took our printer seven days to print them, sort them by precinct, and return them to us. We have trucks scheduled to deliver these ballots, and other supplies, to different areas of the county on Saturday, November 1, so that Judges of Elections can pick them up. We plan to pack these supplies on Thursday and Friday. If the 20% directive is issued,

printing and distributing the correct additional back-up ballot forms to the correct locations in so short a time would be a complex and probably impossible undertaking.

16. Montgomery County polling places are not physically set up to handle large quantities of voters using paper ballots. I am concerned that voter privacy would suffer at polling places where a machine is down for a few minutes and groups of voters are switched to paper voting. We do not have privacy booths for paper voting at our polling places. This is not generally a problem for the occasional voter who must vote on provisional ballots. In the rare case when a provisional ballot must be cast, the poll workers are able to give the voter a bit of privacy by sending them off to the side of the polling place to write down their vote. Because we will not have had time to train our poll workers to handle paper and machine voting simultaneously, I am concerned about poll workers simply handing out large numbers of emergency ballots and instructing voters to fill them out where they stand, with no chance at privacy.

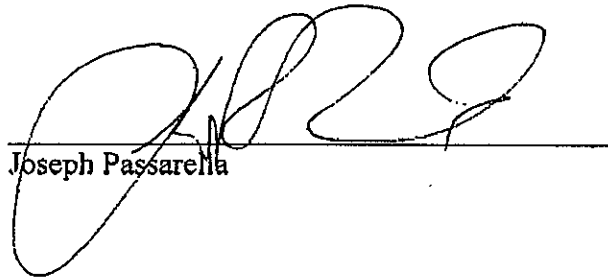
17. Even if the proposed 50% Directive were issued with enough time to properly implement it, I do not believe it would serve the public interest in a smooth election. The 50% Directive creates situations where paper and machine voting can be ongoing at a polling place simultaneously. Such a scenario could cause significant problems on Election Day. Giving voters a choice, or even the perception that they have a choice, between voting on paper or on machines could be chaotic. It might result in longer lines if all of a sudden every voter decides they want to vote on one kind of ballot and not the other. I am also concerned that poll workers might accidentally give emergency paper ballots to voters who should vote on provisional ballots. Because such voters would not have signed the necessary provisional ballot paperwork, their vote would not be counted.

18. As Chair of the AEPCEP, I am familiar with the schedules that other counties are following in eastern Pennsylvania. Like in Montgomery County, these other counties have concluded or nearly concluded pollworker training and are too far into the process of ballot distribution to effectuate either of the two requests Plaintiffs ask for in this case.

I declare under penalty of perjury under that the foregoing is true and correct.

Executed on:

10/28/08
Date



Joseph Passarella

