

Key Takeaways from Today's Filing October 22, 2021

Disclosure of Information to League of Women Voters

- “Not only is information requested in the Subpoena publicly available under State law, but public records also demonstrate that **all** of that data, including the DLNs and Partial SSNs, have been released by the Commonwealth and the Department of State to other entities on multiple occasions.” – pg. 16
- “The Department has also furnished the data requested by the Subpoena to dozens (if not hundreds) of individuals and entities in connection with litigation related to statutory proof of identification provisions. Specifically, in 2012, the League of Women Voters, which now seeks to intervene to prevent compliance with the Subpoena, and others commenced an action against the Department of State and the Secretary of the Commonwealth.” – pg. 20
- “The Department **voluntarily produced all of the information requested for the millions of voters in the SURE database.**” – pg. 21
- “According to the LWV Petitioners’ expert witness, a computerized file of all the requested information from the SURE system was supplied **within one week** of the April 29 Order.” – pg. 22

Auditor General’s 2019 [Audit of SURE System](#)

- “In 2018 and 2019, Auditor General DePasquale performed a performance audit—at the Department of State’s express request (Appendix at 1187a; Interagency Agreement)—of the SURE system. In the course of his audit, the Auditor General was given access to the SURE system.” – pg. 24
- “Of note, the Auditor General, based on having this data, was able to identify *thousands* of instances where single voters had multiple entries in the SURE system, which duplicate entries the Auditor General concluded “could potentially allow a voter to vote more than once in an election.” – pg. 25

Access to Information/Constitutional Authority

- “To the extent Petitioners’ arguments are based on the premise that the Senate cannot conduct an investigation or cannot issue a subpoena to the Acting Secretary, that premise is contrary to the Pennsylvania Constitution.” – pg. 26
- “Moreover, it is well-settled that the power of investigation—having been reposed in each chamber of the General Assembly—may be exercised by any of its committees.” – pg. 27
- “Not only does the Committee have a *constitutional* right to solicit information from the Acting Secretary of the Department of State, but also it has an absolute *statutory* right to do so.” – pg. 28

- “The subpoena seeks election-related records, the great bulk of which are subject to public access by ordinary citizens, let alone by persons elected to represent those citizens. And the portion of the records not otherwise readily accessible is information the Department has made available to other public and private entities. Thus, at bottom, the objections here are founded not on actual legal impediments to access, but on faulty alleged ‘motives.’”-pg. 1
- “In the end, divorced from rhetoric, this case is an ordinary government request for information from another part of the same government. It should be treated as such.” – pg. 1
- “Under the Pennsylvania Administrative Code, all information under the custody of the Department is expressly subject to review and inspection by any committee of the General Assembly. Moreover, most of that data may be obtained by members of the public with minimal effort—and *all* of it is subject to inspection.” – pg. 12
- “The Costa Petitioners fail to recognize that a Senate Committee is not the general public but a coequal branch of the Commonwealth that seeks this information for a legitimate legislative purpose. They also fail to recognize that this information is already provided by the Commonwealth, through the Department of State, to private parties.” – pg. 51-52

Use of Vendor

- “Specifically, all objectors before the Court seek relief related to what might happen if an unidentified vendor gets access to the information under an as yet unsigned contract. No party has identified the terms of the contract or the security controls of the vendor; they did not because they *cannot*. While admittedly the Committee does intend to use a vendor, the Committee has not done so yet. Thus, it is wildly premature for this Court to opine on the vendor-related claims before the metes and bounds of the relationship are even subject to basic facts.” – pg. 32

Department of State’s Continued Obstruction

- “Despite every single filer acknowledging the public records at issue with the Subpoena, the Committee has received ***not one*** record from the Acting Secretary. Request 15 in particular underscores the absurdity of this state of affairs; it seeks: “A copy of the certified election results for each and every race and/or ballot question on the 2020 General or 2021 Primary elections.” If the Acting Secretary, and the other parties, are to be believed, even this unquestionably public information cannot be had by the Committee.” – pg. 11