



U.S. Department of Justice

David J. Freed
United States Attorney
Middle District of Pennsylvania
Website: www.justice.gov/usao/pam/
Email: usapam.contact@usdoj.gov

William J. Nealon Federal Building
235 N. Washington Avenue, Suite 311
P.O. Box 309
Scranton, PA 18503-0309
(570) 348-2800
FAX (570) 348-2037/348-2830

Ronald Reagan Federal Building
228 Walnut Street, Suite 220
P.O. Box 11754
Harrisburg, PA 17108-1754
(717) 221-4482
FAX (717) 221-4493

Herman T. Schneebeli Federal Building
240 West Third Street, Suite 316
Williamsport, PA 17701-6465
(570) 326-1935
FAX (570) 326-7916

Please respond to: Scranton

September 24, 2020

Shelby Watchilla, Director of Elections
Luzerne County Bureau of Elections
Penn Place Building, Suite 207
20 North Pennsylvania Avenue
Wilkes-Barre, PA 18711

Dear Ms. Watchilla:

On Monday, September 21, 2020, at the request of Luzerne County District Attorney Stefanie Salavantis, the Office of the United States Attorney along with the Federal Bureau of Investigation, Scranton Resident Agency, began an inquiry into reports of potential issues with a small number of mail-in ballots at the Luzerne County Board of Elections.

Since Monday, FBI personnel have conducted numerous interviews and recovered and reviewed certain physical evidence. While at this point the inquiry remains active, based on the limited amount of time before the general election and the vital public importance of these issues, I will detail the investigators' initial findings.

The FBI has recovered a number of documents relating to military ballots that had been improperly opened by your elections staff, and had the ballots removed and discarded, or removed and placed separately from the envelope containing confidential voter information and attestation. Specifically, a total of nine (9) military ballots were discovered to have been discarded. Seven (7) of those ballots when discovered by investigators were outside of any envelope. Those ballots were all cast

for presidential candidate Donald Trump. One (1) of those seven (7) ballots was able to be identified to an envelope that was recovered, and thereby potentially tied to a specific voter. Two (2) military ballots that had been discarded were previously recovered by elections staff, reinserted into what appeared to be their appropriate envelopes, and then resealed. Therefore, the votes cast on those two (2) ballots are unknown. Thus, it appears that three (3) of the nine (9) recovered ballots can be potentially attributed to specific voters. Six (6) of the ballots were simply removed and discarded, and cannot be attributed to a specific voter at this time.

In addition to the military ballots and envelopes that were discarded and recovered as detailed above, investigators recovered four (4) apparently official, bar-coded, absentee ballot envelopes that were empty. Two (2) of those envelopes had the completed attestations and signatures on the reverse side. One (1) envelope with a handwritten return address was blank on the reverse side. The fourth empty envelope contains basic location information and the words "affirmation enclosed" on the reverse side. The majority of the recovered materials were found in an outside dumpster.

As you know, the appropriate method for processing received military ballots is to securely store the ballot, unopened, until such time as ballot pre-canvassing can begin, which is in no event earlier than 7:00 a.m. on Election Day. Opening a military or overseas ballot, or an absentee or mail-in ballot for that matter, violates the controlling statutes and is contrary to Pennsylvania Department of State guidance. The preliminary findings of this inquiry are troubling and the Luzerne County Bureau of Elections must comply with all applicable state and federal election laws and guidance to ensure that all votes—regardless of party—are counted to ensure an accurate election count. Even though your staff has made some attempts to reconstitute certain of the improperly opened ballots, there is no guarantee that any of these votes will be counted in the general election. In addition, our investigation has revealed that all or nearly all envelopes received in the elections office were opened as a matter of course. It was explained to investigators the envelopes used for official overseas, military, absentee and mail-in ballot requests are so similar, that the staff believed that adhering to the protocol of preserving envelopes unopened would cause them to miss such ballot requests. Our interviews further revealed that this issue was a problem in the primary election—therefore a known issue—and that the problem has not been corrected.

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While the assigned investigators are continuing their work including reviewing additional discarded materials, it is imperative that the issues identified be corrected. District Attorney Salavantis and I would be happy to meet with you at a mutually convenient time to discuss this matter. Please be assured that the investigators will carefully preserve all documents collected in connection with this investigation. Our goal, that I am sure you share, is to ensure that every properly cast ballot is counted.

Sincerely,



DAVID J. FREED
UNITED STATES ATTORNEY

cc: David Pedri, Luzerne County Manager
Tim McGinley, Luzerne County Council Chair
Stefanie Salavantis, Luzerne County District Attorney