

**Election Protection Report:
Issues New Jersey Voters Encountered
from October 15 through November 3, 2020**

April 2021

Table of Contents

Executive Summary	1
Successes in the 2020 General Election.....	1
Data Collected by the New Jersey Election Protection Coalition.....	2
Key Findings	3
Recommendations	7
Methods and Disclaimer	9
Findings.....	11
Voter Registration Questions and Issues	11
Non-Receipt of Mail-in Ballot or Receipt of Incomplete Mail-in Ballot.....	14
Misinformation from and Mistakes by Poll Workers; Misinformation on Social Media	17
Late Openings and Long Lines at Polling Places.....	21
Voter Intimidation.....	24
Accessibility Issues for Voters with Disabilities, Medical Conditions, or Limited English Proficiency	26
Unlawful Electioneering	30
Lack of Voting Privacy at Polling Places	32
Deficient Signs at Polling Places	33
Challenges Reaching County Election Officials.....	37
Lack of Access to Court for Disenfranchised Voters.....	38
Recommendations	40
Enact Same-Day Voter Registration	40
Expand Automatic Voter Registration	40
Implement and Educate Voters on New Early In-Person Voting Law	41
Improve Poll Worker Recruitment.....	41
Establish Oversight and Accountability Among Poll Workers; Formalize Responsibilities of “Master Poll Workers” and “Lead Poll Workers”	42
Ensure Proper Signage at Polling Places	42
Further Restrict Law Enforcement Presence at Polling Places and Drop Boxes.....	43
Improve the Ballot-Tracking System	43
Improve the System for Voters to Report Election Complaints and Positive Experiences	45
Ensure Independent Voting Rights for Voters with Disabilities.....	45
Adopt a Formal Process for Voters Who Find Themselves Ill or Otherwise Incapacitated on Election Day	47
Make Telephonic Language Interpretation Available to Voters to Afford Them Their Rights to Reasonable Language Assistance	47
Improve Processes for Managing Irregular Elections.....	49
Improve Access to Court for Disenfranchised Voters	50

Executive Summary

Successes and Challenges in the 2020 General Election

New Jersey faced unprecedented challenges during the 2020 General Election. Tensions were high as election workers and voters prepared for one of the most politically charged elections in United States history. The COVID-19 pandemic had swept across the nation, taking and threatening the lives of many, and hit New Jersey particularly hard. By October, the State had documented more than 200,000 COVID-19 infections and more than 16,000 related deaths, while positive cases continued to rise.¹ Against this backdrop, the State had to decide how to conduct a large-scale election—which traditionally involves congregating in tight spaces or crowded lines—safely and efficiently. Transforming election offices and polling places according to health and safety guidelines required additional resources for election administration, including staff, personal protective equipment, and cleaning supplies. Voters needed a variety of voting options to make informed decisions about how and where to cast their ballots, in light of their health and risk-tolerance. With each change in procedure, election officials had to educate the public and plan for alternatives in case of nearly inevitable administrative setbacks.

Election officials worked tirelessly to assess and implement modified election procedures to safeguard public health and protect the right to vote. Some of these measures were stunningly successful. For example, the State launched a statewide online voter registration system in September 2020, and by the registration deadline on October 13, more than 400,000 people had used the system to register or update their registration.² The State also instituted an expanded mail-in ballot system, issuing pre-paid postage mail-in ballots to all active registered voters in the State to allow them to cast ballots from the relative safety of their homes. For the first time, the State used secure ballot drop boxes, which became an increasingly popular option for voters to cast their ballots when confidence in the postal service waned.³ In response to postal concerns, the State extended its ballot receipt deadlines to prevent mail delays from disenfranchising voters.

Local election officials had to process the influx of new registrations and mail out millions of ballots, virtually simultaneously. They made tough decisions about which polling places would remain open for in-person voting on Election Day. They recruited new poll workers to prevent a critical

¹ Brent Johnson, *N.J. Reports 1,301 New COVID-19 Cases – the Highest Since May – and 11 More Deaths*, NJ.COM (Oct. 9, 2020), <https://www.nj.com/coronavirus/2020/10/nj-reports-1301-new-covid-19-cases-the-highest-since-may-and-11-more-deaths.html>.

² Terrence T. McDonald, *More Than 400K People Have Used NJ's New Online Voter Registration Site Since Its Launch*, NORTHJERSEY.COM (Oct. 14, 2020), <https://www.northjersey.com/story/news/politics/elections/2020/10/14/nj-election-2020-new-jersey-voter-registration-site-400-k-users/3650236001/>.

³ Michael Hill, *Lack of Confidence in Mail System is What's Driving Some NJ Voters to Ballot Drop Boxes*, NJ Spotlight News (Oct. 28, 2020), <https://www.njspotlight.com/video/lack-of-confidence-in-mail-system-is-whats-driving-some-nj-voters-to-ballot-drop-boxes/>.

shortage of volunteers at the polls. They screened and counted an overwhelming number of mail-in and provisional ballots under tight deadlines. The list of responsibilities goes on.

In the face of these many challenges, election workers administered a safe and sound election. Overall, New Jersey voters appeared to adapt well to the changes in election procedure. They cast a historic number of ballots—4.6 million in total. Voter turnout increased 9.4% from the 2016 to the 2020 General Election, the eighth largest increase in the nation.⁴ Despite unsupported concerns about voter fraud fueled by political commentary, the election was secure and the public had every reason to trust the verified results.

Without diminishing the overall success of the election in the face of unprecedented challenges, the New Jersey Election Protection Coalition also documented some significant issues that warrant further attention. Some of these issues were likely caused or exacerbated by the rapidly evolving health crisis. For example, swift changes in election procedures, combined with other consequences of COVID-19—such as a shortage of experienced poll workers, the consolidation of polling locations, and higher than normal numbers of voters experiencing medical emergencies—created administrative challenges that overburdened elections officials and affected whether and how voters cast ballots. However, recurring issues from past elections—such as poll worker mistakes and long lines and late openings at polling places—were again evident in this election cycle.

To improve our election system, election officials and advocates must examine both unusual and recurring issues that voters encountered exercising the franchise. This report presents and analyzes issues that arose during the 2020 General Election and recommends reforms that can help sustain the improvements made in response to COVID-19 and further strengthen the right to vote in New Jersey.

Data Collected by the New Jersey Election Protection Coalition⁵

The New Jersey Election Protection Coalition collected data during the 2020 General Election in three ways: (1) by answering and recording voters' questions and reported concerns in call centers, (2) by monitoring social media posts about the election, and (3) by dispatching field volunteers to polling places throughout the State.

⁴ Drew DeSilver, *Turnout Soared in 2020 As Nearly Two-Thirds of Eligible U.S. Voters Cast Ballots for President*, Pew Research Center (Jan. 28, 2021), <https://www.pewresearch.org/fact-tank/2021/01/28/turnout-soared-in-2020-as-nearly-two-thirds-of-eligible-u-s-voters-cast-ballots-for-president/>.

⁵ The New Jersey Election Protection Coalition consists of the American Civil Liberties Union of New Jersey, the Delaware-New Jersey National Lawyers Guild, Disability Rights New Jersey, the League of Women Voters of New Jersey, Lowenstein Sandler LLP ("LS"), the New Jersey Institute for Social Justice, and the Lawyers' Committee for Civil Rights Under Law. Election Protection is convened by the Lawyers' Committee for Civil Rights Under Law and is the nation's largest nonpartisan voter protection coalition. National voter hotlines (866-OUR-VOTE, 888-VE-Y-VOTA, 888-API-VOTE, and 888-Yalla-US) and Election Day field programs assist voters with problems and guide them throughout the voting process, regardless of party affiliation.

Volunteers took calls in the Election Protection Northeast Mid-Atlantic Call Center from October 15 through November 1, 2020, and in the Lowenstein Sandler (“LS”) Call Center on November 2 and 3, 2020. Volunteers who staff Election Protection call centers answer questions and receive incident reports from voters by phone and simultaneously record information about every call in Election Protection’s Our Vote Live (“OVL”) database. OVL presents a series of prompts to guide both the call and the data collection. LS examined “tickets” recorded by volunteers in OVL to collect the data in this report. The League of Women Voters of New Jersey (“LWVNJ”) and Disability Rights New Jersey (“DRNJ”) also ran hotlines and contributed to reports on issues raised by voters who contacted them.

In addition to these voter information hotlines, the New Jersey Institute for Social Justice (“NJISJ”) partnered with Common Cause to run a social media program that monitored Twitter and Facebook for misinformation about the 2020 General Election. From October 13, 2020 through November 3, 2020, social media volunteers responded to inaccurate election posts online with accurate election information and reported misleading posts to Common Cause and NJISJ.

On Election Day, the Delaware-New Jersey National Lawyers Guild (“DE-NJ NLG”) ran an Election Protection field program. Some volunteers monitored one or more polling locations throughout the day, while others visited polling locations across the State to verify and address incidents voters had reported to the LS Call Center. Field volunteers recorded their direct observations and experiences interacting with poll workers and voters and took photographs to document election-related issues.

The American Civil Liberties Union of New Jersey (“ACLU-NJ”) represented voters in court when county officials had denied them the right to cast ballots.

Given these varied roles and vantage points, the New Jersey Election Protection Coalition was uniquely positioned to identify election-related problems encountered by voters during the 2020 General Election. The goals of this report are to:

- identify election issues in New Jersey during the 2020 General Election based on data from verified voter reports and direct observations;
- suggest ways in which New Jersey might continue to improve its election laws and procedures to overcome administrative hurdles and protect the franchise in future elections.

Key Findings

Based on the data sources described above, the New Jersey Election Protection Coalition has identified eleven issues New Jersey voters who called or otherwise interacted with the Coalition reported most frequently during the 2020 General Election:

1. voter registration problems,

2. non-receipt of mail-in ballots or the receipt of incomplete⁶ mail-in ballots,
3. misinformation from and mistakes by poll workers and on social media,
4. late openings and long lines at polling places,
5. voter intimidation,
6. lack of accessibility for voters with disabilities, medical conditions, or limited English proficiency,
7. unlawful electioneering,
8. lack of voting privacy at polling places,
9. deficient signage at polling places,
10. challenges in reaching county election officials, and
11. lack of access to court for disenfranchised voters.

Summaries of the most striking observations from the data follow.

Inadequate Poll Worker Screening and Training: Like other states in this election cycle, New Jersey experienced a critical shortage of experienced poll workers, many of whom were concerned that staffing the polls would expose them to serious health risks. Election officials successfully recruited new poll workers in short timeframes, including on Election Day when some volunteers fell ill and could not report to their assigned polls. Training poll workers proved difficult as all prospective poll workers, experienced and novice, required training given the irregularities of this pandemic-affected election. Moreover, only those with internet access and some technology skills could attend virtual classes, and in-person training was not possible.

For these reasons, poll worker mistakes and misinformation were perhaps more prevalent than usual in this election. Indeed, some commonly reported issues related to the special rules in place. For example, poll workers in several locations gave voters attempting to vote in person incorrect instructions to cast mail-in ballots instead or to retrieve their mail-in ballots to vote. Some poll workers failed to place completed provisional ballots in a ballot bag or box, leaving them in insecure locations (on chairs and tables) instead. Others failed to ensure voter privacy in the sometimes makeshift consolidated polling locations in use on Election Day.

However, other poll worker errors arose in more familiar circumstances and echoed problems that have arisen in many election cycles. For example, some poll workers asked voters for identification that was not required by law, and these inappropriate requests were in some cases disproportionately directed to voters of color. In several polling locations, poll workers impeded access to machines for voters with disabilities, again a longstanding problem. And some poll workers failed in this as in prior elections to enforce or comply with longstanding rules barring voter intimidation and electioneering.

These data suggest that current laws and procedures for screening and training poll workers are insufficient to ensure poll workers are prepared to perform their duties on Election Day.

⁶ An incomplete mail-in ballot is one that was missing a necessary component (e.g., an inner or outer envelope or a page with local or federal elections).

Barriers Facing Voters with Disabilities, Medical Conditions, or Limited English Proficiency:

This election cycle brought a welcome advance for voters with disabilities, allowing them to use a new online tool to complete an accessible mail-in ballot. Many voters benefited from this new tool, and we hope it can be continued in future elections. Unfortunately, however, voters with disabilities who decided to vote in person faced all-too-familiar obstacles. The most common issue was the denial of access to ADA-accessible machines. Poll workers were confused about how a person “qualified” as having a disability and how to operate the accessibility features of the machines. In addition, Election Protection received calls from voters with disabilities or medical conditions, who could not vote at the polls, seeking help understanding how and whether they could vote despite their conditions on Election Day. Many of these voters were sick with COVID-19 or otherwise incapacitated, and using the State’s current ballot “bearer” system was not feasible for them. These data suggest that poll workers were not trained about the purpose and use of ADA-accessible machines and that New Jersey lacks efficient emergency ballot procedures for voters with unanticipated medical conditions or disabilities. Field volunteers also documented a lack of language interpretation services or readily understandable written materials for voters with limited English proficiency at certain polling locations.

Barriers to Court Access: Virtual hearings present a significant opportunity to expand access to court for voters denied the right to cast ballots. However, court procedures directing voters to go through the county officials and their lawyers before being heard raised serious ethical and practical problems during this election cycle, as counties and voters are adverse parties. An adverse party should not be a gatekeeper for a voter seeking judicial review, and it is unhelpful to require voters to complete extra steps before a court appearance in time-urgent proceedings on Election Day. These problems have persisted across several election cycles.

Lack of Signage: The Election Protection Coalition received reports from around the State that polling places lacked adequate signage. Election Protection field volunteers visited the sites and confirmed the reports in many cases. Trenton appears to have had a citywide problem with missing signs. This issue caused voter confusion about where to vote and whether polling places were open. To help remedy the problem, members of our field teams transformed their offices into sign-producing centers and placed volunteer-created “Vote Here” signs in front of polling places that lacked proper signage. This problem is especially perplexing as the State created and distributed appropriate signs to every county.

Late Openings and Long Lines: In this and past elections, many voters called the hotline to report late openings and long lines at polling places. The problem was especially prevalent in Newark: Election Protection received calls about delayed openings at 9 Newark polling places and long lines at 5 Newark polling places (12 polling places in all, as 2 were the locus of reports about both delayed openings and long lines). In the entire rest of the state, there were only 7 other delayed openings and 2 other long waits reported. In many cases, Election Protection field volunteers independently verified and documented the reported concerns.

Voter Registration Issues: New Jersey’s new online voter registration system was a great success. At least 400,000 voters registered through this system between its launch in September 2020 and the October 13, 2020 voter registration deadline. Nevertheless, many voters called the hotline to report problems with registration. Voters in Middlesex County appear to have encountered more registration issues than those in other counties. From October 15 through November 3, Election

Protection received 50 inquiries from Middlesex County callers who reported that they did not appear as registered in New Jersey's registration database. Election Protection volunteers looked up their status in the state database and confirmed that they were missing. Most of these voters said they had registered before the October 13 deadline or had voted in previous elections. By way of comparison, Election Protection received 11 calls related to registration from voters in Camden County—the county with the next highest number of calls about this issue.

Missed Registration Deadline: From October 15 through November 3, Election Protection received 93 calls from people who wanted to register to vote after New Jersey's October 13 deadline. At least 9 of those calls came from individuals who stated that they or a family member had only recently become United States citizens. Another group denied the franchise were people released from prison between October 14 and November 3. According to information provided by the New Jersey Department of Corrections, 409 people were released during this period. They had no opportunity to vote despite a 2019 state law that restored the franchise to people who are not incarcerated. To address these issues, we support legislation to permit qualified voters to register every day all year, including on Election Day.

Non-Receipt of Mail-in Ballots: Governor Murphy's executive order establishing a primarily vote-by-mail election gave local election officials limited time to prepare for this unprecedented undertaking. Many election officials worked overtime to process and deliver mail-in ballots to all active registered voters before Election Day. Because of their efforts, the novel system proved generally successful. For some voters, however, mail-in ballots never arrived. While it is not clear why these voters did not receive their ballots, it is clear that mail-in ballots did not reach all active registered voters. In total, Election Protection received 267 calls from voters in 18 of New Jersey's 21 counties who said they did not receive a mail-in ballot or received an incomplete mail-in ballot. These data suggest that a statewide automatic mail-in ballot procedure has promise for future elections, but further steps, possibly including at the Postal Service, are necessary to ensure that all eligible voters receive mail-in ballots.

Challenges Reaching County Election Officials: In the midst of a health crisis, local election officials juggled the competing concerns of ensuring adequate staff in election offices and preventing the spread of the virus to election workers. Election offices periodically closed when election workers reported they had, or had been exposed to someone with, COVID-19. Some election officials worked in shifts or from home, when able, to avoid spreading the virus. Challenges like these were overwhelming and certain to cause difficulty in carrying out modified election procedures. Consequently, both during the election and in the weeks leading up to it, election officials were often impossible to reach as no one answered phones or returned emails. This made it difficult or impossible for both voters and Election Protection volunteers to work with the counties to solve problems as they arose. While New Jersey has a long history of real-time collaboration leading up to and on Election Day, this system broke down in 2020.

Recommendations

The fourteen recommendations that follow are organized by election event or issue and, to the extent possible, ordered to follow an election timeline. We explain the recommendations in detail at the end of the report.

Registration

- 1. Enact same-day voter registration.*
- 2. Expand automatic voter registration.*

Early In-Person Voting

- 3. Implement and educate voters on new early in-person voting law.*

Election Day Management

- 4. Improve poll worker recruitment.*
- 5. Establish oversight and accountability among poll workers; formalize responsibilities of “master poll workers” and “lead poll workers.”*
- 6. Ensure proper signage at polling places.*
- 7. Further restrict law enforcement presence at polling places and drop boxes.*

Ballot-Tracking and Voter Complaints

- 8. Improve the ballot-tracking system.*
- 9. Improve the system for voters to report election complaints.*

Access for Voters with Disabilities, Medical Conditions, or Limited English Proficiency

- 10. Ensure independent voting rights for voters with disabilities.*
 - a. Better train poll workers on who is entitled to use an ADA-accessible machine and how to set up and operate these machines.*
 - b. Maintain accessible vote-by-mail for voters with disabilities.*
 - c. Consider disability access whenever machines are purchased.*
- 11. Adopt formal procedures for voters who find themselves ill or otherwise incapacitated on Election Day.*
- 12. Make telephonic language interpretation available to voters to afford them their rights to reasonable language assistance.*

Irregular Elections

13. Improve processes for managing irregular elections.

- a.** Issue executive orders with sufficient time for adequate planning and preparation.
- b.** Ensure adequate staffing and training to perform core functions, including responding to questions from voters and advocates.

Access to Court

14. Improve access to court for disenfranchised voters.

Methods and Disclaimer

Similar to other hotlines, Election Protection mainly receives inquiries from callers who seek to resolve problems they have encountered, in this case, while registering or trying to vote in the 2020 General Election. Because voters tend to call only when problems have arisen, this report does not reflect positive or smooth experiences with voting. The LS Call Center verified voters' complaints or issues by checking official websites to confirm registration or polling place information, for example, and/or by dispatching the Election Protection field team to polling locations where problems arose. The Election Protection Coalition also worked with State and local election officials to address election-related issues on Election Day to the extent we were able to reach them.

The issues in this report are generally ordered based on the number of calls received, with the issue having the highest number of calls appearing first. LS analyzed "tickets" (i.e., entries in the Election Protection Our Vote Live database, based on each call) related to the top two issues—problems with voter registration and receipt of mail-in ballots—from October 15 through November 3, 2020. LS analyzed tickets for all other issues only from November 2 and 3, 2020. We adopted this method because the former issues were likely to occur primarily before Election Day, while the latter issues were more likely to occur on Election Day. Nearly all Election Protection tickets are from distinct voters, as the system prompts volunteers to reopen existing tickets and add to them whenever a voter calls from the same telephone number more than once.

For each issue, LS compiled certain aggregate data, including county information, the number of calls received, and, if relevant, polling place locations, to create the tables that are included in this report. Where relevant, tables include examples of inaccurate or misleading social media posts that NJISJ observed before and on Election Day. In addition to tables, this report provides graphs to illustrate relationships in the data among counties affected by the three most common issues. The tables and graphs contain data only for those counties identified in OVL tickets or apparent from the text of social media posts. The data do not account for tickets or posts in which county information was omitted or unclear. For these reasons, certain trends gleaned from the data may not accurately reflect actual trends that could be identified with more complete data.

The data are supplemented by issues reported to DRNJ's and the LWVNJ's voter hotlines. The report also relies on DE-NJ NLG field notes and photo-documentation of polling-place issues, and the ACLU-NJ's experience using the courts to advocate on behalf of disenfranchised voters. To protect voter privacy, no personally identifiable information is provided.

This report is merely a snapshot of the many experiences of New Jersey voters during the 2020 General Election. The Election Protection hotline received 2,005 calls from New Jersey voters between October 15 and November 3, 2020. This figure is small compared to the 6,407,297 registered voters in New Jersey as of November 3, 2020.⁷ That is not to suggest the problems

⁷ N.J. Division of Elections, *Total Number of Registered Voters, Ballots Cast, Ballots Rejected, Percentage of Ballots Cast and the Total Number of Election Districts in New Jersey—General Election, November 3, 2020* (Dec. 7, 2020), <https://www.state.nj.us/state/elections/assets/pdf/election-results/2020/2020-official-general-voter-turnout.pdf>.

identified here are insignificant. For every voter who picks up the phone to call Election Protection about a problem, many others may experience the same or similar issues and not report them. Not every voter is aware of the Election Protection hotline, and not every voter is motivated to call. Thus, the report highlights key areas for improvement in New Jersey's election laws and procedures so that the State may further its goals to protect, promote, and expand the right to vote in future elections.

Findings

Voter Registration Questions and Issues

This section analyzes voter registration questions asked and issues reported by callers to the Northeast Mid-Atlantic and LS Call Centers (the “Call Centers”) from October 15 through November 3, 2020. The Call Centers received at least 390 inquiries about voter registration from New Jersey callers during this timeframe.

The most noticeable observation from the data is that voters in Middlesex County reported or learned that they did not appear in New Jersey’s online registration database at a higher rate than voters in other counties. From October 15 through November 3, the Call Centers received 50 inquiries from voters in Middlesex County who called to confirm that they were registered and learned that they were not (as confirmed by state database searches by Call Center volunteers). In comparison, the Call Centers received 11 calls from individuals in Camden County—the county with the next highest number of voter calls about this issue—during the same timeframe. Most of the voters from Middlesex County who called about this issue indicated that they had registered before the October 13 deadline. Some stated they had voted in previous elections but were no longer showing up as registered in the State’s database. These data suggest that registration issues in Middlesex County may have prevented citizens from properly registering and/or maintaining their voter registration, or caused registrations to be missing from the state database.

The data also show that a significant number of callers wanted to register or update their voter registration after New Jersey’s voter registration deadline, a deadline that only the legislature has the power to extend. From October 15 through November 3, the Call Centers received 93 calls from people who wanted to register and 20 calls from voters who stated that they had moved and did not update their registration to reflect their new address of residence before the voter registration deadline. Nine of those calls were from voters who stated that they or a family member had only recently become United States citizens. Voters who had recently moved also faced barriers. Although some remained eligible to vote in either their former or current designated polling location, those who moved between counties or to New Jersey from out of state more than 30 days before the election could not vote unless they registered at their new address. Moreover, the registration deadline posed a particular challenge for people released from prison between October 13 and Election Day. The New Jersey Department of Corrections provided data that 409 people were released during this period. While they have the right to vote under New Jersey law,⁸ they could not register to vote while incarcerated and thus could not vote on Election Day.

Table 1 and its corresponding graph reflect the total number of tickets recorded for each county and identify the main issues about which voters called: calls during which the voter reported or learned they were not registered; calls during which the voter learned they had missed the voter registration deadline; calls during which the voter indicated that they had moved and did not update their voter

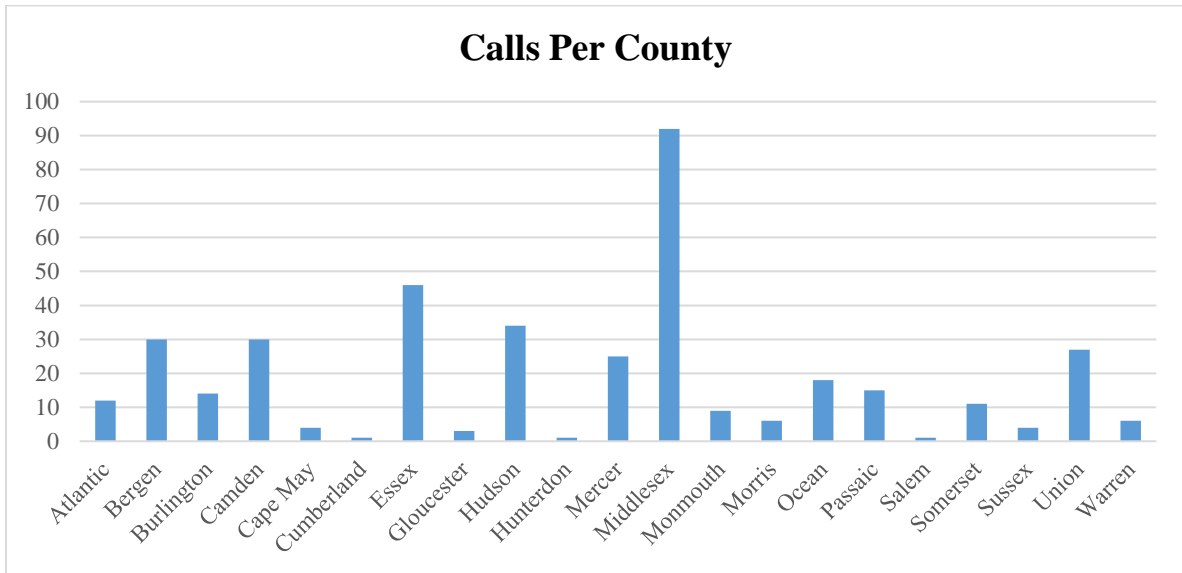
⁸ N.J.S.A. 19:4-1.

registration or register by the deadline;⁹ and calls during which the voter inquired about their “inactive” voter registration status. Table 1 excludes tickets that did not contain county information. The total number of calls reflected in the table and graph below thus differs from the total number of received calls above.

Table 1
Registration Inquiries from October 15 through November 3, 2020

County	Total Calls	Main Issues
Atlantic	12	<ul style="list-style-type: none"> • 120 voters reported or learned they were not registered (50 voters from Middlesex County called about this issue) • 93 callers missed the registration deadline • 28 voters inquired about “inactive” registration status • 20 voters were registered, had moved, and did not re-register at new address
Bergen	30	
Burlington	14	
Camden	30	
Cape May	4	
Cumberland	1	
Essex	46	
Gloucester	4	
Hudson	34	
Hunterdon	1	
Mercer	25	
Middlesex	92	
Monmouth	9	
Morris	6	
Ocean	18	
Passaic	15	
Salem	1	
Somerset	11	
Sussex	4	
Union	27	
Warren	6	

⁹ For purposes of this report, the “voter moved” data set includes tickets indicating that a voter moved within New Jersey, moved from another state to New Jersey, or moved from New Jersey to another state. Most tickets recorded in this category concern voters who are or were registered at their old address and inquired about whether and where they could vote. This category differs from the category of 93 callers who had missed the registration deadline in that the latter represents only calls received from persons who were not registered at any address as of the date they called Election Protection.



Non-Receipt of Mail-in Ballot or Receipt of Incomplete Mail-in Ballot

This section analyzes calls from voters who stated that they had not received a mail-in ballot or that they received an incomplete mail-in ballot. LS collected data on this issue from tickets recorded from October 15 through November 3, 2020. The Call Centers received at least 267 calls about these mail-in ballot issues.

Based on the data, Essex County, Middlesex County, Bergen County, and Passaic County had the highest number of voters who reported not receiving a mail-in ballot or receiving an incomplete mail-in ballot as of the date they called Election Protection.

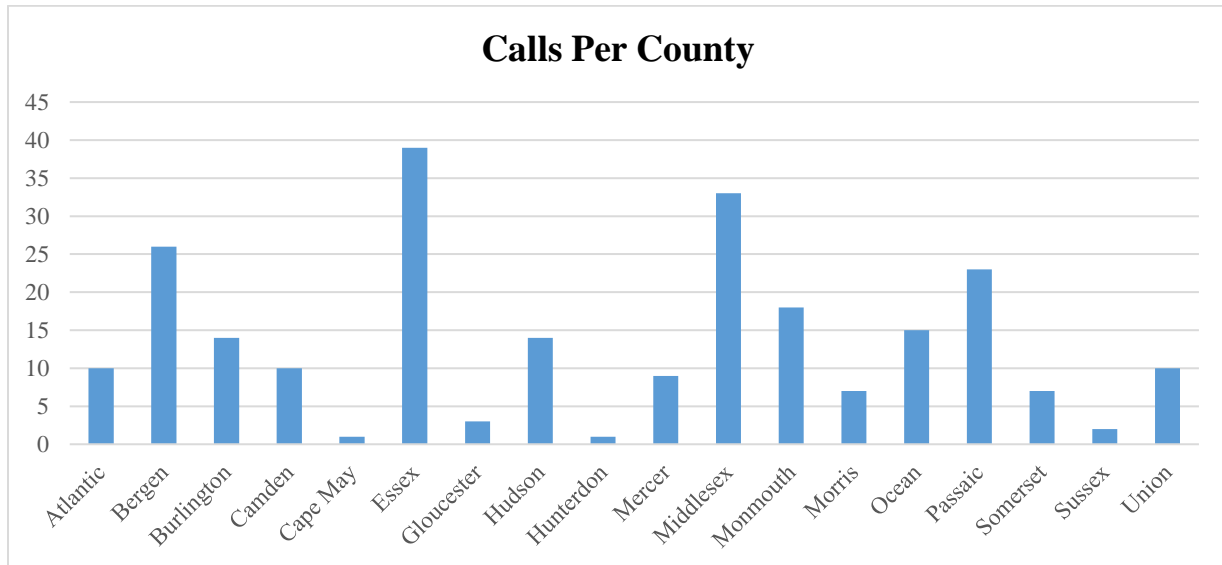
Table 2 and its corresponding graph reflect the total number of tickets about the non-receipt of mail-in ballots and receipt of incomplete mail-in ballots recorded for each county from October 15 through November 3. Tickets recorded on these issues often lacked details that would help identify why a voter did not receive a mail-in ballot. In examining tickets pertaining to this issue, LS made every effort to omit those indicating the caller was not registered (in which case it was obvious why the caller did not receive a mail-in ballot). Tickets that did not state whether the voter was registered and that indicated the voter was listed as “inactive” in New Jersey’s voter registration database are included in this data set.¹⁰ The total number of calls reflected below thus differs from the total number of received calls set forth above.

Table 2
Non-Receipt of Mail-in Ballots from October 15 through November 3

County	Total Calls
Atlantic	10
Bergen	27
Burlington	14
Camden	10
Cape May	1
Essex	39
Gloucester	3
Hudson	15
Hunterdon	1
Mercer	9
Middlesex	33
Monmouth	18
Morris	7

¹⁰ N.J.S.A. 19:63-3 excludes from the automatic receipt of mail-in ballots voters who are deemed inactive by a county commissioner of registration. LS nonetheless includes them in this section because they are eligible voters who encountered setbacks in casting votes as a result of their exclusion from the automatic mail-in ballot system. Of the total calls in this category, five came from voters who stated they were inactive and did not receive a mail-in ballot.

Ocean	15
Passaic	23
Somerset	7
Sussex	2
Union	10



Separately, and not included in the total number of tickets or the table and graph above, the LS Call Center received a significant number of calls from voters about other mail-in ballot issues on November 2 and 3:¹¹

- **Ballot Tracker Information:** The LS Call Center received 55 calls from voters who asked about the ballot status that appeared on New Jersey’s ballot tracker website. Forty of these voters expressed concern that their mail-in ballot status did not appear as “received” as of the date they called. At least 12 voters asked why their status appeared as “received” instead of “accepted.”
- **Lost or Spoiled Mail-in Ballot:** The LS Call Center received 44 calls from voters who lost or spoiled their mail-in ballots.
- **Use of Drop Box in a Different County or State:** The LS Call Center received 20 calls from voters who inquired whether they could return their mail-in ballots to drop boxes outside of their county of residence. At least 4 callers stated they placed their mail-in ballots in a drop box located outside of their county or state of residence.

¹¹ LS collected and analyzed data on these additional mail-in ballot issues only for tickets recorded on November 2 and 3.

- Signature Match: The LS Call Center received 10 calls from voters who expressed concern that their mail-in ballots would not be counted because their current signature might differ from that on file with the State or who indicated they received a cure form based on the signature they provided on their mail-in ballot. Some voters also asked questions on social media about the signature-match process.

Misinformation from and Mistakes by Poll Workers; Misinformation on Social Media

This section analyzes voter calls about misinformation from and mistakes by poll workers, and election misinformation on social media. For the purposes of this section, “misinformation” means that a poll worker or social media post provided inaccurate or unclear information to voters about voting and election procedures. “Mistake” means that a poll worker allegedly acted contrary to New Jersey election law and procedure (e.g., discriminating against voters of a particular race; requiring ID to vote; denying voters with disabilities access to voting machines; looking at voters’ ballots).

The LS Call Center received 52 total calls about poll worker misinformation and/or poll worker mistakes on November 3. Of those instances of misinformation or mistakes, 12 occurred in Essex County, 10 occurred in Hudson County, and 8 occurred in Bergen County. The most common reports from voters involved poll workers requiring ID from voters to cast a provisional ballot, creating barriers that impeded voters with disabilities from voting, and instructing voters to cast mail-in ballots rather than vote in person or to retrieve their mail-in ballots to vote. These issues occurred across counties and were not concentrated in certain counties.

In addition, from October 13 through November 3, NJISJ monitored social media and discovered more than 50 posts with election misinformation. The most common misleading posts were those declaring that the New Jersey 2020 General Election would be conducted only by mail and/or that all in-person voting was limited to people with disabilities.

Table 3 reflects the total number of tickets that documented misinformation from and mistakes by poll workers and misinformation on social media. Table 3 also provides examples of issues documented in tickets on Election Day and social media posts with misinformation. For brevity, only five examples are provided from those counties with five or more calls related to poll worker mistakes or misinformation. The corresponding graph reflects calls received by the LS Call Center about poll worker misinformation or mistakes.

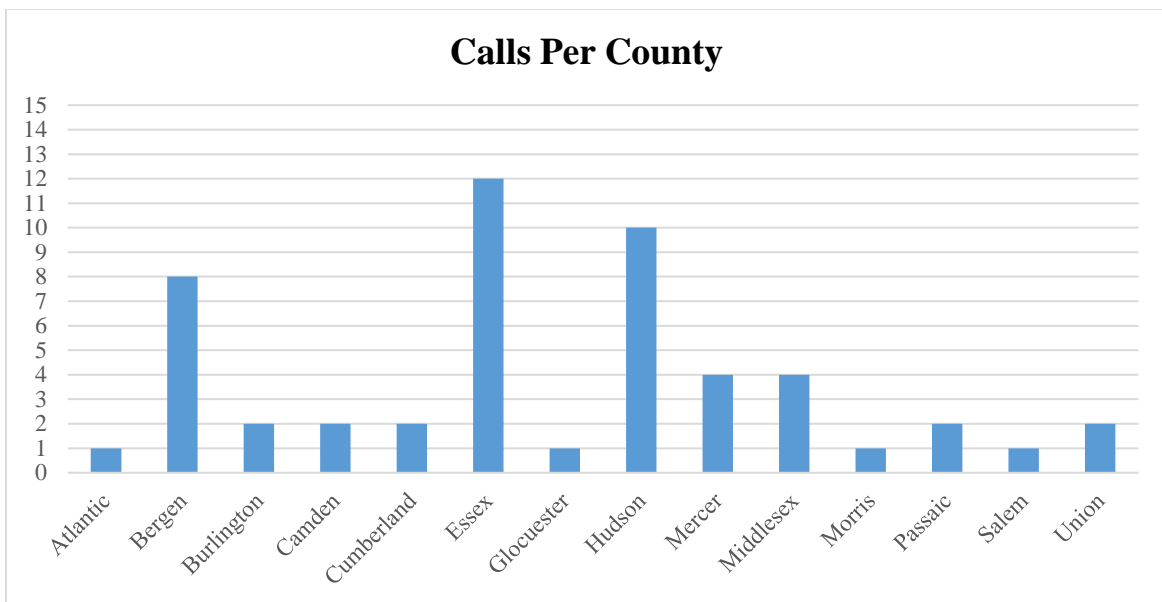
Table 3
**Poll Worker Misinformation, Poll Worker Mistakes;
Misinformation on Social Media**

County	Total Calls	Social Media Posts	Examples
Atlantic	1	–	<ul style="list-style-type: none"> • Advised voter that they must have their mail-in ballot to place in drop box to vote

Bergen	8	1	<ul style="list-style-type: none"> • Instructed voters they need mail-in ballot to vote • Provided voter ballot with only local races • Asked to see voters' ballots before they returned them • Asked non-first-time voters for ID to vote • Placed ballots on chair instead of in ballot bag or box • Denied access to ADA-accessible machines requested by voters with disabilities • Social media post stated election was vote-by-mail only
Burlington	2	3	<ul style="list-style-type: none"> • Voter, who decided not to vote by mail, brought unmarked mail-in ballot to her polling place to return before casting an in-person vote; poll worker told voter to put the unmarked ballot in a box and, after the voter complied, would not allow her to cast an in-person ballot • Instructed non-first-time voter he needed ID to vote • Social media posts stated that the election was vote-by-mail only
Camden	2	–	<ul style="list-style-type: none"> • Told voters registered as “inactive” that they could not vote
Cumberland	2	–	<ul style="list-style-type: none"> • Told voters with disabilities that they must wait for county board of elections (“BOE”) to bring list of “acceptable” disabilities before they could vote
Essex	12	3	<ul style="list-style-type: none"> • Instructed bearers to forge voters' signatures • Required ID from all voters to vote • Instructed Spanish-language voter to vote for poll worker's “friends” • Refused to take action when voters complained that door to polling place was locked throughout the day and that they were required to knock so that a security guard would let them inside to vote • Handed voters provisional ballots and asked them to “come back” after they could not find voters' names in poll books • Caused confusion by moving a Nutley polling location shortly before the polls closed and denied challengers access to observe transfer of allegedly unsealed ballots from one location to the next • Social media posts stated that voters in Newark should vote at the Prudential Center to avoid long lines at other polling locations, but the Prudential Center was not a backup polling location; it was instead a consolidated location for several specific districts
Gloucester	1	–	<ul style="list-style-type: none"> • Advised voter with disability that they could not vote using ADA-accessible machine if they could not read braille and made

			voter wait after instructing that “they [poll worker] had to call” the county BOE
Hudson	10	1	<ul style="list-style-type: none"> • Looked at voters’ votes on ballots; opened voters’ ballots • Asked non-first-time voters for ID to vote • First poll worker sealed voter’s ballot incorrectly (another poll worker offered the voter a new ballot to correct the problem) • Told voters that address and date of birth were not required on provisional ballots despite requirement otherwise • Singled out Spanish-language voters and instructed them to leave voting line to cast mail-in ballot instead • Social media post stated that ballots were not being counted at polling location in North Bergen
Mercer	4	–	<ul style="list-style-type: none"> • Advised voters that polling location was not opening and instructed them to place provisional ballots in mail • Placed voter’s provisional ballot in ballot box meant for mail-in ballots that were dropped off at polling location instead of ballot box (or bag) meant for provisional ballots • Pulled voter who cast mail-in ballot not marked as received in State database out of line and made them advocate for themselves to cast provisional ballot, stating that such ballot would “be thrown out,” even though voter had called county BOE before visiting polling location, and BOE confirmed voter could cast provisional ballot in person (but that ballot would not count if the BOE had received the voter’s mail-in ballot) • Advised voter that they are not on voting rolls after voter confirmed they were registered and at the correct polling place
Middlesex	4	–	<ul style="list-style-type: none"> • Told voter they were “filling in the wrong circles” and directed them to fill them in for a particular party • Singled out Black voters to check IDs • Checked IDs of voters dropping off mail-in ballots • Issued pre-filled (GOP) provisional ballot to voter
Monmouth	–	2	<ul style="list-style-type: none"> • Social media posts stated that election was vote-by-mail only • Social media post stated that voters could drop off mail-in ballot at any drop box or polling place
Morris	1	–	<ul style="list-style-type: none"> • Asked voter, who did not speak English well and who was not first-time voter, for ID to vote
Passaic	2	4	<ul style="list-style-type: none"> • Instructed in-person voter to cast mail-in ballot at home • Instructed voter with disability to cast provisional ballot instead of using ADA-accessible machine • Several social media posts showed a picture of partisan supporters blocking a ballot drop box in Clifton. These were false reports.

Salem	1	–	<ul style="list-style-type: none"> • Told voters in line it would be easier for them to go home and vote their mail-in ballots rather than vote in person
Union	2	–	<ul style="list-style-type: none"> • Failed to instruct voter to complete information on provisional ballot envelope • Failed to explain provisional ballots to voters even though voters signaled their confusion



Late Openings and Long Lines at Polling Places

This section analyzes voter calls and social media posts about polling places that opened late or had long lines on November 3, 2020. The Call Center received 26 calls about late openings at polling locations and 9 calls about long lines (35 calls in all).

Based on the data collected, Essex County experienced more late openings and long lines on Election Day than any other county, and the majority of these problems occurred in Newark. Eleven voters called to report that the 345 Broadway polling location in Newark had not opened on time. Newark voters also posted multiple messages on Facebook and Twitter about polling places that opened hours late or had long lines to vote.

The Call Center received two calls about late openings in Passaic County, including one that the 851 E. 28th Street polling location in Paterson did not receive provisional ballots to distribute to voters on time. The remaining calls related to polling locations in other relatively populous municipalities.

Table 4
Late Openings at Polling Places on November 3

County	Total Calls	Polling Place(s)
Atlantic	1	• Richmond Avenue School, Atlantic City
Bergen	1	• 33 Plaunderville Avenue, Garfield
Essex	19	<ul style="list-style-type: none"> • Engine 32 Firehouse, Newark • Engine 14 Firehouse, Newark • Malcom X Shabazz HS, Newark • Greater Abyssinian Baptist Church, Newark • Engine 26 Firehouse, Newark • Weequahic HS, Newark • 8 Hawkins Street, Newark • 345 Broadway, Newark • Boylan St. Recreation Center
Hudson	1	• Frank R. Conwell Middle School, Jersey City
Mercer	1	• Hedgepeth-Williams Elementary School, Trenton
Passaic	2	<ul style="list-style-type: none"> • Don Bosco Tech Academy, Paterson • 851 E. 28th Street, Paterson
Warren	1	• Phillipsburg Middle School, Phillipsburg

Table 5
Long Lines at Polling Places on November 3

County	Total Calls	Social Media Posts	Polling Place
Essex	7	5	<ul style="list-style-type: none"> • Greater Abyssinian Baptist Church, Newark • 8 Hawkins Street, Newark • 633 Broadway, Newark (two calls) • 88 Lyons Avenue, Newark • Florence Avenue Elementary School, Irvington
Hudson	1	—	• Sipp Avenue, Jersey City
Passaic	1	1	• School #28, Paterson

Election Protection field volunteers observed and documented late openings and long lines throughout the State. For example, field volunteers observing the Moorestown Hall and Library polling location reported a wait-time of approximately 45 minutes. Others observing a long line at a polling location in Salem County reported that poll workers were telling voters it would “be easier to get their mail-in ballot if they have it at home and bring it back.”

Newark, however, appeared to be the epicenter of these problems. Field notes indicate that between 6:00 A.M., when the polls were supposed to open, and 7:00 A.M., polling locations at 916 S. Orange Avenue, 88 Lyons Avenue, 345 Broadway, and Engine 26 were closed. Field volunteers also reported that polling places at 8 Hawkins Street and 65 Congress Street “opened over an hour late,” and 279 Chancellor Avenue did not open until around 7:40 A.M., at which point “about 70 people” were waiting in line to vote. Poll workers in Newark gave varied explanations for the late openings, including that poll workers did not arrive on time or lacked provisional ballots or ballot boxes.



A long line formed at 279 Chancellor Avenue, Newark, as voters waited for the polling place to open

At some Newark locations, long lines persisted throughout the day. One field volunteer, who had observed a long line at 88 Lyons Avenue “all day,” took a photograph depicting the line at 4:52 P.M, which is shown below. Other volunteers made similar reports about, and took photographs of, Newark polling places located at 165 Clifton Avenue, 663 Broadway, and 8 Hawkins Street.



A long line persisted at 88 Lyons Avenue, Newark, throughout the day

In addition to late openings and long lines, Election Protection field volunteers documented a lack of provisional ballots at polling locations throughout the State. For example, at 3:55 P.M., field volunteers in Atlantic City reported that Ward 4 had run out of provisional ballots and was redirecting voters to Ward 5.

Voter Intimidation

This section analyzes calls from voters about voter intimidation on November 2 and 3, 2020, as well as social media posts concerning voter intimidation on November 3, 2020. For the purposes of this report, “voter intimidation” means conduct that is prohibited by New Jersey law. New Jersey law generally prohibits conduct that intimidates or threatens voters to prevent them from voting or to cause them to vote in a certain way.¹² Because New Jersey’s voter intimidation laws are broad, this section captures instances of poll worker mistakes and electioneering as well as intimidating text messages, telephone calls, and flyers received by voters.

The LS Call Center received 28 calls about voter intimidation on November 2 and 3, 2020. The majority of these calls came from Bergen County, Hudson County, and Middlesex County. Four callers reported concerns about police presence. In addition, in the days leading up to Election Day, NJISJ and the LWVNJ received reports from some voters objecting to the placement of ballot drop boxes at law enforcement agencies or citing police presence at drop boxes. Many voters who called to report voter intimidation, including most of those who called from Hudson and Bergen Counties, reported poll worker mistakes that were intimidating. Across several counties, voters of color were targeted for intimidation.

Table 6
Voter Intimidation on November 2 and 3

County	Total Calls	Examples
Atlantic	2	<ul style="list-style-type: none">• Man standing at polling place entrance told Latinx voters to “vote the right way”• Voter received letter stating that they could not vote in the General Election if they have voted for the Green Party
Bergen	3	<ul style="list-style-type: none">• Challengers disregarded rules at polling place, including looking at poll books• Poll worker would not give voter a provisional ballot sleeve until the voter allowed poll worker to view voter’s completed ballot• Trucks drove around drop box with GOP paraphernalia for at least four hours
Burlington	1	<ul style="list-style-type: none">• Police presence outside of drop box

¹² See N.J.S.A. 19:34-1.1 (making it a crime to, among other things, “knowingly and willfully intimidate[], threaten[] or coerce[],” or attempt to intimidate, threaten or coerce, any person for registering to vote), 19:34-6(a) (making it a crime on Election Day to, among other things, “tamper, deface, or interfere with any polling booth,” obstruct polling place entrances or voters, loiter near a polling place, or electioneer within one hundred feet of a polling place), 19:34-28 (prohibiting the threatening or intimidation of voters), 19:34-29 (prohibiting interference with a voter’s right to vote).

Camden	1	<ul style="list-style-type: none"> • Voter took picture of long line at county BOE to drop off ballot and was instructed to leave and shown out by “private security”
Camden	2	<ul style="list-style-type: none"> • Person with Trump flag stood next to polling place entrance
Cumberland	1	<ul style="list-style-type: none"> • Police vehicles with lights on blocked road to polling place
Gloucester	1	<ul style="list-style-type: none"> • Voter received a voicemail instructing her to “stay home”
Hudson	4	<ul style="list-style-type: none"> • Poll worker told voter, “If you want to vote Republican, this is how you fill it out.” • Poll workers required voters to show ID to vote • Person drove SUV with Trump cut-out alongside voters in line to vote, blew horn, and yelled • Poll worker instructed Spanish-language voters to leave voting line and vote by mail instead
Middlesex	3	<ul style="list-style-type: none"> • Poll worker checked IDs of Black, but not white, voters • Poll worker handed voter a pre-filled (GOP) ballot • Poll worker told voter that they were “filling in the wrong circles” and to fill them in for a particular party
Morris	1	<ul style="list-style-type: none"> • Poll worker asked voter, who did not speak English well and who was not first-time voter, for ID to vote
Passaic	2	<ul style="list-style-type: none"> • Person with Trump flag stood next to polling place entrance • Voter received flyer instructing them to go to a certain polling place location on Election Day, but that polling location was not open on Election Day
Union	1	<ul style="list-style-type: none"> • Voter received automated call instructing her to “stay home”
Warren	1	<ul style="list-style-type: none"> • Police presence at polling place

Accessibility Issues for Voters with Disabilities, Medical Conditions, or Limited English Proficiency

This section analyzes voter calls about accessibility issues encountered by voters with disabilities and medical conditions on November 2 and 3, 2020. It also addresses field team observations and documentation of language accessibility issues.

The LS Call Center received 12 calls from or on behalf of voters with disabilities about barriers they encountered that threatened their right to vote on Election Day, and 9 calls from voters with medical conditions or disabilities about whether and how they could vote in spite of their conditions. Based on the data, Essex County callers reported more issues regarding accessibility for voters with disabilities or illnesses than other counties in the State.

The most common issue affecting voters with medical conditions who called the LS Call Center was that they could not safely go to a drop box or polling location to vote on Election Day. Of the nine calls we received about this issue, four were from voters who were COVID-positive; three were from voters who were about to go to the hospital, in the hospital, or recently discharged from the hospital; one was from a voter who was ill; and one was from a disabled voter who needed a ride to the polls.

Based on the data, the most common issue affecting voters with disabilities on Election Day was the denial of access to ADA-accessible voting machines. The calls received from Bergen County about this issue reported the same polling location (45 Beech Street, North Arlington), and the Call Center received those calls around the same time (~7:00 p.m.). At least two calls—the first from Essex and the second from Gloucester—suggested a misunderstanding that only blind voters are permitted to use ADA-accessible voting machines. Out of the total calls received, only two reported inoperable machines. The remaining calls suggest voters and poll workers had a miscommunication, or poll workers provided inaccurate information to voters with disabilities.

DRNJ also operated a hotline for voters with disabilities and coordinated its activities with the LS Call Center. Before Election Day, DRNJ received several calls from individuals who were subject to guardianship about their right to vote. Many callers believed they were ineligible to vote even though no court had disenfranchised them. It appears that some guardians and wards did not have adequate information about the voting rights of wards. Many of the other callers were concerned they would be unable to get to the polls safely because they lacked access to transportation where they could avoid close proximity to others during the pandemic.

On Election Day, DRNJ received two calls from voters with disabilities in different counties who reported that poll workers had denied them access to ADA-accessible voting machines because their disabilities were not apparent. DRNJ successfully advocated for these voters, but their experiences highlight that poll workers lacked training on the use of ADA-accessible voting machines and raise questions about how often poll workers denied voters with disabilities access to ADA-accessible machines during the election.

Table 7
Accessibility Issues for Voters with Disabilities and Medical Conditions
on November 2 and 3

County	Total Calls	Examples
Atlantic	1	<ul style="list-style-type: none"> • Voter and voter's husband were COVID-positive and could not safely go to their polling location to vote in person; voter's husband did not receive mail-in ballot
Bergen	2	<ul style="list-style-type: none"> • Voter with cerebral palsy denied access to ADA-accessible machine; poll worker instructed him to use provisional ballot with help of sister; voter had wanted to vote independently • Voter with disability denied access to ADA-accessible machine and instructed to vote with provisional ballot
Burlington	1	<ul style="list-style-type: none"> • Voter was COVID-positive, did not receive mail-in ballot, and could not safely go to his polling location to vote in person
Cumberland	2	<ul style="list-style-type: none"> • Voter recently released from hospital due to stroke and needed a ride to vote in person • Poll worker would not permit voter with disability to vote until election official brought "list of acceptable disabilities"; voter had to wait over an hour to vote
Essex	6	<ul style="list-style-type: none"> • Hospitalized voter could not go to polling location to vote in person • Unidentified person (possibly a poll worker) told voter that polling place's one ADA-accessible machine was for blind voters only • ADA-accessible machines were "inoperable" • Disabled voter unable to get to polls without a ride • Caller's mother was ill and could not safely go to polling location to vote in person • Poll worker asked voter with disability for ID and informed them that they were at incorrect polling location even though Election Protection confirmed it was correct
Gloucester	2	<ul style="list-style-type: none"> • Poll worker told voter with disability that they could not use ADA-accessible machine unless they could read braille and made voter wait after instructing that "they [poll worker] had to call" the county BOE • Pregnant voter about to give birth unable to go to polling location to vote in person

Hudson	3	<ul style="list-style-type: none"> • ADA-accessible booth “not functioning” • Polling location not accessible to voters with disabilities • Voter with disability lost mail-in ballot and asked whether she could still vote
Mercer	1	<ul style="list-style-type: none"> • Voter was COVID-positive and could not safely go to her polling location to vote in person
Middlesex	1	<ul style="list-style-type: none"> • Voter with disability left polling location because poll worker instructed that he must fill out a form to vote; turns out the form was the certification form
Passaic	1	<ul style="list-style-type: none"> • Voter with disability denied access to ADA-accessible machine upon request
Somerset	1	<ul style="list-style-type: none"> • Voter in hospital with COVID-19 and could not go to her polling location to vote in person

Election Protection field volunteers were dispatched to assess voter accessibility issues. Field notes capture issues that made it difficult for voters with disabilities and voters with limited English proficiency to cast ballots. Summaries of these notes follow.

Voters with Disabilities

Field notes from volunteers observing a polling place in Avenel indicate that an “aggressive poll worker” was “questioning handicapped voters,” and one elderly voter was told “that he needed additional paperwork” to use an ADA-accessible machine. At the Palace Catering polling location in Blackwood, a poll worker denied a voter with a visual impairment access to an ADA-accessible machine. The voter later returned to the polling place “with her son for assistance.” When pressed by field volunteers about the incident, the poll worker conceded that the voter was able to vote only because she sought assistance and returned to the polling place a second time. In conferring with each other, the DE-NJ NLG field command center and the LS Call Center learned of several ADA accessibility issues at this polling location that had not been reported to the Call Center.

Voters with Limited English Proficiency

The Election Protection field team also observed and documented language-access issues throughout the State. Among the most troubling reports, “poll workers for Wards 2, 3, 5, and 6 [in Atlantic City] all claimed that they did not have [any] interpreters” for voters who were not proficient in English. In Wards 1 and 6, a field team supervisor spoke with campaign volunteers, who indicated that they or other persons unaffiliated with the Atlantic County BOE were providing language services to Spanish-speaking voters. Although the campaign volunteers were not distributing literature, they provided these services “within the 100 feet” exclusionary zone.

Similarly, in Newark, polling places located at 88 Lyons Avenue, 279 Chancellor Avenue, 55 Clinton Place, and 80 Johnson Avenue lacked interpretation services, and voters who were not English-proficient encountered difficulties voting. When it learned about the language barriers at these locations, the field command center dispatched bilingual poll monitors to assist voters.

Unlawful Electioneering

This section analyzes calls from voters about unlawful electioneering on November 3, 2020. For the purposes of this report, “unlawful electioneering” means that which is prohibited under New Jersey law.¹³ We refer to the 100-foot exclusionary zone around polling places as the “clear zone.”

The LS Call Center received 8 calls from voters reporting unlawful electioneering within polling locations’ clear zones on Election Day. Four of those calls came from Hudson County, and two of those four calls related to a local Board of Education campaign in Jersey City. Three calls related to unlawful electioneering by persons appearing to be associated with the Republican Party.

Table 8
Unlawful Electioneering on November 3

County	Total Calls	Examples
Burlington	1	• Groups within clear zone holding up Andy Kim and Trump signs
Camden	1	• Person with Trump flag stood next to polling place entrance
Essex	1	• Telephone pole near polling location had two large signs hanging on it, stating, “Vote line A . . . Democrat.”
Hudson	4	• Individuals handing out flyers to voters in line within clear zone • Persons paid by Board of Education campaign wearing campaign paraphernalia within clear zone • Board of Education campaign sign posted over polling place’s “Vote Here” sign near entrance • Individuals handing out “literature” at polling location’s entrance
Passaic	1	• Person with Trump flag stood next to polling place entrance

¹³ See N.J.S.A. 19:34-6 (making it a third-degree crime to “do any electioneering within any polling place or within one hundred feet thereof”), 19:34-15 (making it a disorderly persons offense to electioneer within a polling place or within one hundred feet outside the entrance to a polling place), 19:34-19 (making it a disorderly persons offense to “display, sell, give or provide any political badge, button or other insignia to be worn at or within one hundred feet of the polls or within the polling place. . . .”).



A local board of education campaign sign covered a voting informational sign at a polling place in Jersey City.

Lack of Voting Privacy at Polling Places

This section analyzes calls from voters who indicated a lack of voting privacy at their polling locations on November 3, 2020.

The LS Call Center received 7 calls from voters about a lack of voting privacy, and all calls concerned polling locations in Hudson County. Generally, voters indicated they were made to sit at large tables or in large rooms without partitions and within view of other voters. That we received calls about this issue only from Hudson County voters suggests that Hudson County may not have implemented privacy procedures adopted by other counties.

Table 9
Lack of Voting Privacy on November 3

County	Total Calls	Polling Location
Hudson	7	<ul style="list-style-type: none">• Sacred Heart, Bayview Avenue, Jersey City• Memorial HS, West New York• Moose Lodge, 60 West Side Avenue, Jersey City• Polling place not recorded• Fire Museum, 10 W. 47th Street, Bayonne• Galaxy Towers, 7000 Boulevard East, Guttenberg

Deficient Signs at Polling Places

This section analyzes voter calls recorded about deficient signage at polling locations on November 3, 2020. “Deficient signage” for the purposes of this section means that a polling location lacked signs, had insufficient signs, or had positioned signs in a way that failed to direct voters to the entrance.

The LS Call Center received 6 calls from voters stating that their polling location had deficient signs. Of those calls, two concerned polling locations that lacked signs, two related to signs that failed to direct voters to the polling place’s entrance, one concerned a sign with instructions about how to vote that appeared to have blown by the wind onto a private yard adjacent to a polling location, and one involved a sign too small to be read by voters looking for the polling place while driving. Problems with signage arose even though the State had distributed signs to every county.

Table 10
Deficient Signage at Polling Places on November 3

County	Polling Place
Essex	• Weequahic HS, Newark
Hudson	• Dr. Michael Conti School, Jersey City
Middlesex	• 216 Livingston Ave., New Brunswick
Ocean	• 50 Blue Jay Drive, Toms River
Somerset	• 321 Mine Brook Rd., Bernardsville
Warren	• 200 Carlton Ave., Washington

Election Protection field volunteers reported and photo-documented insufficient signage, lack of signage, and polling-place entrances in obscure areas across the State. One field volunteer reported that the entrance to the Weequahic High School polling place in Newark was located in an unmarked alley instead of the building’s main entrance. Another reported that a police officer in Burlington County approached her and said, “people keeping [sic] asking him about voting . . . [but] he doesn’t know where to point them.” In Audubon, a field volunteer noticed that the address for a polling place was incorrect and tried to locate the correct address for over an hour. After finally locating it, the volunteer reported that the polling place had no signs alerting voters that they could vote there.



A polling place without voting signs in Audubon

Although these issues occurred throughout the State, most reports concerned polling locations in Trenton, Newark, and Sayreville, the Township of Ocean, and Warren County.



Deficient signage at a polling location in Warren County

Among those municipalities, Trenton appeared to have the most sign-related issues. The New Jersey Election Protection Coalition received several reports that every polling place in Trenton lacked signage and that polling place entrances were not apparent.

For example, as shown below, 411-547 Greenwood Avenue in Trenton did not have any signs identifying it as a polling place or directing voters to its entrance. To access the polling place entrance, voters had to locate and use a small pedestrian passageway that was accessible only when they opened a closed gate. The lack of signage and obscure entrance made this polling place extremely difficult to find.



The polling place entrance for 411-547 Greenwood Avenue in Trenton



The passageway leading to 411-547 Greenwood Avenue's entrance

Having identified lack of signage as a statewide issue, field volunteers swiftly acted to cure the signage deficiencies. Volunteers with DE-NJ NLG and the LWNJ organized to transform their offices into sign-producing centers. Using their own supplies, these volunteers created handmade “Vote Here” signs that they posted at polling places throughout the State. The following photos depict DE-NJ NLG’s efforts to make it easier for voters to find their designated polling locations.



A DE-NJ NLG field volunteer designing a "Vote Here" sign



Field volunteers working together to create signs



A field volunteer standing next to a handmade sign posted at a polling place in Trenton

Challenges Reaching County Election Officials

Although neither the Call Center nor the social media or field teams recorded specific data on the unresponsiveness of election officials, this issue created significant challenges in the weeks leading up to and during the election. Traditionally, election officials and advocates have worked together to resolve election-related issues as they arise before and on Election Day. Advocates have historically had direct lines of communication with election officials, which enabled advocates to alert election officials to problems that required immediate attention. This open communication has proven beneficial for voters and election officials alike. However, during the 2020 General Election, COVID-19 significantly complicated operations: election offices regularly closed due to the virus, and the system of real-time collaboration between advocates and election officials broke down.

The LWVNJ reported the inability to reach county election officials leading up to and on Election Day and received similar reports from voters statewide. Before Election Day, the LWVNJ had difficulty reaching officials to clarify when voters could apply for replacement mail-in ballots or drop off ballots in-person. Both the LS Call Center and the LWVNJ had great difficulty reaching county election officials throughout the State to report issues encountered by voters on Election Day. Consequently, unlike past elections, advocates and election officials could not address or resolve election issues as they arose.

Lack of Access to Court for Disenfranchised Voters

This section discusses the barriers disenfranchised New Jersey voters faced when seeking court orders allowing them to vote. During the 2020 General Election, the ACLU-NJ worked with the LS Call Center and the LWVNJ to identify voters who were eligible to vote but prevented from casting a ballot. As in past election cycles, the ACLU-NJ identified barriers that made it difficult for such voters to access the courts to challenge the denial of their right to vote. Because these issues will continue to affect future elections, we urge the Office of the Attorney General and the New Jersey Judiciary to address them to ensure that New Jersey courts are easily accessible to disenfranchised voters.

When voters sought a hearing before a judge on Election Day, court staff first directed them (and their attorneys, if any) to county BOE officials and the deputy attorneys general (“DAGs”) representing the counties. While this may be appropriate to resolve factual misunderstandings, these parties are adverse in court proceedings, and these interactions should therefore be carefully circumscribed. Most voters do not understand—and generally no one tells them—that county BOE officials and their lawyers may oppose their right to vote. Thus, requiring voters, particularly unrepresented voters, to discuss their cases first with a county official or DAG raises serious ethical concerns.

The New Jersey Rules of Professional Conduct (“RPCs”) prohibit lawyers from representing, or purporting to represent, the interests of parties on adverse sides of the same dispute. RPC 1.7. The DAGs represent the counties, and in general their role is therefore to defend the counties’ decisions to prevent the voter from casting a ballot. Given this role, the DAGs cannot advise voters of their rights. RPCs 4.2 and 4.3 address the issue directly. RPC 4.2 prevents a lawyer from discussing a matter with an opposing party the lawyer knows to be represented. When a voter has a lawyer, therefore, the DAG should discuss the matter only with that lawyer. RPC 4.3 will have even wider application in this context. It provides: “In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer’s role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding.” Thus, DAGs discussing voting rights with unrepresented parties should affirmatively inform them of their duty to defend the relevant county’s decision to deny the voter a ballot.

In one concerning instance, the ACLU-NJ had difficulty scheduling a virtual hearing for a client who sought to address a registration issue. When the ACLU-NJ contacted the Superior Court to request a hearing, a court employee explained that the voter first needed to appear in-person at the county’s BOE office before the court would schedule a hearing. After appearing at the county’s BOE office, the voter would then be permitted to go to the courthouse, with a BOE employee escort. Fortunately, the ACLU-NJ objected to the burdensome process and successfully scheduled a virtual hearing for its client. The county’s official protocol, which likely affected other voters, made the voting process more burdensome and less safe, requiring voters to travel for and make additional

in-person visits during the pandemic. Furthermore, the directions provided in this county fell short of the protocols put in place by other New Jersey counties.¹⁴

In a handful of other Election Day matters, court staff advised ACLU-NJ attorneys to contact county BOE offices or their attorneys to schedule hearings, not the court. These instructions contradicted the directions provided by the Judiciary in its Election Day Court Hearings Notice.¹⁵ In addition to the ethical considerations, this process added extra steps on a day when time is of the essence.

Because of the pandemic, ACLU-NJ attorneys had limited first-hand experiences with accessing the courts during the 2020 General Election. There were undoubtedly many voters who proceeded pro se. Every person facing a barrier to casting a vote must have a clear, accessible path to court.

¹⁴ For example, Atlantic County, along with other New Jersey counties, advised that “[a]nyone seeking to petition the court on a voting or election issue on the date of the election may contact the Atlantic County Courts” Notice, *Election Date Court Hearings for the November 3, 2020 General Election—Statewide Procedures and Protocols; County-Specific Logistical Details* (Oct. 21, 2020), <https://njcourts.gov/notices/2020/n201021c.pdf?c=L3Q>. In contrast, Ocean County advised that “[v]oters with any election-related issues should contact the Ocean County Board of elections and/or Election Services at the Ocean County Clerk’s Office. If appropriate, these offices will make arrangements for the voter to report to a designated courtroom where a hearing may be conducted either in person or virtually.” *Id.*

¹⁵ *Id.*

Recommendations

Registration

1. Enact same-day voter registration.

As in past years, voting rights advocates heard from voters who were unable to cast a ballot because they had missed the voter registration deadline. New Jersey should amend its election laws to allow same-day voter registration, including on Election Day. New Jersey's current 21-day voter registration deadline arbitrarily disenfranchises voters, particularly marginalized voters. Same-day voter registration has been shown to lead to a 5% increase in voter turnout,¹⁶ with as much as a 10% increase among young voters age 18-24.¹⁷ In addition, same-day voter registration is an effective way to remedy outdated or inaccurate voting rolls. This change would also allow voters who moved, became citizens, were released from prison, or otherwise became eligible to vote in the weeks leading up to the election to register to vote and cast a ballot on Election Day.

2. Expand automatic voter registration.

Pursuant to N.J.S.A. 19:31-6.14, the State should expand the number of government agencies that can “automatically and electronically transmit[] voter registration information to the Secretary of State of persons who are eligible to vote for the purpose of registering such persons to vote or updating their voter registration.” Currently, only the Motor Vehicle Commission acts as an Automatic Voter Registration Agency (AVR) under this law.

Going forward, the State should expand automatic voter registration to the Department of Corrections (DOC) and the New Jersey State Parole Board, to enable people in prison who are on the brink of release to register as quickly and smoothly as possible. Similarly, the State should enable all social service providers designated as voter registration agencies under N.J.S.A. 19:31-6.11 and Section 7 of the National Voter Registration Act (NVRA), 52 U.S.C.A. § 20506, to function as automatic AVRs. The process of converting the social service providers to AVRs should begin with Medicaid because of the large number of enrollees in that program. Other states have expanded

¹⁶ Barry C. Burden, et al., *The Effects and Costs of Early Voting, Election Day Registration, and Same Day Registration in the 2008 Elections*, Pew Charitable Trusts (2009), https://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2009/uwisconsin1pdf.pdf; Barry C. Burden & Jacob R. Neiheisel, *The Impact of Election Day Registration on Voter Turnout and Election Outcomes* (2010), https://apw.polisci.wisc.edu/archives/Burden_and_Neiheisel_11-30-2010%5B2%5D.pdf; Craig Leonard Brians & Bernard Grofman, *Election Day Registration's Effect on U.S. Voter Turnout*, 82 SOC. SCI. Q. 170 (2001), <http://www.socsci.uci.edu/~bgrofman/18%20Brians-Grofman-Election%20day%20registration%27s%20effect.pdf>.

¹⁷ Charlotte Hill & Jacob Grumbach, Opinion, *An Excitingly Simple Solution to Youth Turnout, for the Primaries and Beyond*, N.Y. Times (June 26, 2019), <https://www.nytimes.com/2019/06/26/opinion/graphics-an-excitingly-simple-solution-to-youth-turnout-for-the-primaries-and-beyond.html>.

AVR to include Medicaid and other social service providers.¹⁸ This conversion will require additional language or an extra screen to incorporate the declination form that such entities must present to applicants pursuant to state law and the NVRA.

New Jersey's social service agencies (and the Medicaid program in particular), DOC, and the State Parole Board interact with thousands of people, many of whom do not have the same opportunities as others to register to vote through the Motor Vehicle Commission. For example, low-income residents—who are disproportionately Black and Latina/Latino—may not have drivers' licenses, and residents with disabilities also may not drive. AVR through the Motor Vehicle Commission has benefited tens of thousands of New Jersey residents since its implementation in 2018. Although expanding AVR would require significant funding and coordination among several State agencies, adopting this recommendation would benefit thousands of additional voters, particularly those who are most marginalized.

Early In-Person Voting

3. Implement and educate voters on new early in-person voting law.

On March 30, 2021, Governor Murphy signed early voting into law in New Jersey.¹⁹ Voters will soon be able to vote in person at specially designated polling places for 3-5 days before primary elections and 9 days before general elections. This is a welcome advance that will expand in-person voting options to include the weekends before most elections, making it more feasible for many working people to vote. Early voting should help ease the polling-place crowding and wait-times documented in this report.

The State must provide adequate funds to county election officials to cover infrastructure updates and other measures necessary to implement early voting. Further, voters must know how and where they can exercise their right vote. The State, counties, and advocates should thus work together to advertise and educate the public about early voting.

Election Day Management

4. Improve poll worker recruitment.

Many experienced poll workers stayed home during the 2020 General Election to avoid health risks, and, in some cases, because they contracted COVID-19. To encourage residents to volunteer to staff the polls, New Jersey created a statewide poll worker application form and waived the requirement that poll workers serve only in their own counties. These efforts were generally successful, but a lack of trained poll workers led to some serious issues at polling locations, as outlined in this report. In addition, residents who wanted to volunteer at the polls faced difficulties with the poll worker application process. Leading up to Election Day, voting rights advocates

¹⁸ Mass. Gen. Laws Ann. ch. 51, § 42G; Wash. Rev. Code Ann. §§ 29A.08.362, 29A.08.365.

¹⁹ S. 3203/A. 4830, 219th Leg. (N.J. 2021), https://www.njleg.state.nj.us/2020/Bills/S3500/3203_R1a.PDF.

received calls from angry residents who had signed up to be poll workers and never heard back. Some residents who contacted county offices were told that they were not needed.

This election cycle, other states took measures to address poll worker shortages that would have benefited New Jersey voters if implemented here, including publishing up-to-date poll worker shortages and fulfillment data and taking a greater role coordinating and training poll workers. New Jersey should consider amending its election laws and adopting similar measures to improve poll worker recruitment and training. For example, N.J.S.A. 19:6-1 specifies that poll workers “shall be appointed by the county board of the county in which such election district is located.” This statute, as well as similar statutes giving sole appointment power to county boards, should be amended to allow the State to assume a larger role in poll worker recruitment and deployment when necessary. In the meantime, election officials and voter advocates should encourage residents to apply to be poll workers using the State’s [poll worker application](#) well before each election.

5. Establish oversight and accountability among poll workers; formalize responsibilities of “master poll workers” and “lead poll workers.”

New Jersey currently has “master poll workers,” although their responsibilities are unclear or vary among municipalities. In general, master poll workers reportedly act as a liaison between poll workers at polling locations and the municipal clerk or county election officials. Master poll workers are responsible for reporting on several polling locations, but do not seem to receive any additional or specific training. Going forward, the roles and responsibilities of master poll workers should be clearly established; they should receive significant training; their reports to municipal and/or county officials should be standardized, required, and transparent; and they should interact with and oversee lead poll workers (see below) to ensure smooth communication and quick resolution of issues.

In addition, New Jersey should train a pool of “lead poll workers” and place one at every polling location. Lead poll workers should have significant experience and enhanced training, and compensation reflecting this. The State should clearly delineate lead poll workers’ responsibilities and authority. The lead poll worker at every location should monitor both the polling place and other poll workers for compliance. Lead poll workers should be directly responsible for ensuring access to ADA-accessible machines for voters with disabilities and adequate assistance for voters with limited English proficiency. They should also identify and prevent common poll worker errors, such as improper voter identification requests, before they escalate. Lead poll workers should report issues to master poll workers, who in turn will report to the municipalities and counties.

6. Ensure proper signage at polling places.

N.J.S.A. 19:8-5, 19:8-5.1, and the New Jersey District Board Manual specify that proper identifying signage is to be displayed at the outside entrance of polling locations. This was not the case for many polling locations during the 2020 General Election. The Election Protection field team noted deficient signs at a number of locations, causing voter confusion. Polling place signage should be uniform statewide to prevent disparities, and all polling places should display the signs provided by the State.

7. Further restrict law enforcement presence at polling places and drop boxes.

The State should limit the presence of law enforcement near voting locations. Currently, state law permits election officials to summon law enforcement to polling locations for any reason, sometimes leading to the presence of uniformed officers at a polling place all day. N.J.S.A. 19:6-16. In the 2020 General Election, some ballot drop boxes were located at or adjacent to police stations throughout the State. In light of the current climate and the growing awareness of concerns about racism in policing, we must recognize that Black and Brown communities often do not view law enforcement as reassuring. It is imperative for New Jersey to ensure that there are no deterrents to voting, especially for communities of color. Ballot drop boxes should not be within 100 feet of a law enforcement agency. In addition, law enforcement officers should be prohibited from being within 100 feet of a polling location, in or out of uniform, except to vote in their personal capacities or when called upon by election officials to address a bona fide law enforcement issue. Such issues might include, among other things, the need to disperse people engaging in unlawful activities in the 100-foot clear zone around the polls, the need to respond to voter intimidation, the need to remove violent or threatening individuals from in or around polling places, and the need to assist with a medical emergency in or around polling places.

Ballot-Tracking and Voter Complaints

8. Improve the ballot-tracking system.

New Jersey's current "Track My Ballot" system requires voters to create an online account to access the voter information portal. Once they have access, voters can click "Mail-in Ballot History." There, a voter's ballot status appears as "N/A," "Received," "Accepted," or "Rejected" without any accompanying definition. During the 2020 General Election, voters who mailed ballots before Election Day did not receive confirmation that their ballots were "accepted." Others observed that their ballot status did not change to "received" even though they had mailed in their vote. In response to voter confusion, the State posted an alert to the Track My Ballot main page, explaining that "[a] voter's ballot status will begin to change to 'Accepted' or 'Rejected' after the certification of the Election on November 20th" and that "[t]he amount of time it takes until updates are posted . . . will vary from county to county." The website advised voters to "check back periodically for updates on [their] ballot status" and to contact their local county boards of elections with any questions.

While the State did its best to improve and work with the ballot-tracking system already in place in New Jersey, this election cycle exposed significant flaws in this system:

- a. The ballot-tracker's failure to define ballot-status terms caused confusion among voters about whether mailed ballots were or would be counted.
- b. The terms used in the alert that was added to the ballot-tracker appear to overlook a significant step in the process. Under N.J.S.A. 19:63-17, "promptly after receiving each mail-in ballot," county boards of elections are required to "remove the inner envelope containing the ballot from the outer envelope and . . . compare the signature and the information contained on the flap of the inner envelope with the signature and information contained in the respective requests for mail-in ballots, and the signature and information

contained in the Statewide voter registration system.” The board is directed to “reject” a mail-in ballot during this preliminary review if: (1) it is “not satisfied” after comparing the mail-in ballot to the Statewide voter registration system that “the voter is legally entitled to vote and that the ballot conforms with the [mail-in ballot] requirements”; (2) “the inner envelope is unsealed”; (3) “either the inner or outer envelope has a seal that has been tampered with”; or (4) there is “a missing signature or discrepant signature.” N.J.S.A. 19:63-17(a), (b). The decision to reject a mail-in ballot is not a final determination about whether a vote should be counted. *See generally* N.J.S.A. 19:63-17; *see also* N.J.S.A. 19:63-17.1 (“Following the attempt to cure any alleged deficiencies in a mail-in ballot pursuant to [N.J.S.A. 19:63-17], the county board of elections shall make a final determination about whether or not the mail-in ballot alleged to be deficient shall be counted.”).

This mandatory screening process for mail-in ballots is supposed to occur as ballots arrive in the mail. The counties, therefore, have an opportunity to put voters on notice through the ballot-tracker of the county’s rejection of their ballot during screening, *such that the voter could learn of this rejection in time to cure the ballot before the election or vote in person*. Failure to include the outcome of the screening process in the ballot-tracker thus deprives voters of a critical opportunity to vote.

The success of the new system for managing signature mismatches is illustrative. A recently enacted law requires the counties to give voters an opportunity to cure signature mismatches, and the counties appear to have been diligent in complying, enabling voters to verify their signatures and have their ballots counted. N.J.S.A. 19:63-17. However, a ballot may be identified as unsound under this statute for reasons other than signature mismatches, as outlined above (e.g., faulty seals). If the ballot-tracking system were changed to tag deficient ballots as “rejected during initial screening,” voters would have additional opportunities to cure or to vote in person if they submitted a mail-in ballot that did not meet the State’s standards.

- c. Because the deadlines to enter data into the ballot-tracker were left in each county’s discretion, voters in certain counties faced informational disadvantages relative to others.

To provide voters additional opportunities to cure faulty ballots, we recommend that the State add an intermediate step to the ballot-tracker that indicates whether a ballot was rejected during the screening process under N.J.S.A. 19:63-17. Ideally, if a mail-in ballot is rejected as deficient during initial screening, the ballot-tracker would offer a reason for the rejection (e.g., a mismatched signature, a missing ballot component, inconsistency with the voter registration system). Counties should promptly update the ballot-tracker during initial ballot-screening to afford voters sufficient time to cure any alleged deficiencies or, alternatively, vote in person. Counties should also notify voters directly when the county rejects their mail-in ballot during initial screening for any reason, as they already do with respect to signature mismatches.

To avoid voter confusion, we suggest the State adopt the following terms: “Received” (to indicate that the ballot was logged in at the county); “Accepted During Initial Screening” (to indicate acceptance during the ballot-screening process); “Rejected During Initial Screening” (to indicate rejection during the ballot-screening process and, in many cases, an opportunity to cure); “Counted” (to indicate the vote was counted during canvassing); and “Not Counted” (to indicate the vote was

not counted during canvassing). The ballot-tracker should include a prominent “Definitions” section that defines the final terms the State adopts.

We recommend further that the State adopt an improved online ballot-tracking tool that allows voters to track the status of their vote-by-mail applications and ballots in real time. This proposed device should mirror those used for online package and food deliveries, whereby a voter receives an electronic notification when election officials accept or reject their vote-by-mail application, send them a blank ballot, accept or reject their completed ballot during ballot-screening, and count or do not count their ballot during canvassing. While their ballot is in transit, the user should be able to track its location in the mail through the tool, which could use data from the United States Postal Service (“USPS”). We strongly support the State’s current work with Ballot Scout to implement a modernized ballot-tracker tool that meets these recommended criteria. Implementing a more sophisticated online ballot-tracking system like Ballot Scout would make elections more transparent. It would also allow local election officials to identify delays or other mail-related issues in real time and work with local USPS representatives to ensure the timely delivery of ballots.

Finally, to ensure that all voters have access to the same information, we recommend that the State issue Statewide uniform procedures and guidance for updating ballot-tracker information and provide adequate resources and training to local election officials and staff on how and when to enter information into the ballot-tracking system

Updating the ballot-tracker tool and training election workers on how to best use the tool will take significant time and resources. Ultimately, however, election workers and voters will benefit from a more transparent, fair, and efficient system.

9. Improve the system for voters to report election complaints and positive experiences.

The State should establish a formal online site and hotline so that voters can share any complaints, concerns, or positive feedback regarding their experience when casting a ballot. Currently, voters are encouraged to contact their counties, but they may not be able to reach someone who can assist or may not obtain any relief. A centralized system, subject to public disclosure, would advance accountability and transparency, both of which are crucial for public trust in our system. Feedback from voters might also assist election officials in assessing the benefits and limitations of new voting technologies or methods. Voters should be able to lodge a complaint, concern, or positive experience by providing information such as their county, township, and polling location. Voters should also be given the option to provide contact information if the issue requires follow up. Every inquiry or comment should be addressed, acknowledged, and recorded. Following each election cycle, the State should publish data on the feedback received and what was done to address any issues voters identified.

Access for Voters with Disabilities, Illnesses, or Limited English Proficiency

10. Ensure independent voting rights for voters with disabilities.

- a. Better train poll workers on who is entitled to use an ADA-accessible machine and how to set up and operate these machines.**

Although the Help America Vote Act (HAVA) requires all polling locations to have an accessible voting machine, 52 U.S.C. § 21081(a)(3)(B), a voter can successfully use an accessible machine only if poll workers understand how to set up and operate the machine and who is entitled to use it. Unfortunately, nearly twenty years after HAVA was passed, many individuals with disabilities continue to report that when they ask to use the accessible machine, poll workers resist the request; the machines do not work; or the poll worker is unable to figure out how to operate the accessibility features. As a result, the individual is unable to vote secretly and independently. Poll worker training on accessibility for voters with disabilities must be improved. This training should focus on (1) the legal entitlement of every voter with a disability to use an accessible machine without having to show proof of a disability or meet other conditions, and (2) the specific mechanics of the accessible machines so that all poll workers can properly set up and deploy these machines. Having on-site lead poll workers who receive special training in the use of these machines would also help prevent the disenfranchisement of people with disabilities.

b. Maintain accessible vote-by-mail for voters with disabilities.

During the past ten years, New Jersey has eased the vote-by-mail process to encourage its use. For individuals with disabilities, vote-by-mail is a necessary alternative as many individuals with disabilities do not have easy access to transportation or have medical conditions that prevent them from voting in person. However, because the vote-by-mail ballot is paper, it is not accessible for many individuals with disabilities such as visual or dexterity impairments. As a result, these individuals do not have the option to vote secretly and independently if they choose to vote by mail. Due to the pandemic and the governor's decision to order that the recent elections be conducted entirely by mail, the State offered an accessible vote-by-mail alternative. However, the State has advised that it cannot guarantee that accessible vote-by-mail will continue once the pandemic is over. The Americans with Disabilities Act requires that individuals with disabilities have equal access to programs and services offered to individuals without disabilities. 42 U.S.C. § 12132. Since individuals without disabilities have an opportunity to vote secretly and independently through the mail, individuals with disabilities should have that same opportunity. Furthermore, since the State has shown that it can easily offer accessible vote-by-mail, it should continue the practice permanently.

c. Consider disability access whenever machines are purchased.

Many counties are in the process of purchasing new voting machines. When considering which machines to purchase, the State should encourage counties to work with disability organizations so that the machines meet full accessibility requirements and provide an opportunity for individuals with disabilities to vote secretly and independently. For electronic voting equipment, considerations include ease of use for any audio component and ease of set-up of the equipment. For optical scan equipment, *all* voters should use auto-marking devices so that the ballots of individuals with disabilities are not identifiable. Universal auto-mark also has the benefit of preventing stray marks or incorrect marks for all individuals. Regardless of the type of voting system selected, as voting technology changes, it is important that the voices of individuals with disabilities are heard.

11. Adopt a formal process for voters who find themselves ill or otherwise incapacitated on Election Day.

Under current law, voters who find themselves ill or incapacitated on Election Day have only a cumbersome workaround: they may [download](#) and print a mail-in ballot application (if they have a printer)²⁰; identify on the application a messenger who is a family member or a registered voter of the county where the application is made; have the messenger complete a certification on the application; send the messenger to the county clerk's office to pick up a blank mail-in ballot and deliver it to the voter; complete the mail-in ballot; and enlist someone to sign the bearer portion of the ballot, hand-deliver it to the county board of elections, show identification, and sign the Bearer Book. N.J.S.A. 19:63-4, 19:63-16(d). In our experience, voters who are sick or incapacitated—including several in this election cycle who had COVID-19 and one who went into labor on Election Day—are frequently unable to complete these steps.

We recommend that the Legislature amend the current law to create a formal process for voters who become ill or otherwise incapacitated on Election Day. To ensure that these voters are not disenfranchised due to their medical conditions, the State should adopt an online system through which they can apply for and submit vote-by-mail applications and ballots directly to their election officials from an electronic device. An online system would alleviate the burden of finding a messenger and/or bearer to deliver election materials under tight time constraints on Election Day. The State has a similar system in place for overseas military members and their spouses and dependents under the Uniformed and Overseas Citizens Absentee Voting Act, which allows qualifying persons to fax or email their ballots. The State should consider using that system as a guide in crafting a procedure for incapacitated voters. To prevent abuse of this voting option, the State should clearly define those who qualify for this voting option.

12. Make telephonic language interpretation available to voters to afford them their rights to reasonable language assistance.

Under Section 203 of the Voting Rights Act, a county must provide voting materials in a minority language if “more than 5 percent of the citizens of voting age of such State or political subdivision are members of a single language minority and are limited-English proficient.” 52 U.S.C.A. § 10503. The term “voting materials” includes “registration or voting notices, forms, instructions, *assistance*, or other materials or information relating to the electoral process, including ballots” *Id.* (emphasis added).

²⁰ In a regular election, the deadline for picking up a mail-in ballot application in person is 3 P.M. on the day before the election. N.J.S.A. 19:63-3(d). Suspending this deadline alone would not solve the problem, as an incapacitated person would then need a messenger to go to the county clerk's office twice: once to pick up the mail-in ballot application and deliver it to the voter, and again to return the application to the county clerk, after which the messenger would have to deliver the blank ballot to the voter. A third trip would be necessary to deliver the completed ballot to the county board of elections.

In 2016, the Department of Commerce Bureau of the Census, under direction from the DOJ, released the covered areas in New Jersey that must provide bilingual election materials:

Bergen County – Hispanic (Spanish)²¹
Bergen County – Korean
Camden County – Hispanic (Spanish)
Cumberland County – Hispanic (Spanish)
Essex County – Hispanic (Spanish)
Hudson County – Hispanic (Spanish)
Middlesex County – Asian Indian (Gujarati)
Middlesex County – Hispanic (Spanish)
Passaic County – Hispanic (Spanish)
Union County – Hispanic (Spanish)

Voting Rights Act Amendments of 2006; Determinations Under Section 203, 81 Fed. Reg. 87,532 (December 5, 2016).

However, the last determinations were issued in 2016. According to American Community Survey data from between 2015-2019, 28.9% of Atlantic County residents spoke Spanish as their primary language, with 15.2% of these respondents saying they spoke English “less than ‘very well.’”²²

With the readily available information about the Spanish-speaking population in this county, the Atlantic County Board of Elections should have been on notice to provide adequate Spanish-language voting materials, including assistance, under Section 203 of the Voting Rights Act. Although some materials were provided to New Jersey voters on Election Day, extensive reports from Election Protection field volunteers clearly showed that Spanish-language voting materials were insufficient in Atlantic County. Voters at multiple locations exhibited and reported confusion about the voting process in such numbers that campaign volunteers began providing unsanctioned language interpretation services within the 100-foot exclusionary zone. Upon request, DE-NJ NLG also dispatched bilingual field volunteers to four polling locations in Newark, where poll monitors documented Spanish-speaking voters’ reported concerns about insufficient language assistance.

In the absence of official telephonic language interpretation, voters are likely to continue seeking language interpretation assistance from members of the public, who may lack a thorough or accurate understanding of voting procedures, or campaign workers, who may not be neutral arbiters of voting information. While it may be prohibitively resource-intensive for the counties to provide on-site language interpretation services at every polling location, the state Division of Elections could vet and approve a telephonic language interpretation service for use by the counties ([Language Line](#) is one example). The counties could adopt the approved service (or an alternative if they prefer). Poll

²¹ The official census designations are listed; the languages spoken by the communities are included in parentheses.

²² U.S. Census Bureau (2015-2019), *Place of Birth by Language Spoken at Home and Ability to Speak English in the United States American Community Survey 5-year estimates*, Census Reporter, https://censusreporter.org/data/table/?table=B06007&geo_ids=06000US3400102080&primary_geo_id=06000US3400102080.

workers and election officials would then need to be informed of the availability of telephonic language interpretation and trained on how to use this resource to communicate effectively with voters who are not proficient in English.

Irregular Elections

13. Improve processes for managing irregular elections.

a. Issue executive orders with sufficient time for adequate planning and preparation.

On August 14, 2020, Governor Murphy signed Executive Order No. 177 (the “Order”), which created a primarily vote-by-mail system for the 2020 General Election.

The Order, issued less than three months before Election Day, may have left local election officials insufficient time to prepare for and implement the new system. Under the Order, local election officials would have had 52 days at most (between August 14—the date the Order was executed—and October 5—the modified mail-in ballot distribution date) to prepare, print, coordinate, and deliver an extraordinarily high volume of paper ballots to active voters.²³ The short timeframe may also have impeded efforts to recruit, hire, and train additional staff to assist with logging, processing, and counting millions of paper ballots. Shortages of both time and personnel no doubt made it more difficult to respond to an influx of voter inquiries about when, where, and how to cast a ballot and whether mail-in ballots had been received. In addition, local election officials worked under tight deadlines to identify and transform polling locations to comply with COVID-19 safety guidelines and train poll workers on modified election procedures. From the perspective of advocates trying to work with county officials on election issues, it certainly seemed that officials were overwhelmed and lacked sufficient time and resources to manage the changes seamlessly.

We therefore recommend that the Governor’s Office issue election-related orders far enough in advance that election officials have adequate time to prepare for and implement changes.

b. Ensure adequate staffing and training to perform core functions, including responding to questions from voters and their advocates.

During the 2020 General Election, local election officials faced unprecedented challenges. Among other things, election workers juggled competing concerns of recruiting and maintaining adequate staff and preventing the spread of COVID-19 to election workers. Despite their best efforts, county boards of elections and clerk’s offices simply did not have the time to answer questions from voters and advocates. On Election Day, volunteers were often unable to connect with local election officials to report instances of voter intimidation, electioneering, poll worker mistakes, late openings at polling locations, and other issues threatening the right to vote. When volunteers were able to

²³ Election officials who had to wait for submissions of public questions for school board elections or to fill primary nominee vacancies would have had less time. See N.J.S.A. 19:63-31(k)(1)-(3) (setting the deadline for submitting public questions for school board elections and filling a primary nominee vacancy at August 31, 2020).

Speak with election officials to report an issue, they rarely received confirmation that the problem was addressed. As a result, many election issues threatening the franchise were unreported or unresolved.

We therefore recommend that the counties work together and with the State Division of Elections to more accurately anticipate and more adequately recruit for, train for, and fill staffing needs well in advance of each election. The State and counties would also need to secure and designate additional funds to meet staffing needs for each election. N.J.S.A. 19:45-2 (governing the State's obligation to cover election costs), 19:45-4 (governing the counties' obligation to cover election costs), 19:45-6.2 (providing that the State shall reimburse certain election costs incurred by the counties).

Access to Court

14. Improve access to court for disenfranchised voters.

Every eligible New Jersey voter facing a barrier to cast a vote must have a clear, accessible path to court. Unfortunately, this past Election Day—as in years past—court staff advised voters who wanted a hearing, and their attorneys, that they must reach out to their county board of elections, or the appropriate deputy attorney general, who would need to contact the court to schedule the hearing. Officials in more than one county used this protocol, not only making the county election officials gatekeepers to the court, but also in many instances presenting serious ethical concerns.

Going forward, the New Jersey Judiciary must allow voters and their attorneys to schedule hearings directly rather than requiring them to go through their adversaries to access the courts. Further, the attorneys representing the county boards of elections must be sure to discuss voting disputes only with the lawyers of represented voters and should inform all unrepresented voters that the deputy attorneys general are there to defend the counties' decisions to prevent voters from casting ballots, so as to avoid any ethical violations.

The Judiciary should consider continuing both virtual and in-person hearing options, even after the COVID-19 public health emergency. By implementing virtual Election Day hearings, the Court would dramatically improve access to the courts. The Judiciary should also consider convening lawyers who represent parties on Election Day to discuss additional ways to ensure a smoother process.

The New Jersey Election Protection Coalition



DELAWARE-NEW JERSEY
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