



ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND

99 HUDSON STREET, 12th FL, NEW YORK, NY 10013-2815 212 966-5932 FAX 212 966-4303

August 15, 2011

Shelley R. Smith, City Solicitor
Andrew Ross, Chief Deputy City Solicitor
Philadelphia Law Department
1515 Arch Street, 17th Floor
Philadelphia, PA 19102

RE: Observations of Primary Elections in Philadelphia on May 17, 2011

Dear Ms. Smith and Mr. Ross:

We are writing to highlight the Asian American Legal Defense and Education Fund's (AALDEF) findings from monitoring the Primary Elections in Philadelphia City on May 17, 2011 for compliance with the federal Voting Rights Act (VRA), Help America Vote Act (HAVA), settlement in *United States v. Philadelphia* (2006), and to document barriers encountered by Asian American voters.

AALDEF is a non-partisan civil rights organization that protects and promotes the voting rights of Asian Americans. On Election Day, we observed poll sites in Chinatown and Olney. We are writing to report our findings, as required in our authorization to conduct these activities. We observed six (6) polls sites.

Poll Site:	Address:	Ward/Division:
Olney High School	Front St. and Duncannon St.	42/12, 16
Lowell School	Fifth St. and Nedro Ave.	61/2, 3, 4, 7, 8
Benjamin Franklin House	834 Chestnut Street	5/12
Chinese Church and Christian Center	225 North Tenth St.	5/13, 24
Greek Orthodox Church	256 South Eighth St.	5/5
F.A.C.T. Charter School	1023 Callowhill St.	5/25

Overall, we found that the 2011 Primary Elections proceeded, for the most part, free of any major incidents. The poll workers at the Greek Orthodox Church and the F.A.C.T. Charter School were very professional and polite, and we did not observe any major incidents at those poll sites. However, as we observed other poll sites, we documented a few problems that voters encountered while trying to vote. The most significant problems are reviewed herein.

Benjamin Franklin House:

The Benjamin Franklin House had significant problems. The poll workers, Sheila Robinson and an older Caucasian man with glasses, initially refused to accept my official letter from the City Solicitor's office explicitly authorizing AALDEF and specifically, myself, to observe the

primary election. Subsequent to my request for them to call the phone number for the solicitor's office specifically dedicated to any potential problems with my authority to observe, the poll workers were informed that I was authorized to observe, and allowed me to observe. During this time, I heard an African American female poll worker mumble under her breath, "I don't know why they [Asian Americans] need interpreters." I observed for close to two hours, and noticed a disturbing trend. Every Asian American voter was asked to produce identification immediately upon approaching the voter sign-in table. However, non-Asian voters were never asked to produce identification, even when the poll workers asked for clarification on the non-Asian voter's name. Requiring only Asian Americans to produce identification in order to vote is a violation of the federal Voting Rights Act.

An elderly Asian American voter, Dominick David Law, who spoke English well, was prevented from voting. He explained that he had just moved and that he filled out the form to have his voter registration reflect his new address. However, his new registration card had the correct address, but had an incorrect name. He sent the incorrect card back and was informed that he should not worry, and that his new corrected registration card would be delivered back to him before the primary election. That did not happen, and after explaining this to the poll workers, he was told that he could not vote and that he should "come back in about an hour" when the judge of elections, Sheila Robinson, was to return from her break. Mr. Law, unable to vote and not offered a provisional ballot, left the Benjamin Franklin House. I interviewed Mr. Law and contacted the Solicitor's office about the poll workers requiring all Asian American voters to produce identification and about Mr. Law being prevented from voting. I then left the poll site to visit another site. Mr. Law should have been able to submit a provisional ballot, and not offering him a provisional ballot was a violation of HAVA.

I was later informed via e-mail from the interpreter at the Benjamin Franklin House, Allan Wong, Ph.D., that the Committee of Seventy visited the poll site to investigate these claims, just after Mr. Law had returned to vote. According to Dr. Wong, when Mr. Law returned to vote, the judge of elections decided to file a provisional ballot for him. The judge requested the interpreter to assist, even though Mr. Law spoke and understood English. The interpreter informed the judge that the voter was proficient in English and the judge became angry, did not accept Mr. Law's provisional ballot and instructed Mr. Law to vote at his previous poll site in Chinatown. Soon after, the Committee of Seventy arrived at the poll site to investigate the claims that I had reported to them and to the Solicitor's office earlier in the day. The judge of elections immediately blamed the interpreter for calling the Committee of Seventy and after a heated exchange with the Committee of Seventy and the interpreter, told the interpreter that he "did not have to work" and that he "could leave." The interpreter could not tolerate the hostile environment and left the poll site at 6:15 p.m., even though the poll site closed at 8:00 p.m.

Chinese Church and Christian Center:

Most of the voters that I observed at this poll site were Asian American and appeared to be limited English proficient, and would most likely not be able to vote without an interpreter. However, there was not a single official interpreter at this poll site. Luckily, most of the poll workers were Asian American and were able to assist the voters who required language assistance. If the poll workers at this site had not been able to assist the voters, a large number of

voters would likely not have been able to vote. I observed an elderly Asian American voter presenting his passport and naturalization certificate to poll workers. He told the poll workers that he had voted many times before. One Asian American male poll worker informed me that this same voter had tried to vote earlier, but was turned away and instructed to return with identification. An elderly Caucasian woman informed me that they require identification from all voters. I asked a poll worker, Frank, an elderly Caucasian man if any provisional ballots had been used. Frank informed me that provisional ballots were a “nuisance” and that if it were determined that the voter was not registered, “they just throw it out.” I overheard a female Caucasian poll worker whisper to another poll worker that “I wish this man would stop writing so much – he’s making me nervous.”

Olney High School:

Upon entering the poll site and setting up, a poll worker whom I passed on my way in, Jon S. Mirowitz, Esq., approached me and stood within a few inches of me. He asked to see my “watcher’s certificate.” I produced my letter from the solicitor’s office. Mr. Mirowitz did not review the authorization letter and, in fact, did not even look at it. Mr. Mirowitz repeatedly stated that it was not a watcher’s certificate and demanded that I produce my watcher’s certificate. I informed him that there was a phone number provided in the letter for anyone who had questions about this authorization. He did not look at the phone number that was listed on the authorization letter. He asked for my business card and then called the solicitor’s office on his own. After he was informed that I had the authority to observe, he again approached me, and stated that the City Solicitor did not have the authority to authorize me to observe the election. I suggested to him that he could take that issue up with the solicitor’s office. Mr. Mirowitz then became even more upset and yelled at me, “You’re a carpetbagger and you ought to go back to New York.” The entire poll site became silent – at least 5 other poll workers observed this. I observed the poll site until it closed at 8:00 p.m. On my way out, Mr. Mirowitz again approached me and again reiterated his belief that the solicitor did not have authority to authorize me to observe the elections. Mr. Mirowitz asked me if I was admitted to the Pennsylvania Bar, and again called me a carpetbagger (with his wife laughing alongside of him) and then said that he would take his issue up with the solicitor’s office.

1) Showing Identification at Poll Site

Generally, Pennsylvania law does not require voters to provide identification in order to vote unless they are voting for the first time at the poll site. According to our observations, all voters were required to provide identification at the Chinese Church and Christian Center. The overwhelming majority of voters observed at that poll site were Asian Americans. The Benjamin Franklin House poll site revealed a far more disturbing practice – only Asian Americans were required to provide identification, while other groups were not required to do so.

We urge the Commissioners of Elections to ensure that its poll worker training strictly complies with Pennsylvania law. We are concerned that such demands for identification may disenfranchise Asian American voters.

2) HAVA Compliance: Provisional Ballots

As you know, HAVA requires that poll workers administer provisional ballots to voters who may not vote on the voting machine due to a discrepancy in their registration. However, we observed incidents where poll workers did not provide voters with the option to vote by provisional ballot at the Benjamin Franklin House and Chinese Church and Christian Center poll sites. These voters were turned away and told to return later.

We urge the City Commissioners to ensure that poll workers give provisional ballots to voters when there are discrepancies in voters' registrations. We hope that poll workers will undergo further training to ensure election procedures are correctly followed and proper administration of provisional ballots.

3) Language Assistance

We commend your office's hard work in recruiting interpreters, but such efforts have not been entirely successful. Pursuant to *United States v. Philadelphia* (2006), the City of Philadelphia agreed to voluntarily provide interpreters in various Asian languages, and we commend your efforts in doing so. However, we observed that there were no official Asian-language interpreters for any of the above poll sites, except at the Benjamin Franklin House, Dr. Allan Wong (Mandarin and Cantonese).

We recommend more comprehensive efforts to ensure that the City follows through with its representations to the court in *United States v. Philadelphia* (2006). Moreover, we advise the City Commissioners to provide appropriate interpreters in the poll sites that demonstrate the need for language assistance.


4) Poll Workers

The majority of poll workers maintained a knowledgeable attitude when interacting with voters and were very pleasant and professional. However, there were incidents of poll workers being hostile to interpreters and making insensitive comments (Benjamin Franklin House) and being rude and confrontational to observers (Olney High School).

We are concerned by these incidents because these behaviors limit and deter voters, interpreters and observers from participating in their political franchise.

On May 17, 2011, Philadelphia's Asian American community faced a number of barriers in exercising their right to vote. Since this community continues to grow rapidly, we look forward to working with you to remedy these problems. We hope you will fully consider the recommendations aforementioned for improvements and to ensure that Philadelphia fully complies with the Voting Rights Act, the Help America Vote Act and the settlement in *United States v. Philadelphia* (2006).

Sincerely,


Jerry G. Vattamala
Staff Attorney