



ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND

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Joseph M. Hoeffel, Chair, Montgomery County Board of Elections
Bruce L. Castor, Jr., Vice Chair, Montgomery County Board of Elections
Laureen T. Hagan, Chief Clerk, Delaware County Bureau of Elections
Shelley R. Smith, City Solicitor, Philadelphia Law Department
Andrew Ross, Chief Deputy City Solicitor, Philadelphia Law Department

Re: Observations of General Elections in Pennsylvania on November 4, 2008

Dear Elections Officials:

We are writing to highlight the Asian American Legal Defense and Education Fund's (AALDEF) and the Asian Pacific Islander American Vote's (APIAVote) findings from monitoring the General Elections in Pennsylvania on November 4, 2008 for compliance with the federal Voting Rights Act (VRA), Help America Vote Act (HAVA), settlement in *United States v. Philadelphia* (2006), and other barriers encountered by Asian American voters.

AALDEF and APIAVote are nonpartisan civil rights organizations that protect and promote the voting rights of Asian Americans. Our activities on Election Day were strictly limited to conducting a nonpartisan and anonymous exit poll and interviewing individual voters after they voted or were denied the right to vote. We also conducted exit polls in New York, New Jersey, Massachusetts, Maryland, Virginia, and Washington DC.

In preparation for the 2008 elections, we wrote to your offices in October 2008, requesting permission and informing you that we intended to conduct exit polls at certain polling sites in Pennsylvania within your jurisdictions. We promised in those letters that we would subsequently report our findings to you.

On November 4, 2008, we conducted an exit poll at seven (7) sites in Pennsylvania with large numbers of Asian American voters, namely Philadelphia's Chinatown, Olney, and South Philadelphia, Upper Darby, Montgomery Township and Bensalem. We polled voters at the following sites:

Bucks County:

• St. Mary Family Resource Center | 2546 Knights Road, Bensalem

Delaware County:

• 69th Street Alliance Church | 6833 Chestnut Street, Upper Darby

Montgomery County:

• Montgomery Township Bldg. | 1001 Stump Road

Philadelphia City:

• Chinese Christian Church	242 N. 10 th Street
• Benjamin Franklin House	834 Chestnut Avenue
• DiSilvestro Recreation Center	1701 S. 15 th Street
• Lowell Elementary School	450 W. Nedro Avenue

Overall, we found that the 2008 General Elections proceeded, for the most part, free of any major incidents. However, as we interviewed Asian American voters exiting poll sites, we documented a few problems that voters encountered while trying to vote. The most significant problems are reviewed herein.

A. Language Assistance

We surveyed 518 Asian American voters in our multilingual, nonpartisan exit poll. The largest Asian ethnic groups in the survey were Chinese (47%), Asian Indian (19%), Vietnamese (10%), and Korean (8%). Among the voters surveyed:

- 32% were first-time voters
- 70% were naturalized foreign-born citizens
- 21% identified English as their native language
- 42% were limited English proficient
- 24% preferred voting with the help of either an interpreter or translated materials

Our survey found that Asian language minority groups in specific localities had higher rates of limited English proficiency and preferred to use interpreters or translated voting materials in order to vote:

	Limited English Proficient	Language Assistance Preferred
All Voters Surveyed	42%	24%
<u>Bensalem:</u> - Asian Indian	39%	15%
<u>Montgomery:</u> - Asian Indian	43%	---
<u>Philadelphia:</u> - Chinese - Korean - Cambodian	50% 27% 58%	34% 21% 39%
<u>Upper Darby:</u> - Vietnamese - Chinese - Asian Indian	80% 52% 33%	16% 33% 17%

Thirty-five (35) voters identified that they needed the assistance of an interpreter, but none was available in their language. These voters were at the following sites:

- Thirteen (13) voters at 69th Street Alliance Church, Upper Darby
- Three (3) voters at St. Mary Family Resource Center, Bensalem
- Eight (8) voters at Chinese Christian Church, Philadelphia
- Eight (8) voters at DiSilvestro Recreation Center, Philadelphia
- Three (3) voters at Lowell Elementary School, Philadelphia

In prior elections, we complained about similar problems and we are concerned that not enough actions have been taken to ameliorate these issues.

We recognize 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. We greatly appreciate the efforts made by the City of Philadelphia to provide language assistance in Khmer, Mandarin, Cantonese, Korean, and Vietnamese. However, our observers found that language assistance was not readily available at all poll sites. We recommend more diligent and comprehensive efforts to ensure the City follows through with its representations to the court in *United States v. Philadelphia* (2006).

B. Incomplete Voter Rolls

The issue of missing or misspelled names is one that particularly impacts Asian Americans because their names, in addition to being missing or misspelled, are often inverted, that is, a voter's first name was listed as his last name, and vice versa. Poll workers in many instances turn away the voter or tell the voter to register instead of offering him/her a provisional ballot. Our survey counted eleven (11) instances of names missing or misspelled. In addition, our observers saw several elderly Asian American voters walking away when their names were not found in the registration rolls. Specifically:

Stephen M. Chin, of 145 North 10th Street, Philadelphia, noted that he had voted in the last presidential election, yet poll workers claimed he had not registered and turned him away.

Don To, of 5955 North Leithgow Street, Philadelphia, cast a provisional ballot when poll workers at the Lowell Elementary School could not find his name. Mr. To had registered to vote at his school prior to the registration deadline.

Anjoli Anand, of 930 Walnut Street, Apartment #508, Philadelphia, discovered that his name was misspelled on the voter rolls. Additionally, at the Franklin House, our observer found several instances of voters' names being inverted.

C. HAVA Compliance: Provisional Ballots

As you may know, HAVA requires that poll workers administer provisional ballots to voters who may not vote on the voting machine due to some discrepancies in their registration. However, we observed that poll workers in Philadelphia and Upper Darby did not provide voters with the option of voting by provisional ballots when they were so eligible. In fact, they turned away voters and told them to register for the next election. Partisan campaigners had to inform voters about their right to vote by provisional ballot, which then prompted poll workers to provide them.

We documented seven (7) instances of provisional ballots not being given when poll workers did not find the names of the voters in the registration roll – this even happened to voters who had voted in previous elections. AALDEF pointed out this situation in previous elections but it has not been rectified to date. Specific problems include:

In the Chinese Christian Church in Philadelphia, our volunteers found that the poll site had a limited number of provisional ballots. Poll workers did not give out provisional ballots unless voters specifically requested one. When voters did ask, poll workers requested documentation of their addresses. Limited English proficient voters, immigrants, elderly voters, and other individuals new to or unfamiliar with the voting process did not know they could ask for a provisional ballot. Many left without casting their vote.

Fong Chan Lai of 219 North 10th Street, #59, 5th Floor, Philadelphia, left the poll site when poll workers at the Chinese Christian Church in Chinatown could not find her name on the rolls and could not assist her because of her limited English proficiency. She had previously voted at the Chinatown Firehouse. As she was leaving, a Cantonese speaker from the Obama campaign volunteered to translate for her. Poll workers subsequently allowed her to vote by provisional ballot. No nonpartisan assistance was provided to her.

In Upper Darby / Delaware County, **Chue Yang Xiong**, of 13 Marlborough Road, was told by poll workers at the 69th Street Alliance Church that she could not vote because her name was not on the registration rolls. She had registered at DMV in February of 2008, and her husband's name was on the rolls. A poll worker gave her a form to register for the next elections.

D. Other Voting Issues

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 the results of our survey, 199 respondents were required to show identification, and of them 135 or 68% were not first-time voters and were not required to do so. We are concerned that Asian American voters were required to show identification at disproportionately higher rates when compared to other voters. Such demands for identification may disenfranchise Asian American voters and may also violate the Voting Rights Act.

Specific complaints include:

Tilak Raj Kapoor, an Asian Indian voter in Bensalem, was required to show ID even though he had voted in the past two presidential elections.

Narindra Patel, an Asian Indian voter in Bensalem, stated that she votes in every election, but she was required to show an ID.

Asian American voters also complained about slow poll workers and extremely long lines. At the Chinese Christian Church, we observed that the line was two blocks long at 10:15 a.m. We have complained about this problem in prior elections when this Election Division was assigned to the Chinatown Firehouse. Also, in the Neshaminy Middle School in Langhorne, poll workers separated voters into two lines based on which side of 413th Street the voters lived. The wait on one side was over an hour, while the wait on the other side was only 5 to 10 minutes.

Pennsylvania's Asian American community faced a number of barriers in exercising their right to vote on November 4, 2008. Since this community continues to grow rapidly, we look forward to working with you to remedy these problems. We hope you will fully consider these recommendations for improvements and to ensure that Pennsylvania fully complies with the Voting Rights Act and the Help America Vote Act.

If you have any questions, please feel free to contact us at (212) 966-5932.

Sincerely,



Glenn D. Magpantay
Staff Attorney,
Asian American Legal Defense and
Education Fund



Michelle Wong
Chair
APIAVote - PA

cc: Christopher Coates, Chief, Voting Section, U.S. Department of Justice
Sean O'Donnell, Trial Attorney, Voting Section, U.S. Department of Justice
Pedro Cortes, Secretary of the Commonwealth of Pennsylvania

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