

## STATE BOARD OF ELECTIONS

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February 26, 2024

Senator Guy Guzzone, Chair  
 Senate Budget & Taxation Committee  
 Miller Senate Office Building, Suite 3W  
 11 Bladen Street  
 Annapolis, MD 21401

Senator Jim Rosapepe, Vice Chair  
 Senate Budget & Taxation Committee  
 House Office Building, Room 121  
 6 Bladen Street  
 Annapolis, MD 21401

Re: JCR REPORT - 2023\_p30\_SBE\_Report to Expand Opportunities for Voting  
 in Pre-trial Facilities

Dear Senators Guzzone and Rosapepe:

The *Joint Chairman's Report - Operating Budget April 2023* requested that the State Board of Elections (SBE) report on the progress made in expanding pre-trial voting opportunities across the State. As we reported in the HB 222 Report<sup>1</sup> and later in this report, SBE undertook several initiatives to expand voting opportunities in pre-trial facilities. These efforts included surveying State and local correctional facilities as well as local election boards to identify successful practices, problematic issues, and potential impediments in facilitation of this program. Where problems and impediments were identified, SBE has worked to develop practices to mitigate, as described in detail below. If the program were to continue, additional staffing resources at SBE would be needed.

After our conversations with the facilities, we started to tailor our election communications to detained individuals (e.g., dates only for mailed mail-in ballots as they cannot receive internet delivery ballots). As a result, the revised informational materials are more accommodating and useful. Overall, detainees receive three (3) informational products that are available in English and Spanish. Two are entirely new and one is an updated version of a previously used recognizable poster/flyer called "Vote by Mail". "Know Your Rights" specifically addresses the questions of individuals who have been convicted of a crime and incarcerated and want to understand their voting rights. It can be disseminated as a 2-sided flyer and/or posted. It explains that incarcerated individuals have the right to vote if awaiting trial for any charge, including a felony. It also outlines the steps necessary to vote. "Your Voice Matters" includes step-by-step instructions on how to determine eligibility to vote and how to vote. All of the voter outreach materials are designed for facilities to print, post and use as they determine best for their unique facility configurations and populations. An outreach video is also in the process of being made for facilities to share and educate eligible voters within the facilities. SBE hopes to include interviews of the detained individuals recounting their positive experiences with the process.

<sup>1</sup> On January 12, 2024, a report was sent to Senators Brian Feldman and Vanessa E. Atterbeary of the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee, in accordance with § 2-1257 of the State Government Article as required by HB 222.

Following the 2022 election cycle, SBE sent a survey to the local correctional facilities. There were about a dozen respondents. From the facilities that responded, all long term and short-term incarcerated individuals received the same information. Additionally, the facilities had no issues distributing election and voting information materials. However, some potential hurdles/obstacles identified in the survey were:

- Difficulty capturing the number of incarcerated individuals in the facilities due to their fluctuating population numbers (a count could include someone incarcerated and then they are released soon after/next day).
- The facilities are unable to accurately determine if their incarcerated individuals are registered.
- Staffing shortages at the facilities and growing inmate population can make assistance more difficult.
- Lack or limited storage area for extra informational packets.
- Varying security/background check requirements for election administration staff to facilitate voting processes in each facility.
- Spatial/room consideration for outreach. While most facilities said they had a space where someone could meet with eligible voters, it would depend on the date and time due to limited space shared by all incarcerated individuals and other activities. About 10% of the respondents indicated they did not have a space where eligible voters could meet with election officials to discuss how to participate in elections.
- The incarcerated population itself. Some incarcerated individuals are not permitted to be in the same physical space as one another; therefore, it is very time consuming to conduct individual assistance.
- No suitable locations for a drop box available to be mounted and monitored 24 hours a day.

In addition to the survey, SBE had discussions with the local correctional facilities about their experiences and found that the majority of facilities do not have already established processes (i.e., providing materials or picking up voted ballots) in place with their local election board. The local correctional facility staff repeatedly pointed out that one of the biggest problems was that a lot of facilities that house pre-trial detainees, do not have a common area available to have a drop box installed. Some indicated they were more open to the idea of a locking bag or mobile style box, believing that if something could be taken to the inmates to collect the ballots, it would probably foster more confidence in the security and privacy of voting for the detained individual.

Some facilities expressed that it would be helpful to have someone other than their staff advise or assist the residents in effort to provide more trust in the system. As result, SBE staff attended two resource fairs to promote voting rights and encourage voter registration at the Dorsey Run Correctional Facility on July 20, 2023, and the Eastern Correctional Institution Career and Research fair on September 25, 2023.

A survey to the local boards of elections indicated that less than a quarter have processes in place with their local correctional facilities<sup>2</sup>. The majority of local board of election offices indicated

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<sup>2</sup> While this is and continues to be an impediment, as is discussed later in this report, SBE mitigated this obstacle by facilitating the program for most local boards of elections in 2022. SBE provided information

there were concerns about their ability to facilitate this program as well as administer an election, due to staffing limitations.

For the 2024 Election, SBE emailed the facilities to let them know that the voting packets would arrive starting the week of February 19th and all packets should arrive by early March. Voting packets contain an introductory letter, voter registration application, mail-in ballot application, paid-postage return envelope and step-by-step instructions on how to complete, meet deadlines, and return the applications. The materials included in this email were *Important Voting Information* and *Instructions for Facilitating Voting*, which contained the following:

1. A short overview of the Maryland election laws that pertain to eligibility to vote in regard to scenarios of pre-trial detention, misdemeanor and felony convictions;
2. Key election dates and responsibilities for correctional facility staff; and
3. General information for voters including a checklist for distributing voting materials when the packets arrive and how to return the ballots were provided to ensure timely and successful voting.

The State Board of Elections encouraged facilities to make their populations aware of their rights to vote by making sure they have easy access to voting materials. This includes posting the materials and disseminating it as flyers, and including the information in announcements made through audio, video and/or paper (e.g., in handbooks provided to incarcerated individuals). These materials are available during the intake or release activities/processes.

In order to refine the program, SBE staff met with other key stakeholders for their insight and perspective. Mary Ann Thompson, the recent outgoing president of the Maryland Correctional Administrators Association (MCAA), provided general insight on how this program can be improved especially dealing with the common area space limitations at most of the local facilities. Ms. Thompson provided contact updates and invited SBE to join one of the biweekly meetings of Maryland Correctional Administrators to introduce our agency and the program.

Another stakeholder, Deputy Commissioner Kelvin Harris from the Division of Pretrial Detention and Services (DPDS) and his team which included Security Chiefs from larger state facilities discuss incarcerated individuals voting using drop boxes. His team offered to prepare and forward a document containing the amount, location, photos and schematics of all boxes that are currently installed in DPSCS facilities.

Deputy Commissioner Harris also shared that he remembered a pickup person from last election that worked out really well due to their previous law enforcement background and familiarity with the correctional procedures and environment. As a result, we were fortunate to reconnect and hire the same candidate, but this time to serve as our lead for the ballot retrieval staff for this election. We are hopeful that her experience will make her a tremendous asset to the facilities and election board alike. Additionally, we have asked the correctional facilities to provide recommendations of retired correctional facility/law enforcement personnel that may be interested in also serving as pickup personnel and shared a link to the staffing company for their referrals.

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to the facilities, had contact with the facilities when needed, and arranged for staff to pick up ballots from ballot drop boxes.

February 26, 2024

Lastly, SBE intends to continue to provide a statewide solution to pick up ballots from drop boxes. As discussed above, SBE worked in the last year to develop a program to ensure that all facilities with drop boxes can have ballots picked up. In order to facilitate this program, SBE submitted a request to include additional money in our staffing budget to provide assistance with ballot pickups from the facilities. We have estimated \$250,000 to employ approximately 25 pickup personnel for the 2024 election cycle.

SBE will continue an open dialog and amicable partnership with the correctional and detention centers for a successful implementation of voting access for eligible voters that are detained in a pre-trial status. While SBE has devoted much time and effort to this project with existing resources, the need for a dedicated staff member to manage the existing program to expand voting opportunities would be the most effective way to ensure the program is as effective as possible.

Thank you for the opportunity to share this information with you. If you have questions, do not hesitate to contact me at 443.833.2825 or [maryann.mogavero@maryland.gov](mailto:maryann.mogavero@maryland.gov).

Sincerely,

*Mary Ann Mogavero*

Mary Ann Mogavero  
State Board of Elections

cc: [jcr.docs@mlis.state.md.us](mailto:jcr.docs@mlis.state.md.us)  
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