



Committee of **Seventy**

Clean and effective government. Fair elections. Informed citizens.



# **Voter Protection Program**

## **Election Report to Voters For the May 19<sup>th</sup> Primary Election**

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## **Introduction**

Similar to the November 2008 General Election, the May 19, 2009 Municipal Primary Election, was one for the records. But for very entirely different reasons.

On the last day to register to vote in April 2009, Philadelphia's Voter Registration office received only 321 registrations – the lowest in recent memory and possibly ever. The office processed a total of 9,149 registrations submitted by the deadline. By contrast, Philadelphia's Voter Registration office processed over 119,000 registrations for the April 2008 primary election.

The low turnout on May 19<sup>th</sup> -- 13% citywide -- was disappointing, but hardly a surprise. The top races were for District Attorney, Philadelphia's chief law enforcement official, and City Controller, the city's independent auditor – races that typically don't draw much of a crowd on Election Day.

At the outset, there was a faint hope that May 2009 might be different. For the first time in almost two decades, the race for District Attorney was wide open due to the retirement of Lynne Abraham. Five candidates, all prior Assistant District Attorneys, sought the Democratic nomination. Seth Williams, who ran a tight race against Abraham in 2005, won the right to run against Republican Michael Untermeyer in the fall.

The race for City Controller on the Democratic side pitted two strong challengers, tax reform advocate Brett Mandel and former Common Pleas Court Judge John Braxton, against first-term incumbent Alan Butkovitz. Butkovitz easily led the field and will face Republican Al Schmidt in November.

Voters in Philadelphia also cast ballots for state judicial races – Supreme, Superior and Commonwealth Courts – and for the Philadelphia Court of Common Pleas and Municipal Courts.

Voters in each of the city's 1,678 voting divisions (the smallest political subdivision) chose their nominees for Judge of Election, who has the ultimate responsibility for the conduct of a polling place, and for Inspector of Election, who is responsible for checking voters' registration documents and authorizing voters to cast their ballots. The November 2009 winner of the Inspector of Election race will be elected as the Majority Inspector and the runner up as the Minority Inspector.

Although our volunteer force was downsized to meet the expected lower turnout, the Committee of Seventy prepared for its full-service Voter Protection Program that Philadelphia voters have come to expect. In partnership with The Lawyers' Committee for Civil Rights Under Law and the Philadelphia League of Women Voters, we recruited 234 volunteers to assist voters at polling places, to answer voters' calls and refer more serious problems to the appropriate law enforcement authority. As usual, Seventy trained all volunteers in election law and procedures.

This report is based on information received from our field and office volunteers on Election Day. While it is not necessarily representative of the voting experience on May 19<sup>th</sup>, it does provide a useful overview of some recurring problems in Philadelphia elections.

The most notable example concerned the inordinate number of complaints of inappropriate campaigning by polling place officials. While troubling, this was somewhat predictable since many of these officials were in charge of conducting elections *at the very same polling places where they themselves were on the ballot.*

Perhaps the best lesson to be learned is the need to address potential conflicts of interest and electioneering at polling places well in advance of an election. The Committee of Seventy's Elections Subcommittee will be considering these issues as part of its ongoing mission to improve elections in Philadelphia.

### **The May 2009 Voter Protection Program**

The goals of Seventy's Voter Protection Program are to help as many voters as possible quickly and effectively, minimize opportunities for voting fraud and intimidation, and document, respond to and resolve problems at the polls.

Seventy is proud of the careful preparation that goes into making Election Day run smoothly. We help voters year-round by letting them know about important deadlines for registering to vote, applying for and submitting absentee ballots and other information they need to know to be sure they can vote and that their vote will be counted. We encourage media outlets through the region to publicize the same information to their readers, viewers and listeners.

Seventy also educates voters about key races and ballot questions. For May 19<sup>th</sup>, our efforts included:

- Sponsoring three debates with the candidates for District Attorney, and one debate with the candidates for City Controller, in partnership with a diverse group of organizations including the Philadelphia League of Women Voters, Urban League of Philadelphia, Urbanphilly.com, the Free Library of Philadelphia, the University of Pennsylvania Fels Institute of Government, the Philadelphia *Daily News* and CBS 3.
- Offering *non-partisan* recommendations and other materials on two proposed amendments to the Philadelphia Home Rule Charter.
- Providing online sample ballots.
- Making Seventy's "Voting Rights and Procedures in Philadelphia" guide available online in Chinese, Vietnamese, Russian and Spanish.

On Election Day itself, Seventy's Voter Protection Program is a highly structured operation. . Our trained non-partisan volunteers provide coverage of all

Philadelphia wards and divisions from the time the polls open at 7 a.m. until they close at 8 p.m. Each of our volunteers is assigned to one of the following:

- **Field Teams** of two or three individuals are assigned to polling places within one or more of the City's 66 wards. All teams write field reports documenting any problems encountered so that Seventy has a clear picture of what went on throughout the day.
- **Call Center Volunteers** answer calls from voters, polling place officials and poll watchers to the toll-free 1-866-OUR-VOTE hotline, the Philadelphia League of Women Voters' hotline and Committee of Seventy's office number. These volunteers are trained to resolve many problems over the telephone. All calls are documented in *Our Vote Live*, an online database that compiles reports and allows them to be easily tracked by our management team.
- **Regional Team Leaders** are experienced Election Day volunteers who review complaints for assignment to Field Teams or, where appropriate, to law enforcement authorities (including the Philadelphia Law Department, the Philadelphia Police Department, the Philadelphia District Attorney's Office, the Office of the Inspector General, and the United States Department of Justice).
- **Election Court Volunteers** are attorneys who represent Seventy in Philadelphia's Central Election Court in Room 285, City Hall. These attorneys monitor any litigation activity there throughout the day.

Volunteer recruitment at any scale relies largely on strong local partnerships. Seventy's lead local partners for the May 2009 program included:

- AFL-CIO
- Dechert LLP
- DLA Piper
- Greater Philadelphia Cares
- MMorgan, Lewis & Bockius
- Philadelphia League of Women Voters
- Philadelphia *Daily News*

As noted earlier, Seventy's scaled back its volunteer recruitment to mirror the anticipated low voter interest in the May 19<sup>th</sup> primary. Seventy and its partners recruited 190 Philadelphia-based field team volunteers, 30 volunteers for the call-center to support voters throughout Pennsylvania, and 14 experienced Regional Team Leaders.

To provide telephone support for voters in all other parts of Pennsylvania, Seventy grew its partnership with the American Civil Liberties Union of

Pennsylvania. This was the first time that our Voter Protection Program was extended west of Harrisburg.

### Election Day Problems

On Election Day, Seventy's volunteers visited 705 voting divisions in 46 of Philadelphia's wards, and were on-call to respond to complaints in any additional ward. Although Seventy does not formally survey voters, our volunteers are trained to file reports on all calls received and problems encountered. The following chart provides a breakdown by category of the 196 problems contained in our volunteers' field reports and entries into the Our Vote Live database on May 19<sup>th</sup>.

<b>Top Issues</b>	<b>Percentage</b>
<b>Electioneering</b> (Partisan campaigning <i>inside</i> the voting room or <i>within 10 ft.</i> of the door to the voting room)	29%
<b>Voting Machine Malfunctions</b> (Machine[s] reportedly not working at polling place)	21%
<b>Election Administration Issues</b> (Including required signs not posted, missing polling place officials not replaced, voters refused provisional ballots or unnecessarily asked for identification)	20%
<b>General Polling Place Problems</b> (Last minute location changes, materials missing, etc.)	12%
<b>Polling Place Accessibility Problem</b> (Including wheelchair ramp blocked or missing, or accessible or alternative entrance blocked or locked)	11%
<b>Polling Places Opening After 7:00am</b> (Including locked buildings or miscommunication in the days before the election)	7%

The following chart illustrates the concentration of reported problems by region.

<b>Percent of Reports by Region of Philadelphia (wards)</b>	<b>Percentage</b>
<b>Central Philadelphia</b> (1, 2, 5, 8, 14, 15, 20, 26, 30, 36, 39, 47, 48)	<b>37.0%</b>
<b>Northwest Philadelphia</b> (9, 10, 11, 12, 13, 16, 17, 21, 22, 28, 29, 32, 38, 43, 50, 59)	<b>19.4%</b>
<b>West Philadelphia</b> (3, 4, 6, 24, 27, 34, 40, 44, 46, 51, 52, 60)	<b>16.8%</b>
<b>North Central Philadelphia</b> (7, 18, 19, 23, 25, 31, 33, 35, 37, 42, 45, 49, 61, 62)	<b>13.5%</b>
<b>Northeast Philadelphia</b> (41, 53, 54, 55, 56, 57, 58, 63, 64, 65, 66)	<b>13.3%</b>

What stood out among the complaints on May 19<sup>th</sup> election were the inherent flaws in having election officials in polling places as administrators of the election when they are on the ballot as candidates. As indicated in the above chart, the top issue reported on Election Day involved electioneering. Three examples include:

- **Ward 5:** The Majority Inspector purportedly kicked the Minority Inspector out of the polling place claiming that "he isn't supposed to be here." The Judge of Election then told the Majority Inspector to leave and

held a curbside election to appoint new officials to both positions. The newly appointed officials then reportedly helped the Judge of Election campaign for her position inside the polling place.

- **Ward 32:** Two “write-in” candidates for Judge of Election and Inspector of Election reportedly taped their names to the voting machine in the place where their names would appear if they were official candidates on the ballot. A voter e-mailed Seventy a picture of the sign he took while voting (Appendix C).
- **Ward 39:** Inside the polling place, the voter’s committeeman introduced himself to the voter. When the voter got to the sign-in table, a polling place official told the voter which candidate for Judge of Election and another race (the voter couldn’t recall the other race) to choose on the ballot.

In a separate report from the 39<sup>th</sup> ward, a voter called after the polling place official pointed to a sample ballot next to the sign-in table and told the voter to “please vote for 60 and 64, that’s me and [name of the other official at the table].” Both of the names were written on the sample ballot in ink.

- **Ward 60:** The Judge of Election was reportedly going into the voting booth telling voters who to vote for and even pushing the button for the preferred candidates.

The second most commonly reported problem was machine malfunctions. Many of these problems occurred in the morning as polling place officials were setting up in preparation for the first wave of voters. Below are three instances that the machine malfunctions contributed directly to polling places opening late:

- **Ward 4:** At 7:05 a.m. the voting machines weren’t working and rather than offering voters emergency ballots, the polling place officials were asking voters to come back later.
- **Ward 33:** A voter called to report that the voting machines in her polling place weren’t functional at 7:00 a.m. The Judge of Election was unable to find the emergency ballots so voters had to wait until about 7:30 a.m. when the machine issues were resolved in order to cast their ballots.
- **Ward 58:** A voter called to say that his wife signed the poll book but was not able to vote because the machines were not running when the couple arrived at 7:00 a.m. The couple was told they could come back to vote later in the day. The caller was concerned that his wife wouldn’t be allowed to vote because she had already signed the poll book.

While in most cases the machines were fixed relatively quickly, the instances of voters being asked to “come back later” is troubling, when voters can be offered

an emergency ballot to vote on. This practice can result in voters walking away angry about being denied the right to vote at their convenience.

The third most pervasive issue involved problems related to administering the elections. These problems were errors made by polling place officials and many can be attributed to inadequate training. Seventy's volunteers heard from several polling place officials that they do not feel prepared to do their jobs.

As non-partisan observers, our volunteers are instructed not to enter polling places or in any way interfere with the operations of the election. However, if asked, they are trained to help polling place officials find the resources they need to properly run the polling place. Some examples from May 19<sup>th</sup> include:

- **Ward 3:** Volunteers explained the process to fill vacancies in the election board to a Majority Inspector and Minority Inspector. The two officials needed to fill a vacancy for Judge of Election but didn't know how to do so.
- **Ward 22:** A Judge of Election called the hotline, unsure of what to do with one machine that was showing an error code on the back. The Seventy volunteer who took the call directed the Judge to the machine problem hotline at the City Commissioners' office.

On May 19<sup>th</sup>, some Judges of Election complained to Seventy's volunteers that they do not receive enough notice about changes in the law. Polling place officials' concerns about inadequate preparation and pay are legitimate. Training is a one-time obligation. It is not mandatory for any subsequent elections.

While the Philadelphia Board of Elections does disseminate materials on changes in the law that impact voting rights, Seventy volunteers have found in past elections that polling place officials who have sometimes served for decades do not read the materials and are unfamiliar with recent developments.

Compensation for polling place officials is exceedingly low for the 13-hour day and is a disincentive to attracting enough workers, and new workers, to fill polling place officials' positions. For example, the current compensation for members of a Philadelphia Election Board as set by the county board of elections is:

- |                                |       |
|--------------------------------|-------|
| • Judge of Election            | \$100 |
| • Majority/Minority Inspectors | \$95  |
| • Clerk, Machine Inspector     | \$95  |

### **The Bigger Picture**

The 13% voter turnout is distressing on many levels. Understandably, there was bound to be a letdown after the 2008 presidential election cycle, with tens of

thousands of newly registered voters and a high level of energy throughout Philadelphia.

What's disappointing is that the District Attorney is arguably the most important political job in Philadelphia next to the Mayor. Many voters have direct contact with the District Attorney's office, either as victims, witnesses or defendants. Why do so few people come out to vote?

Many pollsters and academics have studied the causes of voter apathy. While Seventy attempts to raise the level of knowledge about local elections, it is often an uphill battle when the duties of the offices aren't fully understood (for example, who knows what a City Controller does?) and campaigns have much less money to spend on advertising.

Perhaps the cure comes in helping to make voting easier. National efforts to institute universal automatic voter registration, where citizens are automatically registered to vote once they become eligible, or changing Election Day to a weekend when most people off from work could have a big payoff.

There are proposed changes on the state level – such as permitting no-excuse absentee ballots – that may also increase turnout. Pennsylvania's existing laws make it difficult to obtain absentee ballots for voters who don't, or are not able to, know far in advance whether or not they will not be in their home county on Election Day. If a voter doesn't submit an application for an absentee ballot by the prescribed deadline, they face even greater hurdles applying for an emergency absentee ballot. No-excuse absentee ballots give voters greater flexibility with their voting options.

With the decline in print media, there is a real concern about ensuring appropriate education about elections. Seventy and its partners attempted to fill this gap by sponsoring debates and offering information on their websites, but the appetite for information wasn't high. Even the candidates' debates didn't attract many people. Choosing specific topic areas, and better coordination among sponsors to prevent duplication, would create more interesting events and generate more publicity to attract voters.

### **Looking Ahead to November 2009**

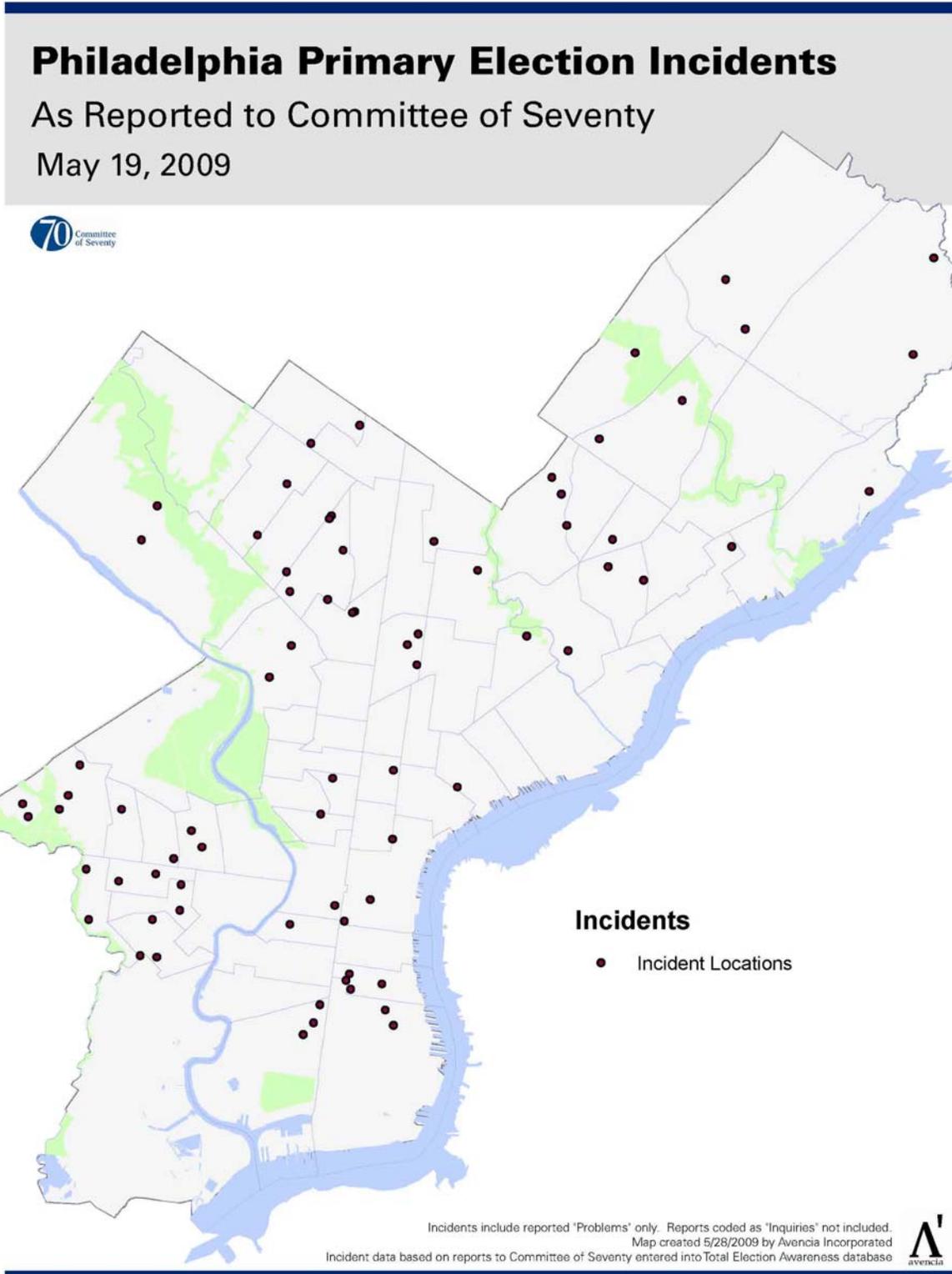
“Off-year” elections are often valuable because they help the Committee of Seventy assess ways to strengthen its Voter Protection Program. We plan on further professionalizing and expanding our volunteer training video for the November 2009 program. This improvement is aimed at making our volunteer trainings as convenient and easy-to-understand as possible.

We also plan on mounting a version of our Voter Protection Program in Southern New Jersey for the fall 2009 election. New Jersey voters will be electing their Governor, General Assembly legislators and a number of municipal offices throughout the state. The gubernatorial election will undoubtedly be the race to

watch as Republican, former U.S. Attorney Chris Christie, challenges Democratic incumbent Jon Corzine. Seventy will rely on the help of new partners to bring the services developed and experience gained in Pennsylvania to an entirely new group of voters in Southern New Jersey.

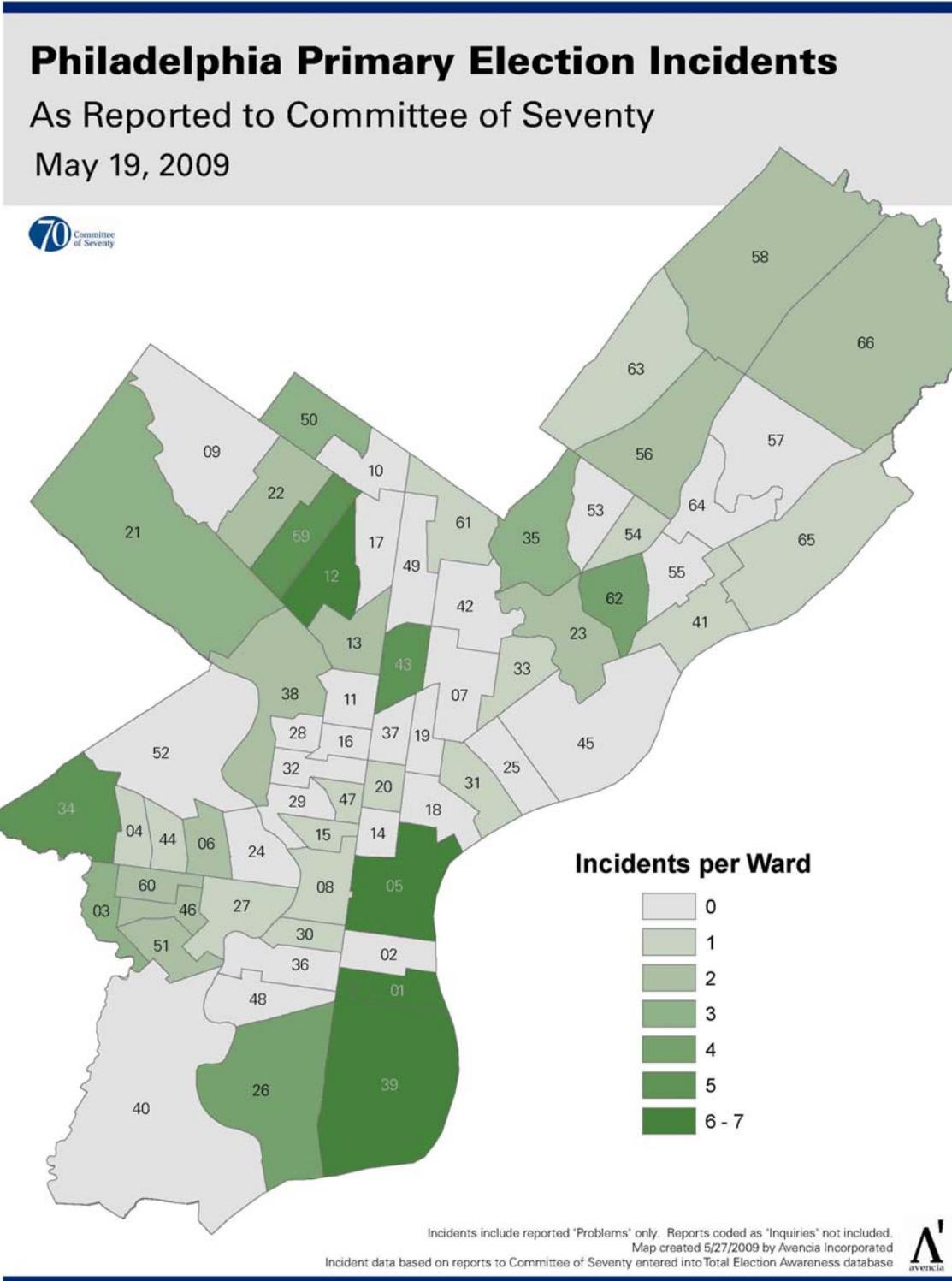
**Appendix A.**

Election incidents called into 1-866-OUR-VOTE from Philadelphia:



**Appendix B.**

Election incidents by ward as called into 1-866-OUR-VOTE from Philadelphia:



### Appendix C.

Photo sent to the Committee of Seventy by a voter of Judge of Election and Inspector of Election candidate names taped on a voting machine:

