



CITY OF NEW BEDFORD

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INVESTIGATION OF COMPLAINT

**SUBJECT: INVESTIGATION OF COMPLAINTS, FINDING OF FACTS,
CONCLUSIONS, AND RECOMMENDATIONS RE: MARCH 2024
PRESIDENTIAL PRIMARY ELECTION**

BY: Ryan A. Pavao, Acting First Assistant City Solicitor

DATE: May 28, 2024

I. INTRODUCTION

This memorandum is the result of an investigation into concerns raised by citizens, media outlets, the Secretary of the Commonwealth's office, and local officials into events that allegedly transpired during the 2024 Presidential Primary Election which took place on Tuesday, March 5, 2024. On Wednesday, March 6, 2024, this Investigator was tasked by the Mayor's Office with investigating the concerns raised to determine their validity, cause(s) (if applicable), and to make recommendation of potential solutions to avoid such concerns being raised in the future.

II. SUMMARY OF ALLEGATIONS AND SCOPE OF INVESTIGATION

During the March 5, 2024, Presidential Primary Election, the Office of the Mayor and the City of New Bedford Election Commission (the "Commission") (collectively, the "City") were notified of issues with some election polling sites throughout the day. The City first received a complaint that when polls were opened at 7 AM, the Ward 1, Precinct D polling site located at

Vibra Hospital (“Vibra Hospital”) in the north end did not have any Republican ballots. This was due to a failure to pack Republican ballots into the unused ballot “Blue Bag.” After the Commission was notified, Republican ballots were run out to Vibra Hospital, which they received by 7:40 AM.

The City also received complaints from poll workers, citizens, and local officials that there were issues with the voting machines at Vibra Hospital, the Ward 1, Precinct A polling site located at Normandin Middle School (“Normandin”),¹ and the Ward 3, Precinct F polling site located at the Bayberry Apartments on Oakdale Street (“Bayberry”). The Vibra Hospital and Normandin voting machines ran out of power, while the Bayberry voting machine experienced a minor jam. The jam with the Bayberry machine was fixed within two minutes and did not appear to affect voting in any way. The machines without power at Vibra Hospital and Normandin were replaced, and their replacements were able to be utilized for the rest of the day without issue.

Later, at approximately 12:30 PM, the Commission received notice that the Ward 1, Precinct F polling site located at the Christian Fellowship Center was running low on Republican ballots. Between the time of the call to the Commission and replenishment, the precinct ran out of Republican ballots, affecting two voters. Those two voters later returned and cast their ballots.

The combination of a lack of Republican ballots for the first 45 minutes of voting and the voting machine not properly working until 10 AM at Vibra Hospital meant nine total voters were affected (eight Republican and one Democrat). All nine voters returned and were successfully able to cast a ballot.

III. INDIVIDUALS INTERVIEWED

¹ This was incorrectly reported in some media outlets as having occurred at the Ward 1, Precinct B polling location located at the CareOne Senior Facility in the north end of the City.

The City of New Bedford officially has 41 election precincts (six wards numbered 1-6, each with six precincts lettered A-F, but also five sub-precincts due to the geographical size of their parent precincts: 1A-1; 1B-1; 1C-1; 3F-1; and 4A-1). I was informed by Mr. Manuel DeBrito, Chair of the City of New Bedford Election Commission and head of the City’s Election Department, that for presidential primary elections—like the one which occurred on March 5, 2024—due to expected low voter turnout, sub-precincts are not used, leaving 36 polling locations.² By state election law, when using vote counting machines, each polling place must have one Warden, one Clerk, and at least two Inspectors.³ Each polling place must also have at least one police officer or constable present. If multiple precincts use the same, physical polling location, they may share a Warden and/or police officer or constable.

Based on this information, I interviewed the following individuals:⁴

1. Manuel DeBrito – Chair of the New Bedford Election Commission and Director of the City’s Election Department
2. D.C. – Precinct 1A Warden (Normandin Middle School)
3. B.M. – Precinct 1B Warden (CareOne Senior Facility)
4. R.B. – Precinct 1C Warden (Campbell School)
5. B.M. – Precinct 1D Warden (Vibra Hospital)
6. C.L. – Precinct 1F Warden (Christian Fellowship Center)
7. M.A.B. – Precinct 2C Warden (Alma Del Mar Charter School)⁵

² Pursuant to the City of New Bedford 2024 Presidential Primary Election Results, only 9,902 total ballots, or 14.58% of the City’s 67,936 registered voters cast ballots in this election.

³ The two Inspectors must be located at the “check-in” table. If a polling place uses a “check-out” table (which is encouraged, but not required), then there must be two additional Inspectors at the “check-out” table, for a total of four Inspectors.

⁴ The initials rather than the names of non-City employee citizens are used to protect their privacy interests.

⁵ Precincts 2B and 2C shared a physical, polling location, the Alma Del Mar Charter School. For this election, they could have, but did not elect to, share a Warden. However, M.A.B. indicated they would have knowledge of any issues during the election at Precinct 2B due to their proximity.

8. J.Y. – Precinct 2E Warden (Wilks Library)⁶
9. D.H. – Precinct 2F Warden (Lincoln School)
10. W.E.S. – Precinct 3A Warden (Hayden-McFadden School)
11. B.B.K. – Precinct 3B Warden (Hillside Court)
12. E.S. – Precinct 3D Warden (Holy Name)⁷
13. S.M. – Precinct 4B Warden (Carney Academy)
14. V.B. – Precinct 4C Warden (New Bedford Hotel Apartments)
15. R.C.S. – Precinct 4D Warden (Parker Street School)
16. R.A. – Precinct 4E Warden (Caroline Street Community Center)
17. J.E.B. – Precinct 4F Warden (Boys and Girls Club)
18. D.J. – Precinct 5C Warden (Moose Home)⁸
19. N.S. – Precinct 5D Warden (Hathaway School Gym)
20. L.M.L. – Precinct 5E Warden (Buttonwood Warming House)⁹
21. C.M.S. – Precinct 6A Warden (Hazelwood Community Center)
22. K.M. – Precinct 6B Warden (Hazelwood Community Center)
23. H.C. – Precinct 6C Warden (Tripp Towers)
24. L.H. – Precinct 6D Warden (Howland Green Library)
25. J.M. – Precinct 6E Warden (Ashley Park Community Center)

⁶ Precincts 2D and 2E shared a physical, polling location, the Wilks Branch of the New Bedford Public Library. For this election, they could have, but did not elect to, share a Warden. However, J.Y. indicated they would have knowledge of any issues during the election at Precinct 2D due to their proximity.

⁷ Precincts 3D and 3E shared a physical, polling location, the Holy Name of the Sacred Heart of Jesus Parish. For this election, they could have, but did not elect to, share a Warden. However, E.S. indicated they would have knowledge of any issues during the election at Precinct 3E due to their proximity.

⁸ Precincts 5C and 6F shared a physical, polling location, the Moose Home. For this election, they could have, but did not elect to, share a Warden. However, D.J. indicated they would have knowledge of any issues during the election at Precinct 6F due to their proximity.

⁹ Precincts 5E and 5F shared a physical, polling location, the Buttonwood Park Warming House. For this election, they could have, but did not elect to, share a Warden. However, L.M.L. indicated they would have knowledge of any issues during the election at Precinct 5F due to their proximity.

26. P.M. – A voter affected by the initial lack of Republican ballots at the Vibra Hospital (Ward 1, Precinct D) polling location

IV. DOCUMENTS REVIEWED

As part of my investigation, I reviewed the following documentation:

1. Commonwealth of Massachusetts Secretary of the Commonwealth Elections Division 2024 Presidential Primary Memorandum (dated February 27, 2024). **Attachment A.**
2. Code of Massachusetts Regulations (CMR) Title 950 Chapter 53.00: Voting and Counting Procedures for Voting Machines (950 CMR 53.00). **Attachment B.**
3. Mandatory Poll Worker training notes utilized at the poll worker training events held on January 23 and 24, 2024 (13 pages). **Attachment C.**
4. Specific “Open[ing] Polls” and “Closing the Polls” instructions (2 pages). **Attachment D.**
5. Election Day [Phone] Contact Numbers list. **Attachment E.**
6. Election Supplies list. **Attachment F.**
7. Presidential Primary Election memorandum dated March 5, 2024 (a/k/a “Election Day Notes”) (2 pages). **Attachment G.**
8. Instructions to New Poll Workers and Custodians. **Attachment H.**
9. Phone notice. **Attachment I.**
10. Election Officers and Oath form (1 page), Precinct Return (1 page), and Clerk’s Memo (1 page). [I reviewed all three forms for all 36 precincts participating in the 2024 Presidential Primary Election. I am attaching a blank copy of the forms (3 pages) to this report.] **Attachment J.**
11. Blank “Moving Company Deliveries” sheet. **Attachment K.**
12. Questionnaire for Poll Wardens [blank version]. **Attachment L.**
13. Voting machine service note. **Attachment M.**
14. Photograph of voting machine power cord and adapter connection with circle and arrow highlight. **Attachment N.**
15. Photograph of lockable, “Red Ballot Bag” (Precinct 3F). **Attachment O.**

16. Photograph of lockable, “Blue Ballot Bag” (Precinct 3F). **Attachment P.**

17. Email correspondence between Chairperson DeBrito and Election Clerks from Hopkinton, North Andover, and Sturbridge, MA. **Attachment Q.**

V. SUMMARY OF INTERVIEWS

During the course of my investigation, I was able to interview 24 of the 36 Precinct Wardens utilized during the 2024 Presidential Primary Election. Of the 12 Wardens I was unable to speak with, five of them belonged to precincts that shared a geographical location with another precinct whose Warden I spoke to, and who were able to share with me information about the uncontacted precincts. Therefore, in total, there were only seven precincts for which I was unable to verbally obtain information on election day proceedings. However, during my investigation, I was able to review all 36 precinct Clerk’s Memoranda and other election return forms (see, e.g., **Attachment J**), and therefore did have substantive information on the election proceedings for all 36 voting precincts in the City.

Prior to speaking with the 24 Precinct Wardens, I created a questionnaire, of which a blank copy is attached to this investigation as **Attachment L**. The questionnaire consisted of seven questions, which were:

1. At any time did the supply of any of the three [political party] ballots get exhausted?
 - a. [If applicable] For how long?
 - b. Did you have to request replenishment for any of the ballots during the course of the day?
2. If [any ballots] were exhausted, how many voters were affected?
3. [If any affected voters,] What did you do to address the situation? (Did you tell [the voter(s)] to come back? Did you take their name and [phone] number?)
4. Were you ultimately able to confirm that any affected voters returned and voted?
5. Were there any voters who complained about how long it took for them to vote once they arrived at the polling station?

6. Were there any other problems with how the polling place operated that led to any other complaints from any voters?
7. Were there any other complaints from voters or members of the public?

In addition to the 24 Precinct Wardens, I also spoke with Election Commission Chairperson DeBrito on multiple occasions throughout my investigation. Finally, I spoke with P.M., one of the citizens affected at the Vibra Hospital polling site by the initial lack of Republican ballots. A summary of my conversations with the Precinct Wardens, their answers to my questionnaire, my conversations and observations of Chairperson DeBrito, and a summary of my conversation with P.M. are as follows:

1. Manuel DeBrito – Election Commission Chairperson and Director of the City’s Election Department

Throughout the course of my investigation and prior thereto, I was able to speak with and observe Election Commission Chairperson DeBrito regarding the performance of his duties on multiple occasions. I first spoke with Chairperson DeBrito about the election the day prior, Monday, March 4, 2024, where he provided me and New Bedford City Solicitor Eric Jaikes with copies of **Attachment A**, the Secretary of the Commonwealth’s 2024 Presidential Primary Election memorandum.

I was next able to observe Chairperson DeBrito during the evening and night of the election as ballots and votes were tabulated and secured. I witnessed his management of the final election night tally, release of results, and sealing of election ballots in the City’s election vault. I was informed by Solicitor Jaikes that both he and Chairperson DeBrito had, earlier during the morning of the election, personally traveled to Vibra Hospital and Normandin to address the powerless voting machines issues, and also to CareOne Senior Center (Precinct 1B) to investigate an allegation of another shortage of Republican ballots (as explained in more detail below, this latter allegation was incorrect).

The morning following the election, Wednesday, March 6, 2024, I was able to observe Chairperson DeBrito as he spoke with select Precinct Wardens on the phone regarding new allegations from the media about alleged lack of Republican ballots at north end polling locations. The first was a call to the CareOne Warden to ensure that the allegation was the same which had been dispelled the prior morning. The second call was to the Ward 1, Precinct F Warden (Christian Fellowship Center) regarding a new allegation that they ran out of Republican ballots Tuesday afternoon. The Precinct 1F Warden informed Chairperson DeBrito that they had in fact run out of Republican ballots for an hour because they waited until there were only three or four ballots left before requesting a resupply from the Commission. The Warden indicated that two voters were affected but were asked to come back and cast their ballots, which they did. Later that afternoon, Wednesday, March 6, 2024, I spoke with Chairperson DeBrito and obtained a list of Precinct Wardens and their contact information from the Commission so that I could personally contact them and ask questions about the election.

I next spoke with Chairperson DeBrito on Thursday, March 21, 2024, in which I asked him to provide me with a copy of all the training materials and other documentation given to poll workers for the 2024 Presidential Primary Election. Chairperson DeBrito provided me with the requested documentation the following day, Friday, March 22, 2024. See **Attachments C through K**.

Finally, I spent an hour with Chairperson DeBrito on Wednesday, March 27, 2024, in which I asked him several follow up questions about the operation of the 2024 Presidential Primary Election, the various voting machines used by the City, and the procedures and protocols in place for poll workers to follow during the election. What follows is a summary of information I obtained from my observations and multiple discussions with Chairperson DeBrito:

On Election Night, Chairperson DeBrito and I spoke about the lack of Republican ballots to start the election at the Vibra Hospital polling location. He told me there are two, locked colored bags that are sent to each polling location, one blue and one red. The Blue Ballot Bag contains all unused ballots and is sent full to the precinct the morning of the election. The Red Ballot Bag arrives empty and is used to secure the used ballots at the end of the election. Any unused ballots are returned in the Blue Ballot Bag. Chairperson DeBrito told me that he selects a portion of ballots from each political party to place in the Blue Ballot Bag for each precinct, and that after he determines the number, an election volunteer is responsible for loading the Blue Ballot Bag with the appropriate number of ballots. He stated the reason the Vibra Hospital polling place did not have Republican ballots to start was because the election volunteer must have forgotten to load the Republican ballots for that precinct into the Blue Ballot Bag before it was sealed. I later asked Chairperson DeBrito if the ballots were re-counted after they had been placed in the Blue Ballot Bag before it was sealed, and he told me, "No. I trust my people."

I asked Chairperson DeBrito how he determined what number of ballots for each political party should be placed in each Blue Ballot Bag, and he told me he looked at the roll of registered voters for each precinct by political party and used that number with an overage added to each. I asked him why the Commission used this system instead of just taking the total number of registered voters in the precinct and providing one ballot from each political party for each voter (for example, if 100 registered voters in a precinct, load the Blue Ballot Bag with 100 Democratic ballots, 100 Republican ballots, and 100 Libertarian ballots plus some overage). He told me the reason they did not do this was because it would fill up the Blue Ballot Bags and make them too heavy for elderly poll workers to carry and/or handle. Furthermore, he told me that current election law which prevents voters from drawing a ballot from a party from which they are not registered made the extra ballots unnecessary.

I asked him if the City had a shortage of ballots for any political party at the start of the election and if that was a factor and he told me, no, the City had plenty of ballots for all three parties. I also inquired about an automatic resupply of ballots, i.e., having the election runners automatically drop off additional ballots at the precincts preemptively. He informed me that typically the Commission employs three runners during an election, with each runner covering two wards each. He told me that for this election, the Commission only employed two runners, covering three wards each. I asked if having one less runner for this election was budget related and he indicated “No.”

I next substantively spoke with Chairperson DeBrito about the election on Wednesday, March 27, 2024. I had reviewed the poll worker training materials he had provided me on Friday, March 22, 2024, and had some follow-up questions. I also wished to physically examine the voting machines and other election equipment to confirm or dispel allegations raised during my investigation.

My first line of inquiry was into the training that the election poll workers received. Chairperson DeBrito informed me that there were two training sessions scheduled for January 23 and 24, 2024 held at the Main Branch of the New Bedford Free Public Library and Wilkes Library Branch.¹⁰ Poll workers were expected to attend one of the two sessions. Attendance was recorded via sign-in sheets. Chairperson DeBrito told me that the training aids and election materials attached to this report as **Attachments C through F** and **H through J** were distributed to and reviewed with the poll workers during the training sessions. I asked if all Precinct Wardens attended the trainings and was informed that all but one or two did due to scheduling conflicts. I was also informed that those who did not attend were seasoned, veteran Precinct

¹⁰ It is unknown to this Investigator as to which date corresponded to which library location.

Wardens, were provided with the training documentation via email by Chairperson DeBrito, and were later spoken to individually by him.

I inquired whether any visual aids (e.g., PowerPoint presentations, videos, etc.) were used during the training sessions and was told no, only the attached handouts were provided. I asked if voting machines and the other equipment the poll workers were going to be using during Election Day (e.g., the Red and Blue Ballot Bags, signs, etc.) were brought to the trainings, and Chairperson DeBrito informed me no, that the Commission used to do so, but that most of the poll workers had worked previous elections, and so it was deemed unnecessary. He informed me that the supplementary Presidential Primary Election memorandum attached to this report as **Attachment G** was distributed to the Precinct Wardens the morning of the election.

I next had Chairperson DeBrito show me the voting machines used during the election and explain to me what happened to the machines at the Vibra Hospital and Normandin polling locations. Chairperson DeBrito showed me the ES&S DS200 voting machines used at each polling location and provided me with a document listing the dates the machines were serviced and ballots tested prior to the election. That voting machine service document is attached to this report as **Attachment M**. He informed me that the DS200 machines are designed to be plugged into an external power source but have an internal battery in case of a power outage. However, even brand new, the internal battery has a maximum charge of two hours. Chairperson DeBrito informed me that all DS200s were fully charged in the days before the election but indicated that some are old and in need of updates or full replacement.

He told me the reason the Vibra Hospital and Normandin voting machines broke down is because they ran out of power. They ran out of power because the power cord had become disconnected from the power adapter located in the back of the machine, and so, although it appeared to the poll workers and officers at the polling location that the machines were plugged

in, in reality they were not and were running on battery power. He told me it is very difficult for some poll workers to reach and access the power cord/power adapter connection due to its location in the back of the machine. He showed me the back of the DS200 machines and indicated where the power cord had become disconnected from the power adapter. I took a photograph of the connection and highlighted it with a circle and an arrow. My photograph with highlighted circle and arrow is attached to this report as **Attachment N**.

Next, Chairperson DeBrito showed me the other equipment that is used by election poll workers during an election, including the Red and Blue Ballot Bags, the trays that connect to the DS200 voting machines with the secure, auxiliary slot, etc. Photographs of the Red and Blue Ballot Bags are attached to this report as **Attachment O** and **Attachment P**, respectively. When we returned to Chairperson DeBrito's office, I asked him some questions regarding allegations that some polling locations did not have an American flag present during voting, as is required pursuant to G.L. c. 54, § 25A. He told me that every polling place had an American flag located indoors as required by law, and that the complaints received were because people wanted there to also be an American flag outdoors at the polling locations, which is not required by law. I asked him if City custodial workers (who drop off all voting equipment at each polling place) and police officers were required to attend the mandatory training sessions on January 23 and 24, and he told me they were not. I asked him if the City utilized the Moving Company Deliveries sheet (**Attachment K**) to ensure that all voting equipment was properly delivered, and he told me that they did not utilize them for this election.

I spoke to Chairperson DeBrito about the primary complaint from voters which the Precinct Wardens reported to me, which was that voters were not allowed to pull a ballot for a political party they were not enrolled in, and that only unenrolled voters could select whichever ballot they wanted. Chairperson DeBrito told me that that has been election law for quite some

time, and that all voters had to do was contact the Election Department prior to the registration deadline, and they were more than capable of helping voters identify their status and change their enrollment if desired. We spoke about our prior conversation concerning the size and weight of the ballot bags, and Chairperson DeBrito informed me that he has already traveled to several schools in the City and is working on getting increased high school student involvement in elections, with the goal of having younger, more able-bodied poll workers help carry/move election equipment and supplies. I inquired about local university and law school students for the same purpose, and he told me it was something the Commission was willing to consider.

Last, I spoke to Chairperson DeBrito about what a few Precinct Wardens reported to me, which was that, for the few voting machines that malfunctioned, after they were up and running, the ballots cast during the period of inoperability were removed from the secure, auxiliary slot in the front of the voting machines and then run through the now working machines by the police officers located at the precincts. This process is directly contradictory to that outlined in the February 27, 2024, Elections Division 2024 Presidential Primary Memorandum (**Attachment A**), which states that those ballots must remain in the secure, locked auxiliary slot throughout the election and then be hand-counted at the end of the night. Chairperson DeBrito stated that past practice had always been to have the officer(s) at the precinct run the ballots through the machine (witnessed by the Wardens) once the voting machine was up and running again. He confirmed that the 2024 memorandum did indeed include the aforementioned provision, but then reviewed all materials the Commission had received from the state Elections Division for prior elections and confirmed that such a provision was never previously included.¹¹ Chairperson DeBrito then provided me with correspondence he received from three other Election Clerks from other

¹¹ It should be noted that my review of 950 CMR 53.00 (**Attachment B**) did not uncover such a requirement either.

municipalities within the Commonwealth regarding this matter. The clerks from Hopkinton and Sturbridge indicated the ballots must remain in the secure, auxiliary slot and be hand-counted at the end of the night (although the Sturbridge Clerk admitted they used to feed the ballots through and was only recently advised otherwise). The Clerk from North Andover indicated the ballots should be run through as they were in New Bedford. None of the clerks could identify where in the law the specific requirement could be found. The correspondence between Chairperson DeBrito and the other Election Clerks is attached to this investigation as **Attachment Q**.

2. D.C. – Precinct 1A Warden (Normandin Middle School)

I spoke with D.C. over the telephone on Wednesday, March 6, 2024, at 4:19 PM. The phone conversation lasted approximately five and a half minutes. D.C. told me the precinct never ran out of any ballots for any of the three parties and that no voters were therefore affected. They told me that they did have to replenish Republican ballots once. They said they called the Commission to replenish the ballots when they had approximately 30 ballots left, and that within 20 minutes, they had been resupplied with an additional 300 Republican ballots (200 of which were later returned unused).

When asked if any voters complained about the time it took to vote, D.C. indicated, “No. Not at all. There was no wait.” When asked if there were any operational issues throughout the day, they told me that the ES&S voting machine was not working prior to opening the polling site at 7 AM. The machine was not properly plugged in and lost power. D.C. indicated that they called the Election Commission, and the Commission had a replacement machine there in under 20 minutes, allowing D.C. to open the polling site on time. D.C. further indicated that four to five voters complained that there was no American flag or “vote here” signs, but it is unclear whether they meant inside the polling site (which is required by law), or outside of the polling site (which is not).

When asked if there were any other issues, D.C. indicated that approximately ten or so registered Democratic voters wanted to pull a Republican ballot but were instructed that they could not do so by law. A review of the Precinct 1A Clerk's Memorandum indicates that the polling site opened promptly at 7 AM and closed at 8 PM. There were 264 ballots cast and 264 names which had been checked and crossed off the voter roll.

3. B.M. – Precinct 1B Warden (CareOne)

I spoke with B.M. over the telephone on Wednesday, March 6, 2024, at 4:30 PM. The phone conversation lasted approximately 13 and three-quarter minutes. B.M. told me the precinct never ran out of any ballots for any of the three parties and that no voters were therefore affected. They told me that they did have one small issue when the polling site first opened. Apparently, the City's custodial staff dropped off the site's supplies, including the "Blue Ballot Bag" which contained all the unused ballots in the wrong location within CareOne, so the poll workers had to track the equipment and supplies down. Therefore, when the polling site opened at 7 AM, the workers were still setting up, to include removing the blank ballots, counting them, and placing them on the table. A voter who had been first in line, waiting since 6:30 AM, became upset that the Republican ballots were not yet on the table when the polling site opened right at 7 AM. He became angry, turned around, and stormed out of the polling location. Moments later, the Republican ballots were placed on the table, and the police officer on site ran down the street and caught up with the voter to tell him that the Republican ballots were put out and he could return to vote, which he did. The whole ordeal lasted approximately 30 seconds to one minute.

B.M. told me that they did have to replenish Republican ballots once. They said they called the Commission to replenish the ballots when they had approximately 92 ballots left, and that the precinct received an additional 200 Republican ballots (122 of which were later returned unused).

B.M. indicated no concerns about wait time or any operational issues. When asked if there were any other issues, they indicated that several registered Democratic voters wanted to pull a Republican ballot and became upset when they were instructed that they could not do so by law. B.M. did not indicate how many. They added that several voters throughout the day were confused by the color of the ballots (red for Democratic, blue for Republican) because the colors did not match the traditional colors associated with the parties, but there is nothing the City could do about that because the ballots are provided to us by the state. A review of the Precinct 1B Clerk's Memorandum indicates that the polling site opened promptly at 7 AM and closed at 8 PM with 335 ballots cast.

4. R.B. – Precinct 1C Warden (Campbell School)

On Wednesday, March 6, 2024, at 4:45 PM I spoke with R.B. over the telephone. The phone conversation lasted approximately four and three-quarter minutes. R.B. told me the precinct never once ran out of any ballots for any of the three parties and that no voters were affected. They told me that they did get a resupply of 100 Republican ballots and 30 Libertarian ballots. They indicated there were no complaints regarding wait times or operation of the polling site. A review of the precinct's Clerk's Memorandum does state that the precinct received complaints about how the light on the corner does not properly illuminate the entrance to the polling site and the sidewalk curb, the latter of which could be a hazard. It was recommended that the light be moved closer to the entrance to the polling site and not be located on the corner of the building where it is now. Further review of the Precinct 1C Clerk's Memorandum indicates that the polling site opened promptly at 7 AM with 27 (1C) and 203 (1C-1) ballots cast, and 27 (1C) and 203 (1C-1) names checked off the voter roll.

5. B.M. – Precinct 1D (Vibra Hospital)

I had the opportunity to speak with B.M. over the telephone on two occasions, Wednesday, March 6, 2024, at 4:54 PM and Wednesday, March 28, 2024, at 3:48 PM. The purpose of my second phone conversation with B.M. was to seek clarification for some of the answers they provided on March 6th.

During the March 6, 2024, conversation, B.M. informed me that while opening the polling site on the morning of March 5th, it became apparent that Republican ballots had been left out of the locked “Blue Ballot Bag” which contained the unused ballots. B.M. told me that they became aware of the problem shortly before opening and called the Election Commission to request the ballots. Republican ballots were brought to the polling site (150 at first and a second resupply of 300 more), but the ballots did not arrive until 7:45 AM.

In addition to not starting off with Republican ballots, the ES&S DS200 voting machine would not turn on for lack of power. B.M. informed me that as soon as the precinct realized the voting machine was not working, they called the Election Commission for a replacement machine. The Election Commission sent a replacement machine, but it was not operational at the precinct until 10 AM.

During that time (i.e., between 7 AM and 10 AM), eight Republican voters and one Democratic voter were affected. The eight Republican voters could not cast ballots due to the lack of Republican ballots at the polling site until 7:45 AM, and the one Democratic voter could not cast her ballot because of the initial confusion at the polling location with the voting machine malfunctioning. I asked B.M. what they did regarding these nine voters, and they told me that they asked the voters if they could wait, or, if not, to please come back later and cast their ballots. I asked whether they took down the names and/or contact information for the nine voters, and B.M. told me no, because, in their experience, voters can become upset when you ask them for personal details besides their name and address. They further told me it was not necessary to

inquire because the precinct is a small community and the poll workers “knew all nine voters by sight.”

B.M. told me that until the new voting machine was up and running at 10 AM, they had the police officer on site unlock the secure, auxiliary storage tray in the front of the voting machine, and all utilized ballots were stored therein. They told me after the new machine was up and running, B.M. and the other poll workers watched as the police officer manually fed the utilized ballots into the new voting machine.

I asked B.M. if the nine voters (eight Republican and one Democrat) ever returned to cast their ballots and B.M. confirmed, “Yes, all nine of them.” They said that one of the eight Republican voters worked in Raynham and did not think he would be able to come back and cast his ballot. He indicated he was doubly frustrated because he was 56-years old, and this was his first time ever voting. B.M. told me the voter did eventually come back and cast a ballot, and the poll workers all applauded him both for returning and for casting his first ever ballot.

B.M. informed me that, but for the first 45 minutes when the precinct had no Republican ballots, they never ran out of or had to replenish any ballots after that. They said no voters complained about the time it took to vote, and that but for the missing Republican ballots and first machine lacking power, there were no other issues or complaints throughout the day.

I called B.M. back on March 28, 2024, to follow up on some of their statements. I asked them what time they and the other poll workers arrived at Vibra Hospital. They told me they and the Precinct Clerk were there at 6 AM and that the Inspectors were there by 6:30 AM. I asked, if they were there by 6 and the Inspectors by 6:30, why they didn’t count the ballots sooner to determine there were no Republican ballots present. B.M. told me it was because the police officer assigned to Vibra Hospital did not arrive until 6:45 AM with the keys to the Ballot Bags, and because it was locked, no one could access the Blue Ballot Bag to count the ballots. B.M.

told me the primary focus once the officer arrived was setting up the voting machine, and so they did not start counting ballots until after 6:50 AM. It was shortly thereafter that they realized they were missing Republican ballots, and called the Election Commission, but by then it was already 7 AM and so they opened the polling site.

I asked why they had the officer open the secure, auxiliary storage tray at the front of the voting machine and they told me it was to make it easier for elderly voters to place their utilized ballots inside. The opening to the secure, auxiliary storage tray is quite small and requires a bit of force to open, and B.M. indicated that elderly voters frequently have difficulty with it. They told me that a voter later complained about the auxiliary slot being open, so they had the police officer lock it closed after that.

I concluded our second conversation by asking B.M. if the statement by Ward 1 City Councilor Leo Choquette that the voting machine malfunctioned because someone had placed two storage trays into it instead of one was accurate, and they indicated that, while it was true that someone had incorrectly placed two storage trays into the machine at first, the malfunction had to do with the connection issue and the machine running out of power. A final review of the Precinct 1D Clerk's Memorandum indicates that 422 ballots were cast, and 422 voter names were properly checked off the voter roll.

6. C.L. – Precinct 1F Warden (Christian Fellowship Center)

I spoke with C.L. over the telephone on Wednesday, March 6, 2024, at 5:21 PM. The phone conversation lasted approximately six and one-half minutes. I then followed up with a second phone call to C.L. on Thursday, March 28, 2024.

C.L. told me that the precinct ran out of Republican ballots for about an hour around 12:30 PM. I asked if the precinct requested a replenishment of Republican ballots, and they told me, yes, but only when there were three or four Republican ballots remaining. They said that

because of this, they ran out of Republican ballots shortly thereafter and were without them until they were resupplied by the Election Commission at approximately 1:30 PM. C.L. told me Election Commission Chairperson DeBrito himself ran 200 Republican ballots to the polling site at that time.

I asked C.L. if any voters had been affected by the lack of Republican ballots, and they told me, yes, there were two voters (one male and one female) who wanted to cast a Republican ballot during that hour or so who could not. I asked what happened, and they told me that both voters returned later and were able to successfully cast their ballots. I asked whether C.L. had taken down the names and/or contact information for the two voters and they told me no. I asked why not, and they said the male voter indicated that he would be returning, and that they personally knew the female voter because she is their neighbor and therefore did not need to gather her information.

When asked if any voters complained about the time it took to vote, C.L. indicated, “No. We weren’t busy at all.” When asked if there were any other operational issues throughout the day or complaints, they told me that two registered Democratic voters had come in requesting a Republican ballot and became upset when instructed that state law prohibited them from doing so.

I followed up my conversation with C.L. with another phone call on Thursday, March 28, 2024. During this second call, I asked C.L. why the precinct waited until they only had three to four Republican ballots left to call the Election Commission and request a resupply. They told me that the issue occurred while they were out to lunch, and that while they were gone, none of the other poll workers had thought to conduct an inventory of the remaining ballots to see if a resupply was necessary. By the time it was realized the precinct would need more Republican ballots it was too late.

7. M.A.B. – Precinct 2C Warden (Alma Del Mar Charter School)¹²

I spoke with M.A.B. over the telephone on Wednesday, March 6, 2024, at 5:12 PM. The phone conversation lasted approximately seven minutes. M.A.B. told me the precinct never ran out of any ballots for any of the three parties and that no voters were therefore affected. They told me that they did have to replenish Republican ballots once. They said they called the Commission to replenish the ballots when they had approximately eight ballots left, and that the Commission resupplied the precinct with an additional 200 Republican ballots before it ran out.

When asked if any voters complained about the time it took to vote, they indicated, “No.” When asked if there were any operational issues throughout the day, M.A.B. told me that the ES&S voting machine broke down after seven ballots and that it took approximately two hours to fix the machine. M.A.B. said that during the time that the machine was not working, 30 voters came in and cast their ballots. They said all 30 ballots were placed in the secure, auxiliary slot in the front of the machine without issue, and that after the machine was up and running, the police officer on site ran the 30 ballots through the voting machine without issue. It is unknown what caused the ES&S machine to stop working at this location. When asked if there were any other issues, M.A.B. said “No.”

M.A.B. said they had knowledge of Precinct 2B’s operations as they shared a physical polling location, and that Precinct 2B did not have any issues. A review of Precinct 2B’s Clerk’s Memorandum supports this position with the caveat that the memorandum indicates that at approximately 4:15 PM, a registered Democratic voter wanted to pull a Republican ballot but was told she could not under current election law. That voter was directed to the Election Commission to change her registration for future elections. Her name, which had already been

¹² Precincts 2B and 2C shared a physical, polling location, the Alma Del Mar Charter School. For this election, they could have, but did not elect to, share a Warden. As previously stated, M.A.B. indicated they would have knowledge of any issues during the election at Precinct 2B due to their proximity.

crossed off the voter roll, was corrected on the roll as not having cast a ballot. After the correction, the memorandum indicates 48 cast ballots and 48 names checked off the voter roll.

8. J.Y. – Precinct 2E Warden (Wilks Library)¹³

I spoke with J.Y. over the telephone on Wednesday, March 6, 2024, at 5:34 PM. The phone conversation lasted approximately six minutes. J.Y. told me the precinct never ran out of any ballots for any of the three parties and that no voters were therefore affected. They told me that they did have to replenish Republican ballots once. They said they called the Commission to replenish the ballots when they had approximately 25 ballots left, and that they were resupplied with an additional 400 Republican ballots.

When asked if any voters complained about the time it took to vote, J.Y. indicated, “No,” and when asked if they received any other complaints, they stated, “Not that I recall. Everything went pretty smoothly.” J.Y. did mention that several voters who were registered Democrats attempted to pull Republican ballots, and that they had to inform them that that was against current election law. When asked approximately how many times that happened, they indicated, “Three or four times.”

A review of Precinct 2E’s Clerk’s Memorandum indicates that the polling site opened promptly at 7 AM and closed at 8 PM. There were 281 ballots cast and 281 names which had been checked and crossed off the voter roll.

J.Y. said they had knowledge of Precinct 2D’s operations as they shared a physical polling location, and that Precinct 2D did not have any issues. A review of Precinct 2D’s Clerk’s Memorandum supports this position. It indicates that the polling site opened at 7 AM and closed at 8 PM with 172 ballots cast and 172 names checked and crossed off the voter roll.

¹³ Precincts 2D and 2E shared a physical, polling location, the Wilks Branch of the New Bedford Public Library. For this election, they could have, but did not elect to, share a Warden. As previously stated, J.Y. indicated they would have knowledge of any issues during the election at Precinct 2D due to their proximity.

9. D.H. – Precinct 2F Warden (Lincoln School)

I spoke with D.H. over the telephone on Wednesday, March 6, 2024, at 5:54 PM. The phone conversation lasted approximately three and three-quarter minutes. D.H. told me the precinct never ran out of any ballots for any of the three parties, that no voters were affected, nor did the precinct ever need a resupply. They said that no one complained about anything, and that the day ran smoothly. The only “issue” reported by D.H. was that a voter wanted to take the “Voter’s Rights” poster home with them that was affixed to the wall in the polling place, and D.H. had to instruct them that the law required the sign to remain in the polling place, but they instructed the voter where they could find a copy for themselves online. A review of the Precinct 2F Clerk’s Memorandum indicates that the polling site opened promptly at 7 AM and closed at 8 PM with 136 ballots cast.

10. W.E.S. – Precinct 3A Warden (Hayden-McFadden School)

I spoke with W.E.S. over the telephone on Wednesday, March 6, 2024, at 5:59 PM. The phone conversation lasted approximately five minutes. W.E.S. told me the precinct never ran out of any ballots for any of the three parties and that no voters were therefore affected. They never had to request a resupply and no voters complained to them about anything. W.E.S. did indicate the one “issue” had was a registered Democratic voter wanting to pull a Republican ballot, and she had to be instructed that it was against election law and she would have to change her party affiliation. A review of Precinct 3A’s Clerk’s Memorandum indicates that the polling site opened and closed on time and that 43 registered voters were able to cast their ballots without issue.

11. B.B.K. – Precinct 3B Warden (Hillside Court)

I spoke with B.B.K. over the telephone on Wednesday, March 6, 2024, at 6:59 PM. The phone conversation lasted approximately five minutes. B.B.K. told me the precinct never ran out of any ballots for any of the three parties and that no voters were therefore affected. They told

me that they never had to replenish any ballots, and when asked if there were any complaints or issues with how the precinct operated, they told me, “No. It was pretty smooth.” A review of the Precinct 3B Clerk’s Memorandum indicates that 84 registered voters were able to cast their ballots without any issues.

12. E.S. – Precinct 3D Warden (Holy Name)¹⁴

I spoke with E.S. over the telephone on Wednesday, March 6, 2024, at 9:54 PM. The phone conversation lasted approximately five minutes. When asked if the precinct ever ran out of any ballots for any of the three parties, E.S. said, “Absolutely not,” and indicated that therefore no voters were affected. They also told me the precinct never required a replenishment of any ballots.

When asked if any voters complained about the time it took to vote, they indicated, “No.” When asked if there were any complaints, they said one registered Democrat wanted to pull a Republican ballot but had to be told that was against current election laws. E.S. also indicated another voter was upset because she had recently moved into the precinct, but her name was not on the voter roll. After calling the Election Commission, E.S. was able to determine the woman had not reported the move in time but was still registered at her last polling location. The voter then became angry and stormed out. E.S. reported no other issues at Precinct 3D or its location neighbor, 3E.

A review of Precinct 3D’s Clerk’s Memorandum indicates that at one point there was a jam with the voting machine, but that it was cleared immediately, the vote was confirmed as counted and placed in the ballot drop box. The memorandum indicates that 105 votes were counted, but only 103 names removed from the voter roll. However, a review of the neighboring

¹⁴ Precincts 3D and 3E shared a physical, polling location, the Holy Name of the Sacred Heart of Jesus Parish. For this election, they could have, but did not elect to, share a Warden. As previously stated, E.S. indicated they would have knowledge of any issues during the election at Precinct 3E due to their proximity.

3E Clerk's Memorandum indicates that 201 ballot were counted, while 203 names were removed from the voters' roll, which implies, as both memoranda suggest, that two 3E ballots were run through the 3D voting machine by voters instead. The memoranda do not indicate any other discrepancies.

13. S.M. – Precinct 4B Warden (Carney Academy)

I spoke with S.M. over the telephone on Wednesday, March 6, 2024, at 6:20 PM. The phone conversation lasted approximately three minutes. S.M. told me the precinct never ran out of any ballots for any of the three parties and that no voters were affected. They told me they never had to replenish any ballots and that no one complained about the time. When asked if there were any issues or other complaints, the only thing S.M. mentioned was that two voters complained about not knowing where to vote because the voting location within the Carney Academy polling location had apparently moved a few years ago from the Elm Street entrance to the school's gym. S.M. said the voters complained that the sign indicating the move was too small and that they did not see it. A review of the Precinct 4B Clerk's Memorandum indicates no other issues and that 121 voters were able to cast their ballots.

14. V.B. – Precinct 4C Warden (New Bedford Hotel Apartments)

I spoke with V.B. by telephone on Wednesday, March 6, 2024, at 6:27 PM. The phone conversation lasted approximately two and a quarter minutes. V.B. told me the precinct never ran out of any ballots, that there were no issues on election day, and that there were no complaints from any voters. A review of Precinct 4C's Clerk's Memorandum indicates that the polling site opened promptly at 7 AM and closed at 8 PM with no major issues indicated.

15. R.C.S. – Precinct 4D Warden (Parker Street School)

I spoke with R.C.S. over the telephone on Wednesday, March 6, 2024, at 6:31 PM. The conversation lasted approximately two and a half minutes. R.C.S. told me the precinct never ran

out of any ballots for any of the three parties and that no voters were therefore affected. They told me that they did not have to replenish any ballots, and when asked if anyone complained about the amount of time it took to vote, they told me, “No. We run a very efficient precinct.”

When asked if there were any issues with voting, R.C.S. indicated that one voter became upset when the voting machine instructed her to rotate her ballot and she walked away. R.C.S. told me they were able to turn the ballot for the voter and feed it into the machine in front of the voter’s partner who remained behind to observe. They indicated no other issues. A review of Precinct 4D’s Clerk’s Memorandum indicates that 147 ballots were cast for 147 names removed from the voter roll and that the precinct opened and closed at 7 AM and 8 PM, respectively.

16. R.A. – Precinct 4E Warden (Caroline Street Community Center)

I spoke with R.A. over the telephone on Wednesday, March 6, 2024, at 6:37 PM. The conversation lasted approximately four and a half minutes. R.A. told me the precinct never ran out of any ballots for any of the three parties and that no voters were therefore affected. They told me that they did have to replenish Republican ballots once and that they called the Commission when there were approximately 50 such ballots left. They indicated it took only 15 minutes to get the additional Republican ballots and that 200 were resupplied.

When asked if any voters complained about the time it took to vote or any other matter, R.A. said, “No. We dealt with friendly people who wanted to come and vote, and they thanked us.” R.A. said the only “issue” that presented itself was voters registered for one party who wanted to pull a ballot for another party. They indicated this happened approximately twice for registered Libertarian voters and approximately 25 times for registered Democratic voters. R.A. indicated these voters either refused to vote or pulled their registered party’s ballot and wrote in the names they wanted as instructed. A review of the Precinct 4E Clerk’s Memorandum indicates

that the polling site opened promptly at 7 AM and closed at 8 PM and that there were 164 ballots cast and 164 names which had been checked and crossed off the voter roll.

17. J.E.B. – Precinct 4F Warden (Boys and Girls Club)

I spoke with J.E.B. over the telephone on Wednesday, March 6, 2024, at 6:44 PM. The phone conversation lasted approximately fourteen and a quarter minutes. J.E.B. told me the precinct never ran out of any ballots for any of the three parties and that no voters were therefore affected. They never had to request a resupply, and no voters complained about the length of time for voting.

When asked if there were any issues with voting, J.E.B. told me that the ES&S machine became stuck for approximately five minutes, and that ballots were placed in the secure, auxiliary tray in the front of the machine during that time. They told me that poll workers then ran the ballots through the machine once it was back up and running. J.E.B. also said that two registered Democratic voters wanted to pull a Republican ballot but were instructed they could not do so due to present election laws. They indicated no other issues.

A review of the Precinct 4F Clerk's Memorandum indicates that the polling site opened promptly at 7 AM and closed at 8 PM. There were 160 ballots cast and 160 names checked and crossed off the voter roll.

18. D.J. – Precinct 5C Warden (Moose Home)¹⁵

I spoke with D.J. over the telephone on Wednesday, March 6, 2024, at 7:08 PM. The phone conversation lasted approximately fourteen minutes. D.J. told me the precinct never ran out of any ballots for any of the three parties and that no voters were therefore affected. They told me that they did have to replenish Republican ballots once, that they called the Commission

¹⁵ Precincts 5C and 6F shared a physical, polling location, the Moose Home. For this election, they could have, but did not elect to, share a Warden. As previously stated, D.J. indicated they would have knowledge of any issues during the election at Precinct 6F due to their proximity.

when there were approximately 30 ballots left, and that they were resupplied with 200 more without issue.

When asked if any voters complained about anything, D.J. said no, except that two voters registered as Democrats wanted to pull a Republican ballot but had to be told they could not do so because that would violate current election law. D.J. indicated no other complaints for their precinct or Precinct 6F, with which they shared a physical location. A review of Precinct 5C's Clerk's Memorandum indicates 215 votes were cast without issue. Precinct 6F's memorandum indicated 130 votes without issue.

19. N.S. – Precinct 5D Warden (Hathaway School Gym)

I spoke with N.S. over the phone on Wednesday, March 6, 2024, at 7:22 PM. The conversation lasted approximately five minutes. N.S. told me the precinct never ran out of any ballots for any of the three parties and that no voters were therefore affected. They told me that they did have to replenish Republican ballots once. They said they called the Commission to replenish the ballots when they had approximately 20 ballots left, and that in under 20 minutes, they had been resupplied with an additional 200 Republican ballots.

When asked if any voters complained about the time it took to vote, N.S. indicated, "No. Not at all." When asked if there were any issues throughout the day, they told me that approximately 20 registered Democrats wanted to pull a Republican ballot and had to be instructed that that would be against current election law. When asked if there were any complaints from members of the public, N.S. said, "No. It was a really quiet day. No issues in my precinct." A review of the Precinct 5D Clerk's Memorandum indicates that 312 ballots were cast, and 312 names checked and crossed off the voter roll.

20. L.M.L. – Precinct 5E Warden (Buttonwood Warming House)¹⁶

I spoke with L.M.L. over the telephone on Wednesday, March 6, 2024, at 7:27 PM. The phone conversation lasted approximately four and a quarter minutes. L.M.L. told me the precinct never ran out of any ballots for any of the three parties and that no voters were therefore affected. They told me that they did have to replenish Republican ballots once. They said they called the Commission to replenish the ballots when they had approximately 40 ballots left, and that they were resupplied with an additional 200 Republican ballots which they did not even have to use (they ended the night with 240 unused Republican ballots). When asked if voters complained about anything (e.g., wait time, operational issues, etc.), L.M.L. told me, “No. No complaints. Everyone thanked us.” They also indicated no issues during the election at Precinct 5F.

A review of the Precinct 5E Clerk’s Memorandum indicates that the polling site opened promptly at 7 AM and closed at 8 PM. There were 393 ballots cast (392 via voting machine and one absentee ballot) and 393 names checked and crossed off the voter roll. A review of Precinct 5F’s Clerk’s Memorandum indicates two registered Democratic voters wanted to pull Republican ballots, and when instructed that they could not, but could pull a Democratic ballot and write in the names, refused to vote.

21. C.M.S. – Precinct 6A Warden (Hazelwood Community Center)

I spoke with C.M.S. over the telephone on Wednesday, March 6, 2024, at 7:34 PM. The phone conversation lasted approximately five and a half minutes. C.M.S. told me the precinct never ran out of any ballots for any of the three parties and that no voters were therefore affected. They told me that they did have to replenish Republican ballots once. They said they called the Commission to replenish the ballots when they had approximately 20-30 ballots left, and that

¹⁶ Precincts 5E and 5F shared a physical, polling location, the Buttonwood Park Warming House. For this election, they could have, but did not elect to, share a Warden. As previously stated, L.M.L. indicated they would have knowledge of any issues during the election at Precinct 5F due to their proximity.

within 30 minutes, they had been resupplied with an additional 200 Republican ballots, all of which were returned unused as the precinct did not wind up needing them.

When asked if any voters complained about anything or if there were any issues during the election, C.M.S. told me, “No. It went very smoothly.” A review of Precinct 6A’s Clerk’s Memorandum indicates that the polling site opened at 7 AM and closed at 8 PM with 302 ballots cast and 302 names which had been checked and crossed off the voter roll.

22. K.M. – Precinct 6B Warden (Hazelwood Community Center)

I spoke with K.M. over the telephone on Wednesday, March 6, 2024, at 7:42 PM. The phone conversation lasted approximately six minutes. K.M. told me the precinct never ran out of any ballots for any of the three parties and that no voters were therefore affected. They told me they never required a resupply of any ballots, and that the only “issue” they had was that voters did not understand the right side of the ballot, i.e., the vote for the Ward Committee members (what they were, what they were voting for, etc.). When asked if there were any complaints from voters, K.M. told me that the only complaints came from voters who were registered as Democrats but who wanted to pull a Republican ballot and had to be told they could not do so under current election law. A review of Precinct 6B’s Clerk’s Memorandum indicates no substantive issues and that 166 voters were able to successfully cast a ballot.

23. H.C. – Precinct 6C Warden (Tripp Towers)

I spoke to H.C. over the telephone on Wednesday, March 6, 2024, at 7:52 PM. The conversation lasted approximately three minutes. H.C. reported no complaints and no issues other than registered Democratic voters who wanted to pull a Republican ballot and who were told they could not pursuant to current election law. They indicated the precinct never ran out of any ballots for any of the three parties and that they needed no resupply. A review of Precinct

6C's Clerk's Memorandum indicates that the polling site opened on time, closed on time, that 107 ballots were cast, and that 107 names were checked and crossed off the voter roll.

24. L.H. – Precinct 6D Warden (Howland Green Library)

I spoke with L.H. over the telephone on Wednesday, March 6, 2024, at 7:55 PM. The phone conversation lasted approximately six and a half minutes. L.H. told me the precinct never ran out of any ballots for any of the three parties and that no voters were affected. They told me that they never had to replenish any of the ballots as there were only 49 total votes at the precinct for the election. A review of the 6D Precinct's Clerk's Memorandum supported L.H.'s assertions.

25. J.M. – Precinct 6E Warden (Ashley Park Community Center)

I spoke with J.M. over the telephone on Wednesday, March 6, 2024, at 8:03 PM. The conversation lasted nearly 17 minutes. When asked if the precinct ever ran out of any ballots for any of the three parties, J.M. responded, "absolutely not," and indicated the precinct still had 237 uncast ballots remaining at the end of the night. They told me no voters complained about the time it took to vote, the operation of the precinct, or had any other complaints. J.M. did indicate that one female voter who was a registered Democrat wanted to pull a Republican ballot and was informed that current election law prevented her from doing so. They told me the woman was "nice about it." A review of the Precinct 6E Clerk's Memorandum confirmed J.M.'s statements.

26. P.M. – A voter affected by the initial lack of Republican ballots at the Vibra Hospital (Ward 1, Precinct D) polling location

I spoke with P.M. over the telephone on Wednesday, May 8, 2024, at 11:35 AM. The conversation lasted half an hour. P.M. had contacted the Mayor's Office indicating that they were one of the eight Republican voters who had been affected by a lack of Republican ballots at the Vibra Hospital polling site when it opened at 7 AM. When I spoke with P.M., they told me

that they had heard about my investigation and wanted to know what it uncovered as to why there initially were no Republican ballots at Vibra Hospital. They alluded to having “heard about other issues” with polling locations in Ward 1 during the election. However, when asked, twice, to tell me what the other “issues” were, P.M. could not give me any specifics.

I started the conversation with P.M. by asking if what the precinct had reported to the City was correct, i.e., whether they had gone back and were able to successfully cast a Republican ballot later in the day? P.M. confirmed that yes, they were able to return and cast a Republican ballot, however, P.M. indicated that they were frustrated at having to do so because it was inconvenient for them. They did not elaborate as to why it was inconvenient. I then explained to P.M. that my investigation uncovered two issues at the Vibra Hospital polling location on the morning of the election, namely the initial lack of Republican ballots (which was corrected by 7:45 AM) and the voting machine losing power (which was not corrected until 10 AM). I then had a conversation with P.M. regarding what the investigation uncovered regarding the lack of Republican ballots, namely that they were inadvertently not loaded into the Blue Ballot Bag by an election worker, and why that mistake was not recognized until approximately 6:50 AM. This discussion lasted approximately half an hour.

At that point, P.M. thanked me for reaching out and explaining to them what I uncovered but indicated that they were on their lunch break and needed to return to work. I told P.M. that I could conclude the discussion by explaining why the voting machine ran out of power and coordinated with P.M. to continue the conversation to the afternoon of Friday, May 10, 2024. On Friday, May 10, 2024, I called P.M. at the agreed upon time, but they did not answer. I then received a text message from P.M. indicating that they were unavailable to speak. I informed them that if they wished to continue the conversation, they could call my office and leave a

message to reschedule. As of the date of this report, I have received no further communication from P.M.

VI. FINDING OF FACTS

Based on the interviews of the listed witnesses, as well as review of the above-referenced documents and election law, this Investigator makes the following finding of facts by a preponderance of the evidence:

Regarding a lack of Republican ballots at the Vibra Hospital (Precinct 1D) polling site until 7:40 AM, this Investigator finds multiple causes. Based on my review of the evidence, an election volunteer inadvertently omitted placing Republican ballots in the precinct's Blue Ballot Bag which went unnoticed because the ballots are not re-counted or inspected before the bags are locked. Second, the late arrival of the New Bedford Police officer with the keys to the election equipment at 6:50 AM—ten minutes prior to the polls opening—did not provide poll workers with sufficient lead time to count the ballots, identify the omission, and request resupply prior to opening at 7 AM.

Regarding the ES&S DS200 voting machine malfunctions at Normandin (Precinct 1A) and Vibra Hospital (Precinct 1D), this Investigator finds the cause of the malfunctions to be a lack of external electrical power being supplied to the voting machines, causing them to run on battery power which eventually ran out. The lack of electrical power was due to the machine's power cord not being properly connected to the power adapter at the back of the machine, which went unnoticed by poll workers. This Investigator further finds that such a problem was not addressed with poll workers at their mandatory training or in the training materials provided to them prior to the election.

Regarding voting at the Normandin polling location (Precinct 1A), this Investigator finds that despite the DS200 voting machine malfunctioning, the error was identified with sufficient

time prior to the poll opening which allowed for the machine to be replaced such that voting was not affected. This Investigator finds that the polling location did have an American flag (indoors) and therefore there was no violation of state election law.

Regarding the allegation that there were no Republican ballots at the CareOne Senior Facility polling location (Precinct 1B), this Investigator finds such an allegation to be unfounded. This Investigator finds that the election materials were dropped off at the wrong location by City custodial workers, likely due to their lack of inclusion in the preelection training. This caused a small delay in ballot counting by poll workers which amounted to a 30 second to one minute delay in voting for one individual. That individual was able to successfully return and cast a Republican ballot without further issue.

Regarding overall voting at the Vibra Hospital (Precinct 1D) polling location, this Investigator finds that a combination of the lack of Republican ballots and malfunctioning voting machine affected nine total voters (eight Republican and one Democrat), but that all nine were able to return to the Precinct later in the day and successfully cast their ballots. This Investigator finds that the voting machine at this location did initially incorrectly contain two auxiliary trays, but that that was not the cause of the machine's malfunction; the lack of power was. This Investigator finds that the opening of the secure, auxiliary voting slot (though well-intentioned) and later feeding of ballots contained therein through the voting machine by the police officer on site once the new voting machine was operational is inconsistent with current guidance from the state Election Division, although it ultimately had no substantive effect on this election.

Regarding the lack of Republican ballots for one hour at the Christian Fellowship Center (Precinct 1F), this Investigator finds the poll workers waited too long to request a resupply of Republican ballots from the Election Commission, affecting two voters. Both voters were able to

return to the precinct and cast their ballots. The delay in requesting resupply of ballots was likely the result of a lack of cross-training between poll workers.

Regarding the malfunction of the DS200 voting machine at the Alma Del Mar polling location (Precinct 2C), there is insufficient evidence to conclude whether the malfunction was electrical or otherwise. Regarding the 30 ballots that were cast during the two hours it took to replace the machine later being feed through the operational, successor voting machine by the police officer on site, this is inconsistent with current guidance from the state Election Division, although it ultimately had no substantive effect on this election.

Regarding jamming to the DS200 voting machines at the Holy Name (Precinct 3D) and Bayberry (Precinct 3F) polling locations, this Investigator finds any such jamming to be momentary, to have been corrected immediately, and to have had no effect on voting at those precincts whatsoever.

Regarding the jamming to the voting machine located at the Boys and Girls Club (Precinct 4F) polling location, this Investigator finds that, although the machine was inoperable for approximately five minutes, it was cleared and had no further effect on voting at that precinct. However, the later feeding of ballots affected by the jam by poll workers through the voting machine constitutes a violation of current election law, and although had no substantive effect on the election, should not be repeated.

Regarding the Commission's current method of apportioning ballots to each precinct via percentage of voters registered with each political party in each precinct, this Investigator finds such a method to be inefficient, problematic, and may have contributed to a need for unnecessary resupply of ballots at several polling locations.

Regarding the discrepancy in the amount of time some precincts were able to obtain resupply and/or equipment repair or replacement, this Investigator finds the causes to be a

combination of over centralization/reliance on Chairperson DeBrito's direct involvement in the election and a reduction in the number of election runners the Commission employed for this election.

Last, this Investigator finds by far the most ubiquitous complaint by voters during this election was that they were not able to draw a ballot for a political party from which they were not registered. Drawing a ballot in a primary election from a political party from which one is not registered is a violation of state election laws, G.L. c. 53, §§ 37-38. Only unenrolled voters can draw a ballot in a primary election for whichever party they chose.¹⁷ If a voter wishes to change their party affiliation (i.e., enrollment status), they must do so by notifying the Election Commission in writing at least 10 days before an election.

VII. CONCLUSION

Based on my observations of and discussions with the listed witnesses, a review of the Precinct Wardens' answers to my questionnaire, and my review of the above-referenced documents, equipment, and election law, this Investigator finds there to be sufficient, credible evidence to determine that, although several errors occurred during the execution of the 2024 Presidential Primary Election of Tuesday, March 5, 2024, none of the errors were intentional, substantive, or had any effect on even a single vote being able to be cast successfully during the election. Although the Vibra Hospital (Precinct 1D) polling location was essentially inoperable from 7 to 10 AM, affecting nine total voters (eight Republican and one Democrat), all nine voters returned later in the day and were able to successfully cast their ballots. Two voters were affected by a one-hour lack of Republican ballots at the Christian Fellowship Center (Precinct

¹⁷ Some voters remain hesitant to become "unenrolled" because prior election law automatically enrolled you in whichever party you pulled a ballot from in a primary election. This is no longer the case as the law was changed in 2004 and unenrolled voters remain unenrolled regardless of which party's ballot they pull during a primary election. St. 2004, c. 173, § 1 (eff. Oct. 13, 2004).

1F), however both voters similarly returned later in the day and were able to successfully cast their ballots. Other minor malfunctions (e.g., jamming) of voting machines at other precincts had no effect on voting whatsoever, and the allegation that the CareOne Senior Center (Precinct 1B) polling location lacked Republican ballots was completely unfounded. The most problematic concern uncovered during the 2024 Presidential Primary Election is that ballots cast while voting machines were inoperable were later fed through the machines by the police officers on site, or, in one case, by poll workers at the precinct. This is contrary to current election guidance from the state Election Division, although there is some evidence of uncertainty regarding that fact. However, since the ballots were ultimately counted, there was no substantive effect on the election or its validity.

Many of the errors associated with the election stem from a lack of proper training. Poll workers were not provided with hands-on training with the election equipment they were expected to operate, nor were they provided with updated election laws and materials. City police officers and custodial staff who play integral roles in election day proceedings were not included in the initial training or provided separate training of their own.

Some of the Commission's current methods and procedures for operating an election need revision. For example, the rationale for apportionment of unused ballot to each precinct is problematic and does not properly account for the fact that more and more voters are registering as unenrolled, giving them the opportunity to select whichever party ballot they choose. The conclusion that most poll workers are older and thus may have physical limitations preventing a greater number of ballots from being initially provided to each precinct is nearsighted and ignores "outside-the-box" alternative solutions, such as seeking to hire younger, more able-bodied poll workers or developing a system for preemptive resupply. Reducing the number of election runners due to anticipated low voter turnout and the overreliance on a single individual

to address issues that arise during the election contributes to increased delays in correcting problems.

Finally, while the aforementioned discrepancies may be attributable to the City and poll workers, by far the largest source of complaint during the election came from voters' frustration with not being able to draw a ballot for whichever political party they wished. It should be noted that this is beyond the control of the City and is primarily an issue of state election law.

However, due to the ubiquitous nature of the complaint, the City should look into increasing voter awareness of the issue, perhaps through educational programming or increased community outreach.

VIII. RECOMMENDATIONS

To avoid the aforementioned errors that occurred during the 2024 Presidential Primary Election and provide for a more efficient, less problematic voting experience for the citizens of New Bedford, this Investigator makes the following recommendations:

1. Change the nature in which the Commission apportions ballots for each voting precinct so that one ballot from each political party participating in the election is provided to each registered voter in the precinct, regardless of their current party enrollment, plus some overage for spoiled ballots. If there is concern that this will make the Ballot Bags too heavy, then hire younger and/or more able-bodied election volunteers to help carry and/or manipulate the ballots (such as from local high schools, colleges, or law schools) or establish a system such that additional ballots are preemptively run out to each voting precinct by the election runners.
2. Maintain at least three election runners (covering two wards each) per election or hire more election runners if the election budget allows.

3. Establish a system of redundancy in which the number of ballots loaded into the Blue Ballot Bag is re-counted and/or inspected prior to locking the bags for distribution to the precincts.
4. Establish a protocol for poll workers to automatically call for a resupply of ballots when the number they have on hand reaches a certain level (e.g., 25, 50, or 100). Ensure cross-training among poll workers so that if the Precinct Warden is unavailable, other poll workers will know to call for a resupply once that minimum number is reached.
5. Involve City custodial employees and police officers participating in the election in the mandatory preelection training, or, at a minimum, hold a separate training for them regarding their election responsibilities.
6. Update and reutilize the “Moving Company Deliveries” sheet (**Attachment K**) to ensure proper delivery and/or placement of all election supplies.
7. Consider providing the keys to certain election equipment (e.g., the Ballot Bags) to Precinct Wardens as recommended in state election law and materials instead of centralization with the police officer assigned to the precinct.
8. Identify the officer(s) assigned to each election precinct prior to the election and include their information on poll worker sign-in sheets.
9. Reincorporate bringing voting machines and the election equipment which will be used by poll workers to the mandatory preelection training sessions. Allow for hands-on training for, at a minimum, the Precinct Wardens.
10. Update poll worker training materials to incorporate updates and/or revisions in state and federal election law. Seek review of the training materials from the state Elections Division prior to distribution. If updated guidance is issued by the

Division after the mandatory preelection training but before the election, schedule further training with all poll workers, or, at a minimum, the Precinct Wardens to advise them of the changes.

11. Utilize visual aids and interactive processes when conducting the mandatory preelection training. Increase the number and location of said preelection trainings and ensure 100% poll worker attendance.
12. Review the proper method for filling out all election records with poll workers during mandatory preelection training.
13. Ensure alternative precinct election officers in case of any absences.
14. Promulgate educational information to voters, particularly regarding election deadlines, voter registration requirements, and protocols for confirming and/or changing voter party enrollment.

/s/ Ryan A. Pavao
Acting First Assistant City Solicitor