

02 Aug 2016 Primary Election – Post-Action Report (Annotated)

Kevin Rex Heine – Republican Poll Challenger, Nelson Township

At roughly 05:45, I introduced myself to Laura Hoffman (incumbent Township Clerk), and provided her a copy of my credentials. Since the Precinct 2 polling station was at the township offices, I inquired as to whether she would be working Precinct 2 today. She informed me that, as a candidate on the ballot in a contested primary, it would be inappropriate for her to do so.^a It was my impression, based on her body language, that she was not happy to see me.

I introduced myself to Arlene Cook (Precinct Chair) when she arrived, at roughly 06:00.

Hoffman directed that an extra table be brought in, had it arranged behind the table holding the precinct supplies, and informed me that this was my working area. This didn't make it impossible to attend to my responsibilities, but it did cause a significant obstacle to my efficiency and effectiveness.

I wasn't aware of it at the time, but three additional voting booths nominally assigned to Precinct 2 – including the only handicap-assist voting booth – were physically located in the clerk's office. At the time, I thought that the seven voting booths in the room were the only seven assigned to Precinct 2.

Once or twice in the first couple of hours of the voting day, the Precinct Chair had to call the Township Clerk into the polling room for assistance, apparently because of a malfunctioning identification scanner.

At two points early in the morning, I issued challenges on voters who didn't have identification.^b I don't recall the specifics, but I do know that **those specifics are contained in the report that I provided to the Michigan Republican Party** (via the EDO phone app).

Around 10:30, Hoffman summoned me into her office. The reason was so that I could field a phone call from Sue DeSteiguer (Kent County Elections Director). DeSteiguer asked me to stop challenging for lack of identification.^c I advised her that challenging for lack of identification is consistent with my training, and referred both DeSteiguer and Hoffman to MIGOP for explanation and resolution. This was when I noticed the three extra voting booths in the Township Clerk's office.

Around 13:42, I received an e-mail from DeSteiguer, citing a SCOMI advisory opinion – In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71 (Docket # 130589, 18 Jul 2007) – and instructed me that I had to have supplemental justification in order to challenge due to missing identification.

Around 16:30, I challenged another voter, this time due to an address mismatch.^d **(The specifics are contained in the report that I provided to the Michigan Republican Party via the EDO phone app.)** The Precinct Chair sought guidance from the Township Clerk, and Hoffman came into the room, stepped behind the table, and physically interposed herself between me and the poll book operator.^e She told me that she would not allow my challenge to be entered into the poll book,^f and then assisted the operator in issuing a ballot to the voter in question.^g

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Around 19:25, I was informed that, pending any last-minute drop-offs, the AV Count Room was finished with their work. When I asked – per my authority under MCL 168.733(1)(h) – to view the machine tapes straightaway, Hoffman flatly refused until such time as the clerk copy was publicly posted.^h

After the polls closed, I observed Hoffman in both the AV Count Room and the Precinct 2 Polling Room, at least once each, while there were voted ballots either exposed or in unsealed bags.ⁱ During this time period (from the closing of the polls until the staff departed the building), I observed that her demeanor changed from the calm and composed that I had seen throughout the day, to harried, agitated, and defensive . . . especially after I became patiently insistent on seeing the machine tapes.

Even though the AV Count Room was first to report to the Township Clerk (at roughly 20:33 or prior), I was not shown the clerk’s copy of the machine tape until roughly 21:44 . . . well after I had already seen the machine tapes for all three in-precinct machines.

Serial Numbers – Nelson Township Precinct # 2

Machine Serial: 208608	Large Bag (records): 26040	Ballot Bag: 528220
Tab Seal: 02639	Small Bag (electronics): 26039	Transport: 528213

Annotations (Endnotes) – Election Code references for specific incident points:

^a MCL 168.677(3) – “A person shall not be knowingly appointed or permitted to act as a precinct election inspector if the person or any member of his or her immediate family is a candidate for nomination or election to any office at the election . . .”

^b MCL 168.523(2) – “However, an elector being allowed to vote without the identification required under this subsection is subject to challenge as provided in section 727.”

^c MCL 168.733(4) – “A person shall not threaten or intimidate a challenger while performing an activity allowed under subsection (1)”

^d MCL 168.523(2) – “If the signature or an item of information does not correspond, the vote of the person shall be challenged, and the same procedure shall be followed as provided in this act for the challenging of an elector.”

^e MCL 168.932e(1) – “A person shall not intentionally misrepresent by word or act in a polling place on election day that he or she is an election official if that person is not an election official.”

^f MCL 168.734 – “Any officer or election board who shall prevent the presence of any such challenger as above provided, . . .”

^g MCL 168.726 – “No ballots shall be delivered to an elector by any person other than 1 of the inspectors of election and only within the polling place, except as provided in this act for absent voters’ ballots.”

^h MCL 168.734 – “Any officer or election board who shall prevent the presence of any such challenger as above provided, . . .”

ⁱ MCL 168.932(b) – “A person not duly authorized by law shall not, during the progress of any election or after the closing of the polls and before the final results of the election have been ascertained, break open or violate the seals or locks of any ballot box or voting machine used or in use at that election.”