



# NAMFREL FINAL REPORT

# 2022

National and Local Elections



## Acronyms

<b>AES</b>	Automated Elections System
<b>COMELEC</b>	Commission on Elections
<b>EAPP</b>	Emergency Accessible Polling Place
<b>EB</b>	Electoral Board
<b>ER</b>	Election Return
<b>FTS</b>	Final Testing and Sealing
<b>IPP</b>	Isolation Polling Place
<b>JCOC-AES</b>	Joint Congressional Oversight Committee on the Automated Elections System
<b>LSCR</b>	Local Source Code Review
<b>NAMFREL</b>	National Citizens' Movement for Free Elections
<b>NLE</b>	National and Local Elections
<b>QR Code</b>	Quick Response Code
<b>RMA</b>	Random Manual Audit
<b>RMAC</b>	Random Manual Audit Committee
<b>SBAC</b>	Special Bids and Awards Committee
<b>TMS</b>	Transparency Media Server
<b>VCM</b>	Vote Counting Machine
<b>VVPAT</b>	Voter-Verifiable Paper Audit Trail

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## EXECUTIVE SUMMARY

Pursuant to its core advocacy of promoting free and fair elections, NAMFREL applied and was duly granted COMELEC accreditation as citizens' arm for the 2022 NLE. NAMFREL was tasked to:

- (1) Provide assistance to voters on election day;
- (2) Assist in providing informational assistance;
- (3) Assist in implementing campaign finance rules and regulations;
- (4) Assist in conducting the RMA; and
- (5) Assist in all other activities, as the Commission may deem necessary.

Furthermore, NAMFREL had the function and duty under the Omnibus Election Code to nominate one watcher for accreditation in each polling place and each place of canvass. NAMFREL also had the right to a printed copy of the ER under the Election Automation Law.

### **Pre-Election AES Monitoring**

For the 2022 NLE, NAMFREL proposed the adoption of a hybrid system, or at the very least, five standards to improve the transparency of the existing AES. It also participated in the COMELEC Advisory Council, COMELEC AES Steering Committee, and hearings in Congress; monitored procurement of AES equipment and materials; and observed AES activities such as the LSCR, trusted build, end-to-end demonstration, printing of official ballots, and random testing of printed ballots. NAMFREL made suggestions on the pilot implementation of digital signatures. After the End-to-End Demo, NAMFREL was the only observer that discovered a discrepancy in the VCM system hash code. Cognizant of the significance and ramifications of such discrepancy occurring, NAMFREL

sought an explanation from COMELEC for its occurrence and requested that the COMELEC make public the process of generating such code.

### **Public Information and Voter Education**

Anchored on transparency and open data principles, NAMFREL launched Vote For Us ([www.voteforus.org.ph](http://www.voteforus.org.ph)), that provided data sets on Location of COMELEC offices and contact details, COMELEC distribution hubs of election equipment and supplies, Links to lists of candidates, Links to videos candidates' debates, Links to COMELEC resolutions organized by category, Election calendar, Information on overseas voting, AES procurement, and NAMFREL's short and long videos.

NAMFREL also posted announcements, photos, statements and press releases on social media, conducted press briefings and a Twitter Spaces conversation called "NAMFREL Huddle", all relating to the 2022 NLE.

### **Observation Reports**

NAMFREL volunteers observed and submitted reports on the following: (1) pre-election activities: campaign activities, public demo of VCMs, delivery of VCMs and election materials; (2) AES monitoring: during FTS and on election day, from opening, voting, closing and counting, transmission, canvassing, and pull-out of VCMs and ballot boxes in polling places selected for the RMA; and (3) post-election activities: campaign finance.

Generally, the polls went smoothly, although there were

pockets of violence and intimidation. The high voter turnout (84.1%) seemed to have overwhelmed many voting centers, hence COVID-19 protocols were not properly enforced and observed, most especially physical distancing. NAMFREL volunteers reported confusion over queueing procedures outside voting centers, and crowding outside polling places.

Some VCMs that broke took too long to be replaced. There were many lapses in maintaining the secrecy of the ballot, namely: (a) voters not using the ballot secrecy folders in voting and feeding their ballots into the VCM; (b) EBs inserted the ballots instead of the voters; (c) ballots were exposed during technical issues like paper jams; (d) people could see or saw the ballots; (e) voters talked about who they voted for; (f) there were more voters than folders; and (g) some polling places had no folders. A few cases of the VVPAT or the voter's receipt not matching the votes on the ballot were reported. Some EBs seemed to have not been trained properly on handling technical issues, on how to apply personal digital signatures where available, on how many ERs to print, to whom printed ERs should be distributed, and on the posting of the ER conspicuously on a wall within the premises of the polling place. Some EBs also were not informed of NAMFREL's accreditation as citizens' arm, leading to denial of entry of volunteers and/or copies of the ERs. Difficulties in transmission took place in a few polling places because of weak mobile connection.

Augmenting the observation reports from NAMFREL volunteers were the results of bandwidth tests, as well as photos of ERs, submitted by the general public, using the NAMFREL app.

NAMFREL chapters noted that vote-buying became more rampant as compared to previous elections, with witnesses hesitant to file complaints and law enforcement officers hesitant to act on incidents done in their presence in the absence of formal complaints.

Details of the observations made are included in this Report.



# INTRODUCTION

Founded in October 1983, the National Citizens' Movement for Free Elections (NAMFREL) is the first citizens-led election monitoring organization in the country and in the world. Its leaders and ground support, spanning all sectors of society, are all volunteers. NAMFREL has accumulated a wealth of experience, having participated in 21 electoral exercises in the Philippines and in election missions in 42 other countries.

With a nationwide scope, the movement is made up of local chapters. For the 2022 NLE, NAMFREL observed election processes through these chapters and their volunteers. NAMFREL also entered into partnerships with local organizations to further observation in the country, and to observe voting on Philippine posts abroad.

NAMFREL's National Council is headed by a Chairperson. The National Secretariat is the operational arm, and is headed by the Secretary General supported by staff members. The Council members set the policies for operations, and take the lead in implementing projects, such as those related to the 2022 NLE. Volunteers were likewise recruited to support the operations at the NAMFREL HQ, located at DMG Center, Domingo M. Guevara St., Brgy. Mauway, Mandaluyong City, Philippines. Volunteers were also deployed on election week, at the Operations Center set up in the same building.

Through the support of local business and individuals, and of Project Participate led by the Ateneo School of Government, NAMFREL was able to provide chapters with financial, material, communications and logistics support.

On 1 October 2021, NAMFREL filed a petition for accreditation with the Commission on Elections (COMELEC) to serve as a citizens' arm in the 2022 elections, pursuant to Section 52(k) of the Omnibus

Election Code. The COMELEC En Banc granted the petition through its 2 May 2022 resolution on SPP No. 21-296, with the following specifics as to NAMFREL's duties:

- "1. Provide assistance to voters on election day, most especially to senior citizens, persons with disabilities, pregnant women, detainees, indigenous peoples and other members of the vulnerable sectors;*
- 2. Assist the Commission in providing informational assistance to local and overseas voters in exercising their right to an informed vote;*
- 3. Assist the Commission in implementing campaign finance rules and regulations;*
- 4. Assist the Commission in conducting the Random Manual Audit (RMA); and*
- 5. Assist in all other activities, as the Commission may deem necessary."*

The COMELEC En Banc also ruled to "provide NAMFREL with the necessary information or data, in hardcopy or electronic form, in order to perform the above-mentioned functions, subject to reasonable procedures or limitations as may be promulgated by the Commission:

1. To furnish NAMFREL with the electronic copies of the following: (a) the Computerized Voters' List; and the (b) Project of Precincts for the effective discharge of its responsibilities;
2. To allow NAMFREL to witness the examination and testing of the equipment or device to be used in the voting before voting starts as provided by Section 10 of Republic Act No. (R.A. No.) 8436 as amended by Section 12 of R.A. No. 9369;



3. Other data which the Commission may deem necessary.”

As citizens’ arm, NAMFREL had the function and duty under Section 52(k) of the Omnibus Election Code to “[n]ominate one watcher for accreditation in each polling place and each place of canvass who shall have the same duties, functions and rights as the other watchers of political parties and candidates.”<sup>1</sup> NAMFREL also had the right to a printed copy of the ER under the Election Automation Law.<sup>2</sup>



<sup>1</sup> <https://comelec.gov.ph/index.html?r=References/RelatedLaws/OmnibusElectionCode/OECart7>

<sup>2</sup> “(13) The twenty-seventh to the thirtieth copies, to the major citizen’s arms, including the accredited citizen’s arm, and other non-partisan groups or organizations enlisted by the Commission pursuant to Section 52(k) of Batas Pambansa Blg. 881. Such citizens’ arm, groups and organization may use the four certified copies of election returns for the conduct of citizens’ quick counts at the local or national levels;” (Section 22, Republic Act No. 8436, as amended by Section 19, Republic Act No. 9369, <https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/AutomatedElection/RA9369>)

The 9 May 2022 NLE were the first elections held under a pandemic. Health and safety protocols were put in place to avoid a surge of COVID-19 cases. The pandemic notwithstanding, some 55.29 million, or 84.10 percent, of the 65.75 million registered voters turned up to vote.<sup>3</sup> This was the highest turnout in the automated election history of the Philippines.<sup>4</sup>

In the past, NAMFREL recommended that availing of the automated systems, COMELEC should capture and publicize demographics on age, gender, educational attainment, etc. of the voting population as may be allowed by law. Said information would be useful in the planning and administration of elections.<sup>5</sup> According to the COMELEC’s statistics in February 2022, 37.02 million registered voters were within the 18-41 age bracket.

COMELEC provided a breakdown of registered voters locally by age range, gender, and region.<sup>6</sup>

Voters nationwide and overseas elected the president, vice-president, 12 senators and party-list members of the House of Representatives (lower house). Under the synchronized election system, local voters also elected district representatives to the lower house, provincial governors, vice-governors, members of the Sangguniang Panlalawigan (provincial council), municipal/city mayors, vice-mayors, and members of the Sangguniang Bayan/Panglungsod (city/municipal councils). The first elections for the Bangsamoro Parliament, originally scheduled at the same time, was reset to coincide with the 2025 NLE.<sup>7</sup>

A total of 173 party-list groups ran for the 20 percent slot allocated for the party-list representatives in the Lower House.<sup>8</sup>

<sup>3</sup> COMELEC, <https://comelec.gov.ph/?r=2022NLE/Statistics/2022RVVAVmcocfinal>

<sup>4</sup> Hana Bordey, “Eleksyon 2022 voter turnout at 83%, highest in PH history”, GMA News Online, 18 May 2022, <https://www.gmanetwork.com/news/topstories/nation/832115/eleksyon-2022-voter-turnout-at-83-highest-in-ph-history/story/>, quoting tweet by COMELEC Education and Information Division Director James Jimenez, <https://twitter.com/jabjimenez/status/1526842449976786945>

<sup>5</sup> NAMFREL Report 2016 National and Local Elections

<sup>6</sup> Melissa Luz Lopez, “56% of May 2022 voters part of the youth – Comelec”, CNN Philippines, 8 February 2022, <https://www.cnnphilippines.com/news/2022/2/8/youth-vote-56-percent-2022.html>

<sup>7</sup> R.A. 11593, <https://mirror.officialgazette.gov.ph/downloads/2021/10oct/20211028-RA-11593-RRD.pdf>

<sup>8</sup> COMELEC, <https://comelec.gov.ph/index.html?r=2022NLE/ListofCandidates/FinalListingPartyList>



A total of 845 positions were uncontested,<sup>9</sup> a recurring problem in Philippine elections that NAMFREL observed in its 2016 NLE report. NAMFREL had urged the public to run for public office a week before the schedule of filing of certificates of candidacy.<sup>10</sup>

In this election, 107,345 VCMs were deployed in polling stations (or clustered precincts) in 36,244 voting centers throughout the country and in Philippine posts abroad. An additional 1,100 VCMs were assigned as contingency or backup units.<sup>11</sup> During election day, a total of 1,310 VCMs and 618 SD cards had to be replaced.<sup>12</sup> Of the 1,310 VCMs, a total of 1,295 were in-country while 15 were used in overseas absentee voting (OAV). Of the 618 SD cards, 611 were in-country while 7 were for OAV.<sup>13</sup>

The COMELEC proclaimed all twelve winners of the senatorial contest on 18 May, nine days after election day.<sup>14</sup> Two days after the special elections in Tubaran, Lanao del Sur,<sup>15</sup> 55 party-list groups were proclaimed on 26 May.<sup>16</sup> Earlier, the local canvassing boards had proclaimed various winners in the local contests. Also faster than in all other past elections, Congress (with the Senate and House of Representatives sitting jointly as National Board of Canvassers) proclaimed Ferdinand R. Marcos, Jr. and Sarah Z. Duterte president and vice-president, respectively, on 25 May.<sup>17</sup>

<sup>9</sup> Joviland Rita, “845 positions nationwide unopposed in 2022 polls —Comelec”, GMA News, 24 March 2022, <https://www.gmanetwork.com/news/topstories/nation/826152/845-positions-nationwide-unopposed-in-2022-polls-comelec/story/>

<sup>10</sup> NAMFREL, 28 September 2021 press briefing, <https://www.youtube.com/watch?v=acVG4f9YX0s>; Joviland Rita, “NAMFREL urges public to run in Eleksyon 2022, says many positions uncontested”, GMA News Online, 28 September 2021, <https://www.gmanetwork.com/news/topstories/nation/804938/namfrel-urges-public-to-run-in-eleksyon-2022-says-many-positions-uncontested/story/>

<sup>11</sup> COMELEC AES Steering Committee 14 May 2022 meeting

<sup>12</sup> Senate Committee on Electoral Reforms and People’s Participation (31 May 2022), <https://www.youtube.com/watch?v=7viMoha-enY>

<sup>13</sup> COMELEC AES Steering Committee 14 May 2022 meeting

<sup>14</sup> Ferdinand Patinio, “Comelec proclaims 12 new senators”, Philippine News Agency, 18 May 2022, <https://www.pna.gov.ph/articles/1174805>

<sup>15</sup> Ferdinand Patinio, “Comelec to proclaim winning party-list groups Thursday”, Philippine News Agency, 25 May 2022, <https://www.pna.gov.ph/articles/1175218>

<sup>16</sup> Franco Jose C. Baroña, “Comelec proclaims party-list winners”, Manila Times, 26 May 2022, <https://www.manilatimes.net/2022/05/26/news/comelec-proclaims-party-list-winners/1845087>

<sup>17</sup> House of Representatives, “Joint Session of Congress ( Presidential and Vice - Presidential Canvass 2022 ) Part 3”, [https://www.youtube.com/watch?v=BB\\_NgFiE9dk](https://www.youtube.com/watch?v=BB_NgFiE9dk)

NAMFREL suggested in the past that candidates in the presidential and vice- presidential contests be elected by majority vote (50% + 1 of vote count).<sup>18</sup> While the winners in the 2022 NLE received more than 50 percent of the vote, they were the first, and so far, only to do so in an election under the present Constitution. An amendment to the Constitution would be required.<sup>19</sup>

At a glance: 2022 National and Local Elections	
Total no. of registered voters <sup>20</sup>	65,745,526
Total no. of voters who voted / voter turnout <sup>21</sup>	55,290,821 / 84.10%
No. of voting centers <sup>22</sup>	36,244
Total no. of clustered precincts <sup>23</sup>	107,785
No. of voters per clustered precinct <sup>24</sup>	maximum of 800
No. of clustered precincts intended to undergo RMA <sup>25</sup>	757
Actual no. of clustered precincts subjected to RMA <sup>26</sup>	748 (as of 29 June 2022)
Total no. of VCMs <sup>27</sup>	107,345
Total no. of contingency VCMs <sup>28</sup>	1,100
No. of VCMs replaced on Election Day	

<sup>18</sup> House of Representatives, “Joint Session of Congress ( Presidential and Vice - Presidential Canvass 2022 ) Part 3”, [https://www.youtube.com/watch?v=BB\\_NgFiE9dk](https://www.youtube.com/watch?v=BB_NgFiE9dk)

<sup>19</sup> (not available)

<sup>20</sup> COMELEC, <https://comelec.gov.ph/?r=2022NLE/Statistics/2022RVVAVmcocfinal>

<sup>21</sup> COMELEC, <https://comelec.gov.ph/?r=2022NLE/Statistics/2022RVVAVmcocfinal>

<sup>22</sup> COMELEC, <https://comelec.gov.ph/index.html?r=2022NLE/ProjectOfPrecincts>

<sup>23</sup> COMELEC, <https://comelec.gov.ph/index.html?r=2022NLE/ProjectOfPrecincts>

<sup>24</sup> COMELEC, <https://comelec.gov.ph/index.html?r=2022NLE/ProjectOfPrecincts>

<sup>25</sup> COMELEC, <https://comelec.gov.ph/php-tpls-attachments/2022NLE/RMA/2022RMAMain.pdf>

<sup>26</sup> COMELEC, <https://www.facebook.com/photo/?fbid=403758701789968&set=a.224420859723754>

<sup>27</sup> COMELEC AES Steering Committee 14 May 2022 meeting

<sup>28</sup> COMELEC AES Steering Committee 14 May 2022 meeting

In-country <sup>29</sup>	1,295
Overseas: absentee voting (OAV) <sup>30</sup>	15
Total <sup>31</sup>	1,310
No. of SD cards replaced on Election Day	
In-country <sup>32</sup>	611
Overseas: absentee voting (OAV) <sup>33</sup>	7
Total <sup>34</sup>	618
Total no. of Electoral Board members	More than 320,000 (number of polling places multiplied by 3)
No. of positions voted for in the ballot	30 (in municipalities) / 34 (in cities)
President	1
Vice-President	1
Senators	12
Party-List	1
Member, House of Representatives	1
Provincial Governor	1
Provincial Vice-Governor	1
Member, Sangguniang Panlalawigan	2
Municipal / City Mayor	1
Municipal / City Vice-Mayor	1
Member, Sangguniang Bayan	8
Member, Sangguniang Panglungsod	12

Source: COMELEC

<sup>29</sup> COMELEC AES Steering Committee 14 May 2022 meeting

<sup>30</sup> COMELEC AES Steering Committee 14 May 2022 meeting

<sup>31</sup> COMELEC AES Steering Committee 14 May 2022 meeting; Senate Committee on Electoral Reforms and People's Participation (31 May 2022), <https://www.youtube.com/watch?v=7viMoha-enY>

<sup>32</sup> COMELEC AES Steering Committee 14 May 2022 meeting

<sup>33</sup> COMELEC AES Steering Committee 14 May 2022 meeting

<sup>34</sup> COMELEC AES Steering Committee 14 May 2022 meeting; Senate Committee on Electoral Reforms and People's Participation (31 May 2022), <https://www.youtube.com/watch?v=7viMoha-enY>

Number of Elective Positions and Candidates		
Elective Position	Number of Seats <sup>35</sup>	Number of Unopposed Positions <sup>36</sup>
President	1	0
Vice-President	1	0
Senators	12	0
Member, House of Representatives (Party - List Representatives)	63	0
Member, House of Representatives (Legislative District Representatives)	253	39
Governor	81	9
Vice - Governor	81	11
Members, Sangguniang Panlalawigan	782	45
City Mayor	146	203 <sup>37</sup>
City Vice - Mayor	146	254 <sup>38</sup>
Members, Sangguniang Panlungsod	1,650	284 <sup>39</sup>
Municipal Mayor	1,488	203 <sup>40</sup>
Municipal Vice - Mayor	1,488	254 <sup>41</sup>
Members, Sangguniang Bayan	11,908	284 <sup>42</sup>

Source: COMELEC

<sup>35</sup> COMELEC, <https://comelec.gov.ph/index.html?r=2022NLE/Resolutions/res10713> (excluding positions for the Bangsamoro Parliament, elections for which were reset to 2025)

<sup>36</sup> Joviland Rita, "845 positions nationwide unopposed in 2022 polls —Comelec", GMA News, 24 March 2022, <https://www.gmanetwork.com/news/topstories/nation/826152/845-positions-nationwide-unopposed-in-2022-polls-comelec/story/>

<sup>37</sup> Figures released by the COMELEC combined city and municipal officials.

<sup>38</sup> Figures released by the COMELEC combined city and municipal officials.

<sup>39</sup> Figures released by the COMELEC combined city and municipal officials.

<sup>40</sup> Figures released by the COMELEC combined city and municipal officials.

<sup>41</sup> Figures released by the COMELEC combined city and municipal officials.

<sup>42</sup> Figures released by the COMELEC combined city and municipal officials.

## Political and Electoral Context

Between the 2019 and 2022 NLEs, a new COMELEC Chair and five new Commissioners (out of six) were appointed, after the terms of their predecessors ended. The Chair and two Commissioners were appointed on 9 March, two months before the 2022 NLE.<sup>43</sup>

The JCOC is mandated to conduct a comprehensive assessment and evaluation of the performance of the different AES technologies implemented and shall make appropriate recommendations to Congress.<sup>44</sup>

<sup>43</sup> NAMFREL, "PRESS STATEMENT - NAMFREL welcomes the new COMELEC Chairman and Commissioners as it urges more transparency in the 2022 elections", 10 March 2022, <https://namfrel.org.ph/2022/files/Namfrel%20Press%20Statement-%20NAMFREL%20welcomes%20the%20new%20COMELEC%20Chairman%20and%20Commissioners%20as%20it%20urges%20more%20transparency%20in%20the%202022%20elections.pdf>

<sup>44</sup> "SECTION 33. Joint Congressional Oversight Committee. - An Oversight Committee is hereby created composed of seven members each from the Senate and the House of Representatives, four of whom shall come from the majority and three from the minority, to monitor and evaluate the implementation of this Act. A written report to the Senate and the House of Representatives shall be submitted by the Advisory Council within six months from the date of election. The oversight committee shall conduct a mandatory review of this Act every twelve (12) months from the date of the last regular national or local elections.

*The oversight committee shall conduct a comprehensive assessment and evaluation of the performance of the different AES technologies implemented and shall make appropriate recommendations to Congress, in session assembled, specifically including the following:*

*1. An assessment and comparison of each of the AES technologies utilized, including their strengths, weakness, applicability or inapplicability in specific areas and situations;*

*2. An evaluation of their accuracy through a comparison of a random sample of the AES election results with a manual tabulation, and the conduct of similar tests;*

*3. As to the scope of AES implementation in the subsequent elections, provide for recommendations as to whether any of the following should be adopted:*

*a. Further test application of the AES or a particular AES technology used in the 2007 elections, whether in the same or others areas;*

*b. An increase or enlargement of areas for implementation of the AES or an AES technology and not a full implementation;*

It conducted hearings on the voting simulation and mock elections, allegations of breach on the data servers of COMELEC, the COMELEC calendar, updates, and submitted documents, among others. But it did not conduct a comprehensive assessment and evaluation of the performance of the different AES technologies implemented for previous NLEs, nor make a recommendation whether to adopt a new technology for the 2022 NLE or to continue using already-adopted technologies. It appears that the JCOC overlooked its mandated task to recommend the best technology for the country's AES.

The Senate Committee on Electoral Reforms and People's Participation and the House Committee on Suffrage and Electoral Reforms conducted hearings on election issues such as extending voter registration, the use of the transmission server for the 2022 NLE, the alleged breach of the COMELEC server, opening up the regional and provincial technical hubs to observers in order to prevent SD card switching, partial implementation of digital signatures, postponement of ballot printing observation at the National Printing Office, disallowing observation of SD cards configuration at the COMELEC Sta. Rosa warehouse, and pre-shaded ballots allegedly distributed to overseas voters.

The committee hearings led the COMELEC to reopen voter registration after the filing of certificates of candidacy, to open ballot printing for observers, and to hold a walkthrough at the Sta. Rosa warehouse.

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or

*c. A full implementation of the AES.*

*4. As to the kind of AES technology, provide for proposals as to whether:*

*a) A particular AES technology should no longer be utilized for being obsolete, inapplicable, inaccurate or with a defect which cannot be remedied;*

*b) An enhancement or improvement is needed to an AES technology which was used in the 2007 elections to make it more functional, appropriate and accurate;*

*c) A particular AES technology is already appropriate and should be utilized fully for subsequent elections; or*

*d) The testing or adoption of new technologies which may have emerged after the 2007 elections is needed." (Section 33, Republic Act No. 8436, as amended by Section 27, Republic Act No. 9369, <https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/AutomatedElection/RA9369>).*

NAMFREL submitted recommendations to COMELEC on the AES (discussed in a later report chapter), on the voting simulation and mock elections.

NAMFREL noted the spread of disinformation on the electoral process during the 2022 NLE period. Ballots were a target. A video claimed that 5.2 million defective ballots were discovered<sup>45</sup>. An image of a ballot sent to overseas voters residing in New Zealand that did not contain the name of a presidential candidate turned out to be manipulated.<sup>46</sup> Posts on social media claimed that shading the back page of the ballot would affect votes on the front page.<sup>47</sup> AES rumors on the hacking of COMELEC's servers,<sup>48</sup> programming of election results in favor of a specific candidate,<sup>49</sup> and inability to trace

<sup>45</sup> VERA Files, *VERA FILES FACT CHECK: Comelec 'admission' of fraud scheme vs Marcos NOT TRUE*, 11 Apr. 2022, available at <https://verafiles.org/articles/vera-files-fact-check-comelec-admission-fraud-scheme-vs-marc> (last visited 19 Aug. 2022)

<sup>46</sup> VERA Files, *Ballot in New Zealand missing Robredo's name is FAKE*, 28 Apr. 2022, available at <https://verafiles.org/articles/vera-files-fact-check-ballot-in-new-zealand-missing-robredos-name-is-fake> (last visited 19 Aug. 2022); VERA Files, *VERA FILES FACT CHECK: Video about ballot in New Zealand without Robredo's name NEEDS CONTEXT*, 28 Apr. 2022, available at <https://verafiles.org/articles/vera-files-fact-check-video-about-ballot-in-new-zealand-without-robredos-name-needs-context> (last visited 19 Aug. 2022); COMELEC, *READ: Statement of the COMELEC Office for Overseas Voting*, Twitter, 25 Apr. 2022, <https://twitter.com/COMELEC/status/1518495133179998208> (last visited 19 Aug. 2022)

<sup>47</sup> VERA Files, *VERA FILES FACT CHECK: Shade in ballot's back page will NOT affect front page votes*, 10 May 2022, available at <https://verafiles.org/articles/vera-files-fact-check-shade-in-ballots-back-page-will-not-affect-front-page-votes> (last visited 19 Aug. 2022)

<sup>48</sup> MB Technews, *Comelec servers hacked; Downloaded data may include information that could affect 2022 elections*, *MANILA BULLETIN (PHILS.)*, 10 Jan. 2022, available at <https://mb.com.ph/2022/01/10/comelec-servers-hacked-downloaded-data-may-include-information-that-could-affect-2022-elections/> (last visited 19 Aug. 2022); COMELEC, *COMELEC Statement on Alleged Hacking Incident*, Twitter, 10 Jan. 2022, available at <https://twitter.com/COMELEC/status/1480520296222191618> (last visited 19 Aug. 2022); Sofia Guanzon, *HINDI TOTOO: Na-hack ang Comelec database na may pribadong impormasyon ng mga botante*, *Rappler*, 16 Mar. 2022, available at <https://www.rappler.com/newsbreak/fact-check/comelec-database-containing-private-voter-information-hacked/> (last visited 19 Aug. 2022)

<sup>49</sup> Josette Saguiped, *HINDI TOTOO: Nakaprograma na ang magiging resulta ng botohan sa Mayo 2022*, *Rappler*, 1 Apr. 2022, available at <https://www.rappler.com/newsbreak/fact-check/pre-programmed-results-polls-may-2022> (last visited 19 Aug. 2022)

the location of VCMs due to the shift from 3G to 4G, were also shared.<sup>50</sup> COMELEC denied these and other claims through interviews,<sup>51</sup> in press conferences,<sup>52</sup> and sometimes on its social media pages.<sup>53</sup>

As partial and unofficial results arrived, several analysts said that the consistency of the vote ratio between the two leading presidential candidates had a very high r-squared value, which the analysts claimed was characteristic of manipulated data. These computations have since been debunked by IT experts.<sup>54</sup> Noting the numerous incidents of disinformation, many NAMFREL chapters recommended that voter education be included in the school curriculum.

The above examples would be avoided if the COMELEC adopted technologies that can be easily understood by any voter, without the need of any technical knowledge in source codes and hardware. If the counting process, for example, is more transparent and visible, then people will not have to wonder how the results were arrived at. People have questions because they could not see the entire process. Even if there are checks like the RMA, and even if these checks turn out positive, it is possible that people will always have questions or will have something to say if they feel that they are not involved enough in the process, or if there is something in it that they feel is hidden from them. Ultimately, COMELEC and the

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Aug. 2022)

<sup>50</sup> Rochel Ellen Bernido, *HINDI TOTOO: Dahil sa '3G to 4G' upgrade, hindi na matutukoy ang lokasyon ng vote-counting machines*, *Rappler*, 29 Apr. 2022, available at <https://www.rappler.com/newsbreak/fact-check/vote-counting-machine-location-cannot-be-identified-3g-4g-upgrade/> (last visited 19 Aug. 2022)

<sup>51</sup> Josette Saguiped, *HINDI TOTOO: Nakaprograma na ang magiging resulta ng botohan sa Mayo 2022*, *Rappler*, 1 Apr. 2022, available at <https://www.rappler.com/newsbreak/fact-check/pre-programmed-results-polls-may-2022> (last visited 19 Aug. 2022)

<sup>52</sup> See COMELEC This Week videos at COMELEC's YpuTube channel, <https://www.youtube.com/c/COMELEC>, and Facebook page, <https://www.facebook.com/comelecpb>

<sup>53</sup> COMELEC, *COMELEC Statement on Alleged Hacking Incident*, Twitter, 10 Jan. 2022, available at <https://twitter.com/COMELEC/status/1480520296222191618> (last visited 19 Aug. 2022); COMELEC, *READ: Statement of the COMELEC Office for Overseas Voting*, Twitter, 25 Apr. 2022, <https://twitter.com/COMELEC/status/1518495133179998208> (last visited 19 Aug. 2022)

<sup>54</sup> Dylan Salcedo, *The 'constant 47% ratio' explained*, *Rappler*, 11 May 2022, available at <https://www.rappler.com/nation/elections/forty-seven-percent-ratio-law-large-numbers-polls/> (last visited 19 Aug. 2022)



Philippine government as a whole should adhere to the idea of being more open and transparent.

NAMFREL was not spared from disinformation during the 2022 NLE. In June 2021, a major newspaper published a malicious article linking NAMFREL to an opposition political movement. The article was then shared on Facebook by a pro-government mouthpiece with millions of followers. Hundreds of the page's supporters descended upon NAMFREL's Facebook page, leaving false, and at the least unpleasant comments, including death threats, and posting of screenshots of names of NAMFREL's staff and officers in the comments section. On the night of the same day, NAMFREL's official website suffered a denial of service attack, reminiscent of a similar online attack on NAMFREL on the week of the 2016 NLE. While reviewing the logs, it appeared that most of the attack was coming from overseas, specifically China.

NAMFREL released one statement to address the article, and posted it on social media, which the trolls also feasted on.<sup>55</sup> After that, NAMFREL decided not to engage anymore. The Facebook page kept on talking about this for days, and the comments on NAMFREL's Facebook page seem to be wanting NAMFREL and its supporters to make a reaction or to engage them in the comments section. But NAMFREL did not. After several days, the trolls left as fast as they appeared.

While these attacks prompted meetings and discussion within the organization, they also prompted quick action and shift in strategies almost on the fly due to a fast-developing situation. One of NAMFREL's first decisions was to delay the launch of the second website, to beef up its security to increase its chance to withstand a similar attack as the elections drew near.

In March 2022, NAMFREL warned against statements circulating on social media alleging its involvement in discussions of allegations of massive cheating in the elections.<sup>56</sup>

The spread of election-related disinformation was not deterred by the fact that such disinformation is an election offense under Section 261(v) of the Omnibus Election Code: "Prohibited Acts. - The following shall be guilty of an election offense: [...]"

<sup>55</sup> NAMFREL, <https://www.facebook.com/Namfrel/photos/a.10152858421243173/10158653335563173/>

<sup>56</sup> [https://namfrel.org.ph/2022/files/NAMFREL%20Press%20Statement%20-%20March%202021,%202022%20\(PDF\).pdf](https://namfrel.org.ph/2022/files/NAMFREL%20Press%20Statement%20-%20March%202021,%202022%20(PDF).pdf); see also NAMFREL Huddle, "NAMFREL Huddle Ep. 6: Was there cheating in the 2022 National and Local Elections? (Audio only)", <https://www.youtube.com/watch?v=clQggyTOVlc>

## v. On voting: [...]

*11. Any person who, for the purpose of disrupting or obstructing the election process or causing confusion among the voters, propagates false and alarming reports or information or transmits or circulates false orders, directives or messages regarding any matter relating to the printing of official ballots, the postponement of the election, the transfer of polling place or the general conduct of the election."*

Important and unresolved issues in past elections that persisted during the 2022 elections included political dynasties, unrealistic campaign spending limits, ineffectual campaign finance laws, weak political party system (which allows and rewards turncoatism), uncontested posts (as earlier mentioned), and slow resolution of protest cases.

In the past, NAMFREL recommended that the impact of the so-called command votes (religious, political dynasties, tribes, etc.) to electoral integrity be considered and studied.<sup>57</sup> It remains to be seen whether this would be done for the 2022 NLE.

Despite the deadline for filing of certificates of candidacy having lapsed, aspirants from the same political party could still substitute candidates before the deadline for substitution under the law.<sup>58</sup> NAMFREL said in October 2021 that substitutions should only be allowed in case of the death or mental/physical incapacity of the candidate to be substituted.<sup>59</sup>

<sup>57</sup> NAMFREL Report 2016 National and Local Elections

<sup>58</sup> "Sec. 77. Candidates in case of death, disqualification or withdrawal of another. - If after the last day for the filing of certificates of candidacy, an official candidate of a registered or accredited political party dies, withdraws or is disqualified for any cause, only a person belonging to, and certified by, the same political party may file a certificate of candidacy to replace the candidate who died, withdrew or was disqualified. The substitute candidate nominated by the political party concerned may file his certificate of candidacy for the office affected in accordance with the preceding sections not later than mid-day of the day of the election. If the death, withdrawal or disqualification should occur between the day before the election and mid-day of election day, said certificate may be filed with any board of election inspectors in the political subdivision where he is a candidate, or, in the case of candidates to be voted for by the entire electorate of the country, with the Commission." [Omnibus Election Code, <https://comelec.gov.ph/index.html?r=References/RelatedLaws/OmnibusElectionCode/OECart9>]

<sup>59</sup> Melissa Luz Lopez, "Time to scrap 'deceptive' substitution scheme for aspiring candidates – analysts", CNN Philippines, 5 October 2021, available at <https://www.cnnphilippines.com>





# PRE-ELECTION AES MONITORING

As with previous elections, NAMFREL monitored the COMELEC's implementation of the Automated Election System (AES) for the 2022 NLE.

## A. Hybrid System

In the lead-up to the 2022 NLE, NAMFREL called for the adoption of a hybrid system: the votes in the polling places/clustered precincts would be manually counted, but the transmission would be automated. Congress did not pass a law adopting such a system, and COMELEC exercised its authority under the Election Automation Law to use the existing AES for the elections.<sup>60</sup>

## B. Five Standards

With the non-adoption of the hybrid system, NAMFREL focused its attention to explore possible areas of improvement in the AES, and proposed several measures to enhance its transparency. The result was a paper entitled "Enhancing the AES with the Adoption and Implementation of Technical Standards," which NAMFREL's Systems Group submitted to the COMELEC

[com/news/2021/10/5/time-to-scrap-deceptive-substitution-scheme.html](https://www.comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/AutomatedElection/RA9369) (last visited 30 August 2022)

<sup>60</sup> "To carry out the above-stated policy, the Commission on Elections, herein referred to as the Commission, is hereby authorized to use an automated election system or systems in the same election in different provinces, whether paper-based or a direct recording electronic election system as it may deem appropriate and practical for the process of voting, counting of votes and canvassing/consolidation and transmittal of results of electoral exercises" (Section 6, Republic Act No. 8436, as amended by Section 6, Republic Act No. 9369, <https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/AutomatedElection/RA9369>)

in June 2021. The five standards proposed were the following:

### 1. Shift to Open Source Licensing of All AES Software

The Election Automation Law provides that once an AES technology is selected for implementation, the COMELEC shall promptly make the source code of that technology available and open to any interested political party or groups which may conduct their own review thereof.<sup>61</sup> However, the LSCR has been limited to certain groups which have undergone a screening process, contrary to the legal requirement of being open to any interested political party or groups. In addition, no electronic devices of any kind, including but not limited to laptops, mobile phones, cameras, USB drives and other storage devices were permitted inside the secured location/facility, unless expressly authorized by the COMELEC. No copy of the source code, documentation, any material supplied by the COMELEC or any part thereof could be taken out from the secured location/facility, whether physically or electronically, unless expressly authorized by the Commissioner-in-Charge of the LSCR Committee.<sup>62</sup> Moreover, the license that covers the AES software is proprietary, which is the most restrictive type of software licensing, protecting the owner from unauthorized use of the software. Any modification to the AES software may be covered by a Licensing Agreement and such modification may be performed only by the developer/owner of the software. However, the developer/owner of

<sup>61</sup> Section 14, last paragraph, Republic Act No. 8436, as amended by Section 12, Republic Act No. 9369, <https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/AutomatedElection/RA9369>

<sup>62</sup> COMELEC, <https://comelec.gov.ph/index.html?r=2022NLE/Resolutions/res10712>

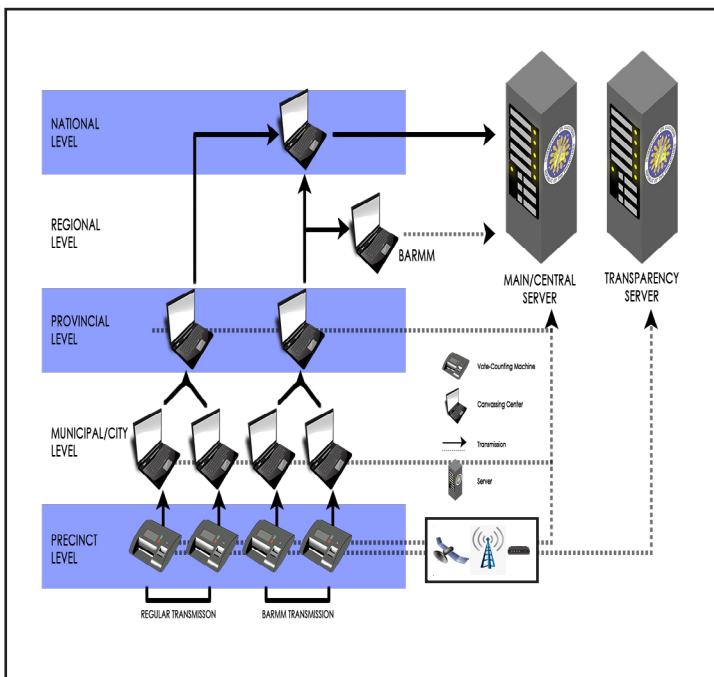
the software may not be inclined to allow a modification that would allow the software to work on hardware not developed by it, effectively requiring that the hardware and software come from the same provider.

NAMFREL proposed open source licensing of the AES software, which would allow any person or group to review the source code, at their own time and pace. Open source licensing would also lead to a separation of hardware and software vendors. It would open up opportunities to Filipino developers.

## 2. Use of the Election Markup Language (EML) throughout the election process, without conversion to another format

From the VCMs in the polling places throughout the country, the election results are transmitted to the Central Server, the Backup Server, and the Transparency Media Server (TMS). As the results are transmitted, these would be converted to files in comma separated values (CSV) format using programming scripts. This results in a loss of metadata, meaning information as to where the election results came from (polling place/clustered precinct, voting center, location, time transmitted, digital signatures of Electoral Board members).

NAMFREL proposed the use of the election markup language (EML) in the transmission of election results from the vote counting machines, without conversion to another format. EML was first used in the 2010 NLE, but was dropped in favor of Google's protocol buffers or protobuf in succeeding elections.



## 3. New Ballot Format where candidates per position is randomly assigned a unique number and the names of the candidates are arranged following their randomly assigned unique numbers

The manner of sequencing the candidates' names in the different contests is mixed. Names of candidates in all national and local contests are sequenced alphabetically according to surnames but in the party list contest, the party list candidates are arranged numerically based on their randomly assigned numbers.

In the alphabetic sequencing, candidates with surnames starting with the latter part of the alphabet are put at a disadvantage. Conversely, the candidates with surnames starting with the first letters of the alphabet enjoy an advantage.

NAMFREL proposed the assignment of a number unique to a candidate, drawn in random before preparing the ballot face but announcement withheld until immediately before the campaign period. The names of the candidates would then be arranged in numerical sequence. The number may be drawn randomly by the candidates or their representatives. For example, if there are five candidates for the position of president, the numbers 1, 2, 3, 4 and 5 would be randomly assigned to each candidate. The succeeding position, the vice president, would start with number 6, and if there are three candidates for the vice president position, then they will randomly be assigned the numbers 6, 7 and 8. For local positions, a prefix based on their region or district could be used to distinguish them from the national candidates.

This new ballot format would have had the following benefits:

- It would make it easier for voters who cannot read or with poor eyesight to be able to vote as they would just have to search for the numbers assigned to their chosen candidates.
- Sequencing would just be numerical and not alphabetical. This would also do away with the practice of certain candidates having an alias just to be at the top or near the top of the list when sequencing is alphabetical.
- This would minimize the importance of name recall and the advantage of having well-known surnames during the campaign.

d) As the candidates would be using their assigned numbers for the campaign, pre-election campaigning can be minimized as numbers assigned to the candidates could only be released by COMELEC just before the start of the campaign period.

e) Possible solution to having no votes, or undervotes, for vice president and party-list, as voters will make sure that they would have the numbers of their chosen candidates on hand just before voting.

#### 4. Proper Implementation of Personal Digital Signatures

The ER containing the results for each polling place/ clustered precinct are electronically signed by the VCM, not by the unique digital signature of the specific EB members. This makes validation of the origin of ERs impossible, since they do not contain the identifiers of the assigned EB members.

The Supreme Court ruled that the machine signature of the VCM complies with the requirement in the Election Automation Law that "[t]he election returns transmitted electronically and digitally signed shall be considered as official election results and shall be used as the basis for the canvassing of votes and the proclamation of a candidate."<sup>63</sup>

NAMFREL proposed that the requirement in the law be properly implemented. Digital signing could be done with the use of a Public Key Infrastructure which is the methodology or procedure referred to in the definition of an electronic signature. For example, the Philippine National Public Key Infrastructure (PNPKI) was built and operated by the Department of Information and Communications Technology.

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<sup>63</sup> Section 22, Republic Act No. 8436, as amended by Section 19, Republic Act No. 9369, <https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/AutomatedElection/RA9369>. The Supreme Court relied on its definition of Rules of Electronic Evidence in its April 2019 ruling, "As gleaned from the wording of the law, the signature may be any distinctive mark or characteristic that represents the identity of a person. Thus, a machine signature of a PCOS machine may validly be considered the functional equivalent of the aforementioned 'digital signature,' as it represents the identity of the individual, said signature naturally being created specifically for the person him or herself inputting the details." (*Bagumbayan-VNP Movement, Inc. vs. Commission on Elections*, G.R. No. 206719, April 10, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65166>)

The proper digital signatures would have the following advantages:

a) It would resolve the issues raised against the implementation of digital signing in the AES by critics: using machine signatures would render it impossible to validate the origin of ERs.

b) Credibility of the ERs would be strengthened.

c) The digital signatures affixed to the ERs transmitted via SD card or physically transmitted could be independently verified through the PNPKI.

d) Security of the ERs would be ensured even if electronic transmission is delayed.

e) Accuracy and integrity of the electronically transmitted ERs could be verified through the digital signatures affixed to them.

#### 5. QR codes on the VVPAT and ER

The Election Automation Law requires a voter verifiable paper audit trail (VVPAT)<sup>64</sup> which allows voters to check whether the VCM correctly read the ballot, and credited the votes to the candidates selected by them.

NAMFREL proposed the inclusion of quick response (QR) codes on the VVPAT and the ER, which would lead to the following benefits:

a) Inherent audit check on the VVPAT and ER by providing two sources of results. The output should always be the same.

b) This could provide a more participative and democratic process at the precinct level. Watcher groups could scan the QR code and verify that the count or the person voted for are the same.

c) Crowd-source recording of the ER. Results could be quickly read and verified by anyone interested in aggregating the results.

d) This could be a quick solution to a hybrid election system being clamored by several groups if used on the ballot/VVPAT level.

e) This could improve the RMA process conducted after election day in selected random precincts.

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<sup>64</sup> Section 6, Republic Act No. 8436, as amended by Section 7, Republic Act No. 9369, <https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/AutomatedElection/RA9369>.

## Further actions

NAMFREL also furnished a copy of its AES standards to the JCOC, mandated under the Election Automation Law to conduct a comprehensive assessment and evaluation of the performance of the different AES technologies implemented, and to make appropriate recommendations to Congress, in session assembled. A copy was likewise forwarded to the COMELEC Advisory Council, which subsequently submitted Resolutions Nos. 2021-003 and 2021-004 recommending these five proposals to the COMELEC.

COMELEC adopted the use of a QR code in the VVPAT. However, whether it contained the candidates voted for could not be verified, since COMELEC denied NAMFREL's request for the data dictionary of the QR code in order to complete NAMFREL's QR code scanner app (discussed further under the report chapter on "Post-Election Monitoring," under the item "Random Manual Audit"). The QR code on the ER contained only the hash code. (The definition of hash code is discussed later in this report chapter, under the item "Local Source Code Review End-to-End Demonstration (22 March 2022) and VCM System Hash Code").

The proper implementation of digital signatures will be discussed later in this Chapter under "COMELEC Advisory Council".

The remaining standards were not adopted.

## C. COMELEC Advisory Council

Even prior to accreditation, NAMFREL had been working with the COMELEC in preparation for the 2022 elections through its participation in the COMELEC Advisory Council (CAC), AES Steering Committee, and the Random Manual Audit Committee (RMAC) meetings.

The CAC for the 2022 NLE was convened in 14 December 2020, with the holding of its first meeting after the new members had taken their oaths. NAMFREL National Council Members Mr. Angel Averia, Jr. and Mr. Fernando Contreras, Jr. served as its representatives.

Pursuant to the Automated Election Law, the CAC recommends the most appropriate, secure, applicable, and cost-effective technology to be applied in the AES.<sup>65</sup> In the past, NAMFREL recommended that the

<sup>65</sup> Section 9, Republic Act No. 8436, as amended by

COMELEC give due consideration to the findings and recommendations of the CAC.<sup>66</sup>

On 1 March 2022, the COMELEC informed the CAC that it would use only in certain areas the I-Buttons for digital signature, because it could not procure the cable assembly necessary. This fact was made public during the Senate Committee on Electoral Reforms and People's Participation hearing on 9 March 2022.

As a result of this information, the CAC recommended a set of measures, including NAMFREL's suggestion that the COMELEC obtain the protocol buffer ("protobuf") file from the VCMs, without any changes to the system, and make it available in the TMS after the decryption. This recommendation was also in NAMFREL's press statement dated 10 March 2022: "A last resort, NAMFREL recommends making the election results transmission package -- which shall include the electronically transmitted election returns -- in protobuf format, which shall include the xml sig and public key certificates for validation available through the transparency server." The protobuf file from the VCM contains important meta data that could be independently examined and verified. Making the Protobuf file available through the TMS after decryption would avoid any configuration or emulation of VCMs.<sup>67</sup>

In the last CAC meeting prior to the elections, on 28 April 2022, the CAC decided to write a letter to the COMELEC about the topics below. NAMFREL was asked to draft the letter for the CAC. This letter covered the following topics:

(a) Follow up on the request for access to the protobuf, in lieu of the incomplete implementation of digital signatures. This request was contained in a 2 March 2022 CAC letter to the COMELEC.

(b) Urgent request to do public system build of the VCM System Hash to address the issue about the hash code, since the public system build of the VCM System Hash

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Section 9, Republic Act No. 9369, <https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/AutomatedElection/RA9369>.

<sup>66</sup> NAMFREL Report 2016 National and Local Elections

<sup>67</sup> NAMFREL, <https://namfrel.org.ph/2022/files/Namfrel%20Press%20Statement-%20NAMFREL%20welcomes%20the%20new%20COMELEC%20Chairman%20and%20Commissioners%20as%20it%20urges%20more%20transparency%20in%20the%202022%20elections.pdf>



has never been shown publicly. (Discussed further in this report chapter, under "Local Source Code Review End-to-End Demonstration (22 March 2022) and VCM System Hash Code").

#### **D. COMELEC AES Steering Committee meetings**

NAMFREL, as part of the CAC, attended meetings of the COMELEC AES Steering Committee.

The Committee is overall in charge of the management and monitoring of the various AES Project related activities under the Project Management Office (PMO). The PMO was divided into several groups including, but not limited to, the Special Bids and Awards Committee on AES which is in charge of all procurement activities for the AES Project, the Technology Group which is in charge of the preparations and operations of the AES, the Training Group which in charge of training various stakeholders including, but not limited to, the Electoral Boards, the Boards of Canvassers, the Philippine National Police, and others.

For the 2022 NLE, the Committee headed by Commissioner Marlon Casquejo.

Discussed and presented during the meetings of the COMELEC AES Steering Committee were updates on the status of the various AES related activities.

On the 14 July 2021 meeting, the Chair of the CAC, responding to the request of Commissioner Casquejo, informed the Committee that the CAC was studying and working on a few recommendations, including NAMFREL's five standards. As earlier stated, the CAC submitted resolutions recommending these five proposals to the COMELEC.

It was also announced in the meeting that NAMFREL would be part of the RMA Committee. NAMFREL reiterated its proposal for the proper implementation of the digital signature of EBs. An action item was to set a meeting with NAMFREL, PPCRV, and Smartmatic regarding the implementation of digital signatures.

During the 19 August 2021 meeting, NAMFREL participated in the discussion of the implementation of digital signatures. COMELEC confirmed that a QR code with the encoded voter's choices would be printed on the VVPAT. With this, NAMFREL followed up on the printing of QR codes with encoded election results on the ERs.

NAMFREL reiterated its proposal not to convert the ERs generated by the VCM into another format when the ER is received by the TMS. NAMFREL underscored the need for various parties connected to the TMS to receive the ER as originally generated by the VCM to ensure integrity of the election results.

During the 21 September 2021 meeting, NAMFREL followed up on the adoption of its five standards proposals for the 2022 NLE. The chair advised NAMFREL to course its proposal through the CAC which it already did. NAMFREL informed the body that the appropriate resolution/s is/are being prepared. The chair also advised NAMFREL to file its petition for accreditation. NAMFREL filed its petition on 1 October 2022.

The implementation of the digital signature was again raised. NAMFREL participated in the discussion as this is one of its proposals.

One significant matter discussed in the 9 March 2022 meeting was the limited implementation of digital signing by the members of the EBs in the National Capital Region, Cebu City, and Davao City only. NAMFREL representatives to CAC earlier received information during the CAC meeting of 1 March 2022 on the limited implementation of digital signing arising from COMELEC's difficulty in procuring cable assemblies to be used for the deployment and implementation of digital signing certificates.

NAMFREL recommended during the meeting with the Steering Committee that the protocol buffer ("protobuf") file from the VCM be made available in the TMS after the decryption. The protobuf file refers to the ER originally generated by the VCM in protobuf format which would have included the machine digital signatures.

The presence of the digital signatures of the EB members on the ERs would have given the recipients of copies of the electronically transmitted ERs the assurance that integrity of the ERs had been preserved, free from tampering, and transmitted from a legitimate source.

The presence of the machine digital signatures, while challenged in the past on the ground that ERs should be personally signed by the EB members, would have given the same assurance. However, these machine signatures were not the unique mark of the EBs from the specific polling place where the ER was transmitted from.

The protobuf file was ultimately not made available in the TMS.



## E. AES Procurement

NAMFREL monitored the procurement of goods and services related to the AES for the 2022 NLE, since it officially started in December 2020. NAMFREL is regularly invited by the COMELEC Special Bids and Awards Committee (SBAC) to help in observing the proper public bidding process, in compliance with Republic Act No. 9184 and its Revised IRR.<sup>68</sup>

The COMELEC SBAC was the procurement body that governed the procurement of all AES-related items for the 2022 elections. It was composed of five (5) members (with chairperson and vice-chairperson) and functioned equally as the regular Bids and Awards Committee. Non-AES items related to the 2022 NLE, such as the ballot secrecy folders, manuals, and other forms, were procured by the COMELEC regular Bids and Awards Committee (BAC). The majority of COMELEC procurement as a whole is held and implemented by the regular BAC.

In the past, NAMFREL recommended that COMELEC should minimize the legal complications in the procurement of goods and services by preparing the groundwork for the next elections as early as the end of the previous elections.<sup>69</sup>

The COVID-19 pandemic affected all the existing government acquisition projects and had many setbacks in procurement. The Government Procurement Policy Board (GPPB)<sup>70</sup> published a Resolution<sup>71</sup> authorizing the BAC to conduct an online procurement. Since the

<sup>68</sup> “To enhance the transparency of the process, the BAC shall, during the eligibility checking, shortlisting, pre-bid conference, preliminary examination of bids, bid evaluation, and post-qualification, invite, in addition to the representative of the COA, at least two (2) observers, who shall not have the right to vote, to sit in its proceedings where [xxx] 2. The other observer shall come from a non-government organization (NGO).” (Section 13, *The 2016 Revised Implementing Rules and Regulations of Republic Act No. 9184 (updated as of March 31, 2021)*, [https://www.gppb.gov.ph/assets/pdfs/Updated%202016%20IRR\\_31%20March%202021.pdf](https://www.gppb.gov.ph/assets/pdfs/Updated%202016%20IRR_31%20March%202021.pdf))

<sup>69</sup> NAMFREL Report 2016 National and Local Elections

<sup>70</sup> The Government Procurement Policy Board is the principal body responsible for procurement policy formulation and the implementation and monitoring of effective public procurement reform, thereby promoting and achieving good governance, in general, and transparency, accountability, equity, effectiveness, efficiency, and economy in Government, in particular ([https://www.gppb.gov.ph/about\\_us/gppb.html](https://www.gppb.gov.ph/about_us/gppb.html)).

<sup>71</sup> GPPB Resolution 09-2020 Approving Measures for Efficient Conduct of Procurement Activities during the State of Calamity, or Implementation of Community Quarantine or Similar Restriction, <https://www.gppb.gov.ph/issuances/Resolutions/GPPB%20Resolution%20No.%2009-2020%20with%20SGD.pdf>

Philippines was placed in the State of Calamity,<sup>72</sup> most government offices implemented skeleton workforces and work from home setup. All procurement processes were therefore held online.

Observers from civil society organizations were invited by the COMELEC SBAC to attend and observe its bidding process, held online through Microsoft Teams. In the first rounds of public bidding from December 2020 to March 2021, the CSO observers were limited to having two (2) representatives per organization attend the proceedings. The pre-bid conferences were held online. Looser restrictions allowed physical observation of the Opening of Bids provided watchers submitted a negative RT-PCR COVID-19 test taken three days before.

As of March 2022, the COMELEC procured twenty-one (21) projects of goods and services with about 95% (20 projects) confirmed awarded. NAMFREL observed a total of thirty-four (34) bidding cycles. Some items were delayed due to the change in quarantine/alert level status and repeated failure of biddings on certain procurements. On the procurement of I-Buttons for Digital Signature, the COMELEC confirmed that the bidding failed during the 9 March 2022 hearing of the Senate Committee on Electoral Reforms and People's Participation.

One of the main challenges for the observers during online procurement was access to the documents. Although some documents were shown online page by page, there were instances when observers were unable to evaluate what they were being shown due to some technical issues:

(a) Weak internet connection – This was a major issue in online monitoring. There were times one could not understand what was being said during the conference.

(b) No access to the chatbox – The links on the sub-group for TWG evaluation were posted on the chatbox so that the observers could observe the evaluation process. However, in many instances the observers did not have access to the chatbox to go to the sub-group.

(c) Many times, the presenters' slides were shown too fast – Although this did not happen all the time, there were instances when it became an issue when evaluating documents online because observers were unable to go back to previously shown information.

<sup>72</sup> State of Calamity refers to “a condition involving mass casualty and/or major damages to property, disruption of means of livelihoods, roads and normal way of life of people in the affected areas as a result of the occurrence of natural or human-induced hazard”. (Section 3(LL), Republic Act No. 10121, <https://mirror.officialgazette.gov.ph/2010/05/27/republic-act-no-10121/>)

For those with weak internet connection, organizations were allowed to have multiple observers in case one of them could not connect properly. If observers could not access the chatbox, they could view the documents presented by the secretariat in the main room. This allowed people in the main room to examine the documents. However, if there were many documents due to multiple bidders, the time for viewing could be cut short to give way to the reporting of the technical working group. When presenters were too fast and observers needed to extensively evaluate the documents, the observers were allowed to email the BAC to request for a copy of the documents. However, this method was not possible all the time due to the confidentiality agreement between the procuring entity and the observing organizations.

In addition, the COMELEC website, the major source of information for the procurement/bidding activity updates and supplemental/bid bulletins, would be inaccessible during certain times.

In addition, the COMELEC website, the major source of information for the procurement/bidding activity updates and supplemental/bid bulletins, would be inaccessible during certain times.

The BAC through the BAC Secretariat took time to present and explain in full detail the legal, technical, and financial requirements. However, deficiencies, mistakes, and non-compliance with the technical and financial requirements were still the main causes of disqualifications. This occurred even if the participating bidders were the regular and almost the same suppliers, dealers, and contractors of the COMELEC for election-related requirements. The usual deficiencies and mistakes in the bid submission are as follows:

- (a) Submission of collection receipts instead of official receipt for the Single Largest Completed Contracts (SLCC);
- (b) Generic Secretary's Certificate for the Authorized Representative of the Company;
- (c) Interpretation of Similar Single Largest Completed (SLCC) project;
- (d) Failure to submit Net Financial Contracting Capacity (NFCC) computation;
- (e) Missing proof of identity;
- (f) Missing special power of attorney for the Joint Venture Agreement (JVA).

One of the most challenging processes was the completion of the procurement cycle for some items. Based on the COMELEC project brief documents and supplemental bulletin for the rebid items, delays in the procurement were usually caused by the following:

- (a) No bids were received, leading to a declaration of failure of bidding. It happened several times. Even negotiated procurement, which could be resorted to after two failed biddings, failed.<sup>73</sup> Prospective bidders claimed that their non-participation or non-submission of the bid was due to the low approved budget for the contract (ABC) or too tight a schedule of deliveries. The SBAC after the mandatory review of the procurement at hand revises and/or maintains either the ABC or the schedule of deliveries.
- (b) All eligible bidders were declared non-compliant during the opening of the financial bid or post-qualification stage due to:
  - (i) Failure to breakdown the cost as specified in the Price Schedule Form for Goods Offered from Abroad (Annex G-1)
  - (ii) Failure to provide cost for the sales and other taxes payable as specified in Price Schedule for Goods Offered from Within the Philippines (Annex G-2)
  - (iii) Failure to provide/submit detailed, complete, and accurate information required for the post-qualification stage (required samples, original documents, and/or complete list of items as indicated in the eligibility documents)

In general, the procurement of AES was orderly, transparent, and showed no irregularities. Despite the setbacks brought about by the COVID-19 pandemic, COMELEC still was able to secure most of the equipment and materials necessary for the conduct of the 2022 NLE. However, the failure of bidding for the I-Buttons for Digital Signature adversely affected the implementation of digital signatures of EBs, as discussed earlier in this

<sup>73</sup> "Negotiated Procurement is a method of procurement of Goods, Infrastructure Projects and Consulting services, whereby the Procuring Entity directly negotiates a contract with a technically, legally and financially capable supplier, contractor or consultant in any of the following cases:

53.1 Two Failed Biddings. Where there has been failure of competitive bidding or Limited Source Bidding for the second time as provided in Section 35 of the Act and this IRR." (The 2016 Revised Implementing Rules and Regulations of Republic Act No. 9184 (updated as of March 31, 2021), [https://www.gppb.gov.ph/assets/pdfs/Updated%202016%20IRR\\_31%20March%202021.pdf](https://www.gppb.gov.ph/assets/pdfs/Updated%202016%20IRR_31%20March%202021.pdf))

report chapter and in the chapter on election day monitoring, under Digital Signatures Implementation.

However, economical elections may not have been achieved. As stated above, bidders either did not submit bids or were disqualified. This could have led to a non-competitive environment, in turn keeping prices up instead of pushing them down.

## F. Observation of COMELEC Pre-Election AES Activities

As a member of the COMELEC Advisory Council, a participant in AES Steering Committee discussions, and as an accredited citizens' arm, NAMFREL participated and/or observed the following activities upon invitation by the COMELEC:

### 1. Local Source Code Review (LSCR) for the 2022 NLE (4 October to 21 December 2021)

What is a source code? I. "human readable instructions that define what the computer equipment will do" (Section 2(12), Republic Act No. 8436, as amended by Section 2, Republic Act No. 9369)

II. A "source code" is a set of instructions written by a programmer using a computer language. The instructions include logically arranged procedural steps and rules for processing something to generate an outcome.

An example is computing for the area of a rectangle. We assume the following variables:

L = length of a side of the rectangle  
W = width of the shorter side of the rectangle  
A = the area of the rectangle

The formula for computing the area of a rectangle is declared in the program:

Area (A) = Length (L) x Width (W) or simply:  $A = L \times W$

Then, there must be a way to encode the values of L and W and displaying or printing the output of the computation.

COMMENT: L = length of a side of the rectangle  
COMMENT: W = width of the shorter side of the rectangle  
COMMENT: A = the area of the rectangle  
INPUT "Length" L  
INPUT "Width" W  
LET A = L \* W  
PRINT "Area of the Rectangle is" A  
END  
BASIC is the computer language used in the example  
"COMMENT" is used for documentation purposes  
"INPUT" prompts the user to encode or enter the value of a declared variable  
"LET" declares a formula, it may also be used to set the value of a particular variable  
"PRINT" displays or prints the resulting value computed using the formula  
"END" ends the process

Source: (Lito Averia, NAMFREL National Council Member, Understanding the Local Source Code Review presentation)

The NAMFREL IT Team examined the source code and found that some of the implementation of microservices did not follow industry standard best practice. NAMFREL pointed out those codes and gave examples on how to improve it. The Smartmatic Team acknowledged these recommendations.

Comments/observations during LSCR sessions are voiced out or made verbally and captured by COMELEC. As a rule, even reviewers' handwritten notes are to be left with COMELEC at the end of each review session, extending the prohibitions under the COMELEC resolution on the LSCR.<sup>74</sup> These prohibitions, express or implied, do not promote transparency and should be dropped.

The practice during the LSCR was that Smartmatic would provide a specific version of the source code for review, but used a different version of the source code for the Trusted Build, which was actually used on Election Day. Many reviewers, including NAMFREL's representative, opposed this practice. The local source code to be reviewed must be identical to the trusted build to ensure that the Election Day Trusted Build was the same as that subjected to LSCR. This principle should be implemented in the next AES runs.

In the past, NAMFREL recommended that the COMELEC should specifically indicate in the contract with the AES provider that observers could use automated tools to be able to test the accuracy of the software during the LSCR.<sup>75</sup> This recommendation was not adopted in the contract for the procurement of the AES software used in the 2022 NLE.<sup>76</sup> As mentioned earlier, no electronic devices of any kind, including but not limited to laptops,

<sup>74</sup> "SEC. 25. Documents; Limitations. No copy of the source code, documentation, any material supplied by the Commission or any part thereof may be taken out from the secured location/facility, whether physically or electronically, unless expressly authorized by the Commissioner-in-Charge of the LSCR Committee.

SEC. 26. Electronic Device; Limitations. No electronic device of any kind, including but not limited to laptops, mobile phones, cameras, USB drives and other storage devices shall be permitted inside the secured location/facility, unless expressly authorized by the Commission." [COMELEC Resolution No.10712, [https://comelec.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com\\_res\\_10712.pdf](https://comelec.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com_res_10712.pdf)]

<sup>75</sup> NAMFREL Report 2016 National and Local Elections

<sup>76</sup> COMELEC, [https://comelec.gov.ph/php-tpls-attachments/Procurement/ProcurementProjects/SBAC042020EVCS/SBAC042020EVCS\\_Contract.pdf](https://comelec.gov.ph/php-tpls-attachments/Procurement/ProcurementProjects/SBAC042020EVCS/SBAC042020EVCS_Contract.pdf)

mobile phones, cameras, USB drives and other storage devices were permitted inside the secured location/facility, unless expressly authorized by the COMELEC.<sup>77</sup>

## 2. First Trusted Build (3 December 2021) and Second Trusted Build (13 January 2022)

**What is a trusted build?** The trusted build is an activity organized by the Commission on Elections where the process of converting the source code of various components of the automated election system into their respective binary code is done.

Source: (Lito Averia, NAMFREL National Council Member, Understanding the Local Source Code Review presentation)

With regard to the first Trusted Build, NAMFREL verified that the hashes of VCM source code and other components of AES on livestream were identical to the hashes listed by COMELEC in a letter sent to NAMFREL. However, another Trusted Build was conducted on 13 January 2022, the results of which are discussed later in this Chapter under “Local Source Code Review End-to-End Demonstration (22 March 2022) and VCM System Hash Code”.

## 3. Walkthrough of the VCM and CCS Production and Deployment Process (20 March 2022)



The walkthrough, held at the COMELEC warehouse in Sta. Rosa, Laguna, was held in response to the clamor for more transparency. Prior to this event, NAMFREL and other organizations were not allowed to have access to the COMELEC warehouse in Laguna. In this event, COMELEC presented the process of preparation of the VCM and the Consolidation and Canvassing System (CCS). The walkthrough included a presentation of the sample kit of the VCM as well as a plant tour where they showed how the VCMs and CCS Laptops were being prepared.

<sup>77</sup> COMELEC, <https://comelec.gov.ph/index.html?r=2022NLE/Resolutions/res10712>

## 4. LSCR End-to-End Demonstration (22 March 2022) and VCM System Hash Code

The End-to-End Demonstration was the culmination event of the LSCR, during which the COMELEC conducted a full simulated election and transmission demonstration. The event was opened to all political parties, media and other stakeholders. After the demo, NAMFREL's IT team pointed out the VCM System Hash Code shown during the demo did not match what was published during the second Final Trusted Build. In an email-letter to Commissioner Marlon Casquejo dated 23 March 2022, NAMFREL pointed out this discrepancy. On 24 March, NAMFREL found on the COMELEC website a “CERTIFICATION OF CORRECT SYSTEM HASH” by the Technical Evaluation Committee (TEC) and the letter from Pro V & V with the subject “Generated VCM System SHA256 Hash Discrepancy.” The certification came with a letter from Pro V&V addressed to COMELEC, making reference to NAMFREL's email-letter to Commissioner Casquejo. Pro V&V reported that the hash value generated by the VCM was correct, but that humans physically typed the hash value into the certification documentation manually, leading to the error discovered by NAMFREL.<sup>78</sup>

**What is a system hash code?** “Following the trusted build, a hash code of the VCM software was generated. The hash code is a kind of fingerprint of the software. If a change in the software is introduced, a different hash code will be generated. The hash code of the current version of the VCM software has been posted in the Comelec's website and it is printed on the diagnostic report which is generated after VCM startup.”

Source: (Lito Averia, NAMFREL National Council Member, “People ask: Is the AES secure?”, *The Manila Times*, 2 March 2022, <https://www.manilatimes.net/2022/03/02/opinion/columns/people-ask-is-the-aes-secure/1834770>)

In addition, the process of building the components into a system, which included the generation of the system hash, was never shown publicly to anyone. Aside from the VCM System Hash, there were no other hash codes shared with the public to check. Without this process shown to the public, the whole LSCR process would seem to be futile. In other words, without the system hash generation process in full view of stakeholders, the source code that NAMFREL saw and reviewed during the SCR could be different from what was used by the VCMs

<sup>78</sup> <https://comelec.gov.ph/php-tpls-attachments/2022NLE/AutomatedElectionSystem/VCMSystemHash.pdf>



on election day. In layman's terms, the software used on the VCMs on election day could have been different from the software reviewed by NAMFREL and other IT observers during the SCR because the source code could have been edited in the meantime.

Based on these points, NAMFREL wrote a follow-up email-letter dated 25 March 2022 to Commissioner Casquejo requesting for the following.

- (a) Process documentation from Pro V & V on how they prepare documents and encode the hash code into the Certificates that was signed by the TEC.
- (b) Documentation on the verification process of Pro V & V on the certification process;
- (c) Documentation on the verification process of COMELEC that the Final Trusted Build binaries are deployed on the AES system;
- (d) An observable proof of the generation of the system hash codes of all AES components;
- (e) An observable proof that the output of the Trusted Build was actually installed on components of the AES, particularly the VCMs;
- (f) Allow independent verification of all the hash codes of the binaries and the system as listed in the "CERTIFICATION ON AES FINAL TRUSTED BUILD" as revised dated 13 January 2022.

NAMFREL received no response to its 23 and 25 March letters.

## 5. Printing of Official Ballots (15 March 2022)

Observing the entire printing process of the official ballots for the 2022 NLE at the National Printing Office (NPO) in Diliman, Quezon City was part of NAMFREL's work program. However, the COMELEC did not issue any guidelines for stakeholders and accredited citizens' arms regarding face-to-face observation. COMELEC later said it limited the face-to-face observation of the process due to the pandemic.<sup>79</sup> NAMFREL requested COMELEC through letters to be allowed to observe the printing process, but the Commission gave no definite answer regarding the matter.

<sup>79</sup> *Senate Committee on Electoral Reforms and People's Participation (9 March 2022)* - <https://www.youtube.com/watch?v=WOCF2MppZco>

To satisfy its stakeholders' plea to make the ballot printing process more transparent, COMELEC organized two events prior to opening the ballot printing process: a) Walkthrough of the Printing of Ballots at the NPO by the COMELEC Printing Committee (15 March 2022), and b) Random Testing of Printed Ballots (24 March 2022). NAMFREL attended both events.

The accredited citizens' arms and political parties observed the walkthrough, and the event was covered by the media. The COMELEC explained the ballot printing process as well as the packaging process. After the presentations, the stakeholders and the media were allowed to observe the printing and packaging of the ballots in the viewing area.

During the walkthrough, Commissioner Casquejo announced that 73% of the 67,442,616 ballots were already printed. However, only 55% were verified. The verification of the printed ballots using the VCMs was still ongoing. The manual ballots and overseas ballots were 100% printed. The printing of ballots was "on time" according to Commissioner Casquejo as the printing and packaging were being done day and night and with enough workforce to operate. He also mentioned that the matter of allowing citizens' arms to observe the ballot printing was still to be decided in a COMELEC En Banc meeting. However, beginning 16 March 2022, political parties and candidates' representatives were to be allowed in the NPO for inspection and demonstration.

During the event, people entering the venue were required to have a temperature check. In the viewing area for the ballot printing and packaging, only 10 people were allowed to enter with a maximum 10-minute time limit. However, social distancing in the venue was barely observed.

## 6. Random Testing of Printed Ballots (24 March 2022)

The COMELEC Printing Committee held a random checking of the printed ballots and ballot verification demonstration at the NPO conference room. It invited representatives of political parties, media, local source code reviewers, members of the COMELEC Advisory Council, civil society organizations, and other stakeholders to randomly check the ballots from the select Official Ballots (OB) box (box refers to packaging).

The random checking was not extensive. Observers were just able to check a few (not all, about 5-20 ballots) of the OBs in a bundle. The random checking took only



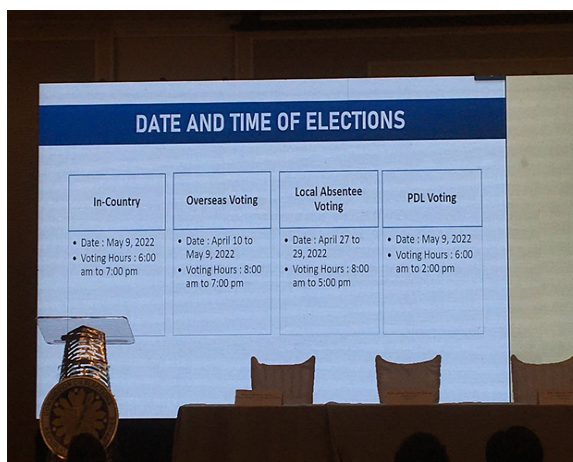
around 30-40 minutes and was assisted by COMELEC personnel. Every observer was only able to observe one ballot during the machine verification.

All observers were required to surrender all recording equipment/gadgets, including smartphones, before entering the checking area. All kinds of recording (photo, video, digital, and written records) were prohibited inside the venue while the random checking was ongoing. This was done as a security measure to OBs to avoid leakage of information such as the serial numbers on the OB boxes, according to COMELEC. All observers who participated in the random checking were required to wear surgical gloves to avoid OB tampering and leaving unintended marks. Everyone in the checking area was required to wear face masks.

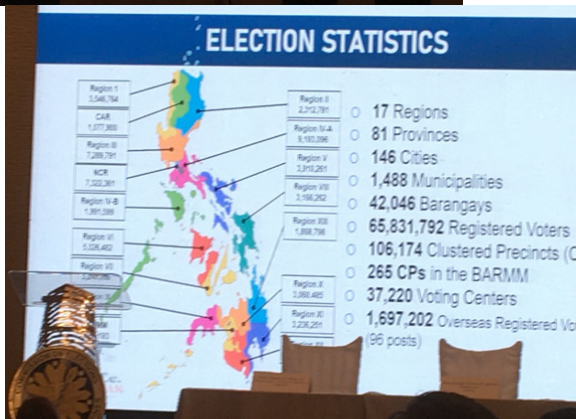
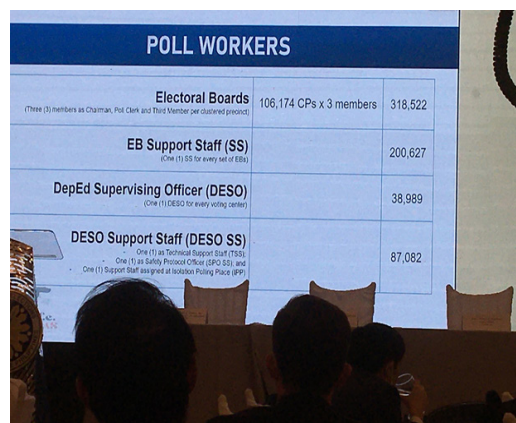
## 7. VCM Demo to the Diplomatic Corps at the Rizal Park Hotel (29 March 2022)

The event was attended by members of the diplomatic corps and other guests, including NAMFREL.

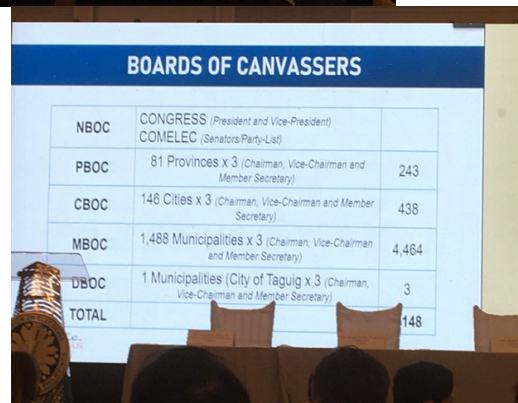
The COMELEC presented the dates and timeline of the 2022 NLE for in-country voting, overseas voting, local absentee voting, and PDL (persons deprived of liberty) voting, election statistics, and the number of poll workers and boards of canvassers.



DATE AND TIME OF ELECTIONS			
In-Country	Overseas Voting	Local Absentee Voting	PDL Voting
<ul style="list-style-type: none"> <li>Date : May 9, 2022</li> <li>Voting Hours : 6:00 am to 7:00 pm</li> </ul>	<ul style="list-style-type: none"> <li>Date : April 10 to May 9, 2022</li> <li>Voting Hours : 8:00 am to 7:00 pm</li> </ul>	<ul style="list-style-type: none"> <li>Date : April 27 to 29, 2022</li> <li>Voting Hours : 8:00 am to 5:00 pm</li> </ul>	<ul style="list-style-type: none"> <li>Date : May 9, 2022</li> <li>Voting Hours : 6:00 am to 2:00 pm</li> </ul>

POLL WORKERS		
Electoral Boards (Three (3) members as Chairman, Poll Clerk and Third Member per clustered precinct)	106,174 CPs x 3 members	318,522
EB Support Staff (SS) (One (1) SS for every set of EBs)		200,627
DepEd Supervising Officer (DESO) (One (1) DESO for every voting center)		38,989
DESO Support Staff (DESO SS) One (1) as Technical Support Staff (TSS) One (1) as Safety Protocol Officer (SPO SS), and One (1) Support Staff assigned at Random Polling Place (RPP)		87,082



BOARDS OF CANVASSERS		
NBOC	CONGRESS (President and Vice-President) COMELEC (Senators Party-List)	
PBOC	81 Provinces x 3 (Chairman, Vice-Chairman and Member Secretary)	243
CBOC	146 Cities x 3 (Chairman, Vice-Chairman and Member Secretary)	438
MBOC	1,488 Municipalities x 3 (Chairman, Vice-Chairman and Member Secretary)	4,464
DBOC	1 Municipalities (City of Taguig x 3 (Chairman, Vice-Chairman and Member Secretary))	3
TOTAL		148

The demonstration of the VCM then proceeded. Several VCMs were provided and located at strategic locations within the venue. Guests participated in the mock voting.

The demonstration was uneventful.

## 8. Briefing for Media and Other Stakeholders at UST with simultaneous walkthrough of the data servers (30 April 2022)

The COMELEC briefed stakeholders who would be allowed secure copies of the electronically transmitted ERs via the Transparency Media Server (TMS), located at the Quadricentennial Arena, University of Santo Tomas (UST), Sampaloc, Manila.

Information covered security arrangements, the process of securing copies of the electronically transmitted election returns via the TMS, and the provision of laptops for various political parties and accredited citizens' arms. Media was advised to provide their own laptops for the purpose.

A guided tour of the facility was then conducted but mobile phones were not allowed in the work area just outside the server room. No photos were allowed.

Held after the UST briefing were simultaneous

walkthroughs at the Central Data Server (PLDT Vitro Taguig, 1/F Bonifacio Technology Center, 31st Street, Bonifacio Global City, Taguig), Transparency Data Center (PLDT Vitro Paranaque, Rack IT Elorde Compound, Brgy. San Antonio, Sucat, Parañaque), and Back-up Data Center (Data One, 6/F IBM Plaza, Eastwood City Cyberpark, E. Rodriguez Jr. Ave, Quezon City). The walkthroughs were streamed live to the TMS location.

The NAMFREL IT Team attended the walkthrough at the Central Data Server and the Transparency Data Center.

The designated room for monitoring the Central Data Server in the Bonifacio Technology Center was on the second floor. The setup, as discussed by the COMELEC, would consist of four computers connected via LAN to the data server. One computer would monitor the database, one for application, one for telecom signal strength, and one for network security. The computers monitoring the database, the application, and network security would require split password access. One password would be from COMELEC staff, the other from Smartmatic.

Participants then visited the cage of the physical data server. The guards were strict in checking if the participants were authorized by the COMELEC. Two security cameras were present inside the cage of the server, and two outside the cage.

In the Transparency Data Center, participants were divided into two groups and required to pass through three secured entrances before reaching the server room. No photos were allowed inside. COMELEC servers were inside secured cabinets, enclosed in a metal cage for additional security, and equipped with CCTV cameras, the footage from which were broadcasted at the UST.

Discussed by the Smartmatic representative were data transmission and process, file transfers, and security arrangements. In detail, the topics involved:

- (a) Stress test - doubling the actual expected transmitted data
- (b) Package transmission – files would be sent every 15 minutes
- (c) Resolutions on issues and escalations
- (d) Transmission of data from the data center to UST via the file transfer module
- (e) Precinct results – Would be monitored, received and stored only
- (f) Only authorized representatives from Smartmatic and Comelec would monitor the operations of the

Transparency Data Center. No observers would be allowed.

Before ending the session, participants were given a chance to ask questions and clarify the process.

## 9. Other activities

(a) Loading and Dispatch of AES supplies (2 April 2022), which was ceremonial

(b) Loading and Dispatch of Official Ballots and Other Supplies (19 April 2022)

## 10. Technical Meeting for End-Users of the Transparency Media Server Room (4 May 2022)

COMELEC held the meeting with representatives of political parties, mainstream media, and citizens' arms to discuss the procedure for transferring election results data from a laptop to a flash drive. The following guidelines were laid down:

- (a) COMELEC would issue two ID cards on 6 May 2022.
- (b) Only two representatives per organization would be allowed inside the TMS Room.
- (c) Only the representatives listed by the organization would be allowed to swap with other representatives.
- (d) Citizens' arms and political parties would be required to submit two USB flash drives that have 16 GB or higher capacity. Media organizations would be required to submit a laptop and two USB flash drives that have 16 GB or higher capacity.
- (e) Only media organizations would have a designated room to upload data from the TMS Room.
- (f) Smartphones would not be allowed inside the TMS Room.
- (g) A face mask would be required while a face shield would be optional.

# 3 VOTE FOR US

## PUBLIC INFORMATION AND VOTER EDUCATION

NAMFREL made a major push on public information and voter education for the 2022 elections online. These efforts included the following:

### A. Open Election Data Website

NAMFREL's open election data website, [www.voteforus.org.ph](http://www.voteforus.org.ph), intended to assist the COMELEC with its voter communication and information efforts, anchored on transparency and open data principles. The website set out to be a "one-stop shop" for voters to be informed of important information with regard to the 2022 NLE.

During the registration period, the website invited voters to use it to search for the address and contact info of local COMELEC offices. As the election calendar unfolded, NAMFREL added data sets on: COMELEC distribution hubs of election equipment and supplies, Links to lists of candidates, Links to videos candidates' debates, Links to COMELEC resolutions organized by category, Election calendar, Information on overseas voting, AES procurement, and NAMFREL's various videos (discussed below).

The website continues to be a work in progress, and will be updated with new data sets following the COMELEC's calendar on succeeding elections.

From the period January to May 2022, the Vote for Us website gained 7,165 unique visitors, 74,528 visits, 183,577 pages, 872,426 hits, and bandwidth of 20.92 GB.<sup>80</sup> The following figures are monthly visit statistics.

<sup>80</sup> "Unique visitors" refers to the number of visitors measured by the unique IP addresses. Unique visitors were counted only once no matter how many times they visited the site. If multiple users accessed the site from the same IP (such as a home or office network), they were counted as a single unique visitor.

### B. Social Media

NAMFREL maintained social media accounts for NAMFREL and for the Vote For Us website. NAMFREL attracted thousands of new followers and undeterminable amounts of engagements on Facebook, Twitter, Tiktok, YouTube, and Instagram. NAMFREL posted announcements, photos, statements and press releases on these social media channels.

### C. Educational Videos

NAMFREL released a series of short videos called Botante Bits to guide the public through the different processes of the 2022 elections. Topics include Voter Registration, Certificate of Candidacy, Local Source Code Review, Vote Counting Machines, Voters Lists, and Candidates. The short-form videos were made available on TikTok and Instagram, while the long-form videos were made available on YouTube. (<https://www.voteforus.org.ph/videos/botante-bits-series/>).

NAMFREL also created three long-form videos with the purpose of not only informing the public about important aspects of the polls, but also to make the public aware of what to look out for during specific election-related activities, and encourage them to become citizen election observers. The videos were:

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"Visits" refers to the number of visits made by all visitors.

"Hits" refers to the number of pages, graphics, photos, videos, animation, scripts, etc. being viewed on the site. For example, if a page has one photo, one video and one animation, that is equivalent to four hits (one hit for the page, one hit for the photo, one hit for the video, and one hit for the animation).





### 1. Pagboto sa NEW NORMAL 2022 National and Local Elections

This is a walkthrough of the COMELEC's "new normal" voting process, highlighting what was going to be different this time due to the adoption of anti-COVID protocols.

### 2. Ang Automated Election System 2022

The video explained in layman's terms the concepts surrounding the AES Philippine automated election system, as well as demystified the vote counting machine (VCM), discussing in great detail its parts, functions, and usage throughout the different election day processes.

### 3. Bantay ng Bayan

NAMFREL emphasized how ordinary Filipinos could be citizen election observers, even if they did not belong to citizen's election monitoring organizations, political parties and election management bodies. The video enumerated the different violations that citizens could easily look out for during the different phases of the electoral process. It also outlined how and to whom citizens can report -- or seek assistance to officially

report -- these violations, which included the COMELEC itself, election monitoring organizations like NAMFREL, the authorities like the PNP, political parties, and especially the media.

The videos were made available on NAMFREL's YouTube channel (<https://www.youtube.com/NamfrelBantayngBayan>).

## D. Online Briefings

Starting in 2021, NAMFREL conducted online press briefings to talk about its AES observations and recommendations.

NAMFREL also launched a limited series of talk shows on Twitter Spaces called "NAMFREL Huddle", moderated by the NAMFREL National Secretariat Team. Episodes were devoted to topics such as qualifications of candidates, vote counting machines, election monitoring, transparency in vote count, election day experience, and campaign contributions. NAMFREL Huddle episodes may be streamed at the NAMFREL Twitter account (<https://twitter.com/namfrel>) and on NAMFREL's YouTube channel linked above.







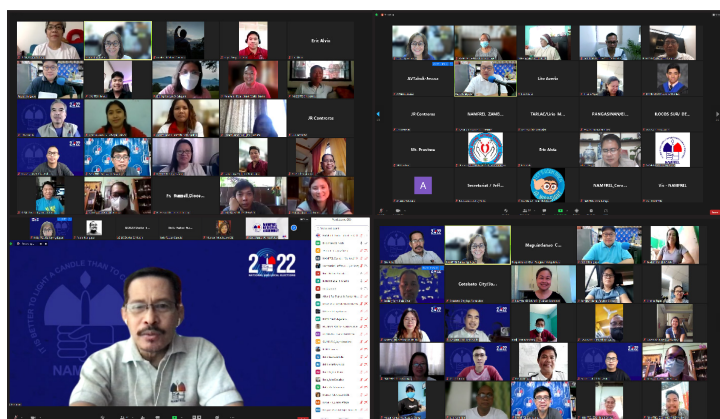
# PRE-ELECTION LOCAL MONITORING

Through its chapters nationwide, NAMFREL observed pre-election activities, as early as January 2021.

As in past elections, NAMFREL recruited and mobilized volunteers nationwide to monitor election-related activities during the pre-election period, election day, and post-election period.

NAMFREL conducted recruitment both at the local level and online.

NAMFREL encountered difficulty in recruiting volunteers for the 2022 NLE. This was brought about by the ongoing COVID-19 pandemic, which caused past volunteers to beg off from serving this time, as well as the fact that many colleges and universities were still not conducting face to face classes. Traditionally, these educational institutions were a source of volunteers during election periods. In addition, many volunteers in past elections opted to become partisan for the 2022 NLE.



## A. Electoral Exercises in 2021

In 2021, NAMFREL was accredited by the COMELEC to observe the March 2021 Palawan Plebiscite. In addition, NAMFREL observed:

- (1) The voter registration process in different parts of the country from January to April 2021
- (2) The voting simulation exercise on 23 October 2021 in San Juan City
- (3) The observation of mock elections on 29 December 2021 in various locations around the country



NAMFREL provided COMELEC reports on its observations as well as recommendations on these activities, and shared the same to the public as well as to Congress during past hearings of the JCOC. Many of the observations had to do with health and safety protocols.<sup>81</sup>

NAMFREL also recommends the following legislative measures on voter registration. These measures will greatly help make the process more efficient, less costly, and more convenient for Filipinos.

(1) Allow data sharing agreements between the Philippine Statistics Authority (PSA) and the Comelec in order to dispense with the voter registration process. This would save time and costs not only for the local Comelec offices but also for would-be voters who have to line up even before the sun has risen just to be able to submit their applications. Congress may study and adopt the system used in Indonesia, where the government is mandated to provide citizenship data to be used by the Indonesian General Elections Commission (KPU) for compiling the voters list.<sup>82</sup> The data given to KPU

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<sup>81</sup> NAMFREL Report on Limited Observation of the Registration Process (January-March 2021), [https://namfrel.org.ph/2021/files/NAMFREL%20Report%20on%20Limited%20Observation%20of%20the%20Registration%20Process%20\(January-March%202021\).pdf](https://namfrel.org.ph/2021/files/NAMFREL%20Report%20on%20Limited%20Observation%20of%20the%20Registration%20Process%20(January-March%202021).pdf); NAMFREL releases preliminary observations on the 2021 Mock Elections, [https://namfrel.org.ph/2021/files/NAMFREL%20Preliminary%20Observations%20on%20the%202021%20Mock%20Elections%20\(PDF\).pdf](https://namfrel.org.ph/2021/files/NAMFREL%20Preliminary%20Observations%20on%20the%202021%20Mock%20Elections%20(PDF).pdf)

<sup>82</sup> According to Article 201, Law No. 7/2017, unofficial translation: "(1) The national and regional government shall provide citizenship data in the form of:  
a. per-sub-district aggregate citizenship data as an ingredient for KPU to determine the electoral district for election of members of Regency/City DPRD;  
b. potential voter list, as an ingredient for KPU to form the temporary voter list; and  
c. data of Indonesian citizens residing abroad, as an ingredient for KPU to determine the electoral districts overseas and overseas temporary voter list.

(2) Citizenship data, as mentioned in paragraph (1) letter a, must be already available and provided by the Minister of Home Affairs to the KPU at the latest 16 (sixteen) months prior to Election Day.

(3) Data of Indonesian citizens residing abroad, as mentioned in paragraph (1) letter c, must be already available and provided by the Minister of Foreign Affairs to the KPU at the latest 16 (sixteen) months prior to Election Day.

comes from people registered in the electronic Resident Identification Card (e-KTP) scheme, the Indonesian national ID system;

(2) Require the PSA and the Civil Registrars nationwide to submit to the COMELEC the information on deceased persons so that they can be purged from the voter registration database;

(3) Allow data on citizens turning 18 years old for purposes of NLEs, plebiscites, referenda, etc., and 15 years old for purposes of the SK elections, to be shared by the Civil Registrars with COMELEC. This and the previous recommendation would be subject to Data Sharing Agreements in accordance with Republic Act No. 10173 or the Data Privacy Act;

(4) Repeal "Any person who did not vote in the two (2) successive preceding regular elections as shown by their voting records" as a ground for deactivation under Section 27 of Republic Acts No. 8189 (for local voters) and 9189, as amended by R.A. 10590 (for overseas voters). Voters should not be penalized for the failure to exercise their right to choose our leaders, and then line up before sunrise to apply for reactivation. Instead, they

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(4) Citizenship data, as mentioned in paragraph (2) and paragraph (3), shall be synchronized together by the government and the KPU in, at most, 2 (two) months since the citizenship data being received by the KPU from the Minister of Home Affairs and Minister of Foreign Affairs.

(5) Citizenship data, after being synchronized together by the government and the KPU as mentioned in paragraph (4), shall become the Potential Voter List.

(6) the Potential Voter List, as mentioned in paragraph (5) must be provided for the KPU at the same time by the national and regional governments at the latest 14 (fourteen) months prior to Election Day, through the following mechanism:

a. Minister of Home Affairs provides the Potential Voter Data to the KPU, and

b. Minister of Foreign Affairs provides the Potential Voter Data to the KPU.

(7) Citizenship data, as mentioned in paragraph (1) letter b, and the data of Indonesian citizens residing abroad as mentioned in paragraph (1) letter c, shall be used to supplement the fixed voter list of the most recent election.

should be encouraged to vote through the adoption of voting technology (for example, Internet voting) and/or mechanisms (polling places close to their residences), and enlightened on the importance of their choice and how they can exercise it. If the reason for including failure to vote as a ground for deactivation is that those who failed to vote may have done so because of death, this would be addressed by the PSA and the Civil Registrars nationwide submitting information on deceased persons to the Comelec.

## **B. Campaign Activities**

NAMFREL chapters around the country observed activities during the campaign period. While the observations were generally positive, with no violence or other untoward incidents observed, the general consensus was that many COVID-related protocols were not followed or enforced during these observed activities. The top protocols violated included physical distancing, proper wearing of face masks, physical contact and taking of photos of candidates in close proximity with attendees.

Another prevalent observation was the physical distribution of food, drinks, and other items to attendees, which was disallowed by the COMELEC in its campaign guidelines.<sup>83</sup>

One NAMFREL chapter reported that some campaign materials belonging to a candidate found in a certain area were removed by campaigners for an opponent. Another chapter observed that the campaign posters of only one candidate could be seen along a highway. The manner of regulating billboards and spaces owned by candidates was the concern of a separate NAMFREL chapter.

A NAMFREL chapter reported that a candidate could not enter a particular village/area. Another chapter reported that disinformation arose that a candidate was not allowed by the incumbent to hold a political rally in a certain venue. The fact was that the candidate decided to move their political rally elsewhere. Political rallies in another area could not be conducted by candidates because of a ban by the incumbent mayor, according to a different chapter, or by supporters of opposing

candidates, as recounted by another chapter. Lastly, a separate chapter wanted to conduct a political forum but the incumbent prevented its holding in a certain venue.

Loud sounds as early as 6 A.M. was a complaint by a different chapter.

Regarding quarrels, four NAMFREL chapters reported that there were small incidents between different political camps or their supporters in small villages.

Supporters of one candidate tried to intimidate a homeowner to put campaign materials on the house, according to one NAMFREL chapter. The homeowner did not approve so the supporters fired a shot. The house was near a military checkpoint so the incident did not escalate.

## **C. Public Demo of VCMs**

Several NAMFREL chapters around the country observed the public demonstration of VCMs conducted by the local COMELEC. The observations were generally positive. However, volunteers noted issues with some VCMs during the startup and counting processes, most notably, paper jam and difficulty in inserting the ballots. About a third of the observations NAMFREL received also reported that ERs were not printed during these VCM demos.

## **D. Delivery of VCMs and Election Materials**

NAMFREL chapters observed the deployment of VCMs and other election materials from the delivery hubs to voting centers. Election materials delivered included backup batteries, ballot papers, ballot boxes, election forms, and other election paraphernalia.

Volunteers noted that seals were intact in all the deliveries observed. The packaging also appeared intact and undamaged in almost all items observed, and all the storage locations appeared secure.

Some volunteers noted that in some areas, the deliveries were not announced ahead of time, causing some observers to arrive late. A NAMFREL chapter reported that some deliveries were delayed.

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<sup>83</sup> COMELEC Resolution No. 10732, [https://comelec.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com\\_res\\_10732.pdf](https://comelec.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com_res_10732.pdf), as amended by COMELEC Resolution No. 10769, [https://comelec.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com\\_res\\_10769.pdf](https://comelec.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com_res_10769.pdf)



## E. Final Testing and Sealing (FTS)



NAMFREL volunteers across the country observed FTS of VCMs in the week leading up to election day. NAMFREL received observations corresponding to about 400 VCMs.

Three NAMFREL chapters reported that the local COMELEC gave them short notice about the FTS, hence, none of its volunteers could observe the FTS.

While some problems were encountered during the FTS, the majority of the responses were positive. During the startup process, about a quarter of the VCMs encountered some problems. Issues mentioned by volunteers include the following: paper jam, ballot being rejected, USB device unable to be read, difficulty in inserting the ballots, delay in fixing VCMs, problem with SD cards, wrong placement of VCM on top of the ballot box. Additionally, about a quarter of VCMs observed during the FTS also had issues during the counting process, and of VCMs stopping to operate.

However, volunteers mentioned that many of these issues were easily resolved by the members of the EBs by re-inserting the ballots, changing the orientation of the ballot before re-inserting, and flattening the ballot papers when crumpled. In contrast, three NAMFREL chapters reported that the EBs were not trained well. One chapter reported that even the technical support staff tasked to address issues with the VCMs was improperly trained.

During counting, the manual count of the FTS ballots matched the automated count in about 98% of the VCMs. For those that did not match, the EBs did a recount (some ovals were not shaded properly), refreshed the machine, or restarted the machine. Over-voting also accounted for the mismatch, and the EBs explained

this reason adequately to the observers. According to observations reported by NAMFREL volunteers, only three of the VCMs observed during FTS were deemed defective.

## F. Voter's Information Sheet and Online Precinct Finder

Republic Act No. 7904 requires the COMELEC to furnish every registered voter with an unfilled official sample ballot, voter information sheet (VIS), and a list of all registered national, provincial and city candidates to be voted in the election at least 30 days before said election. The VIS should include the voter's name, address, the precinct and the place where he is registered, and simple instructions as to the casting of votes.<sup>84</sup>

While the COMELEC announced on 20 April 2022 that the printing of VIS was completed,<sup>85</sup> not many voters received them. A big number of voters did not receive their VIS. For instance, the NAMFREL Quezon City Chapter Head was assured by the six District Election Officers that the VIS have been sent out through the respective barangays. Yet, residents of Pasong Tamo, Tandang Sora District, did not receive their VIS.

Voters instead resorted to checking their registration status, precinct assignment, and voting center through the online Precinct Finder.<sup>86</sup> However, the Precinct Finder went online only on 20 April 2022, with 17 days left before the elections.<sup>87</sup>

In the last week prior to election day, NAMFREL received

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<sup>84</sup> "At least thirty (30) days before an election, it shall be the duty of the Commission on Elections to furnish every registered voter through registered mail with return card, personal service with corresponding receipt to be signed by the voter or any person who knows the voter, or any other practicable means with an unfilled official sample ballot, voter information sheet, and a list of all registered national, provincial and city candidate to be voted in the said election. The information sheet shall include the voter's name, address, the precinct and the place where he is registered, and simplified instructions as to the casting of votes." (<https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/OtherElectionLaws/RA7904>)

<sup>85</sup> <https://www.pna.gov.ph/articles/1172578>

<sup>86</sup> [https://voterverifier.comelec.gov.ph/voter\\_precinct](https://voterverifier.comelec.gov.ph/voter_precinct)

<sup>87</sup> Daniza Fernandez, "DICT to activate voter precinct finder on Apr. 22", *Inquirer.net*, 21 April 2022, <https://newsinfo.inquirer.net/1586264/dict-to-activate-voter-precinct-finder-on-apr-22>, citing COMELEC



complaints via email and social media from distraught citizens saying that the Precinct Finder reported that their records could not be found. They wanted to know if their names were stricken off the registration roll for failure to vote in the last two elections. Even until the Saturday and Sunday prior to election day, voters were still only by that time finding out that their names were not in the online precinct finder, and that they could not confirm whether they would be able to vote from their respective local COMELEC offices because it was the weekend. The information from the Precinct Finder could have caused some voters not to go on their polling places on election day, effectively disenfranchising them.

### G. AES Calendar Monitoring

COMELEC issued Resolution No. 10365 stating its list of activities for the 2022 NLE.<sup>88</sup> However, it did not contain any items on preparations for the 2022 NLE. These were instead contained on a separate AES calendar that is not publicly available on the COMELEC website.<sup>89</sup> The dates on the AES calendar served only as rubber dates and not as deadlines, although delays could have been possibly caused by quarantine restrictions due to the COVID-19 pandemic.

For example, the LSCR was scheduled under the AES calendar to take place from 1 June 2021 to 30 October 2021. However, the local source code review began only on 5 October 2021,<sup>90</sup> and ended with the LSCR End-to-End Demonstration on 30 March 2022. Refurbishment of VCMs was scheduled under the AES calendar to occur from 1 February to 31 October 2021, but as of 13 September 2021, the refurbishment rate was 38.25% or 37,230 out of 97,345 machines. The COMELEC set the completion target date on 30 November 2021.<sup>91</sup> As of 27 November 2021, only 46 machines remained for repair.<sup>92</sup> Delivery of machines, peripherals and consumables was scheduled on 1 July to 30 October 2021. However,

<sup>88</sup> COMELEC, <https://comelec.gov.ph/?r=2022NLE/Resolutions/res10695>

<sup>89</sup> Available at <https://www.vote4orus.org.ph/election-calendar/#tab-strongaesstrong>

<sup>90</sup> COMELEC, <https://www.facebook.com/comelec.ph/posts/228778235954683>

<sup>91</sup> JCOC-AES (15 September 2021), <https://www.youtube.com/watch?v=kkwNQ4NDhqq>

<sup>92</sup> COMELEC Deputy Executive for Operations Director Teopisto Elnas, during his presentation at NAMFREL's "New Normal 2022 Elections: Are We Ready? A Stakeholders' Forum on the 2022 Elections", held on 29 November 2021, <https://youtu.be/prbP77QG2xQ?t=1583>

loading and dispatch of AES supplies began only on 2 April 2022,<sup>93</sup> while loading of official ballots and other supplies started on 19 April 2022.

In contrast, printing of FTS and official ballots was scheduled on 12 January to 25 April 2022. The printing began on 19 January,<sup>94</sup> and ended early on 2 April. However, as discussed earlier, much of the process took place without observers.

COMELEC should prepare and implement a realistic, doable, and transparent election calendar, that should also include items in relation to preparation for the elections, for the guidance of all election stakeholders.

### H. Early Voting

NAMFREL had suggested in the past that an advance voting day be conducted several days before election day for senior citizens, persons with disabilities, officials rendering election day duty, citizens who will be working on election day, those confined in hospitals and penitentiaries, indigenous people living in remote areas, and others.<sup>95</sup>

Local absentee voting during the 2022 NLE, held on 27-29 April 2022 (before election day on 9 May), remained limited to government officials and employees, including members of the Armed Forces of the Philippines (AFP), and the Philippine National Police (PNP) as well as members of the media, media practitioners including their technical and support staff (media voters) who are duly registered voters. They could only vote for national positions.<sup>96</sup>

The House of Representatives passed a bill allowing qualified senior citizens and persons with disabilities to vote at accessible establishments designated by the COMELEC within seven working days before election day. But it was not passed into law.<sup>97</sup>

<sup>93</sup> COMELEC, [https://www.facebook.com/watch/live/?ref=watch\\_permalink&v=744650766919578](https://www.facebook.com/watch/live/?ref=watch_permalink&v=744650766919578), <https://www.facebook.com/comelec.ph/posts/342201354612370>

<sup>94</sup> William B. Depasupil, "Printing of ballots starts", *Manila Times*, 19 January 2022, <https://www.manilatimes.net/2022/01/19/news/national/printing-of-ballots-starts/1829878>

<sup>95</sup> NAMFREL Report 2016 National and Local Elections

<sup>96</sup> COMELEC, <https://comelec.gov.ph/index.html?r=2022NLE/LocalAbsenteeVoting>

<sup>97</sup> <https://www.congress.gov.ph/legisdocs/?v=billsresults#18>, <https://hrep-website.s3.ap-southeast-1.amazonaws.com/>

## I. Other Modes of Voting

NAMFREL also recommended in the past that other alternative voting methods such as online voting, postal voting, mobile ballot boxes, etc., and combinations be explored for those mentioned earlier as additional groups for early voting and for overseas Filipino workers.

<sup>98</sup>

NAMFREL also suggested the development of an appropriate voting technology or procedure for small sized voting precincts, precincts in locations with weak or no transmission facilities or overseas voting sites. For overseas voting sites with no turnout, internet voting may be used in future elections to encourage people to vote. Local precincts which have less than one hundred voters could adopt a manual voting system.<sup>99</sup>

Permitting other modes of voting would allow voters who would otherwise fail to vote in two consecutive elections, and then have their voter registration deactivated, to exercise their right to choose the leaders of this country. Other modes of voting would be a better alternative to reactivation of voter registration, as discussed in the section of this report chapter on Electoral Exercises in 2021.

COMELEC conducted test runs on internet voting solutions in September 2021, as part of an exploratory study on the use of internet-based technology for overseas voting. This was authorized by Section 28 of the Overseas Voting Act of 2013.<sup>100</sup> NAMFREL participated in these test runs, and gave feedback to the COMELEC.

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*legisdocs/third\_18/HBT9562.pdf*

<sup>98</sup> NAMFREL Report 2016 National and Local Elections

<sup>99</sup> NAMFREL Report 2016 National and Local Elections

<sup>100</sup> "SEC. 28. Authority to Explore Other Modes or Systems Using Automated Election System. - Notwithstanding current procedures and systems herein provided, for the proper implementation of this Act and in view of the peculiarities attendant to the overseas voting process, the Commission may explore other more efficient, reliable and secure modes or systems, ensuring the secrecy and sanctity of the entire process, whether paper-based, electronic-based or internet-based technology or such other latest technology available, for onsite and remote registration and elections and submit reports and/or recommendations to the Joint Congressional Oversight Committee." (Republic Act No. 9189 [2003], as amended by Section 28 of Republic Act No. 10590 [2013], <https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/OAV/RA10590>).



## ELECTION DAY MONITORING

NAMFREL volunteers turned up at voting centers across the country to observe and help safeguard the 2022 NLE. They observed the election day processes, from the opening process until canvassing. Some chapters also observed the pull-out of VCMs to be used for RMA in Manila.

As citizens' arm for the 2022 elections, NAMFREL had the function and duty under Section 52(k) of the Omnibus Election Code to "[n]ominate one watcher for accreditation in each polling place and each place of canvass who shall have the same duties, functions and rights as the other watchers of political parties and candidates."<sup>101</sup> NAMFREL also had the right to a copy of the printed Election Returns under the Election Automation Law.<sup>102</sup>

A new challenge was posed to accredited citizens' arm in the 2022 NLE from the COMELEC's General Instructions for the Electoral Boards: that polling place volunteers must be registered voters at the city/municipality where they were to be deployed.<sup>103</sup>

<sup>101</sup> <https://comelec.gov.ph/index.html?r=References/RelatedLaws/OmnibusElectionCode/OECart7>

<sup>102</sup> "13) The twenty-seventh to the thirtieth copies, to the major citizen's arms, including the accredited citizen's arm, and other non-partisan groups or organizations enlisted by the Commission pursuant to Section 52(k) of Batas Pambansa Blg. 881. Such citizens' arm, groups and organization may use the four certified copies of election returns for the conduct of citizens' quick counts at the local or national levels;" (Section 22, Republic Act No. 8436, as amended by Section 19, Republic Act No. 9369, <https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/AutomatedElection/RA9369>)

<sup>103</sup> "No person shall be appointed as a watcher unless said

Nevertheless, the NAMFREL chapter in Negros Occidental reported that certain voting centers and/or polling places did not recognize the NAMFREL volunteers or did not initially allow them to enter the premises. A volunteer reported that an EB chair in Aganan-Ungka I Elementary School in Pavia, Iloilo did not know what to do with the appointment paper. A volunteer in Catuan Elementary School<sup>104</sup> in Gingoog City, Misamis Oriental said that EBs were not kind to welcome them. An EB in Central Elementary School in Bulacan<sup>105</sup> did not permit the volunteers to enter the polling place. Some EBs did not know that NAMFREL was an accredited citizens' arm, hence the refusal.

NAMFREL chapters in Zamboanga del Sur, Negros Occidental, Iloilo, Davao del Oro, Pampanga, Sorsogon, Laguna, Nueva Ecija, Quezon City, Rizal, Palawan, South Cotabato, Sarangani, and Bohol were also refused copies of ERs by some EBs, even though NAMFREL was entitled to a copy according to the Election Automation Law, as earlier mentioned. Some EBs reasoned that they had no such instruction, while others instructed NAMFREL

person:

a. Is a registered voter of the city or municipality where such person is assigned;" (Section 46, COMELEC Resolution No. 10727, <https://comelec.gov.ph/index.html?r=2022NLE/Resolutions/res10727>)

<sup>104</sup> Identified as "PMIS" in observation form, covering precinct numbers 0241A and 0241B. The latter corresponded to Catuan Elementary School in COMELEC's Project of Precincts, <https://comelec.gov.ph/?r=2022NLE/ProjectOfPrecincts>

<sup>105</sup> The only Central Elementary School in Bulacan according to COMELEC's Project of Precincts (<https://comelec.gov.ph/?r=2022NLE/ProjectOfPrecincts>) is Calumpit Central Elementary School in Calumpit, Bulacan.



volunteers to claim the copy from the Election Officers.

One chapter reported that a young volunteer experienced intimidation. A volunteer in a different chapter had to be pulled out since their safety was compromised.

A chapter reported that the local COMELEC did not recognize NAMFREL's accreditation as citizens' arm. Another chapter said that the Election Officer of the local COMELEC was replaced four times until the eve of election day, 8 May. The teachers who would have served as EBs in the same area were also replaced by the police.

Volunteers were asked to submit their election observations in three possible ways: physically using paper forms, and electronically using their smartphones either through Google Forms or through the NAMFREL app.

NAMFREL established an Operations Center at its headquarters in Mandaluyong City to receive and process election day observations from its volunteers nationwide. Upon the request of then-Commissioner George Garcia, NAMFREL allotted a space for two of his staff members to facilitate communication between the two institutions for any election-related concern.

### **A. Opening Process**

The early morning of election day prior to the start of voting was characterized by a high turnout of voters, with people lining up in the hundreds outside many voting centers. This was despite the fact that the 2022 NLE was the first nationwide elections held in the Philippines during the COVID-19 pandemic.

A common observation was that the high turnout seemed to have overwhelmed many voting centers, hence COVID-19 protocols were not properly enforced and observed, most especially physical distancing. NAMFREL volunteers reported confusion among voters about queueing procedures outside voting centers, and crowding outside polling places.



Inside the polling places, NAMFREL volunteers' observations were generally positive, with most reports citing almost 100 percent presence of all EB members operating the elections, and completeness of needed materials, starting on time, and following the opening of polls protocols. In some polling places though, volunteers noted that some members of the EB made minor mistakes in procedure, which indicated inadequate training. Some volunteers in certain areas reported that there was power failure which delayed the process.

In Manila, one VCM did not work upon opening of polls at Celedonio Salvador Elementary School.

In Quezon City, VCMs did not work on opening in the following voting centers: two in Pres. Corazon C. Aquino Elementary School (one was working by 12 noon), one in Esteban Abada Elementary School (was not replaced the entire morning), one in Judge Juan Luna High School, one in Cubao Elementary School, two in Culiati Elementary School; one in Culiati High School, one in Pura V. Kalaw Elementary School, and one in Toro Hills Elementary School.

Two SD cards did not work in Teachers Village East Barangay Hall, one in Libis Elementary School, one in Ismael T. Mathay Sr. High School, and two in Pinyahan Elementary School, all in the same city.

### **B. Voting**

Voting went smoothly in general. However, hundreds of polling places observed (representing a small fraction of the total observed) encountered many issues during the voting process.

NAMFREL volunteers most often cited three sets of issues. The first were VCM-related: paper jams, issues with the SD card, and late replacement of problematic machines.

A VCM in Aganan-Ungka I Elementary School in Pavia, Iloilo jammed 10 times according to a volunteer. Another VCM in the same voting center and a VCM in Carlos L. Albert High School in Quezon City jammed four times.

With regard to VCM-related issues, EBs in most of the polling stations concerned were able to fix the problem either on their own or by seeking technical assistance from the DESO technical support staff.

EBs opened the ballot boxes to make room for ballots in



order to stop the ballot jams in some polling places at Las Piñas City National Science High School and Las Piñas East National High School in Las Piñas City; De La Salle Greenhills in Mandaluyong City; PUP San Juan in San Juan City; Marcela Marcelo Elementary School in Pasay City; as well as Judge Juan Luna High School and Santo Cristo Elementary School in Quezon City. A volunteer in Pasay East High School reported that punches were applied on the VCM (sinusuntok) to accept ballots. COMELEC's contingency procedures provided that while waiting for the troubleshooting or replacement of the VCMs or SD cards, the EB should announce to the voters that they have the option:

(a) to proceed in casting their votes by shading their ballots with waiver of their right to be issued a voter's receipt, in which case, these ballots shall be temporarily placed inside the Envelope for Rejected Ballots, Half or Torn Unused Official Ballots and Other Half of Torn Unused Official Ballots, and Counted Official Ballots and which shall be batch-fed by the EB before the close of polls; or

(b) to wait for the VCM malfunction to be resolved or the replacement VCM to arrive, for them to cast their votes and personally feed the ballot in the VCM.<sup>106</sup>

Similar to these waivers were the authorization forms for senior citizens, person with disabilities, and heavily pregnant voters in Emergency Accessible Polling Places<sup>107</sup> and voters with COVID-19 symptoms in Isolation Polling Places.<sup>108</sup> These forms allowed the support staff to bring

<sup>106</sup> COMELEC Resolution No. 10759, <https://comelec.gov.ph/index.html?r=2022NLE/Resolutions/res10759>

<sup>107</sup> "e. Authorization Form - refers to the hereto attached document marked as Annex "A", to be accomplished by a person with disability, senior citizen or heavily pregnant voter availing of the EAPP. The filled-out form shall give consent to the EAPP Support Staff to: a) obtain the ballot from the designated polling place; b) bring such ballot to the EAPP where it will be accomplished; and c) return the same to the polling place where it was obtained for feeding to the Vote and Counting Machine (VCM)" [Section 2(e), COMELEC Resolution No. 10761, [https://comelec.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com\\_res\\_10761.pdf](https://comelec.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com_res_10761.pdf)]

<sup>108</sup> "C. The EB Chairperson shall: [xxx] 2. After the voter's identity has been validated, note in the Minutes of Voting (Minutes) the voter's name, ID card, if any, or the accomplished Annex "A", precinct and serial number of the ballot given to the Safety Protection Officer. The Authorization Form and any other documents submitted shall be placed inside an envelope which will be attached to the Minutes, Documents received from the IPP shall not be comingled with other documents in the polling place" [Section 11, COMELEC Resolution

their accomplished ballots to the voters' polling places for feeding into the VCMs. Voters would not do so themselves and be able to check the VVPAT.

The implementation of the waiver option led to the second set of issues: voters being asked leave their filled out ballot papers with no proper or complete explanation (such as in one polling place at Pinyahan Elementary School in Quezon City); voters being asked to sign waivers with no COMELEC logo, which made many voters to think twice or refuse to do it.

Procedural issues involved lack of physical distancing, lack of control on the flow and number of voters, unauthorized people using express lanes, and watchers being allowed to apply indelible ink.



In many polling places observed, voters reached up to 20 people, but on average, it was five to ten. Voters took three minutes to more than an hour to vote, but the average voting time was five to ten minutes. While voters remained calm, volunteers in Palawan reported that voters stayed in the poll areas for more than three hours due to the sheer number of voters. Due to the long waiting time, voters were irritated at senior citizens receiving priority to vote.

Many polling places observed did not start on time. In Cotabato City, particularly in Cotabato City National High School, Cotabato City Central Pilot School, Villo Central School, and Krismalville Elementary School, NAMFREL volunteers reported that it was past 9am when voting started.

No. 10783, [https://comelec.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com\\_res\\_10783.pdf](https://comelec.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com_res_10783.pdf)

## 1. Replacement of VCMs and SD cards

A majority of the VCMs operated normally, but volunteers relayed cases of malfunctions. In the morning, volunteers reported that additional VCMs required replacement in the following voting centers:

- (a) Kabankalan, Negros Occidental: one in Esteban R. Abada Memorial School (ERAMS West);
- (b) Mainit, Surigao del Norte: one in Magpayang Elementary School;
- (c) Malabon: one in Bagong Lote Elementary School;
- (d) Makati: three in Fort Bonifacio Elementary School;
- (e) Mandaluyong: one in Mandaluyong Elementary School;
- (f) Manila: one in Lakandula High School;
- (g) Navotas: one in Tangos Elementary School (Mother);
- (h) Pasay: two in Pasay City West High School. One VCM simply stopped working altogether while another rejected ballots. The problems were resolved by noon on election day;
- (i) Puerto Princesa City, Palawan: two in Napsan Elementary School, and one in Pilot Elementary School;
- (j) Quezon City: one in Batasan National High School, one in Bagong Silangan Elementary School, one in Doña Juana Elementary School, two in Miriam College, one in Pres. Corazon C. Aquino Elementary School, one in Pura V. Kalaw Elementary School, one in Esteban Abada Elementary School, one in Flora Ylagan High School, one in Ismael Mathay Sr. High School, one in J. P. Laurel Sr. High School, two in Lupang Pangako Elementary School, one in PhilAm Clubhouse, one in St. Paul<sup>109</sup> University, one in P. Bernardo Elementary School, one in E. Rodriguez Elementary School, one in Betty Go-Belmonte Elementary School, one in San Antonio Elementary School, two in Doña Juana Elementary School, one in Bagumbayan Elementary School, two in Quirino Elementary School, one in Kamuning Elementary School, and one in Paltok Elementary School;

<sup>109</sup> “Pauls” in COMELEC’s Project of Precincts, <https://comelec.gov.ph/?r=2022NLE/ProjectOfPrecincts>

- (k) San Carlos City, Negros Occidental: one in Cong. V. Gustilo, Sr. Memorial Elementary School; and
- (l) Santa Maria, Bulacan: one in Balasing Elementary School.

Additional SD cards became corrupt and required replacement in the following voting centers in Quezon City: one in Libis Elementary School, one in Project 3 Elementary School, one in North Susana Clubhouse, one in P. Bernardo Elementary School, one in Doña Juana Elementary School, and one in CBE Town Multi-Purpose Hall, Barangay Pasong Tamo. In the afternoon, more SD cards became corrupt in Quezon City voting Centers: one in Carlos L. Albert High School, one in Flora Ylagan High School, one in Quirino Elementary School, one in San Agustin Elementary School, and one in Valencia Barangay Hall.

In the afternoon, volunteers reported that more VCMs needed replacement in:

- (a) Binmaley, Pangasinan: one in Baybay Elementary School;
- (b) Iloilo City: one in Calumpang Elementary School;
- (c) Las Piñas: two in Manuyo Elementary School;
- (d) Manila: one in Rafael Palma Elementary School;
- (e) Monreal, Masbate: two in Monreal Central School;
- (f) Navotas: one in San Roque Elementary School;
- (g) Pasay: one in Marcela Marcelo Elementary School; and
- (h) Quezon City: two Bagong Silangan Elementary School, two in Pres. Corazon C. Aquino Elementary School, one in Claret School Auditorium, one in Bagumbayan Elementary School, one in Carlos Albert High School, one in Culiati Elementary School, one in Ismael Mathay Sr. High School, one in Kamuning Elementary School, one in North Fairview Elementary School, one in Paltok Elementary School, one in Quirino Elementary School, one in St. Paul<sup>110</sup> University, one in Tandang Sora National High School, two in San Agustin Elementary School, and one in E. Rodriguez Jr. High

<sup>110</sup> “Pauls” in COMELEC’s Project of Precincts, <https://comelec.gov.ph/?r=2022NLE/ProjectOfPrecincts>

School.

As of 1:14 P.M. on election day, the NAMFREL Quezon City chapter reported additional defective VCMs: one in Teachers Village Elementary School,<sup>111</sup> one in Krus<sup>112</sup> Na Ligas Elementary School, one in San Bartolome Elementary School, one in Doña Rosario Elementary School, one in San Gabriel Elementary School, one in Lagro Elementary School, one in San Francisco Elementary School, and one in Holy Spirit Elementary School.

Five VCMs were defective and pulled out from Abra State Institute of Science and Technology Bangued Campus.

Some machines that broke down took too long to be replaced. For example, in a clustered precinct at Pura V. Kalaw Elementary School in Quezon City, the VCM broke down at 7 a.m. and was fixed only at 4:35 p.m. In Clustered Precinct 1699 at Ismael Mathay Sr. High School, also in Quezon City, the replacement SD card had not arrived as of 6:10 p.m. Some South Cotabato and Sarangani volunteers reported that voters were told to wait for other polling places to finish voting, before the VCMs in those places would be used to scan the ballots of polling places where the VCMs malfunctioned. In a polling place in Surallah, South Cotabato, volunteers reported that it took four to five hours to replace a malfunctioning VCM in a polling place in the mountains.

Voters were not able to vote until later in the night or even the next day. For instance, in Clustered Precinct 1310 at Celedonio Salvador Elementary School in Manila, the VCM did not work at the time of opening of polls. The Election Officer arrived 12 hours later, at 6:25 p.m., to fix the machine, only to announce that the VCM had to be taken to Sta. Rosa, Laguna for reconfiguration.

In Clustered Precinct 90 at Toro Hills Elementary School in Quezon City, the VCM did not work on opening time, but the replacement machine arrived only at 8:37 p.m. A long line of voters was still observed at that time. In Clustered Precinct 912 at Miriam College in the same city, the NAMFREL volunteer reported that the SD card was found to be corrupted as early as opening. Some voters were mad and wanted to vote in the adjacent clustered precinct. The volunteer assigned at the same polling

place at night time reported that there was still no SD card by 11:12 PM.

In Clustered Precinct 878 at Libis Elementary School in the same city, the replacement SD card arrived only around 4 a.m. of the next day. Only one voter stayed and fed the ballot herself. The other ballots were batch-fed by the EBs. While waiting for the SD card replacement to arrive, the NAMFREL volunteer was the only one left awake in the room. The expected time of arrival of the SD card replacement kept changing.

In Clustered Precinct 1247 at Teachers Village East Barangay Hall, voters waiting to personally feed their ballots into the VCM once the replacement SD card arrived became upset when the voting center gates were closed at 8:50 P.M. The EB clarified that they would still be allowed to do so.

In Clustered Precinct 1271 at Pinyahan Elementary School, the SD card malfunctioned upon opening of voting, but the replacement arrived only at 12:39 a.m. of the following day. Voters waited for the SD card to arrive. Clustered Precinct 1261 of the same voting center also suffered the same issue but the replacement SD card had not yet arrived at 12:39 a.m.

In Pias Elementary School at Mapandan, Pangasinan, a VCM shut down at 2 p.m. The replacement VCM arrived at 4 p.m. but with no SD card. Volunteers waited until 12:30 a.m. the next day but the SD card did not arrive. A VCM malfunction also delayed voting in one polling place in Baybay Elementary School in Binmaley, Pangasinan.

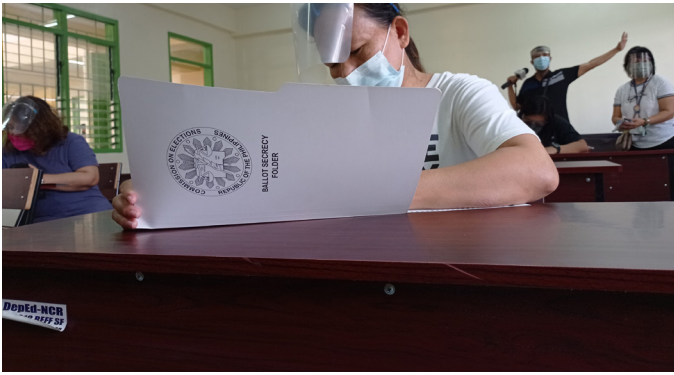
These incidents caused a lot of voters to complain and to wonder why COMELEC TMS already had most of the results when they were still at the polling places unable to vote.

One NAMFREL chapter relayed the report of a volunteer, who said that in a voting center, the SD card of a VCM was removed and replaced with a different one. A volunteer followed the car where the SD card was loaded. The car ended up in place of the incumbent mayor.

<sup>111</sup> Called "Claret School Auditorium" in COMELEC's Project of Precincts, <https://comelec.gov.ph/?r=2022NLE/ProjectOfPrecincts>

<sup>112</sup> "Cruz" in COMELEC's Project of Precincts, <https://comelec.gov.ph/?r=2022NLE/ProjectOfPrecincts>

## 2. Secrecy of the Vote



While secrecy of the vote was maintained in most polling places, NAMFREL believes that this secrecy should be maintained at all times. Volunteers cited many ways how this was not protected inside polling places:

(a) Voters did not use the secrecy folders in voting and in inserting their ballots into the VCM, such as in Col. Ruperto Abellon Memorial School in Patnongon, Antique; Marcela Marcelo Elementary School in Pasay City; Las Piñas East National High School and Pulanlupa Elementary School in Las Piñas City; Bauang North Central School in Bauang, La Union; Baraoas Norte Primary School in Naguilian, La Union; in Marcela Marcelo Elementary School in Pasay City; Aguinaldo Elementary School, Balara Elementary School, Culiati High School, Juan Sumulong High School, Flora Ylagan High School, Libis Elementary School, Nick Joaquin Senior High School, PhilAm Clubhouse in Quezon City; Carmen Central Elementary School in Carmen, Agusan del Norte; B.V. Closa Central School in Abuyog, Leyte; Garita Elementary School in San Enrique, Iloilo; Cong. V. Gustilo, Sr. Memorial Elementary School in San Carlos City, Negros Occidental; and Pedro Cruz Elementary School in San Juan.

In Commonwealth High School in Quezon City and F. Serrano Sr. Elementary School in Parañaque City, the folders were taped on the desks.

In some cases, the EB told the voters to leave the folders or to return the folders before the voter could insert their ballots. In contrast, EBs in Flora Ylagan High School and Nick Joaquin Senior High School in Quezon City reminded voters to put their ballots inside folders.

(b) Members of the EB inserted the ballots (instead of the voters doing this themselves), such as in Pasay City West High School in Pasay City; in Aganan-Ungka I Elementary School in Pavia, Iloilo; Leon Elementary School in Leon, Iloilo; Don Pedro Vasquez Memorial Elementary School in Jordan, Guimaras; Culiati Elementary School, Carlos L. Albert High School, Fairview Elementary School, Libis Elementary School in Quezon City; Bato

Elementary School and Eugenio S. Daza Pilot Elementary School in Borongan City, Eastern Samar; Santiago Elementary School in San Fernando City, La Union; in Pacpaco Integrated School in San Manuel, Tarlac; and in Our Lady's Village Elementary School in Bibincahan, Sorsogon City. In a polling place in Balara Elementary School, both EB and DESO inserted the ballots.

(c) Some EB members could see or saw the contents of the ballot, such as in Dalumpinas Elementary School in San Fernando City, La Union; in Primary School Building in Caba, La Union; in Leon Elementary School in Leon, Iloilo; and in Juan Sumulong High School in Quezon City. Some EBs could also see the contents of the VVPAT, such as in one clustered precinct in Pasay City West High School, where the VVPAT was cut while face up, making its contents visible to anyone.

(d) The ballots got exposed during incidents like paper jam, when voters would attempt to insert their ballots several times, such as in Toro Hills Elementary School in Quezon City. VCMs were having difficulty receiving ballots, so the folders were removed, such as in Taysan Elementary School in Legazpi City, Albay and in Pasay East High School in Pasay City;

(e) The crowding inside polling places allowed people to see the votes as the ballots were being filled out, such as in Leoncia Village Elementary School in Angeles City, Pampanga.

(f) Many voters in line unintentionally exposed their votes while holding their ballots, such as in Banaba Elementary School in Padre Garcia, Batangas. This also happened in one polling place in Pasay City West High School while the VCM was being fixed.

(g) Watchers and other voters could look or looked at filled out ballots, such as in Lingsat Elementary School in San Fernando City, La Union and Ismael Mathay Sr. High School in Quezon City. In the latter, a volunteer saw watchers hovering over the voters. In PhilAm Clubhouse in Quezon City, watchers were shown ballots. In Las Piñas East National High School, political party watchers who stayed close to the VCM were assisting voters. Other instances of political party watchers assisting voters were recorded in Mindanao. In Libis Elementary School in the same city, a voter in line to get a ballot was seen visibly coaching a fellow voter on shading the ballot. In Banaba Elementary School in Padre Garcia, Batangas, voters being assisted by family members spoke loudly who they wanted to vote for.

(h) Voters were talking about who they voted for, such as in Marcela Marcelo Elementary School in Pasay City. In Ismael Mathay Sr. High School in Quezon City, voters were even showing their ballots to each other. A voter in



Pasay East High School also did the latter.

(i) There were more voters than there were ballot secrecy folders in the polling station. There were also polling places that did not have ballot secrecy folders.

They appeared to stem from a lack of training or control on the part of the EBs, or lack of knowledge on the part of voters and watchers regarding vote secrecy.

In Bagong Silangan Elementary School in Quezon City, the NAMFREL volunteer who observed three polling places where VCMs were pending replacement recommended that voters who waived their right to personally feed their ballots to the VCMs should be assured that such ballots were secure while waiting for the replacement VCMs. In Bagumbayan Elementary School also in Quezon City, a volunteer reported that voters did not want to leave their ballots to the EBs. In a polling place in Pres. Corazon C. Aquino Elementary School, where the VCM took time to be replaced and voters opted to submit their ballots without personally feeding it into the VCM, ballots were just placed in a carton, instead of in the proper envelope.<sup>113</sup>

In Barangay West Triangle Multipurpose Hall in Quezon City, those in the waiting area needed to pass by those voting when they proceed to the EBs. Thus, the ballots could be seen by those passing by. Meanwhile, in PhilAm Clubhouse in the same city, the tables were not wide enough, so voters were too close to each other, and could see each others' ballots.

According to the General Instructions, the VVPAT receptacle box should be the box containing the Official Ballots.<sup>114</sup> However, in two polling places in Marcela

<sup>113</sup> "To proceed in casting their votes by shading their ballots with waiver of their right to be issued a voter's receipt. In which case, these ballots shall be temporarily placed inside the Envelope for Rejected Ballots, Half or Torn Unused Official Ballots and Other Half of Torn Unused Official Ballots, and Counted Official Ballots and which shall be batch-fed by the EB before the close of polls" [COMELEC Resolution No. 10759, <https://comelec.gov.ph/index.html?r=2022NLE/Resolutions/res10759>]

<sup>114</sup> "3. Instruct the voter to fold the VVPAT and deposit the same in the VVPAT receptacle. For this purpose, the box containing the Official Ballots shall serve as the VVPAT receptacle which shall be placed in an area visible to the EB members/support staff/citizens' arm, watchers and other persons allowed inside the polling place; The EB shall ensure that all Official Ballots are removed from the box before the same is used as a VVPAT receptacle. The VVPAT receptacle shall be properly sealed using the packaging tape, on which the EB and watchers, if any, shall affix their names and signatures;" [COMELEC Resolution No. 10727, <https://comelec.gov.ph/index.html?r=2022NLE/Resolutions/res10727>]

Marcelo Elementary School in Pasay City, boxes of a local juice drink were used. In a polling place Holy Spirit Elementary School in Quezon City, a generic box served as the VVPAT receptacle. In a polling place at Libis Elementary School, a black tissue box became the container. In a polling place in Pulanlupa Elementary School in Las Piñas City, a large plastic bag and shoebox were used. In Las Piñas City National Science High School and in some areas of Mindanao, makeshift boxes served as VVPAT receptacles.

### 3. VVPAT Versus Vote on Ballot

**What is VVPAT?** The voter-verifiable paper audit trail "has been referred to as the "resibo." Printed in the "resibo" are the voter's choices per position."

Source: (Lito Averia, NAMFREL National Council Member "Election observation and monitoring", Manila Times, <https://www.manilatimes.net/2022/04/13/opinion/columns/election-observation-and-monitoring/1839853>)

NAMFREL volunteers reported that many voters did not bother to even look at the contents of the VVPAT, which may indicate lack of knowledge about the importance of this "resibo". In Las Piñas East National High School, a volunteer wrote that the EB member tasked to assist in inserting the ballots just asked voters to put their VVPATs on the receptacle box without asking voters to read them first.

The VVPAT used in the 2022 NLE contained the election name, election date, province, city/municipality, barangay, clustered precinct ID, precincts in a cluster, machine ID, list of candidates voted for, QR code, and system hash. The date and time of printing was not printed on the receipt.

While in the minority, volunteers reported that there were cases of VVPAT figures reportedly not matching the voter's actual votes. However, volunteers clarified that many of these were due to overvotes (voting in excess of the positions available; thus, the vote for the position was not counted), or undervotes (voting for less than the number of positions available, because the shading was not sufficient enough to be counted by the VCM). Volunteers added that members of the EB explained these adequately to the voters concerned.

A volunteer from Gumaca, Quezon reported that a different name appeared on the VVPAT when another candidate was voted. In Carlos L. Albert High School and Libis Elementary School in Quezon City, two voters said they did not vote for a candidate that appeared on their VVPAT. Misread ballots were also reported in polling places in Pagbilao National High School and Parang Pinagbayan Elementary School. Observers in Pagbilao

said that EBs did not appear well-trained because they were new at the task and that they appeared to be flustered.

#### 4. COVID-19 Protocols

NAMFREL volunteers reported that less than half of polling places observed did not follow COVID-19 protocols. Lack of physical distancing was the most often violated protocol, followed by improper use of face masks, improper disposal of used face masks and gloves, thermal scanners not working properly, lack of plastic barriers, no foot baths, and foot bath solution not being replenished.

#### C. Voting Centers



As mentioned earlier, the high turnout seemed to have overwhelmed voting center personnel and volunteers. Temperature was not consistently checked at the entrance in many voting centers.

Volunteers reported that they did not see medical personnel inside many of the voting centers observed, contrary to what was stated in the General Instructions.<sup>115</sup>

The flow of voters resulted in crowding outside polling places and corridors. Volunteers said a lot of voters did not seem to know where to go to start voting, such as in Sauyo Elementary School, Pres. Corazon C. Aquino Elementary School, and Ramon Magsaysay Elementary School in Quezon City. Voters seemed to not know where to go after voting due to absence or poor placement of

signages or directional signs, such as in Lakandula High School in Manila; Aringay Central Elementary School in Aringay, La Union; and in Mandaluyong Elementary School in Mandaluyong City. One NAMFREL chapter reported that the signages could not be seen properly because of crowding.

In Pasay City West High School, several senior citizens proceeded to their polling places on the fourth floor, while some went around looking for their polling places. One senior citizen who obviously suffered stroke found himself on the fourth floor just to find his polling place. According to the NAMFREL volunteer who assisted him, the voter's polling place was on the second floor. Senior citizens were also seen taking the stairs in Salapan Elementary School in San Juan and Aguinaldo Elementary School in Quezon City. A volunteer in Mandaluyong High School reported that the venue and procedures were too difficult for senior citizens and persons with disabilities.

Volunteers also observed people complaining that they could not find their names on the voter lists, such as in Kaypian National High School in San Jose Del Monte City, Bulacan; Doña Juana Elementary School and Dalupan Elementary School in Quezon City; in Ramon Avanceña High School in Iloilo City; in Naguilian Central School in Naguilian, La Union. Volunteers also encountered voters not being able to find their precinct number, such as in Batasan (Hills)<sup>116</sup> National High School and Sauyo Elementary School, both in Quezon City; in Fort Bonifacio Elementary School in Makati; in Lingsat Elementary School in San Fernando City, La Union; and in Sofronio Española Central School in Sofronio Española, Palawan.

Even though voting centers tended to be crowded, volunteers also reported voters being barred entry in Lioac Elementary School in Naguilian, La Union and Marcelo Marcela Elementary School in Pasay City because they were not wearing face masks. Voters carrying babies were not allowed to enter Balasing Elementary School and Cay Pombo Elementary School in Santa Maria, Bulacan; and in an unnamed voting center.

Campaigning on election day is prohibited by law as an election offense.<sup>117</sup> Yet, volunteers reported seeing

<sup>115</sup> "Medical Personnel shall refer to those health care workers tasked to check voters with temperatures of 37.5 degrees Celsius, or exhibiting any symptoms of COVID-19 virus" (Section 1(q), COMELEC Resolution No. 10727, [https://comelec.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com\\_res\\_10727.pdf](https://comelec.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com_res_10727.pdf))

<sup>116</sup> The word "Hills" is not in COMELEC's Project of Precincts, <https://comelec.gov.ph/?r=2022NLE/ProjectOfPrecincts>

<sup>117</sup> "Election and Campaign Period. - Unless otherwise fixed by the Commission, the election period for the May 11, 1992 regular elections shall commence ninety (90) days before the day of the election and shall end thirty (30) days thereafter.

sample ballots of candidates distributed in the morning outside Pulanlupa Elementary School and Las Piñas National High School in Las Piñas City; Aguinaldo Elementary School in Quezon City, and Barangay Dalig Covered Court in Antipolo City, Rizal. Meanwhile, voters were seen bringing sample ballots inside Aurora A. Quezon Elementary School in Quezon City and PUP San Juan in San Juan City.

Volunteers observed many voters who came in campaign shirts and face masks with names of candidates. In Juan Sumulong Elementary School and Kamuning Elementary School in Quezon City, Doña Manuela Elementary School in Las Piñas, and in voting centers in different areas in Mindanao, said voters were told to change their clothes before they were allowed to enter, or were given disposable face masks. EBs in Abra told affected voters to just wear their shirts inside out.

In contrast, people wearing campaign materials were seen inside voting centers in Banaba Elementary School in Padre Garcia, Batangas; Las Piñas City National Science High School and Las Piñas East National High School in Las Piñas City; in PUP San Juan in San Juan City; in Culiati High School, Nagkaisang Nayan Elementary School, and Philippine Chinese Institute in Quezon City. Tents with the names and photos of candidates were set up inside the grounds of a voting center in Tampakan, South

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*The campaign periods are hereby fixed as follows:*

*(a) For President, Vice-President and Senators, ninety (90) days before the day of the election; and*

*(b) For Members of the House of Representatives and elective provincial, city and municipal officials, forty-five (45) days before the day of the election.*

*However, in the preparation of the election calendar, the Commission may exclude the day before the day of the election itself, Maundy Thursday and Good Friday.*

*Any election campaign or partisan political activity for or against any candidate outside of the campaign period herein provided is prohibited and shall be considered as an election offense punishable under Section 263 and 264 of the Omnibus Election Code.” (Section 5, Republic Act No. 7166, <https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/SynchronizedNationalandLocal/RA7166>). According to COMELEC Resolution No. 10765, campaigning was prohibited on election day, 9 May 2022 (<https://comelec.gov.ph/?r=2022NLE/Resolutions/res10695>).*

Cotabato, and outside Isaac Lopez Integrated School in Mandaluyong City.

A NAMFREL chapter reported the presence of local government officials inside polling places, who did not seem to be there to vote.

A chapter reported that one candidate was still campaigning during the election day outside the polling place. A volunteer reported the incident to the Municipal Election Officer to call the attention of the candidate and stop him from campaigning.

Voters Assistance Desks (VADs) located at the entrance of voting centers were a big help in containing crowds. No VADs were seen in a few voting centers, such as, such as Fort Bonifacio Elementary School in Makati City; Epifanio De Los Santos Elementary School in Manila; Ramon A. Avanceña National High School and A. Mabini Elementary School in Iloilo City; Intermediate School Building, Poblacion Norte in Caba, La Union; San Jose Provincial High School in San Jose, Negros Oriental; Balud Central School in Balud, Masbate; and Leoncia Village Elementary School in Angeles City, Pampanga.

In Pasay City West High School, the VAD was not open at the time of start of polls.

On voting centers with VAD, voters took an average of 5 to 10 minutes to go through verification, but some took 30 to 45 minutes.

A considerable percentage of voting centers observed had no Emergency Accessible Polling Places (EAPP) for senior citizens, persons with disabilities, and heavily pregnant voters,<sup>118</sup> or Isolation Polling Places (IPP)

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<sup>118</sup> “Emergency Accessible Polling Place (EAPPs) shall refer to rooms or makeshift/temporary polling place established at the ground floor of a voting center or outside of it but in close proximity thereto, where Persons with Disabilities (PWDs), Senior Citizens (SCs) and heavily pregnant women voters may vote on election day, specifically:

1. PWD/SC who did not avail of APPs;
2. PWDs who failed to update their registration record;
3. Persons who become disabled/incapacitated temporarily or permanently after the continuing registration of voters ended; and
4. Heavily pregnant voters, who are six (6) months on the family way.” (Section 1(m), COMELEC Resolution No. 10727, <https://comelec.gov.ph/index.html?r=2022NLE/Resolutions/res10727>)



for voters with COVID-19 symptoms.<sup>119</sup> For example, volunteers in the following voting centers reported not seeing EAPPs:

- (1) Caba, La Union: Primary School Building, Poblacion Sur, and Intermediate School Building, Poblacion Norte;
- (2) San Fernando City, La Union: Canaoay Elementary School, Pagudpud Elementary School, and San Fernando City SPED High School;
- (3) Luna, La Union: Barrientos Community School;
- (4) Naguilian, La Union: Gusing Elementary School Annex and Naguilian Central School;
- (5) Bauang, La Union: Bauang North Central School;
- (6) Manila: Lakadula High School, Francisco Benitez Elementary School;
- (7) Quezon City: Goodwill Club House, Miriam College, and Sto. Niño Parochial School;
- (8) Masbate City: Nursery Elementary School;
- (9) Puerto Princesa City, Palawan: Napsan Elementary School;
- (10) San Vicente, Palawan: Alimanguan Elementary School;
- (11) Dumarán, Palawan: Dumarán Central School;
- (12) Banga, Aklan: Mambog Multi Purpose Pavement; and
- (13) Jordan, Guimaras: Don Pedro Vasquez Memorial Elementary School;
- (14) Passi, Iloilo: Passi I Central School;
- (15) Pototan, Iloilo: Dolores P. Tirador Elementary

<sup>119</sup> "Isolation Polling Place shall refer to rooms or makeshift tents established in every voting center where voters evaluated by the Medical Personnel to be suffering from a fever of 37.5 degrees Celsius or higher, or any of the COVID-19 symptoms, may cast their vote." (Section 1(p), COMELEC Resolution No. 10727, <https://comelec.gov.ph/index.html?r=2022NLE/Resolutions/res10727>)

School;

- (16) Iloilo City: A. Mabini Elementary School, Balantang Elementary School, and Quintin Salas Elementary School;
- (17) Kawayan, Biliran: Kawayan Central School (Upper Campus);
- (18) Taft, Eastern Samar: Samar School of Arts and Trades; and
- (19) Surigao City, Surigao del Norte: Surigao West Elementary School.

Volunteers reported that some EAPPs were crowded, with up to 40 people inside comprising voters, voter assistants, and staff.

Another NAMFREL chapter reported that the EAPP, contrary to the meaning of the word "Accessible", was not accessible to senior citizens since the polling place was located on a higher floor of the voting center, not on the ground floor. In Ismael Mathay Sr. High School in Quezon City, EAPP voters were angry due to inconvenience, and preferred to line up on their assigned polling places instead. The latter was also seen in Barangay West Triangle Multipurpose Hall in Quezon City.

Meanwhile, volunteers in the following voting centers reported not seeing IPPs in:

- (1) Aringay, La Union: Aringay Central Elementary School<sup>120</sup>
- (2) Caba, La Union: Intermediate School Building, Poblacion Norte;
- (3) Luna, La Union: Barrientos Community School;
- (4) Angeles City, Pampanga: Leoncia Village Elementary School;
- (5) Makati: Fort Bonifacio High School;
- (6) Malabon: Bagong Lote Elementary School,

<sup>120</sup> Form uncertain if the West or East Compound

Dampalit Elementary School (Unit 1), Ninoy Aquino Elementary School;

(7) Mandaluyong: Highway Hills Integrated School;

(8) Navotas: North Bay Boulevard North Elementary School;

(9) Quezon City: Miriam College, Sto. Niño Parochial School, Doña Juana Elementary School, Judge Juan Luna High School, Libis Elementary School, Culiati High School, and Holy Spirit Elementary School;

(10) Puerto Princesa City, Palawan: Napsan Elementary School;

(11) Dumarán, Palawan: Dumarán Central School;

(12) Banga, Aklan: Mambog Multi Purpose Pavement; and

(13) Iloilo City: Balantang Elementary School and Quintin Salas Elementary School in Iloilo City;

(14) Taft, Eastern Samar: Samar School of Arts and Trades;

(15) Surigao City, Surigao del Norte: Surigao West Elementary School; and

(16) Four voting centers in Misamis Oriental.

Volunteers observed commotion and shouting by voters demanding immediate action on VCMs and SD cards with issues in some voting centers, such as in Toro Hills Elementary School, in CBE Town Multi-Purpose Hall, Barangay Pasong Tamo, and in Teahcers Village East Barangay Hall, all in Quezon City. In one polling place in Paltok Elementary School in Quezon City, the volunteer observed some tension among the observers and EB, although most apparently understand that the EB had no control over the VCM repair.

Volunteers observed that some polling places were too small, such as in Sauyo Elementary School and Sto. Niño Parochial School, both in Quezon City; and in Don Pedro Vasquez Memorial Elementary School in Jordan, Guimaras, and/or had poor ventilation. A volunteer in Sto. Niño Parochial School reported that one polling place was in the hallway. Volunteers in Lioac Elementary School in Naguilian, La Union and Eugenio S. Daza Pilot Elementary School in Borongan City, Eastern Samar recommended that additional polling places be set up. More seats were sought in Mandaluyong Elementary School in Mandaluyong City and in Mandaragat Elementary School in Puerto Princesa City, Palawan.

Holding areas in Bagong Silangan Elementary School in Quezon City were also observed to lack ventilation and chairs, especially for senior citizens. Large crowds were also seen in many holding areas. Volunteers in Lakandula High School in Manila called for better holding areas because of the crowding. No holding areas were observed in Dalupan Elementary School in Quezon City, leading to people lining up from as far as the staircase. The space was not as big.

Many voting centers observed did not have, or had weak, mobile signal on election day at the time of observation.

In the evening of election day, when the closing process was about to start, NAMFREL received reports from regular citizens saying that they were refused entry into the voting centers to observe the counting process. There was no proper explanation for the refusal.

The incidents reported above are all isolated cases. In general, voting proceeded smoothly.



## D. Closing and Counting

The closing and counting processes inside polling places went smoothly in general, according to NAMFREL volunteers. The VCMs also functioned normally in most polling places observed. If malfunctions happened, they were usually caused by paper jams, VCMs stopping to operate or overheating, and paper running out which stopped or delayed the printing of ERs.

During the batch-feeding of ballots at Clustered Precinct 878 in Libis Elementary School in Quezon City, paper jams were a repeated occurrence. It was resolved by opening the VCM with assistance from poll watchers. The EB then retrieved the ballots inside. One ballot did not initially have a VVPAT because the VCM ran out of thermal paper mid-printing. The ballot was set aside for refeeding in case it was not counted. In the end, the ballot was counted in the final tally but still separated from all other ballots.

NAMFREL volunteers reported that most EBs appeared well-trained and were able to handle minor technical issues. To deal with the issues the EBs:

- (a) re-read their manuals to ensure that procedures were correct;
- (b) relied on their manuals but knew where to find what they were looking for;
- (c) improvised, including cutting ballots to stop the paper jam issue; or
- (d) sought the help of technicians and volunteers when necessary.

The Election Automation Law clearly specifies the number of ERs to be printed, and enumerates who should be given printed copies of the ER. However, in some polling places in Bacolod City and in Bohol, the EBs did not print all copies of the ERs. In some polling places, EBs were not sure whom they were to give these to.

To repeat, NAMFREL chapters in Zamboanga del Sur, Negros Occidental, Iloilo, Davao del Oro, Pampanga, Sorsogon, Laguna, Nueva Ecija, Quezon City, Rizal, Palawan, South Cotabato, Sarangani, and Bohol were refused copies of ERs by some EBs, even though NAMFREL was entitled to a copy according to the Election Automation Law as earlier mentioned. Some EBs reasoned that they had no such instruction, while others instructed NAMFREL volunteers to claim the copy from the Election Officers.

In a polling place in Pinaglabanan Elementary School

in San Juan, the EB chair did not want the volunteer to take a photo of the ER, but said that NAMFREL would be given a copy.

In Bacolod and Bohol, some EBs did not print all 30 copies of the ERs. Only eight were printed. In Ramon Magsaysay High School in Quezon City, the printing of 30 copies was not completed. After transmission of results, the VCM shut down. The technician could not fix the problem. No ER was posted outside.

Some EBs also did not post printed copies of the ERs conspicuously on a wall within the premises of the polling place, such as in Ramon Magsaysay High School in Quezon City.

Only when they were shown the Election Automation Law<sup>121</sup> did they do so.

In a clustered precinct in Narra Pilot School, Narra, Palawan, the volunteer reported that after printing all copies of the ER, it took a long time for the EB to post it.

### HOW MANY COPIES OF THE ER SHOULD BE PRINTED? WHO ARE ENTITLED TO COPIES OF THE ER?

"SECTION 22. Electronic Returns. - Each copy of the printed election returns shall bear appropriate control marks to determine the time and place of printing. Each copy shall be signed and thumbmarked by all the members of the board of election inspectors and the watchers present. If any member of the board of election inspectors present refuses to sign, the chairman of the board shall note the same copy in each copy of the printed election returns. The member of the board of election inspectors concerned refusing to sign shall be compelled to explain his or her refusal to do so. Failure to explain an unjustifiable refusal to sign each copy of the printed election return by any member of the board of election inspectors shall be punishable as provided in this Act. The chairman of the board shall then publicly read and announce the total numbers of registered voters, the total number of voters who actually voted and the total numbers of votes obtained by each candidate based on the election returns.

<sup>121</sup> "The eighth copy to be posted conspicuously on a wall within the premises of the polling place or counting center" (Section 22, Republic Act No. 8436, as amended by Section 19, Republic Act No. 9369, <https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/AutomatedElection/RA9369>)



Thereafter, the copies of the election returns shall be sealed and placed in the proper envelopes for distribution as follows:

A. In the election of president, vice-president, senators and party-list system;

- 1) The first copy shall be delivered to the city or municipal board of canvassers;
- 2) The second copy, to the Congress, directed to the President of the Senate;
- 3) The third copy, to the Commission;
- 4) The fourth copy, to the citizens' arm authorized by the Commission to conduct an unofficial count.
- 5) The fifth copy, to the dominant majority party as determined by the Commission in accordance with law;
- 6) The sixth copy, to the dominant minority party as determined by the Commission in accordance with law; and
- 7) The seventh copy shall be deposited inside the compartment of the ballot box for valid ballots.
- 8) The eighth copy, to the Provincial Board of Canvassers;
- 9) The ninth to the eighteenth copies, to the ten (10) accredited major national parties, excluding the dominant majority and minority parties, in accordance with a voluntary agreement among them. If no such agreement is reached, the Commission shall decide which parties shall receive the copies on the basis of the criteria provided in Section 26 of Republic Act No. 7166;
- 10) The nineteenth and twentieth copies, to the two accredited major local parties in accordance with a voluntary agreement among them. If no such agreement is reached, the Commission shall decide which parties shall receive the copies on the basis of criteria analogous to that provided in Section 26 of Republic Act No. 7166;
- 11) The twenty-first to the twenty-fourth copies, to national broadcast or print media entities as may be equitably determined by the Commission in view of propagating the copies to the widest extent possible;
- 12) The twenty-fifth and twenty-sixth copies, to local broadcast or print media entities as may be equitably determined by the Commission in view of propagating the copies to the widest extent possible; and

13) The twenty-seventh to the thirtieth copies, to the major citizens' arms, including the accredited citizens' arm, and other non-partisan groups or organization enlisted by the Commission pursuant to Section 52(k) of Batas Pambansa Blg. 881. Such citizens' arms, groups and organizations may use the four certified copies of election returns for the conduct of citizens' quick counts at the local or national levels;

B. In the election of local officials and members of the House of Representatives:

- 1) The first copy shall be delivered to the city or municipal board of canvassers;
- 2) The second copy, to the Commission;
- 3) The third copy, to the provincial board of canvassers;
- 4) The fourth copy, to the citizens' arm authorized by the Commission to conduct an unofficial count.
- 5) The fifth copy, to the dominant majority party as determined by the Commission in accordance with law;
- 6) The sixth copy, to the dominant minority party as determined by the Commission in accordance with law; and
- 7) The seventh copy shall be deposited inside the compartment of the ballot box for valid ballots;
- 8) The eight copy to be posted conspicuously on a wall within the premises of the polling place or counting center;
- 9) The ninth to the eighteenth copies, shall be given to the ten (10) accredited major national parties, excluding the dominant majority and minority parties, in accordance with a voluntary agreement among them. If no such agreement is reached, the Commission shall decide which parties shall receive the copies on the basis of the criteria provided in Section 26 of Republic Act No. 7166;
- 10) The nineteenth and twentieth copies shall be given to the two accredited major local parties in accordance with a voluntary agreement among them. If no such agreement is reached, the Commission shall decide which parties shall receive the copies on the basis of criteria analogous to that provided in Section 26 of Republic Act No. 7166;

11) The twenty-first to the twenty-fifth copies, to national broadcast or print media entities as may be equitably determined by the Commission in view of propagating the copies to the widest extent possible;

12) The twenty-sixth and twenty-seventh copies, to local broadcast or print media entities as may be equitably determined by the Commission in view of propagating the copies to the widest extent possible; and

13) The twenty-eighth to the thirtieth copies to the major citizens' arms, including the accredited citizens' arm, and other non-partisan groups or organizations enlisted by the Commission pursuant to section 52(k) of Batas Pambansa Blg. 881. Such citizens' arms, groups and organizations may use the five certified copies of election returns for the conduct of citizens' quick counts at the local or national levels.

Immediately after the eight copy is printed, the poll clerk shall announce the posting of said copy on a wall within the premises of the polling place or counting center, which must be sufficiently lighted and accessible to the public. Any person may view or capture an image of the election return by means of any data capturing device such as, but not limited to, cameras at any time of the day for forty-eight (48) hours following its posting. After such period, the chairman of the board of election inspectors shall detach the election return from the wall and keep the same in his custody to be produced as may be requested by any voter for image or data capturing or for any lawful purpose as may be ordered by competent authority.

Within one hour after the printing of the election returns, the chairman of the board of election inspectors or any official authorized by the Commission shall, in the presence of watchers and representatives of the accredited citizen's arm, political parties/candidates, if any, electronically transmit the precinct results to the respective levels of board of canvassers, to the dominant majority and minority party, to the accredited citizen's arm, and to the Kapisanan ng mga Broadcasters ng Pilipinas (KBP).

The election results at the city/municipality canvassing centers shall be transmitted in the same manner by the election officer or any official authorized by the Commission to the district or provincial canvassing centers.

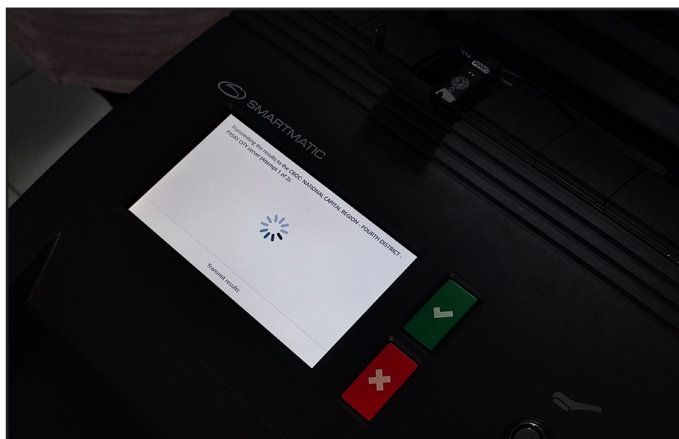
The election returns transmitted electronically and digitally signed shall be considered as official election results and shall be used as the basis for the canvassing of votes and the proclamation of a candidate.

After the electronic results have been transmitted, additional copies not to exceed thirty (30) may be printed and given to requesting parties at their own expense." (Section 22, Republic Act No. 8436, as amended by Section 19, Republic Act No. 9369, <https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/AutomatedElection/RA9369>)]

In Multi-Purpose Center (Pelota Court), Blue Ridge A, the EB in one polling place did not want to read the results but was eventually prevailed upon by the watchers to do so.

In Pasay East High School, a volunteer wrote that the watchers were noisy after transmission.

NAMFREL volunteers also reported that a large percentage of polling places still had voters in line outside when the voting period closed. They were still allowed to vote as per election rules, which delayed the start of closing and counting.



## E. Transmission

The electronic transmission of results went smoothly in most polling places observed. In places where it did not, the reason was related to weak mobile signals in the transmission venue. No transmission occurred for this reason in Caguisan Elementary School in Narra, Palawan, and Bugsukan Elementary School in Butuan City, Agusan del Norte.

EBs attempted to transmit results anywhere between five minutes to an hour, but on average, it took about 30 minutes to transmit results. The slow but ultimately successful transmission in polling place/s in the following

voting centers was due to poor internet connection:

- (1) Naguilian, La Union: Naguilian National High School and Tuddingan Elementary School;
- (2) Bulacan: Central Elementary School;<sup>122</sup>
- (3) Pasay City: Juan Sumulong Elementary School;
- (4) Agdangan, Quezon: Agdangan Central Elementary School;
- (5) Pagbilao, Quezon: Pagbilao Central Elementary School;
- (6) Narra, Palawan: Aramaywan Elementary School and Maasin Elementary School (where it took 106 minutes);
- (7) Masbate City: Amancio Aguilar Elementary School;
- (8) Jordan, Guimaras: Don Pedro Vasquez Memorial Elementary School;
- (9) Abuyog Leyte: B.V. Closa Central School, where one clustered precinct transmitted at 1:30 a.m., while another was still attempting to transmit at 2:00 a.m. The NAMFREL volunteer observed that the technicians were visibly drained in attempting to transmit;
- (10) Borongan, Eastern Samar: Eastern Samar National Comprehensive High School;

According to volunteer reports, in places where electronic transmission was not successful, the EBs concerned performed any of the following:

- (1) the VCM was moved to another location (within the voting center or within the municipality) where the mobile signal was better. This was done in U.P. Integrated School, U.P. Campus (Grade 3 - 6 Bldg.) In Quezon City, in PUP San Juan; and in Bancagan Elementary School in Naguilian, La Union.
- (2) the SD card was brought to the canvassing center; or

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<sup>122</sup> The only Central Elementary School in Bulacan according to COMELEC's Project of Precincts (<https://comelec.gov.ph/?r=2022NLE/ProjectOfPrecincts>) is Calumpit Central Elementary School in Calumpit, Bulacan.

- (3) the VCM was brought to the canvassing center.

## **F. Canvassing**

NAMFREL volunteers also observed the canvassing process, mostly in municipal/city canvassing centers. The reports were largely positive, with most volunteers reporting that the canvassing was smooth, systematic, and well-organized.

In a few cases, volunteers commented on the weakness of the internet connections, interruptions during printing, and issues with the consolidation and canvassing system (CCS). For example, canvassing in Pagbilao, Quezon did not go smoothly because of malfunctioning VCMs in the voting centers.

A large percentage of the canvassing centers observed lacked enforcement and observance of COVID-19 protocols, with volunteers citing lack of physical distancing, improper wearing of face masks, not enough disinfection of hands and materials, and improper disposal of used protective gear.

## **G. Pull-Out of VCMs for RMA**

Some NAMFREL chapters were able to observe the pull-out of VCMs to be taken to Manila to go through the RMA.

Volunteers reported positively in general, with seals appearing intact and undamaged, the location of the activity appearing secure, and security personnel accompanying the transport of the VCMs in most cases.

## **H. Voter Assistance**

About 40 NAMFREL provincial chapters were also PPCRV chapters, and they provided voter assistance in their respective assigned voting centers as mandated.

NAMFREL chapters in Las Piñas, Quezon City, and La Union also provided voter assistance by stationing themselves near the bulletin boards where the school map was posted, and directed voters to the location of their polling places.

The NAMFREL chapter in Palawan established a remote voter assistance desk, encouraging voters to send their information to a mobile phone number to inquire

about the location of their polling places. The chapter performed the same activity during the March 2021 Palawan Plebiscite.

In the past, NAMFREL would receive copies of the Election Day Computerized Voters List (EDCVL) for voter assistance purposes. NAMFREL chapters would also compare the Election Day Computerized Voters List (EDCVL) and Printed Computerized Voters List. Due to the requirements of the Data Privacy Act, NAMFREL opted to provide a link to the Online Precinct Finder instead of securing a copy of the EDCVL for the 2022 elections. Hence, no comparison was made between the EDCVL and PCVL. Nevertheless, the recommendation for COMELEC to maintain a complete, updated, accurate, and organized Voters List that would be the source of both PCVL and EDCVL stands.<sup>123</sup> Both lists should be consistent with each other.

## I. Violence and Intimidation

Pockets of violence and intimidation marred an otherwise peaceful election day. Reports were received and verified by NAMFREL volunteers deployed in many of these areas, including Buluan, Maguindanao; Malabang, Lanao del Sur; San Luis, Aurora; Baybay City, Leyte, Cotabato City; and Tagbilaran City, among other places mentioned in the media where untoward incidents were reported to have happened.

In Buluan, Maguindanao, at around 11:30 a.m., unknown assailants opened fire and killed three members of a barangay patrol action team outside Datu Luminog Mangelen Pilot School while voting was ongoing. According to NAMFREL volunteers in the area, the police considered the incident politically motivated because the victims were supporters of a local party. According to volunteers, gunshots were also heard in the vicinity of the same voting center when unknown assailants fired at a helicopter on which a relative of a local candidate was onboard.

In Malabang, Lanao del Sur, a fistfight occurred between supporters of opposing candidates inside Malabang National High School. They were forced by the police and Marines to leave the school, but once outside, a gunfight ensued. One supporter of a candidate was killed. Voting continued in said voting center.

In another incident in Malabang, a man was shot dead while sitting on a pedicab outside Jose Abad Santos Elementary School.

In the past, NAMFREL recommended that elections in the area now covered by the Bangsamoro Autonomous Region be held on a separate date so that the security forces can be concentrated in the area.<sup>124</sup> While the election to the Bangsamoro Parliament was rescheduled to 2025 by Republic Act No. 11593 passed in 2021, elections for officials of local government units that are part of the region also took place during the 2022 NLE. This recommendation requires an amendment of the Constitution, since the Supreme Court ruled that the Constitution mandates synchronization of regional elections with the national elections.<sup>125</sup> No amendment has been passed adopting this recommendation.

In Dimatubo, San Luis, Aurora, five trucks were apprehended, with one truck containing money, guns, and sample ballots. The NAMFREL volunteer who reported the incident said that the details were turned over to the Philippine National Police (PNP) for its investigation.

In Pilar, Abra, NAMFREL volunteers reported that members of private armies were present in at least four barangays.

In Baybay City, Leyte, a NAMFREL volunteer reported that the principal of a voting center mobilized barangay tanods for election day, supposedly in coordination with the PTA president of the school and a barangay councilor. A police officer in the city also prevented NAMFREL volunteers from observing in at least three barangays.

In Cotabato City, NAMFREL volunteers reported a commotion outside Vilo Elementary School. Barangay officials responded to the incident and soldiers were called to guard the premises and those waiting outside the voting center.

In Tagbilaran City, Bohol, barangay officials manned voter assistance desks. The city COMELEC promptly replaced them after the local NAMFREL chapter inquired.

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<sup>124</sup> NAMFREL Report 2016 National and Local Elections

<sup>125</sup> *Datu Michael Abas Kida vs. Senate of the Philippines, G.R. No. 196271, 28 February 2012, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/24083>*

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<sup>123</sup> From NAMFREL Report 2016 National and Local Elections



## J. Transparency Media Server (TMS)

As an accredited citizen's arm, NAMFREL was granted access to the output of the TMS, located at the Quadricentennial Pavilion, University of Santo Tomas, Sampaloc, Manila. The output was a processed comma separated values (CSV) file that could be imported into relational databases. It was scheduled to be provided every fifteen minutes from the TMS. Data was passed to NAMFREL via a designated USB thumb drive. This process was similar to that implemented during previous elections.

The NAMFREL IT Team witnessed only one issue: a delay in the release of data from 9:00 to 9:30 PM on the night of election day, 9 May 2022. The reason was the program that pushed data from the TMS to the laptops failed to start its feature of automatically sending the data to the laptops every 15 minutes. To solve the issue, the program was manually restarted.

In the past, NAMFREL suggested that accredited entities be provided with the key needed to decrypt and read the ERs.<sup>126</sup> This was not done in the 2022 NLE.

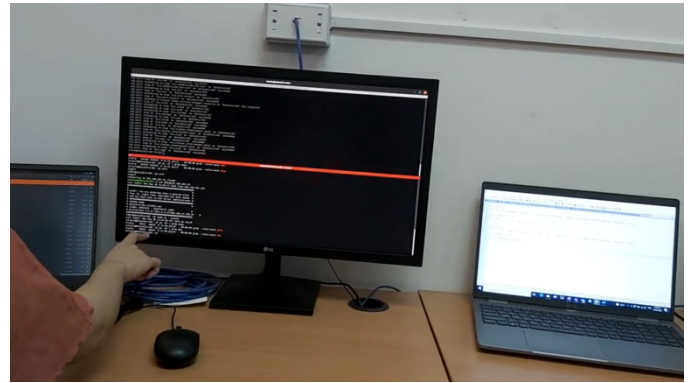
The IT Team terminated its operations on 13 May, at the same time that the TMS room was decommissioned. At 10:00 a.m., Smartmatic staff showed to the IT Team and other participants the names of nine log files on the TMS. COMELEC offered access to the log files, but an official request should first be made. NAMFREL submitted its intention to have access to those log files. COMELEC then returned the two flash drives submitted by the IT Team; one of the drives had a copy of the last election results file from the TMS.

NAMFREL had no major concern, except for the physical waiting and handling of the USB thumb drives.

The IT Team also observed the shutdown of the AES infrastructure on 30 May. At 11:00 a.m. COMELEC staff executed Linux terminal commands to initiate the shutting down of the Central Data Server at the Bonifacio Technology Center, Bonifacio Global City, Taguig. Participants were allowed to take videos or photos of computer screen output. At 12:00 noon, participants were allowed to visit the cage of the physical data server on the first floor. COMELEC Staff unlocked the cabinet where the data server was secured and unplugged all the cords. The participants were given permission to take videos or photos of the data server while cables are being unplugged.

<sup>126</sup> NAMFREL Report 2016 National and Local Elections

The screencap below is from a video taken during the AES shutdown.



## K. ER Transmission and Unofficial Count

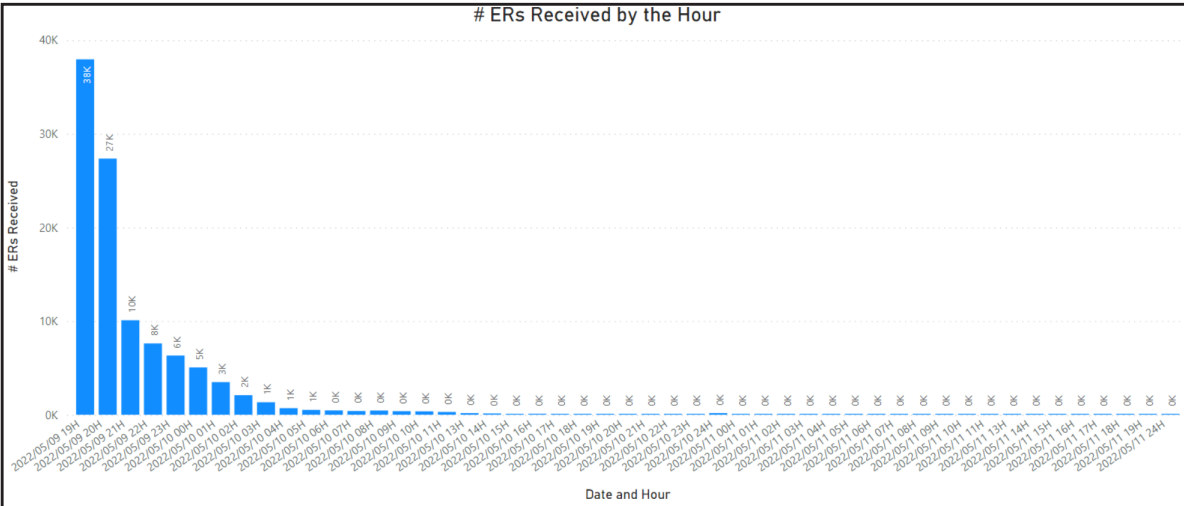
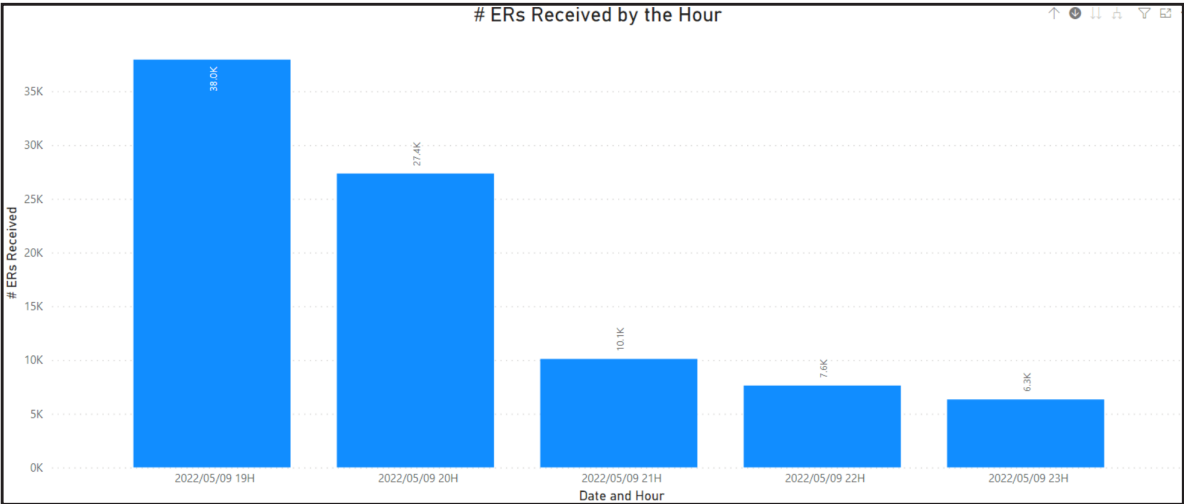
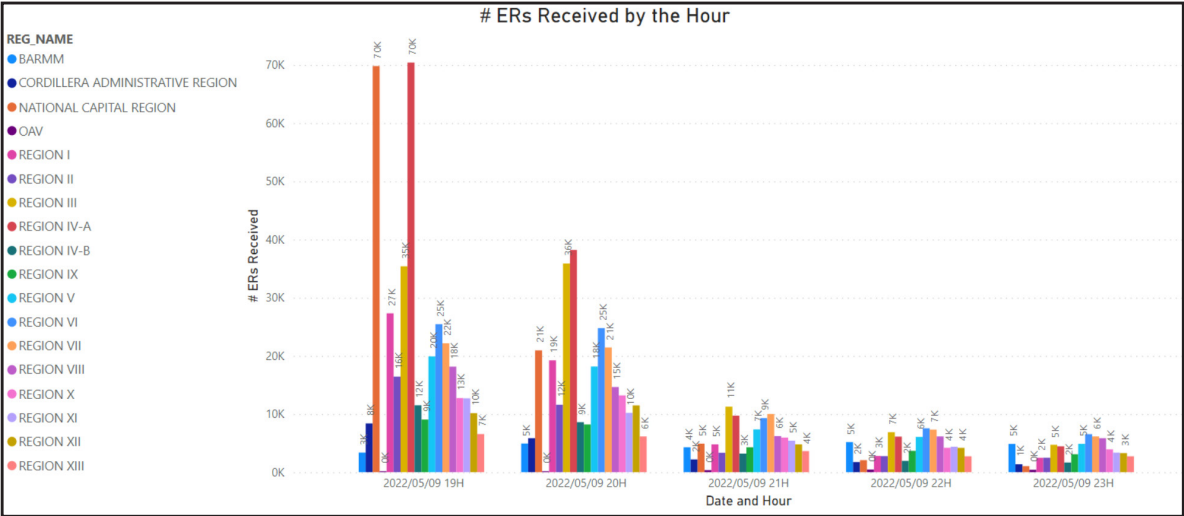
NAMFREL noted the speed by which the results were received through the TMS. On the initial report of 8:17 p.m. of election day, 9 May, 36 percent of the total votes were already received. By 13 May at 2:47 p.m., when the TMS was shut down, 98.35 percent of the ERs were transmitted. These ERs covered 55 million out of 67.4 million votes, coming from 106,008 out of a total of 107,785 clustered precincts. This meant more ERs and votes had been electronically transmitted. In comparison, a total of 96.15 percent of the votes were transmitted to the TMS once it shut down in 2016, 76.35 percent in 2013, and 90.35 percent in 2010.<sup>127</sup>

For the 2022 NLE, COMELEC used an upgraded transmission facility (from 3G to 4G). The 2019 transmission rate (number of ERs transmitted per hour) was not immediately observed because of the seven-hour glitch. The transmission rate in 2022 was a little slower than in 2019. (See chart in the Annex.)

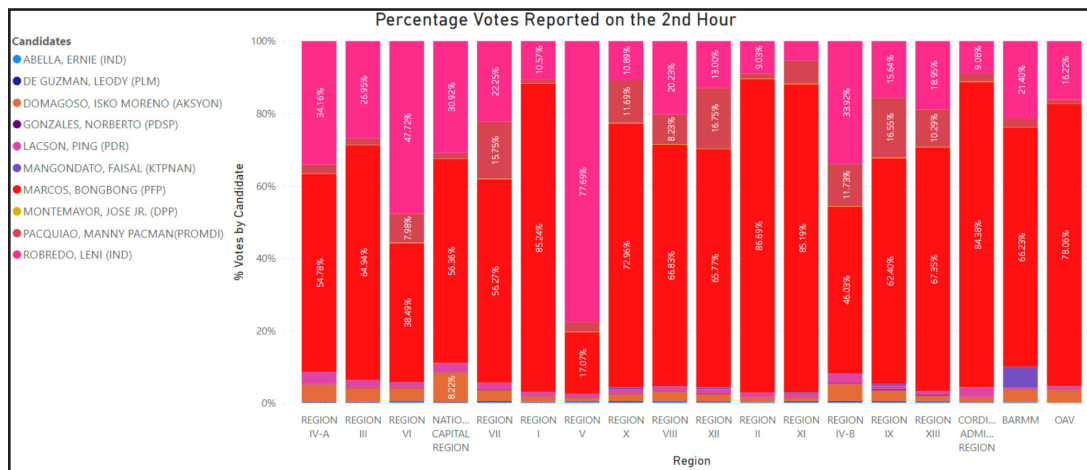
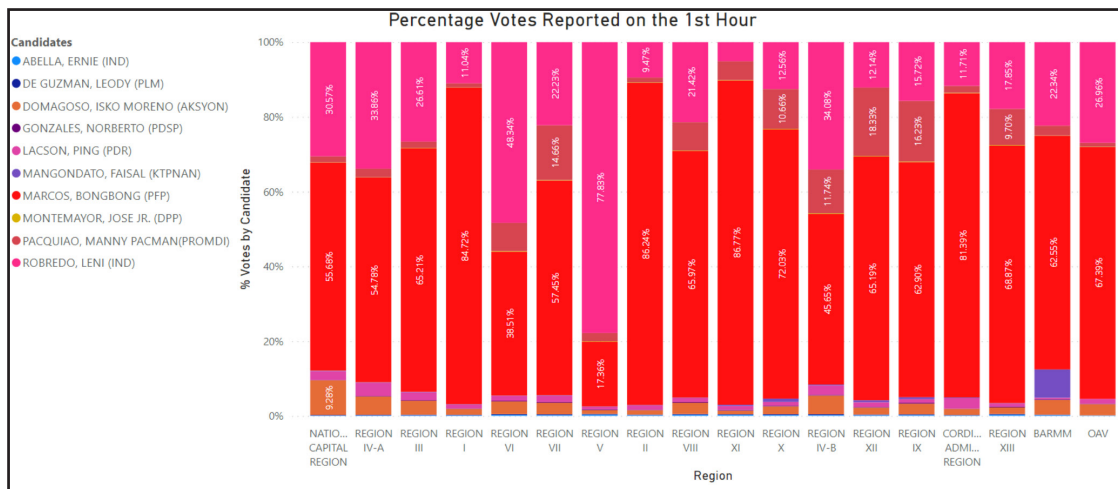
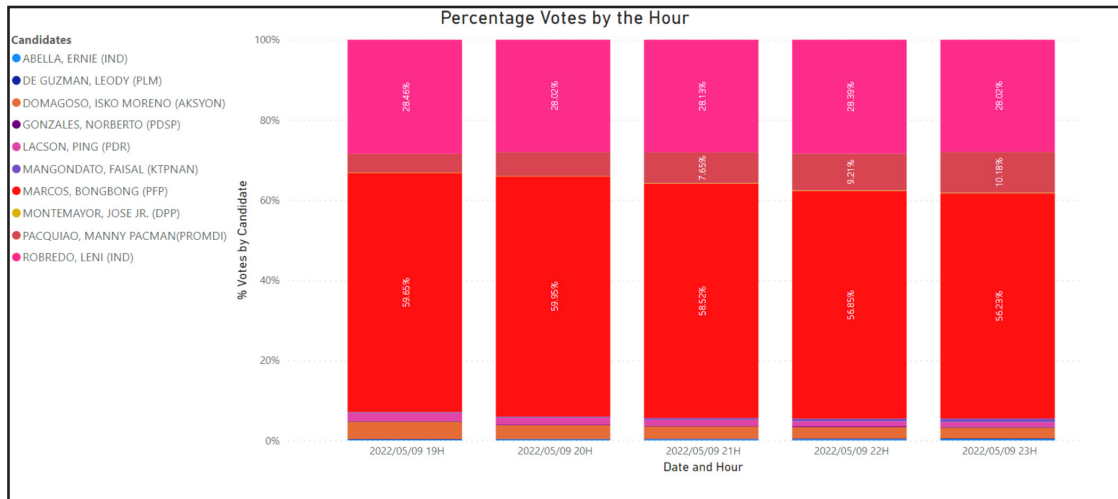
Nevertheless, ERs from 1,777 clustered precincts were not transmitted to the TMS.

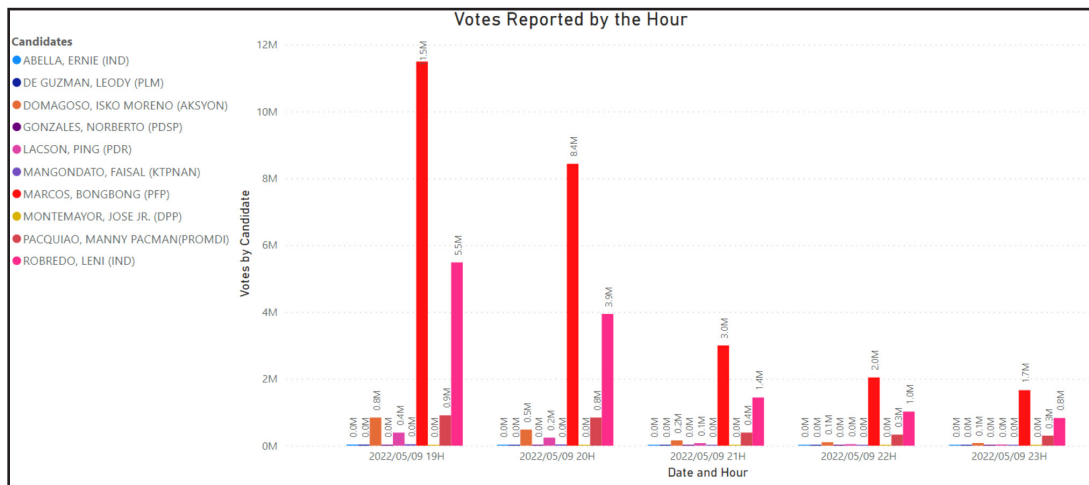
<sup>127</sup> NAMFREL Report 2016 National and Local Elections

The following charts show the number of ERs received (a) per region per hour for the first five hours starting at 7:00 PM, when polls were scheduled to close and VCMs were scheduled to transmit votes; and (b) per hour for the first five hours; and (a) per hour up to the end of 11 May.



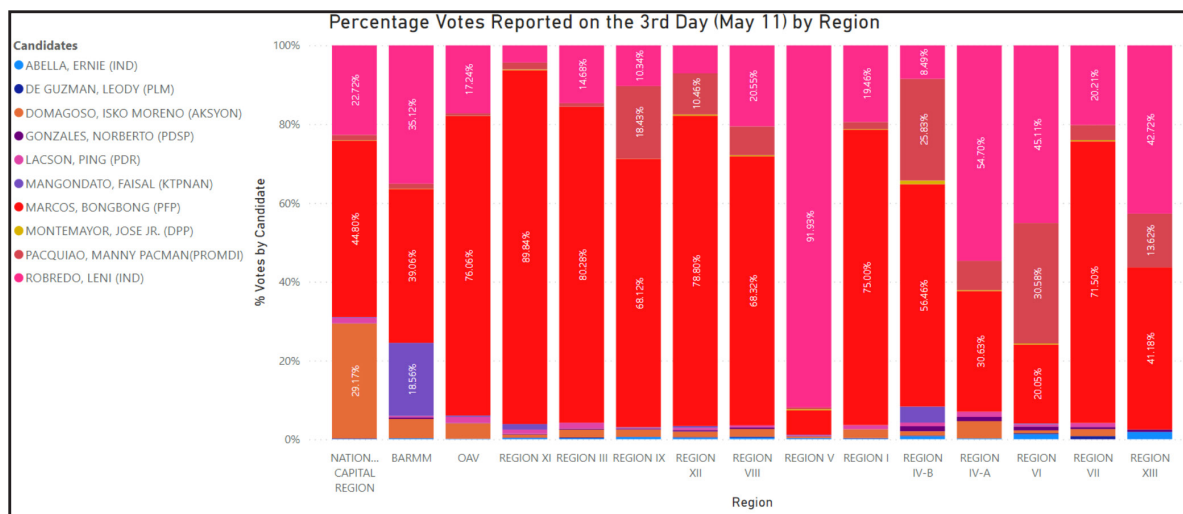
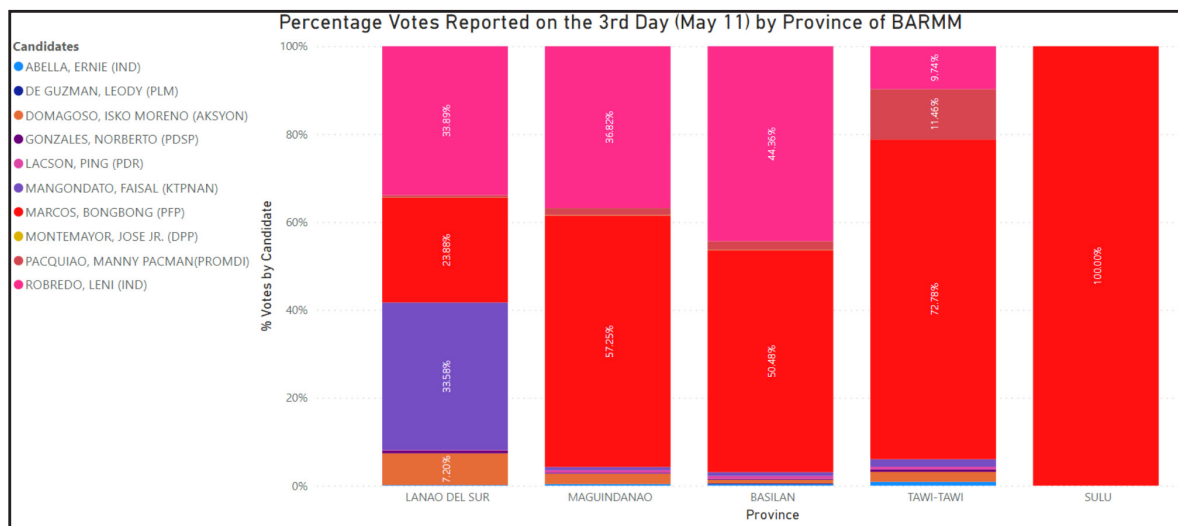
The following charts show the percentage of votes received per presidential candidate, broken down into hours starting at 7:00 P.M. of 9 May.



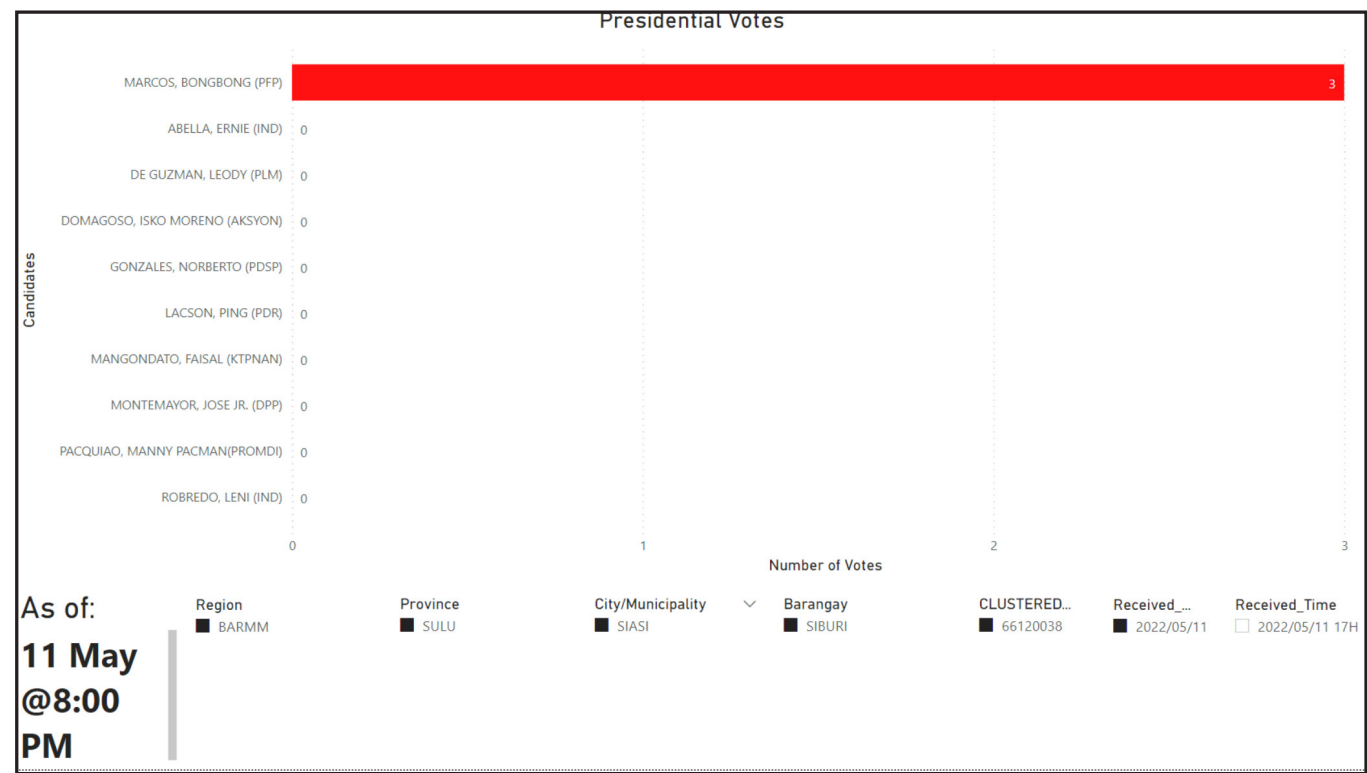




The charts below show the percentage of votes received on 11 May, by province of the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), and by region.



The chart below shows that as of 8:00 P.M. on 11 May, only three votes had been transmitted from Clustered Precinct No. 66120038, covering Barangay Siburi, Municipality of Siasi, Province of Sulu in the BARMM.



Election results received through the TMS could be accessed at <https://namfrel.org.ph/2022/2022-results.htm> in the form of bar charts.

## **L. Submissions through NAMFREL app**

NAMFREL released an app for Android and iPhone on 29 April 2022 to be used in crowdsourcing AES information from the general public. The NAMFREL app was used to take photos of the following portions of the printed ERs:

(a) Top, which contains the votes for President

(b) Bottom, which contains the VCM System Hash Code (discussed in the report chapter on pre-election AES monitoring under “LSCR End-to-End Demonstration (22 March 2022) and VCM System Hash Code”).

Once a picture is submitted, it would go through an optical character recognition (OCR) process. The result of the OCR would then be compared to the data of the ER record coming from the TMS.

NAMFREL received around 6,781 images that went through this process. This yielded around 1,208 unique clustered precinct ERs submitted. The OCR data, which uses machine learning and artificial intelligence, yielded an average of 92% accuracy when compared to the transmitted ERs from the Transparency Media Server. The remaining eight percent then went to a manual comparison and eventually resulted in a full match of all submitted ERs.

The general public also used the NAMFREL app to conduct bandwidth tests, which determined the mobile signal strength in specific locations, especially in voting centers where election results were transmitted. The bandwidth test feature was in response to COMELEC’s switch of network infrastructure from 3G to 4G. While in theory this move should provide better coverage and faster network, any new implementation could post unknown variables. The bandwidth test part of the app simulated data transfer from the vicinity of the polling place.

The NAMFREL app recorded 2,395 bandwidth tests submitted from various parts of the country. The results showed a minimum speed transfer rate of 1.2 Mbps. While this speed is relatively slow for traditional Internet browsing, this is more than enough to transmit the ER package quickly and efficiently to the three target servers. The data gathered also shows better coverage of the 4G network. This may explain the resulting speed and coverage of the transmitted ERs into the TMS.

Duly registered NAMFREL volunteers were also able to unlock additional features in the NAMFREL app, which they used to send election day observations straight to NAMFREL headquarters in Mandaluyong City. The election day observations submitted by volunteers through the app have been discussed earlier in this report.

## **M. Digital Signatures Implementation**

The Supreme Court relied on its definition of “electronic signature”<sup>128</sup> in its April 2019 ruling, “As gleaned from the wording of the law, the signature may be any distinctive mark or characteristic that represents the identity of a person. Thus, a machine signature of a PCOS machine may validly be considered the functional equivalent of the aforementioned “digital signature,” as it represents the identity of the individual, said signature naturally being created specifically for the person him or herself inputting the details.”<sup>129</sup>

Hence, legally, the definition of “digital signatures” for purposes of the AES is consistent with the Rules of Electronic Evidence promulgated by the Supreme Court. However, this means that the digital signature need not be unique to each EB member. The need for a definition in the Election Automation Law of the term “digital signature” which expressly states that the term refers to the unique mark of each EB member, and not of the machine, is crucial.

Nevertheless, the COMELEC announced in May 2021 that the EBs would be using their personal digital signatures instead of machine signatures.<sup>130</sup> In preparation for the

<sup>128</sup> *The Supreme Court defined the term in Section 1(j), Rule 2, of the Rules on Electronic Evidence, issued by it in 2001. Said Section reads, ““Electronic signature” refers to any distinctive mark, characteristic and/or sound in electronic form, representing the identity of a person and attached to or logically associated with the electronic data message or electronic document or any methodology or procedure employed or adopted by a person and executed or adopted by such person with the intention of authenticating, signing or approving an electronic data message or electronic document. For purposes of these Rules, an electronic signature includes digital signatures.”*

<sup>129</sup> *Bagumbayan-VNP Movement, Inc. vs. Commission on Elections*, G.R. No. 206719, April 10, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65166>

<sup>130</sup> *Dwight De Leon, “Electoral boards to use digital signatures for the first time in 2022”, Rappler, 17 May 2021, <https://www.rappler.com/nation/elections/comelec-says-electoral-boards-use-digital-signatures-2022/>*

use of digital signatures, the Department of Information and Communication Technology and the Department of Education announced during the 9 March 2022 hearing of the Senate Committee on Electoral Reforms and People's Participation that it had enrolled all public school teachers who would serve as Electoral Boards into the Philippine National Public Key Infrastructure.<sup>131</sup> The two departments did their part in the registration of all EBs for digital signatures.

However, the COMELEC announced during the same hearing that it encountered difficulties in procuring the cable assembly needed to connect the I-Button readers to a server in order to produce the I-Buttons for digital signing. This limited the adoption of digital signing by the teachers who would serve as EBs merely to a pilot test in NCR, Cebu, and Davao, instead of nationwide.<sup>132</sup>

NAMFREL urged COMELEC to pursue other alternatives like tapping local companies with the capacity to fabricate the required cable assembly. As a last resort, NAMFREL recommended making the election results transmission package -- which should include the electronically transmitted election returns -- in protobuf format, which shall include the xml sig and public key certificates for validation available through the TMS.<sup>133</sup> Neither recommendation was adopted.

On election day, NAMFREL observed that EBs were not familiar with how to use digital signatures. The training materials for the pilot areas did not have a specific section for digital signature; the instruction is just a small part similar to other areas.

Volunteers in polling places in Salapan Elementary School in San Juan City and Libis Elementary School in Quezon City observed problems with the I-Button used to affix the digital signatures.

Since the VCMs could accept either the operational I-Button (which affixed the machine signature on the Election Returns) or the I-Button containing the EB's personal digital signatures, EBs opted to use the

<sup>131</sup> <https://www.youtube.com/watch?v=WOCF2MppZco>

<sup>132</sup> <https://www.youtube.com/watch?v=WOCF2MppZco>

<sup>133</sup> NAMFREL, <https://namfrel.org.ph/2022/files/Namfrel%20Press%20Statement-%20NAMFREL%20welcomes%20the%20new%20COMELEC%20Chairman%20and%20Commissioners%20as%20it%20urges%20more%20transparency%20in%20the%202022%20elections.pdf>

operational I-Button. This rendered the digital signature I-Button useless. Eight EBs claimed that during the FTS, the digital signature I-Buttons failed to work. Lastly, no verification or test was conducted for the digital signature.

## N. Reception to Results

According to COMELEC figures, a total of 1,310 VCMs and 618 SD cards had to be replaced on election day.<sup>134</sup> Of the 1,310 VCMs, a total of 1,295 were in-country while 15 were used in overseas absentee voting (OAV). Of the 618 SD cards, 611 were in-country while 7 were for OAV.<sup>135</sup>

In the 14 May 2022 meeting of the COMELEC AES Steering Committee, then-NAMFREL National Council Member Mr. Angel S. Averia, Jr. raised the request of election stakeholders for an SD card audit, for the protobuf (protocol buffer), and for the trusted build. Commissioner Marlon Casquejo welcomed the proposal of an SD card audit and even suggested making the announcement a public event. Eventually, this SD card audit did not push through.

Many voters were shocked at the speed by which the election results became known. These results were eventually accepted. However, five NAMFREL chapters reported that a total of five local candidates filed election protests seeking recounts.

A NAMFREL chapter reported that in one clustered precinct, the number of voters did not match the actual number of voters who voted. There were also reports of violence that might have been caused by the losing candidate.

In the 2022 NLE, then-COMELEC Commissioner George Garcia reported to the Senate Committee on Electoral Reforms and People's Participation that a total of 1,310 VCMs and 618 SD cards had to be replaced.<sup>136</sup> In the past, NAMFREL recommended the following:

<sup>134</sup> *Senate Committee on Electoral Reforms and People's Participation (31 May 2022)*, <https://www.youtube.com/watch?v=7viMoha-enY>

<sup>135</sup> *COMELEC AES Steering Committee 14 May 2022 meeting*

<sup>136</sup> *Senate Committee on Electoral Reforms and People's Participation (31 May 2022)*, <https://www.youtube.com/watch?v=7viMoha-enY>



- (a) conduct a comprehensive systems audit;
- (b) collate an inventory of the AES component malfunctions and investigate why such glitches occurred;
- (c) present to the public a schematic diagram of the transmission employed
- (d) clarify how untransmitted ERs were aggregated during the canvassing; and
- (e) investigate and disclose the result of any unauthorized changes in the source code.<sup>137</sup>

It remains to be seen whether these recommendations would be adopted as regards the 2022 NLE. These could be directed by or through the JCOC, which is mandated to conduct a comprehensive assessment and evaluation of the performance of the different AES technologies implemented and shall make appropriate recommendations to Congress.<sup>138</sup>

<sup>137</sup> NAMFREL Report 2016 National and Local Elections

<sup>138</sup> "SECTION 33. Joint Congressional Oversight Committee. - An Oversight Committee is hereby created composed of seven members each from the Senate and the House of Representatives, four of whom shall come from the majority and three from the minority, to monitor and evaluate the implementation of this Act. A written report to the Senate and the House of Representatives shall be submitted by the Advisory Council within six months from the date of election. The oversight committee shall conduct a mandatory review of this Act every twelve (12) months from the date of the last regular national or local elections.

*The oversight committee shall conduct a comprehensive assessment and evaluation of the performance of the different AES technologies implemented and shall make appropriate recommendations to Congress, in session assembled, specifically including the following:*

1. *An assessment and comparison of each of the AES technologies utilized, including their strengths, weakness, applicability or inapplicability in specific areas and situations;*
2. *An evaluation of their accuracy through a comparison of a random sample of the AES election results with a manual tabulation, and the conduct of similar tests;*
3. *As to the scope of AES implementation in the subsequent elections, provide for recommendations as to whether any of the following should be adopted:*
  - a. *Further test application of the AES or a particular AES technology used in the 2007 elections, whether in the same or others areas;*
  - b. *An increase or enlargement of areas for implementation of the AES or an AES technology and not a full implementation; or*
  - c. *A full implementation of the AES.*
4. *As to the kind of AES technology, provide for proposals as to whether:*
  - a) *A particular AES technology should no longer be utilized for being obsolete,*

## O. Transparency and Credibility in the Election System

On 10 May 2022, COMELEC Commissioner Marlon Casquejo announced that the VCMs would no longer be used in the 2025 NLE<sup>139</sup>. The opportunity is thus ripe for a new system. Five NAMFREL chapters recommended the use of a hybrid system in future elections.

In manual elections, voters and poll watchers can see and monitor what happens to each ballot as it goes through the ballot appreciation process, counting, tabulation, and preparation of the ER. Voters and poll watchers can also observe how and when the ER is sent to and received by the municipal/city boards of canvassers (M/CBOCs) for consolidation.

In an AES, almost all these steps are behind a computer system. If the voting system is not designed properly, the transparency in manual elections is lost. To replicate this transparency, all sorts of controls and processes are necessary, such as hash codes and electronic IDs, data sources, server logs, IT groups and support teams that need to be made public. AES is therefore a very complicated system. Yet, it can still be open to possible mistakes or manipulation. It is difficult to verify how the figures were obtained. All these holes and questions make it difficult for everyone to accept the results.

Thus, the better way to maintain transparency and credibility is to adopt hybrid elections. Manual elections would be maintained at the polling place level, since it provides the visibility and verifiability until the ER is produced. In addition to a count using the tara system on a tally board, each ballot can also be counted by scanning it one by one in the presence of observers and watchers.

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*inapplicable, inaccurate or with a defect which cannot be remedied;*  
*b) An enhancement or improvement is needed to an AES technology which was used in the 2007 elections to make it more functional, appropriate and accurate;*  
*c) A particular AES technology is already appropriate and should be utilized fully for subsequent elections; or*  
*d) The testing or adoption of new technologies which may have emerged after the 2007 elections is needed." (Section 33, Republic Act No. 8436, as amended by Section 27, Republic Act No. 9369, <https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/AutomatedElection/RA9369>).*

<sup>139</sup> Dona Z. Pazzibugan, Tina G. Santos, "VCM glitches bug polls; Comelec finally not reusing them in 2025", *Inquirer.net*, 10 May 2022, <https://newsinfo.inquirer.net/1595198/vcm-glitches-bug-polls-comelec-finally-not-reusing-them-in-2025>

The ERs would then be electronically transmitted to the M/CBOCs.

The EBs are needed to confirm the ERs making up the results before the M/CBOCs, and the ERs should retain metadata, such as but not limited to clustered precinct ID, voting center and polling place, city/municipality and province, and transmission time.

Once the authenticity of the electronically-transmitted ERs are confirmed, the election results on them would be accepted into the consolidation computer system (CCS). The latter would sum up all the results and then generate the certificates of canvass.

The EB should state to everyone present in the polling place the voting turnout. This figure can be compared to the voting turnout from the electronically-transmitted ER. The CCS should thus show the latter.

The CCS can easily be made open source and the results server publicly accessible and available. In bidding for the CCS, the specifications should require that the hardware run open-source election software, to open the playing field. COMELEC should not restrict the specifications to only one type of hardware.

Monitoring or viewing of municipal/city, provincial and national results should be made readily available using data visualization tools (such as Microsoft BI), so that voters can check their local results.



# POST-ELECTION MONITORING

## A. Random Manual Audit

**What is the RMA?** “The random manual audit (RMA) is a process undertaken as mandated by the Election Automation Law, Republic Act (RA) 8436 as amended by RA 9369, to determine the correctness and accuracy of the automated vote count.”

“The resulting counts of the vote in the audit return shall be compared with the results of the vote counts for the positions covered by the audit reflected in the election return. A discrepancy will lead to a review of the manual count. If the discrepancy is not resolved, the RMA will turn to the VVPATs and count the votes for the positions where the discrepancy is found. If still the discrepancy is not resolved, such fact shall be recorded in the RMA minutes, and the ballot box referred to the technical evaluation committee for root cause determination.

Source: (Lito Averia, NAMFREL National Council Member “Random manual audit”, Manila Times, 15 June 2022, <https://www.manilatimes.net/2022/06/15/opinion/columns/random-manual-audit/1847437>)

NAMFREL participated in the RMA as a member of the RMA Committee (RMA), and observed the RMA process done in Diamond Hotel in Manila from 11 May to at least 29 June 2022.

A total of 757 polling places, one polling place from each congressional district,<sup>140</sup> was subjected to RMA. As of 24 August 2022, the final report on the RMA has yet to be released.

According to the latest RMA Bulletin (No. 36) dated 29 June 2022, 5:00 P.M., 748 ballot boxes had been audited (as encoded by PSA), no ballot box was undergoing processing, and all 757 had been retrieved.<sup>141</sup>

The Preliminary Accuracy Rate as of 7 June 2022, based on 503 out of 757 clustered precincts, or 66.4465%, are as follows (see next page):

<sup>140</sup> “SEC 29. Random Manual Audit. - Where the AES is used, there shall be a random manual audit in one precinct per congressional district randomly chosen by the Commission in each province and city. Any difference between the automated and manual count will result in the determination of root cause and initiate a manual count for those precincts affected by the computer or procedural error.” (Section 29, Republic Act No. 8436, as inserted by Republic Act No. 9369, <https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/AutomatedElection/RA9369#sec24>)

<sup>141</sup> COMELEC, <https://www.facebook.com/photo/?fbid=403758701789968&set=a.224420859723754>

Position	Preliminary accuracy rate
President	99.9774%
Vice-President	99.9744%
Senator	99.9821%
Party-List	99.8664%
Member, House of Representatives	99.9790%
Mayor	99.9702%
<b>Average Overall Accuracy Rate</b>	<b>99.95825%</b>

Source: COMELEC<sup>142</sup>

## 1. RMAC Deliberations

The RMAC was created to ensure that the RMA proceeded in a safe, efficient, transparent, participative, and credible manner.<sup>143</sup> For the 2022 NLE, the RMAC was composed of representatives from the COMELEC, the Philippine Statistics Authority (PSA), and a Coalition of Civil Society Organizations (CCSOs) that included the Legal Network for Truthful Elections (LENTE), NAMFREL, the Philippine Institute of Certified Public Accountants (PICPA), the Philippine Society of Public Health Physicians (PSPHP), and the Information Systems Audit and Control Association (ISACA).

The RMAC met regularly starting in 2021 to form recommendations on how to improve the 2022 RMA and to discuss the actual conduct of the audit. In December 2021, the COMELEC, through Resolution No. 10738,<sup>144</sup> released the guidelines for the conduct of the RMA. These guidelines were amended through Resolution No. 10774.<sup>145</sup>

From the start of the election period, the RMAC met not only to discuss the conduct of the audit but also to hold simulations and training.

As a member of the RMAC, NAMFREL raised some policy recommendations and points during the Committee's meetings. The RMAC, including NAMFREL, proposed

amendments or policy notes to COMELEC. The NAMFREL representatives raised several issues during the series of deliberations. These include:

Policy Recommendation and Points Raised by NAMFREL	Amendment or Policy Notes Agreed upon by RMAC	COMELEC Action
What if the physical count of ballots does not match the count as stated in the printed ER?	No discretion should be granted to the RMA Committee for this scenario. The RMA Team should continue with the audit and completely document the discrepancy between the count of the physical ballots and the count as indicated in the copy of the printed ERs.	Section 16(k), COMELEC Resolution No. 10774: "In case the RMA results do not match the AES results, the RMA members shall review all ballots and the corresponding entries in the Audit Returns for purposes of excluding the possibility of human error.  After determination that human error was not committed as having caused the discrepancy, the Chairman shall determine if the total number of VVPAT receipts is equal to the total number of valid ballots. If so, the RMA members shall use the VVPAT receipts to count the votes counted in favor of the candidate with the reported discrepancy/ies. If the number of VVPAT receipts is not equal to the number of total ballots counted inside the ballot box, the discrepancy shall be reported and documented."

<sup>142</sup> <https://www.facebook.com/photo/?fbid=388399799992525&set=a.224420859723754>

<sup>143</sup> Section 2(h), COMELEC Resolution No. 10774, <https://comelec.gov.ph/index.html?r=2022NLE/Resolutions/res10774>

<sup>144</sup> <https://comelec.gov.ph/index.html?r=2022NLE/Resolutions/res10738>

<sup>145</sup> <https://comelec.gov.ph/index.html?r=2022NLE/Resolutions/res10774>



<p>What if verifiers will be involved at an earlier point in the Audit?</p> <p>What if RMA Teams would not be given access to the ERs at any point in the audit?</p>	<p>Verifiers should be given an earlier involvement in the process. Once the tabulation was done, the Verifier could mark which candidates have variances, by stating the range of difference. It should be noted that the Verifier would not state the exact results per candidate, but would only facilitate the process to ensure that all means to eliminate human error in tabulation is done and suggested consolidation procedures are done (using VVPAT receipts, if complete). Access to the copies of the Electronic Results should be limited to the assigned Verifier. Following the practice which was observed in 2019, only the count of the ballots would be provided to the RMA at the start of the audit. The results per candidate should only be divulged at the point of reconciliation. Then, if the count of VVPAT receipts did not match the count of the ballots inside the ballot box, this should also be documented and reported.</p>	<p>Section 14(d), COMELEC Resolution No. 10774: "The copy of the Election Returns shall be handed over to the assigned [RMA Verification Team (RMA-VT)] and shall not be accessed by the RMA-T until closing procedure of the assigned ballot box, to ensure the integrity of the process. The RMA-VT shall only disclose to the RMA-T the number of valid ballots counted as indicated in the copy of the Electronic Returns."</p> <p>Section 16(L), COMELEC Resolution No. 10774: "If after the counting of votes in favor of the candidate/s with the reported discrepancy/ies using the VVPAT receipts, the discrepancy/ies still exists, the assigned RMA-VT shall provide notes and reasons in the RMA Minutes."</p>
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<p>What if the results from the audit of the selected clustered precincts would be cross-checked with the ERs collected by the PPCRV before or after the RMA, to serve as another source of audit check of the VCM count?</p>	<p>The results in the copies of the Electronic Results on-hand with PPCRV could also be compared with the results as indicated in the copies of the Electronic Results inside the ballot box. This could be coordinated with the PPCRV once the list of randomly selected clustered precincts is released.</p>	<p>Not adopted</p>
<p>What if there would be an independent Vote Counting Machine (VCM) in the RMA center to serve as another source of audit check of the VCM count?</p>	<p>Given operational limits, a smaller sample from the randomly selected clustered precincts should be subjected to this process. The results from the re-run using the independent VCM should then be compared to the results as indicated in the copy of the Election Returns from inside the ballot box.</p>	<p>Not adopted</p>
<p>What if the voter-verified paper audit trail (VVPAT) and ER would be printed with a QR code?</p>	<p>If approved, the QR Codes on the VVPAT could be utilized by comparing the results gathered from using this feature to the results as indicated in the copy of the Electronic Results.</p>	<p>Not adopted. Explained below this table.</p>

What if the RMA would have access to the metadata of the randomly selected clustered precincts from the electronically-transmitted ERs?	<p>The metadata from the selected clustered precincts could be used to check the following:</p> <ul style="list-style-type: none"> <li>a. Opening</li> <li>b. Closing</li> <li>c. Signing</li> <li>d. Fingerprint hash - if the fingerprint matches with the identified owner of the digital signature</li> </ul> <p>Discrepancies established from these data should form part of the RMA report for 2022.</p>	Not adopted
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NAMFREL had developed an app that would scan the contents of the QR Code on the VVPAT and perform vote counts per clustered precinct covered by the RMA. The result of the count could be compared with the vote counts reflected in the ER. NAMFREL had even conducted a VVPAT QR Code workshop with the RMAC on 9 November 2021. Mr. Fernando Contreras, Jr., member of the NAMFREL National Council, demonstrated how an app installed on an Android phone could count scan the QR codes and generate a tally of the election results based on the VVPATs scanned.

The VVPAT in the 2022 NLE was serialized. Serialization is a security feature of the QR code: without the serialization key, the QR code cannot be read. Hence, to complete the app, NAMFREL requested through the RMA Committee for the data dictionary of the VVPAT QR Code. However, NAMFREL received a copy of the letter from the Office of Commissioner Aimee P. Ferolino dated 14 March 2022 addressed to Atty. Ona Caritos, Executive Director of LENTE, stating that the request for the copy of the VVPAT QR Code data dictionary could not be granted.

## 2. RMA Observations

The RMA was conducted in a safety bubble setup at Diamond Hotel.<sup>146</sup> Observers were therefore required to undergo antigen testing before entering the site. A total of 60 teams, with three members each (who were

teachers), were responsible for the manual counting and tabulation of votes. A total of 18 verifiers observed the process being done by the teams.

Work done in the first and second floors were identical. The only difference was in the physical arrangement of tables and chairs because the rooms on the second floor were smaller. COMELEC personnel were stationed outside the rooms.

The average output of a team was 2.5 days per ballot box. Each batch of teams was asked to work for 7 days. Though busy, the teams were spirited in their work, looked eager, and were receptive to comments.

The RMA proceedings were open to observers and representatives of candidates and political parties.

The random selection of clustered precincts was done on 10 May 2022, a day after the elections. A random selection software developed by the PSA was used. A total of 757 clustered precincts were selected. A contingency list of clustered precincts was also generated.

Of 757 ballot boxes from randomly selected clustered precincts, nine were set aside for various reasons like wet ballots.

The nine ballot boxes were not replaced with ballot boxes from clustered precincts included in the contingency list, since the legislative districts where the nine ballot boxes came from were still represented in the original lot.

There were also 149 ballot boxes without printed election returns. In order to proceed with the RMA, the electronically transmitted election returns were used for comparison with the RMA count. However, PICPA suggested that an alternative printed copy may be used. This prompted the RMAC to request the COMELEC En Banc for its printed copies election returns from the 149 clustered precincts. Rather than develop a software to encode and compare the vote results reflected on the printed copies with the corresponding electronic copy, the RMAC requested the PPCRV for the use of its software. However, PPCRV's software was limited to covering only national positions. To finally resolve the matter, the RMAC had to compare the results in the local positions reflected in the printed copy of the election return sourced from the COMELEC with the corresponding electronic copy manually.

<sup>146</sup> Section 23, COMELEC Resolution No. 10774, <https://comelec.gov.ph/index.html?r=2022NLE/Resolutions/res10774>

### 3. TEC Root Cause Analysis

#### WHAT IS ROOT CAUSE ANALYSIS?

The Election Automation Law, Republic Act No. 8436, as amended by R.A. 9369, provides:

"SEC 29. Random Manual Audit. - Where the AES is used, there shall be a random manual audit in one precinct per congressional district randomly chosen by the Commission in each province and city. Any difference between the automated and manual count will result in the determination of root cause and initiate a manual count for those precincts affected by the computer or procedural error."

When there is a difference between the manual count of the ballots and the automated count as done by the VCM and shown in the ER, the ballot boxes would undergo analysis to determine the reason for the difference.

The TEC's task was to determine the root cause of the variances through a process called "root cause analysis".

Root cause analysis (RCA) is the process of discovering the root causes of problems **in order to identify appropriate solutions**.

The RMAC referred 27 ballot boxes to the Technical Evaluation Committee (TEC) for root cause analysis. Each of the 27 ballot boxes had more than 10 variances between the VCM Vote Count as reflected in the election returns generated by the concerned VCM and the RMA Vote Count as reflected in the RMA returns.

#### a. RCA Procedure

The TEC RCA Team for the 2022 NLE was comprised of representatives from the COMELEC, the Department of Science and Technology (DOST), and the Department of Information and Communications Technology (DICT). TEC's RCA process is defined in the document with the title "FINAL DETAILED PROCEDURES FOR THE ROOT CAUSE ANALYSIS (RCA) OF THE 2022 NATIONAL AND LOCAL ELECTIONS CLUSTERED PRECINCTS WITH VARIANCES".

Each ballot box was processed separately. The TEC RMA Team took a careful note of the labels and seals on the ballot box and doing an inventory of the contents. The contents of the ballot box included the ballots, ER, and VVPAT.

After completing the inventory, the TEC RCA Team retrieved the ballots which had been grouped into batches by the RMA Team. Each RCA Team member took a batch of ballots for processing and counted the number of ballots in each batch.

Each RCA Team Member focused on the vote counts of candidates with variances between the VCM vote count and the RMA audit count. The corresponding ballot image of a ballot was retrieved from a laptop. Using the vote summary appended to the image of each ballot, each RCA Team member verified the vote counts by the VCM if the vote counts reflected in the election returns is the same.

Each RCA Team Member then inspected each ballot to verify the correctness of the RMA audit count. Where a variance had been confirmed, the RCA Team member concerned referred to the images of the ballot and compared it with the corresponding physical ballots to identify which ballot might have caused the variance. The TEC RCA Team members are organized into pairs. After completing the processing of the batch of ballots, the TEC RCA Team pair exchanged the batch of ballots each had processed and then performed a second processing of the batch.

The results of the RCA Team member's count WERE recorded in a matrix (photo below) that showed the total vote counts per batch of ballots, categorized into manual count of votes per RCA (C), undervote as per AES from ballot image (U), and overvote as per AES from ballot image (O).

The sum of the RCA vote count was then compared with the AES count and the RMA count.

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	Total
<b>Vice-President:</b>															
Pangilinan	12	1	2	3	4	5	6	7	8	9	10	11	12	13	14
<b>Senators:</b>															
Baguilat	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Balita	2	4	8	4	4	14	2	3	5	0	0	0	0	0	0
De Lima	6	3	1	5	9	8	2	7	1	0	0	0	0	0	0
Diokno	6	4	2	2	4	17	0	1	0	0	0	0	0	0	0
Escudero	5	4	10	6	0	4	0	0	0	0	0	0	0	0	0
Elgueta	9	2	0	4	0	21	0	6	2	0	0	0	0	0	0
Gordon	6	5	5	11	3	12	2	3	1	0	0	0	0	0	0
Gutoc	4	7	7	6	10	17	9	2	0	0	0	0	0	0	0
Hontiveros	4	5	11	9	3	28	2	2	2	0	0	0	0	0	0
Lacson	4	3	1	1	2	5	1	0	1	0	0	0	0	0	0
Maluta	0	1	0	0	1	5	1	0	1	0	0	0	0	0	0
Pinal	1	4	3	1	3	8	3	2	1	0	0	0	0	0	0

## b. Venue and RCA Period

The RCA process started on 13 June 2022, also at the Diamond Hotel in Manila. Without a defined RCA procedure, the TEC RCA Team struggled to process the first ballot box, taking a period of two weeks to complete – from 13 to 24 June 2022.

Since the contract with Diamond Hotel was scheduled to end on 25 June 2022, a decision was made to transfer the RCA venue. Upon approval of the COMELEC En Banc, the venue was moved to the Advanced Science and Technology Institute (ASTI) of the DOST in the University of the Philippines premises in Diliman, Quezon City. The RCA process resumed on 28 July 2022.

In the meantime, the RCA procedure was formulated and the appropriate RCA forms developed.

With the RCA procedure defined and the appropriate forms drafted, the TEC RCA Team was able to process each ballot box for a period of two days to two and a half days.

The RCA process was completed on 3 August 2022.

## c. RCA Outcome

The root cause of the variance in the 24 ballot boxes was determined to be the visual assessment of the vote marks appearing on the ballot. It is difficult for the human eye to assess if a shade covering an oval passed the 25% threshold. The 25% threshold refers to the size of the shade covering an oval. If the shade covering the oval is beyond the 25% threshold, the said shade is assessed to be a valid vote mark.

As discussed with TEC RCA Team leader, Mr. Rage Callao of ASTI, during a visit on 27 July 2022, root cause analysis of the variances in three ballot boxes had to undergo machine hardware, firmware, and audit log analysis as provided for in the RCA Process document in Section 1, Ballot Analysis Step 6 which states: "If he/she notes that there are stray marks, lines, and other artifacts appearing on the ballot image which does not appear in the physical ballot, the RCA team shall continue to Section 2 analysis."

On inspection of the ballot images of the correspond

ballots in each of the three ballot boxes, it was found that there were:

- (1) Corrupted or distorted ballot image stored but vote record intact
- (2) Ballot images with white lines
- (3) Ballots with shades covering the ovals that appeared to be valid vote marks but which were not counted by the VCM

The Section 2 analysis required the inspection of the corresponding VCM used with each of the subject ballot boxes with the assistance of a technical person from the VCM provider, Smartmatic.

In response to a text message sent to Mr. Callao inquiring on the status of the RCA, he responded as follows:

"Good morning po. We completed the ballot review last week Aug 3 and the hardware analysis on 1 VCM last Monday and Tuesday." - Text message dated Aug 11, 2022, 8:42:45 from Rage Callao  
When asked about the number of VCMs subject to hardware/firmware analysis, he replied:

"We only requested one from Bohol." Text message dated Aug 11, 2022, 9:49:12 from Rage Callao

The findings on the three ballot boxes have not been disclosed but this is expected to be included in the TEC RCA Report.

## d. Observations

The TEC RCA team was not prepared to conduct the RCA on 27 ballot boxes. The RCA process was formulated only during the ballot analysis of the first ballot box. The maker-checker set up was observed, that is, the RCA team members worked in pairs but each member of the pair worked on separate batches of ballots. After processing their respective batch of ballots, the pair would exchange batches and processed the batch of ballots anew. Verification of the work done by an RCA team member was performed to ensure accurate ballot analysis to identify the cause of the variance between the AES count and the RMA audit count and resolve the same.

Inspection and review of the VCM was not observed.



### e. Recommendations

For the RCA of succeeding NLEs, NAMFREL recommends the following:

1. Formulate the RCA procedure and appropriate forms at the same time as the formulation of procedures for the RMA.
2. Allow the RMA Teams to inspect the ballot images in the event that the members of the RMA Teams could not ascertain if a shade covering an oval in the ballot passed the 25% threshold.
3. Brief the TEC RCA Team on the RMA processes and the findings involving ballot boxes the referred to it.
4. Maintain the maker-checker set up.
5. Open the inspection and review of the VCM to observation.

### **B. Campaign Finance**

NAMFREL intended to further assist the COMELEC in campaign finance efforts, consistent with NAMFREL's accreditation as citizens' arm. To comply with this duty, NAMFREL had requested from the COMELEC copies of campaign finance submissions filed with it, but it was denied during a meeting of the Commission en banc on 24 March 2022, according to a letter (Document No. 22-4561) from the COMELEC Law Department dated 1 April 2022.

NAMFREL explained in a reply dated 12 April 2022 the need for such documents to fulfill its assigned task under the terms of accreditation, and later requested, at the very least, authority to secure from the local COMELEC offices the list of candidates that complied with the filing of their Statement of Contributions and Expenditures (SOCs), as required by law, by the 8 June 2022 deadline.<sup>147</sup> A reply has yet to be received on these points.

<sup>147</sup> Section 14, first paragraph, Republic Act No. 7166 (1992) reads, "Every candidate and treasurer of the political party shall, within thirty (30) days after the day of the election, file in duplicate with the offices of the Commission the full, true and itemized statement of all contributions and expenditures in connection with the election." (<https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/SynchronizedNationalandLocal/RA7166>)

According to the local COMELEC in Masbate, ten local candidates had not yet filed their SOCs by the deadline. In Las Piñas, four local candidates did not submit their SOCs yet two days after the deadline.

The legal campaign spending limits remain those set by Republic Act No. 7166 (1991),<sup>148</sup> as reiterated by the COMELEC on its Resolution No. 10730 implementing the Fair Election Act for the 2022 NLE.<sup>149</sup>

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<sup>148</sup> "Sec. 13. Authorized Expenses of Candidates and Political Parties. - The aggregate amount that a candidate or registered political party may spend for election campaign shall be as follows:

1. For candidates. - Ten pesos (P10.00) for President and Vice-President; and for other candidates Three Pesos (P3.00) for every voter currently registered in the constituency where he filed his certificate of candidacy: Provided, That a candidate without any political party and without support from any political party may be allowed to spend Five Pesos (P5.00) for every such voter; and

2. For political parties. - Five pesos (P5.00) for every voter currently registered in the constituency or constituencies where it has official candidates.

Any provision of law to the contrary notwithstanding any contribution in cash or in kind to any candidate or political party or coalition of parties for campaign purposes, duly reported to the Commission shall not be subject to the payment of any gift tax." (<https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/SynchronizedNationalandLocal/RA7166>)

<sup>149</sup> "SECTION 5. Authorized Expenses of Candidates and Parties. - The aggregate amount that a candidate may spend for an election campaign shall be as follows:

a. For candidates for President and Vice-President - Ten pesos (P10.00) for every registered voter

b. For candidates with political party - Three pesos (P3.00) for every voter currently registered in the constituency where the candidate filed his certificate of candidacy;

c. For other candidates without any political party and without support from any political party - Five pesos (P5.00) for every voter currently registered in the constituency where the candidate filed his certificate of candidacy; and

d. For political parties and party-list groups - Five pesos (P5.00) for every voter currently registered in the constituency or constituencies where it has official candidates."

The Supreme Court in 2009 ruled that a candidate is liable for election offenses only upon the start of the campaign period, and therefore cannot be held liable for premature campaigning for partisan political acts before the start of the campaigning.<sup>150</sup> The provision of the Election Automation Law cited by the Court<sup>151</sup> in support remains in force.

NAMFREL suggested in the past for the relevant institutions to consider providing state subsidies to individual candidates and or political parties, making candidacy less expensive and probably more inclusive. Taiwan has a good model of political party development and providing subsidies to candidates.<sup>152</sup> No law has been passed adopting this recommendation.

At this point, NAMFREL urges COMELEC to:

- (1) Open to the public the list of candidates at all levels, not just at the national level, who did not comply with submission of SOCEs at the appointed time;
- (2) Sanction non-complying candidates and parties; and
- (3) Investigate campaign spending of selected candidates or parties whose expenses are blatantly violative of the limits prescribed by the law.

NAMFREL also repeats its recommendations for the sustained implementation of the Campaign Finance provisions of the law, reimposing appropriate late filing penalties on parties and candidates, requiring a more stringent validation of documentation, and implementing legal sanctions on non-complying candidates and parties. Towards this, COMELEC shall consider full manning of the Campaign Finance Office. It should also review the reporting system.<sup>153</sup>

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<sup>150</sup> *Penera vs. Commission on Elections*, G.R. No. 181613, 25 November 2009, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/50691>

<sup>151</sup> Section 15, third paragraph, second sentence of Republic Act No. 8436, as amended by Section 13 of Republic Act No. 9369, reads: "Any person who files his certificate of candidacy within this period shall only be considered as a candidate at the start of the campaign period for which he filed his certificate of candidacy: Provided, That, unlawful acts or omissions applicable to a candidate shall take effect only upon the start of the aforesaid campaign period" (<https://comelec.gov.ph/index.html?r=References/RelatedLaws/ElectionLaws/AutomatedElection/RA9369>)

<sup>152</sup> NAMFREL Report 2016 National and Local Elections

<sup>153</sup> NAMFREL Report 2016 National and Local Elections

Lastly, under current rules, candidates and parties may keep unused campaign donations unless taxes are paid for them<sup>154</sup>. This should not be the case: candidates and parties should be required to return unused donations.

Thus, NAMFREL also urges Congress to:

- (1) Review the campaign spending limits;
- (2) Amend the definition of a "candidate" for purposes of penalizing pre-election campaigning;
- (3) Require candidates, political parties, contributors, and media entities to include in their campaign finance submissions to COMELEC the details regarding political advertisements aired before the campaign period;
- (4) Amend the Omnibus Election Code so that duly-accredited citizen's arms have a right to physical and/or electronic copies of all campaign finance documents and attachments;
- (5) Require that all campaign finance submissions be made available online. To make this a duty of the COMELEC, Republic Act No. 7166 and the Fair Election Act (Republic Act No. 9006) should be amended;
- (6) Provide state subsidies to individual candidates and or political parties, making candidacy less expensive and probably more inclusive. Taiwan has a good model of political party development and providing subsidies to candidates; and
- (7) Require candidates and parties to return all unused campaign donations.

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<sup>154</sup> Cathrine Gonzales, *Comelec: Keeping excess campaign donations not wrong if taxes are paid*, *Inquirer.net*, 25 January 2022, available at <https://newsinfo.inquirer.net/1545029/comelec-keeping-excess-campaign-donations-not-wrong-as-long-as-taxes-are-paid> (last visited 30 August 2022). Under BIR Revenue Memorandum Circular No. 22-2022: "Unutilized/excess campaign funds, as well as donations utilized before the campaign period, net of the candidate's or political party's/party list's campaign expenditures, shall be considered as subject to income tax and as such, must be included in their/his taxable income as stated in their/his Income Tax Return (ITR) pursuant to RR No. 7-2011." ([https://www.bir.gov.ph/images/bir\\_files/internal\\_communications\\_2/RMCs/2022%20RMCs/RMC%20No.%2022-2022.pdf](https://www.bir.gov.ph/images/bir_files/internal_communications_2/RMCs/2022%20RMCs/RMC%20No.%2022-2022.pdf))



The Omnibus Election Code criminalizes vote-buying as the first election offense. Section 261 states:

*"The following shall be guilty of an election offense:*

*(a) Vote-buying and vote-selling.*

*(1) Any person who gives, offers or promises money or anything of value, gives or promises any office or employment, franchise or grant, public or private, or makes or offers to make an expenditure, directly or indirectly, or cause an expenditure to be made to any person, association, corporation, entity, or community in order to induce anyone or the public in general to vote for or against any candidate or withhold his vote in the election, or to vote for or against any aspirant for the nomination or choice of a candidate in a convention or similar selection process of a political party.*

*(2) Any person, association, corporation, group or community who solicits or receives, directly or indirectly, any expenditure or promise of any office or employment, public or private, for any of the foregoing considerations."*<sup>155</sup>

Yet, incidents of alleged vote-buying became more rampant in the 2022 NLE compared to previous elections. During the 31 May 2022 hearing of the Senate Committee on Electoral Reforms and People's Participation, then-COMELEC Commissioner George Garcia gave statistics on complaints of vote buying received by the Commission as follows: 940 from Facebook messages, 171 emails, 105 reports received by the COMELEC Law Department, and 12 verified complaints docketed by COMELEC Law Department.<sup>156</sup>

<sup>155</sup> <https://comelec.gov.ph/index.html?r=References/RelatedLaws/OmnibusElectionCode/OECart22>

<sup>156</sup> <https://www.youtube.com/watch?v=7viMoha-enY>

More cases of vote-buying remain unreported. NAMFREL chapters observed vote buying in many forms, as follows:

- (a) In the open, with one volunteer describing it as an "open secret";
- (b) "Hi-tech" vote-buying through e-wallets such as GCash;
- (c) Receiving valuable goods for one's vote;
- (d) Individual voter's vote or family votes or tribe votes may be negotiated;
- (e) Payouts usually handled by barangay leaders.

A NAMFREL volunteer took a video of an alleged vote-buying incident in Magalang, Pampanga. A barangay captain twisted the arm of said volunteer, assaulted three other volunteers, and showed his gun to the people.

The increase in vote-buying incidents was attributed by one chapter to the economic hardship brought about by the COVID-19 pandemic. Voters would accept anything just to get by.

Two NAMFREL chapters said that they could not verify reports of vote-buying because no one wanted to testify and document these incidents. Another chapter said that recipients of vote-buying would brag off the record, but would not want to file a complaint. Formal investigations, leading to sanctions, rarely take place because complainants are required to disclose their names,<sup>157</sup> as required by law,

<sup>157</sup> COMELEC, [https://comelec.gov.ph/php-tpls-attachments/2019NLE/VerifiedComplaintOnVoteBuying/Complaint\\_Form.pdf](https://comelec.gov.ph/php-tpls-attachments/2019NLE/VerifiedComplaintOnVoteBuying/Complaint_Form.pdf)

even if the same law provides that those otherwise guilty but who voluntarily give information and willingly testify in any official investigation or proceeding shall be exempt from prosecution and punishment, except for perjury or false testimony if their statements turn out to be false.<sup>158</sup>

A different NAMFREL chapter reported that vote-buying was undeterred by the presence of law enforcement officers, who advised that formal complaints first be filed before they can take action. However, legally, those committing vote-buying in full view of law enforcement officers can be arrested on the scene, without need of a warrant of arrest nor a formal complaint,<sup>159</sup> since vote-buying is a crime, an election offense, as earlier mentioned. As for the lack of a formal complaint, law enforcement officers who personally witnessed vote-buying incidents can file the complaint

<sup>158</sup> Republic Act No. 6646 (1988). "Sec. 28. Prosecution of Vote-Buying and Vote-Selling. - The presentation of a complaint for violations of paragraph (a) or (b) of Section 261 of Batas Pambansa Blg. 881 supported by affidavits of complaining witnesses at testing to the offer or promise by or of the voter's acceptance of money or other consideration from the relatives, leaders or sympathizers of a candidate, shall be sufficient basis for an investigation to be immediately conducted by the Commission, directly or through its duly authorized legal officers, under Section 68 or Section 265 of said Batas Pambansa Blg. 881.

*Proof that at least one voter in different precincts representing at least twenty percent (20%) of the total precincts in any municipality, city or province has been offered, promised or given money, valuable consideration or other expenditure by a candidate's relatives, leaders and/or sympathizers for the purpose of promoting the election of such candidate, shall constitute a disputable presumption of a conspiracy under paragraph (b) of Section 261 of Batas Pambansa Blg. 881.*

*Where such proof affects at least twenty percent (20%) of the precincts of the municipality, city or province to which the public office aspired for by the favored candidate relates, the same shall constitute a disputable presumption of the involvement of such candidate and of his principal campaign managers in each of the municipalities concerned, in the conspiracy.*

*The giver, offeror, and promisor as well as the solicitor, acceptor, recipient and conspirator referred to in paragraphs (a) and (b) of Section 261 of Batas Pambansa Blg. 881 shall be liable as principals: Provided, That any person, otherwise guilty under said paragraphs who voluntarily gives information and willingly testifies on any violation thereof in any official investigation or proceeding shall be exempt from prosecution and punishment for the offenses with reference to which his information and testimony were given: Provided, further, That nothing herein shall exempt such person from criminal prosecution for perjury or false testimony."*

<sup>159</sup> "A peace officer or a private person may, without a warrant, arrest a person: (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense" (Section 5, Rule 113, Rules of Criminal Procedure, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/11/369>)

themselves<sup>160</sup> and also testify in court or the COMELEC.

The seeming inaction of law enforcement officers may be due to their hesitance in offending the incumbent elective local officials who are campaigning for reelection or other positions. Alarming, one NAMFREL chapter said that the police raided the voter education session conducted by several NAMFREL volunteers, citing reports of vote-buying as the reason. However, the chapter reported that the reason for the raid was that the voter education session subject of the raid took place at the same time the incumbent was campaigning in the area.

A NAMFREL chapter also reported that many people made the campaign of the candidates as a business to receive valuable goods, essentially vote-selling, as defined above. A different chapter relayed that vote-selling, not vote-buying, took place in their area.

Congress should revisit the verified complaint and affidavit requirement in order to formally initiate investigations of vote-buying. Complainants and witnesses should also be eligible for witness protection programs. Possibly, to convince law enforcement officials to act on vote-buying incidents they personally witnessed without need for a formal complaint, the law could be amended to impose upon them the duty to arrest those responsible for vote-buying when committed in their presence, to seize as evidence all related items found in the scene, and to testify in court or the COMELEC on such incident. The law could include a declaration that such acts on the part of law enforcement officers to stop and penalize vote-buying incidents is a nonpartisan function.

Volunteers commented that the rampant vote-buying made the election not fair.

Another recommendation to address vote-buying is to intensify voter education.

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<sup>160</sup> Section 3, Rule 110 of the Rules of Criminal Procedure: "Complaint defined.—A complaint is a sworn written statement charging a person with an offense, subscribed by the offended party, any peace officer, or other public officer charged with the enforcement of the law violated." (underscoring supplied, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/11/369>)





# ASSESSMENT AND RECOMMENDATIONS

## A. Assessment

NAMFREL's assessment of the 2022 NLE considers criteria based on international election standards for free and fair elections.

### On the voters' right to vote:

The exercise of the voters' right to vote starts at the registration of voters. The COMELEC endeavored to register as many new voters for the 2022 NLE despite pandemic conditions. COMELEC set up the Office for Overseas Voting and the Vulnerable Sectors Office to ensure inclusivity. Information on voter registration was widely disseminated and registration process and systems put in place. Voter registration was largely COMELEC local office-centric even if satellite voter registration centers were set up for example, in commercial malls.

Filipinos customarily put off what needs to be done until the last minute. Thus, there was a deluge of applicants towards the end of the registration period, which was extended beyond the original deadline by one month.

COMELEC's registration system was limited by the number of registration equipment available. Some applicants were informed that they could no longer be accommodated on the day that they came since the daily limit has been reached.

The registration system could have been designed to consider the limited number of applicants that can be accommodated, and could have leveraged on available technologies, such as the online appointment (iRehistro) and queuing system, for all registration centers. The iRehistro could have provided for specific dates and times when applicants can go to any registration center,

whether in the local COMELEC or in satellite locations such as malls. Those who have gone to the registration centers but could no longer be accommodated could have been issued dates and times when to come back for registration. A queuing system could have been implemented with the issuance of service numbers to applicants and announcements could have been announced when batches of service numbers can be accommodated at specific times of the day.

Applicants living in remote areas are particularly challenged as they need to fund their transportation and meals to go to registration centers. COMELEC had the option to bring registration closer to the people by setting up registration centers at barangays or voting centers.

Applicants assumed that they are already registered when they have filed their application and such application received by COMELEC and a registration stub returned to them. Applicants were not aware that their applications still have to be processed and considered in Election Registration Board hearings.

Voter registration verification could be done in any of the following ways. Each had challenges:

1. Issuance by COMELEC of the Voter Information Sheet (VIS). VIS distribution was done through barangays but some voters did not receive their VIS.
2. Checking on the Precinct FINDER page through the COMELEC website. This application is not widely available since not all citizens have access to technologies and only about 70% of the country are covered by telecommunications infrastructure. Some voters who checked on their registration failed to get information through the Precinct FINDER.

3. Checking on lists of voters posted at COMELEC offices. Going to COMELEC offices is a challenge for some, especially those who live remote areas and are, therefore, unable to check if they are indeed listed.

Access to reliable information on platforms. Physical campaign sorties by political parties and candidates in the midst of pandemic restrictions hardly provided information on political party and candidates platforms and commitments. Social media campaigns did not provide enough reliable information as well. Social media has seen a deluge of mis/disinformation. Campaign announcements were ruled more by numbers or the size of attendees in rallies. Campaign rallies served as entertainment venues with celebrities singing and dancing with candidates to the delight of their audience. Debates served as venue to provide information to the voting public but one particular candidate declined to participate thus failing to address issues to other candidates.

Freedom from violence, harassment, and intimidation. Pockets of violence, harassment, and intimidation marred an otherwise peaceful conduct of the elections.

Availability of choices. Some 900 local posts were uncontested and political clans ruled some jurisdictions limiting the choices of voters in those areas affected.

#### [Citizen's right to be elected:](#)

To exercise this right, any citizen who aspires for an elective post must file his/her certificate of candidacy (CoC) at the appropriate time.

Loopholes in the rules of filing CoC were exploited, in particular, the substitution rules. Some political aspirants served only as placeholders, reserving a slot for the real candidate, demonstrating that the right to be elected is not taken seriously. While a period of substitution has been provided under the rules, substitutes can file their CoCs until 12 noon of election day itself.

A political aspirant who has filed his CoC is not deemed an official candidate for an elective post at the time of filing of the CoC. Rather, a candidate becomes an official candidate on the first day of the campaign period.

Limits on campaign expenditures have been set by law. But since political aspirants are not yet deemed official candidates before the campaign period, early campaigning and propaganda ruled the period between the deadline of the filing of CoCs (or even earlier) and the day before the start of the official campaign period. Thus, expenditure limits may have been breached.

Vote-buying was widely reported but largely anecdotal as witnesses are reluctant to file complaints for fear for their safety and security, as well as of their families.

#### [Voting process on election day:](#)

VCM and SD card malfunctions marred an otherwise smooth voting day operations impacting an estimated 1.2 million voters, highlighting the poor contingency planning measures and response. Some voters affected had to wait for almost 24 hours for the problems to be resolved. Some may have chosen to not vote resulting in disenfranchisement. Voters' experience cannot simply be trivialized by saying that voters affected had the choice to leave their ballots with the Electoral Boards.

Voters who voted in emergency accessible polling precincts (EAPP) expected to cast their votes personally but machines were not made available in the EAPP. Leaving the ballots with election workers manning the EAPP could have comprised the secrecy of the ballot.

#### [Institutional transparency:](#)

The level of institutional transparency was lowered as observation printing of ballots, SD cards, and overall preparation of the automated election system was not opened to observers and watchers until the outcry for observation was raised in the Senate Committee on Electoral Reforms and People's Participation hearing on 9 March 2022.

#### [Overall assessment:](#)

Based on data made available, NAMFREL did not observe any anomalies in the automated counting of votes and electronic transmission of election results in the 2022 National and Local Elections. But while measures such as local source code review and the random manual audit were put in place to ensure integrity of the voting process, the summary findings discussed above may have negatively impacted credibility of the election results. The freeness and fairness of the elections must be addressed by resolving the long-lingering issues of vote buying, campaign expenditures, provision of reliable information, transparency of the automated election system, COMELEC transparency, among others.

## B. Recommendations

### 1. On Election Administration

The COMELEC should:

- a. Prepare and implement a realistic, doable, and transparent election calendar, that should also include items in relation to preparation for the elections, for the guidance of all election stakeholders.
- b. On voter registration:
  - i. Extend the online appointment system iRehistro to any registration center, whether in the local COMELEC or in satellite locations such as malls. It should provide for specific dates and times when applicants can go to any registration center,
  - ii. Issue dates and times for those who have gone to the registration centers but could no longer be accommodated (ex. because they are beyond the cut-off)
  - iii. Implement a queuing system by issuing service numbers to applicants, and by announcing when batches of service numbers can be accommodated at specific times of the day.
  - iv. Bring registration closer to the people residing in remote areas by setting up registration centers at barangays or voting centers.
- c. Strictly enforce COVID-19 protocols during campaign activities and on election day inside voting centers, polling places, and canvassing centers.
- d. Ensure that all stakeholders—including election monitoring organizations—are informed in advance of all election-related activities like the delivery, public demos, and final testing and sealing of machines, to encourage participation and transparency of the said processes.
- e. Ensure that all members of EBs are made familiar with the different election stakeholders, including the different accredited citizens' arms like NAMFREL, so that problems on election day pertaining to observation and access to election results documents can be avoided.
- f. Cascade in advance -- down to the members of the EBs -- information regarding the different accredited citizens' arms like NAMFREL, their presence and purposes especially on election day, so that problems on election

day pertaining to observation and access to election results documents could be avoided.

g. Explore more effective means of distributing the Voters' Information Sheet (VIS) should be distributed to every voter's house as early as possible. Voters should not be made to pick up their VIS in just one location.

h. Improve the Precinct Finder, i.e., should be available as early as possible, to enable people to know in advance their polling place assignments and voter status. COMELEC should also ensure that the public is made aware of the existence of the website, and other means by which the public can learn the same sets of information. The Precinct Finder should also be made available during the voter registration period, so people can check if their registration is still active. Thus, voters will not be surprised to find out on Election Day or close to such day that their names have been deleted.

i. Maintain a complete, updated, accurate, and organized Voters' List that will be the source of both PCVL and EDCVL. The PCVL and the EDCVL should be consistent.

j. Conduct an Advance Voting Day several days before the election day for senior citizens, PWDs, officials rendering election day duty, citizens who will be working on election day, those confined in hospitals and penitentiaries, indigenous people living in remote areas, etc. to decongest the poll stations on election day.

Positions to be voted for should include all elective officials, not just those in the national level.

k. Explore other alternative voting methods such as online voting, postal voting, mobile ballot boxes, etc. and its combination for senior citizens, PWDs, officials rendering election day duty, citizens who will be working on election day, those confined in hospitals and penitentiaries, indigenous people living in remote areas, etc., and for OFWs.

l. Develop an appropriate voting technology or procedure for small sized voting precincts, precincts in locations with weak or no transmission facilities or overseas voting sites, such as internet voting. Local precincts which have less than 100 voters could also adopt a manual voting system.

m. Ensure that all voting center and polling station staff are trained on how to handle crowds more effectively. The hiring and mobilizing of COMELEC support staff to assist the EBs on election day is a good idea.

n. Ensure that each voting center has an Emergency Accessible Polling Place (EAPP), an Isolation Polling Place, and a Voters' Assistance Desk (VAD). The VAD should be made more visible, with signs throughout the voting center pointing to where the VAD is located. More VADs could also be made available in each voting center, ideally one for every floor of a building.

o. Enforce the maximum number of people allowed inside regular polling places, EAPPs, and canvassing centers.

p. Ensure that a voting center map is available in conspicuous locations inside voting centers to guide voters where to go, showing the location of the polling places and the precincts they cover. The COMELEC could also make these voting center maps available online prior to election day.

q. Improve placement of directional signs inside voting centers to prevent people from loitering after they have voted. Improve the signs themselves by making them bigger, and written in the local language.

r. Consider using bigger venues as polling places with better ventilation.

s. Provide at least one arm-chair for left-handed people in every polling place to prevent their votes being exposed while accomplishing their ballot.

t. Allow public access to the counting process but guided by health protocols.

u. Sustain the implementation of the Campaign Finance provisions of the law, reimposing appropriate late filing penalties on parties and candidates, requiring a more stringent validation of documentation, and implementing legal sanctions on non-complying candidates and parties. Towards this, COMELEC shall consider full manning of the Campaign Finance Office. It shall also review the reporting system.

uv. Open to the public the list of candidates at all levels, not just at the national level, who did not comply with submission of SOCEs at the appointed time; sanction non-complying candidates and parties; and investigate campaign spending of selected candidates or parties whose expenses are blatantly violative of the limits prescribed by the law.

w. Adhere to the policy of more openness and transparency in order to stop the influence of disinformation on electoral processes and the AES.

## 2. Automated Election System

a. New technology should be used for succeeding elections. A hybrid system should be adopted, where votes are counted manually at the polling place level, and the results are transmitted electronically. In any case, the system (in general) and how it counts votes (in particular) should be transparent and open, easily understandable by all voters without needing any specialized knowledge in source codes and hardware.

In bidding for new machines, COMELEC should not restrict the specifications to only one type of hardware. The specifications should require that the hardware run open-source election software.

b. COMELEC should give due consideration to the findings and recommendations of the COMELEC Advisory Council, which is composed of experts in the IT field and has the mandate under the Election Automation Law to study the best system for elections in the country.

c. COMELEC should specifically indicate in the contract with the AES provider that observers could use automated tools to be able to test the accuracy of the software during the source code review.

d. The voter-verifiable paper audit trail (VVPAT) should be designed to have information to further boost confidence and auditability. This information should include the date and time of printing, election name, election date, province, city/municipality, barangay, clustered precinct ID, precincts in a cluster, machine ID, list of candidates voted for, QR code, and system hash.

e. The Election Markup Language (EML) version of the ER generated by the VCM should be transmitted to each entity allowed and accredited by COMELEC to receive the same. The transparency server/TMS must be configured to receive the ERs from the VCM in the original format and to transmit the same to the various accredited entities.

f. Accredited entities should be provided with the key needed to decrypt and read the ER.



- g. LSCR should be opened to any interested political party or groups which may conduct their own review, in accordance with Republic Act No. 9369. Any of them should be allowed to test the source code anywhere; for this purpose, electronic devices should be allowed in the LSCR, and the source code, documentation, any material supplied by the COMELEC or any part should be permitted to be used anywhere for testing purposes. Reviewers' notes should also be allowed to be taken out, and be included in any written complaints to COMELEC and the technology provider.
- h. Using automated systems, COMELEC should capture and publicize demographics on age, gender, educational attainment, etc. of the voting population, but with respect to the rights regarding personal information under Data Privacy Act (Republic Act No. 10173). Said information would be useful in the planning and administration of elections.
- i. Ensure that all members of EBs are able to attend training and be properly trained to handle minor technical issues.
- j. Ensure proper and complete training of all members of EBs with regard to all election day processes to avoid procedural mistakes. Train EBs on how to properly handle issues like issuance of waivers to voters in polling places where voting is delayed due to malfunctioning machines; use of express lanes only by those qualified to use them; filing of complaints by voters; and others.
- k. Ensure that machines with issues are repaired or replaced at the shortest possible time.
- l. Ensure that secrecy of the vote is maintained at all times inside polling places, by providing enough and enforcing the use of secrecy folders, and by ensuring that votes are not exposed when ballots are inserted into the machines, or when machines malfunction and enforcement of vote secrecy becomes lax, and when voters are in queue waiting to insert their ballot.
- m. In polling places where voters opted to leave their ballots rather than wait for the replacement VCM, more assurance should be given to the voters that their ballots would not be tampered with nor looked at while waiting for the batch-feeding into the VCM.
- n. Encourage voters to check the accuracy of their VVPAT.
- o. As regards instances when the VVPAT does not match the votes on the ballot, the General Instructions should include a provision granting the voters the right to a copy of their complaint, but the complaint shall contain no names of specific candidates in order to maintain the secrecy of the ballot. The General Instructions should include a sample complaint in English, Filipino, or the voter's language. The EBs should be trained on how to teach the voter to fill out a complaint without mentioning names of candidates.
- p. To ensure that EAPP, IPP, and Persons Deprived of Liberty ballots have all been batch-fed into the VCM, the number of unused ballots should be counted and compared with the number of voters who did not cast their votes before the VCM is set to "close polls" status.
- q. Each ER should be digitally signed by the members of the EBs, and with the digital signature unique and personal to each EB member. The training of EBs should go in detail about the importance and the use of personal digital signatures. The difference between machine signatures and personal digital signatures should be explained to EBs during training. The use of machine signatures should be discontinued.
- r. Ensure that EBs are trained to print all copies of the ERs, to post one printed ER conspicuously on a wall within the premises of the polling place as required by the Election Automation Law, and that the rest of the printed ERs are given to the rightful recipients as enumerated in the Election Automation Law and the COMELEC's General Instructions.
- s. Ensure that a copy of the ER is posted outside each polling place after the counting process.
- t. The RMA should include a scan of the QR code of the VVPAT receipts, and the data dictionary should be made available to complete an app that would allow scanning of such QR codes to come up with a VVPAT count. The use of an app to scan VVPAT QR codes and come up with a VVPAT count would not be contrary to the "manual" nature of a random manual audit, since the term "manual" is the opposite of the term "automated" under the AES law, Republic Act No. 9369: "a system using appropriate technology which has been demonstrated in the voting, counting, consolidating, canvassing, and transmission of election results". An app for the VVPAT count is not "a system using appropriate technology which has been demonstrated in the voting, counting, consolidating, canvassing, and transmission of election results".

u. For the Root Cause Analysis (RCA) of ballots where there is a difference between the automated count and the manual count during the RMA for succeeding NLEs:

i. Formulate the RCA procedure and appropriate forms at the same time as the formulation of procedures for the RMA.

ii. Allow the RMA Teams to inspect the ballot images in the event that the members of the RMA Teams could not ascertain if a mark in any oval in the ballot passed the 25% threshold.

iii. Brief the TEC RCA Team on the RMA processes and the findings involving ballot boxes the referred to it.

iv. Maintain the maker-checker set up.

v. Open the inspection and review of the VCM to observation.

v. For the 2022 and succeeding automated elections, whether in whole or in part (hybrid):

i. conduct a comprehensive systems audit;

ii. collate an inventory of the AES component malfunctions and investigate why such glitches occurred;

iii. present to the public a schematic diagram of the transmission employed

iv. clarify how untransmitted ERs were aggregated during the canvassing; and

v. investigate and disclose the result of unauthorized changes in the source code.

### 3. On Reforming Election Laws

a. Congress should allow data sharing agreements between the Philippine Statistics Authority (PSA) and the Comelec in order to dispense with the voter registration process. Congress may study and adopt the system used in Indonesia.

b. Congress should require the PSA and the Civil Registrars nationwide to submit to the COMELEC the information on deceased persons so that they can be purged from the voter registration database, subject to a Data Sharing Agreement.

c. Congress should allow data on citizens turning 18 years old for purposes of NLEs, plebiscites, referenda, etc., and 15 years old for purposes of the SK elections, to be shared by the Civil Registrars with COMELEC.

d. Congress should repeal "Any person who did not vote in the two (2) successive preceding regular elections as shown by their voting records" as a ground for deactivation under Section 27 of Republic Acts No. 8189 (for local voters) and 9189, as amended by R.A. 10590 (for overseas voters). Instead, to encourage them to vote, adopt voting technology (for example, Internet voting) and/or mechanisms (polling places close to their residences).

e. Congress should limit substitution of candidates only in cases of death or physical/mental incapacity of the candidate to be substituted;

f. Congress should revisit the verified complaint and affidavit requirement in order to formally initiate investigations of vote-buying. Complainants and witnesses should also be eligible for witness protection programs. Possibly, to convince law enforcement officials to act on vote-buying incidents they personally witnessed without need for a formal complaint, the law could be amended to impose upon them the duty to arrest those responsible for vote-buying when committed in their presence, to seize as evidence all related items found in the scene, and to testify in court or the COMELEC on such incident. The law could include a declaration that such acts on the part of law enforcement officers to stop and penalize vote-buying incidents is a nonpartisan function.

g. Congress should review the campaign spending limits.

h. Congress should amend the definition of a "candidate" for purposes of penalizing pre-election campaigning.

i. Congress should require candidates, political parties, contributors, and media entities to include in their campaign finance submissions to COMELEC the details regarding political advertisements aired before the campaign period.

j. Amend the Omnibus Election Code so that duly-accredited citizen's arms have a right to physical and/or electronic copies of all campaign finance documents and attachments.

k. Congress should require that all campaign finance submissions should be made available online. To make this a duty of the COMELEC, Republic Act No. 7166 and the Fair Election Act (Republic Act No. 9006) should be amended.

l. Congress should provide state subsidies to individual candidates and or political parties, making candidacy less expensive and probably more inclusive.

Taiwan has a good model of political party development and providing subsidies to candidates.

- m. Congress should require candidates and political parties to return all unused campaign donations.
- n. The term “digital signature” should be defined clearly to mean the unique mark of each EB member. This definition should be contained in an amendment to the Election Automation Law, Republic Act No. 9369.
- o. Consider amending the Constitution so that candidates in the presidential and vice- presidential contests should be elected by majority vote (50 percent + 1 vote count).
- p. Consider amending the Constitution so that elections for autonomous regions can be held on a separate date, so that the security forces can be concentrated in the area on that date.
- q. Consider the impact of the so-called command votes (religious, political dynasties, tribes, etc.) to electoral integrity.
- r. The JCOC should adhere to its mandate to conduct a comprehensive assessment and evaluation of the AES technology. It should make a recommendation on the technology to be used for future elections.

#### 4. On Procurement

- a. COMELEC should minimize the legal complications in the procurement of goods and services by preparing the groundwork for the next elections as early as now.
- b. The Pre-Bid Conference should include the following:
  - i. Additional slides on the common mistakes and deficiencies in the submission of bids, which should be regularly updated. The BAC Secretariat by now has a record of historical data on the common mistakes.
  - ii. Continue the practice of calling each bidder for their comments, questions, and suggestions during the pre-bid conference.
  - c. Bidders should be retrained and reoriented about GPPB resolutions adopting changes in the procurement procedures, requirements, policy, and non-policy opinion. This activity can be done in the form of a Pre-Bid Conference like what the COMELEC SBAC did during the implementation of Government Procurement Policy Board (GPPB) Resolutions No. 09-2020 authorizing the Procuring Entity to allow online or electronic

submission and receipt of bids for procurement modalities where a two-envelope procedure or sealed quotation is required.

- d. The BAC through the BAC Secretariat should maintain records and data of deficiencies and mistakes of bidders in submitting deficient and non-compliant bids. Call the attention of the bidders who frequently and repeatedly submit non-compliant bids and warn them of possible blacklisting proceedings. If such bidders remain non-compliant, then they should be placed on the blacklist.
- e. To fully appreciate and assess the procurement processes/cycle of a specific project and to avoid repetitive letter-requests, observers should be furnished regularly with the following:
  - i. Minutes of related proceedings of BAC meetings;
  - ii. Abstract of Bids
  - iii. Post-qualification summary report;
  - iv. Copies of “opened” proposals.

#### 5. Voter Education

- a. Adopt in the school curriculum a mandatory voter education subject, which should include recognizing and fighting disinformation, and stopping vote-buying.

# **ANNEXES**





**CERTIFICATION**  
**ON THE CORRECT VCM SYSTEM HASH**  
**for the 09 May 2022 National and Local Elections**  
*based on the Final Trusted Build conducted last 13 January 2022*

**THIS IS TO CERTIFY** that the correct system hash for the VCM application based on the Final Trusted Build conducted last 13 January 2022 is:

f19a9**8**b25c36bd7ba7d3c8650fa25a054c186c75db83c209637aa41597ae2de7  
instead of  
f19a9**b**b25c36bd7ba7d3c8650fa25a054c186c75db83c209637aa41597ae2de7


This is to correct the TEC's previous certification on the same which was published in the COMELEC Website as follows:

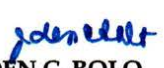
VCM system hash	Hash of the VCM application (using hash validator)	f19a9bb25c36bd7ba7d3c8650fa25a054c186c75db83c209637aa41597ae2de7
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which was verified to be due to a typographical error<sup>1</sup>.

Signed this 24<sup>th</sup> day of March 2022 in Manila, Philippines.

  
**FRANZ A. DE LEON, PhD**  
TEC Chairperson  
Director IV, DOST-ASTI  
DOST Representative to the TEC

  
**ANTONIO EDWARD A. PADRE**  
Director IV, DICT-IMB  
DICT Representative to the TEC

  
**EDEN C. BOLOS**  
Director III, COMELEC-ITD  
COMELEC Representative to the TEC

<sup>1</sup> Explanation from Pro V&V is attached

**PRO V&V**



*Pro V&V, Inc.  
700 Boulevard South, Suite 102  
Huntsville, AL 35802*

---

**To:** Director Franz A. de Leon, Director Antonio Edward A. Padre, Director Eden Bolo  
**From:** Jack Cobb, Laboratory Director  
**CC:** Honorable Marion S. Casquejo  
**Date:** 3/23/2022  
**Subject:** Generated VCM System SHA256 Hash Discrepancy

---

Dear Technical Evaluation Committee (TEC),

The letter from NAMFREL dated March 23, 2022 received by Pro V&V on the evening of March 22<sup>nd</sup>, 2022 points out that there is a discrepancy between the published SHA256 hash values for the VCM System Generated hash value and the SHA256 hash value submitted by Pro V&V previously. Pro V&V agrees the hash value that is generated by the VCM is always correct for the installed firmware. The SHA256 hash value may not match an incorrect published SHA256 hash value, but will always generate a SHA256 hash value for the installed firmware.

The SHA256 hash value generated by the VCM is correct. It is on all Pro V&V data obtained in Manila. The problem is humans had to physically type the SHA256 hash value into the certification documentation manually.

Pro V&V typed the SHA256 hash value incorrectly into a document provided to the TEC using a format of all lowercase letters. The Pro V&V employee misread the "8" as a capital "B" which proceeds the following hexadecimal value and appears the same. The correct SHA256 hash value is generated by the FTB of all VCM's:

f19a98b25c36bd7ba7d3c8650fa25a054c186c75db83c209637aa41597ae2de7 (Hash Validator and Report)

The documentation is wrong, not the SHA256 hash value that is shown on the VCM report.

Jack Cobb

Laboratory Director



Republic of the Philippines  
**COMMISSION ON ELECTIONS**  
Manila

**LAW DEPARTMENT**

DOCUMENT NO. 22 - 4651  
(LAN-22-08355)

April 01, 2022

**Mr. AUGUSTO C. LAGMAN**  
*National Chairperson*  
**National Citizens' Movement for Free Elections**  
Unit 601 DMG Center, Domingo M. Guevara St.,  
Mauway, Mandaluyong City  
namfrel.secretariat@namfrel.com.ph

Sir:

This pertains to the NAMFREL's requested datasets, as contained in its letter addressed to this Commission's Executive Director.

Please be informed that the Commission *En Banc*, during its March 23, 2022 regular meeting, resolved, as follows:

- "1. To grant NAMFREL's requested Posted Computerized Voters' List; Project of Precincts; Certified List of Overseas Voters; and names and contact numbers of field officials.
2. To deny NAMFREL's requested preliminary list of identified election hotspots; COCs; SOCEs; advertising contracts; reports of contractors and business firms; information and documents submitted by social media companies; and data dictionary of the QR Code on the Voter Verified Paper Audit Trail.
3. To refer to the Steering Committee NAMFREL's request to conduct an unofficial count and obtain electronic copies of transmitted election results from the Transparency Server."

We shall furnish you with a copy of this Commission's Resolution on the matter once the same becomes available. Thank you very much!

Very truly yours,

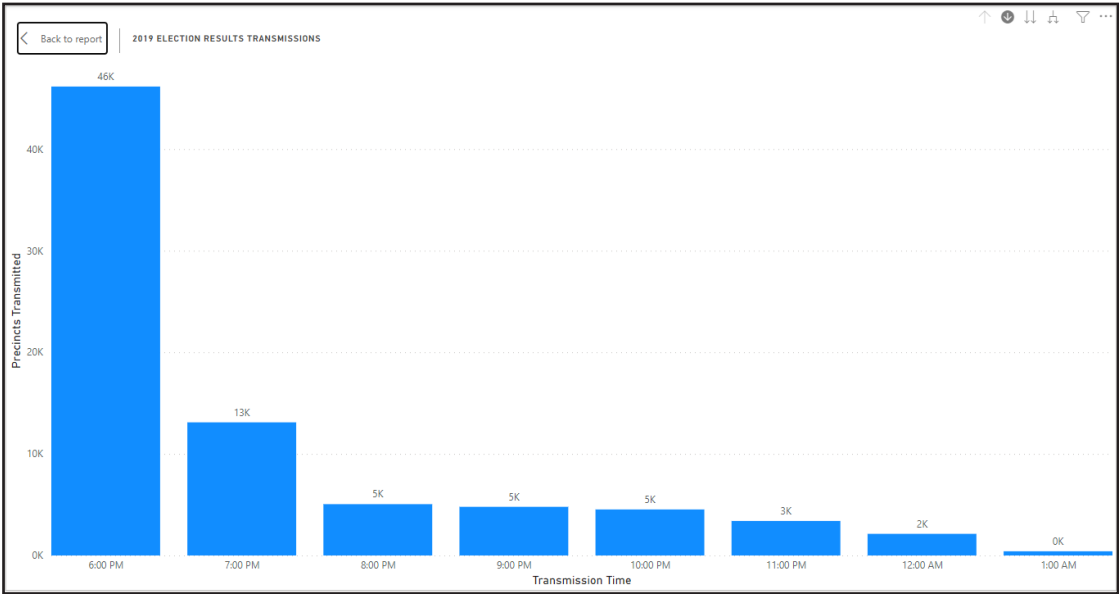
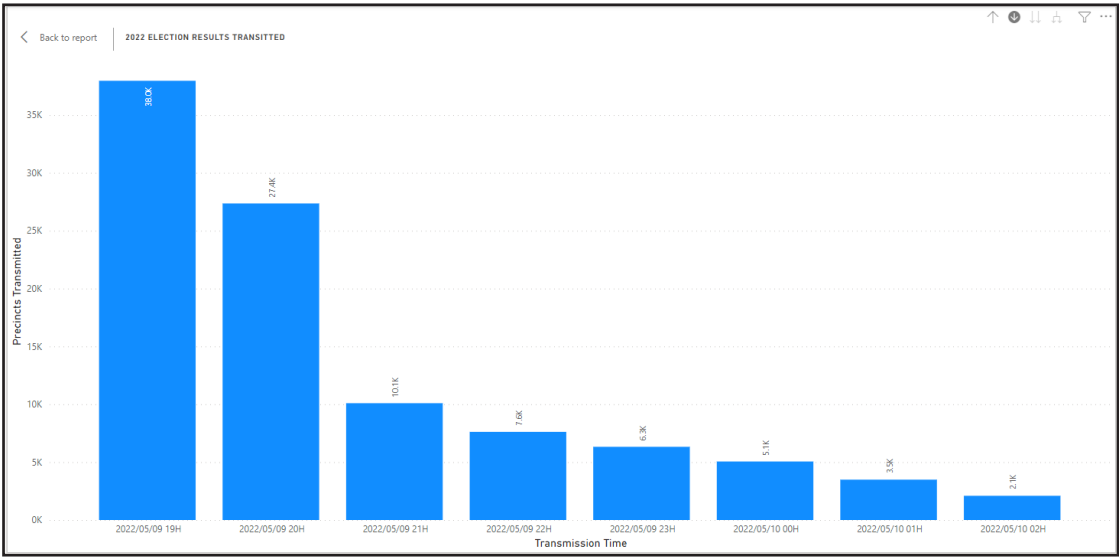
Atty. JOHN REX C. LAUDIANGCO  
Director III

Copy furnished:

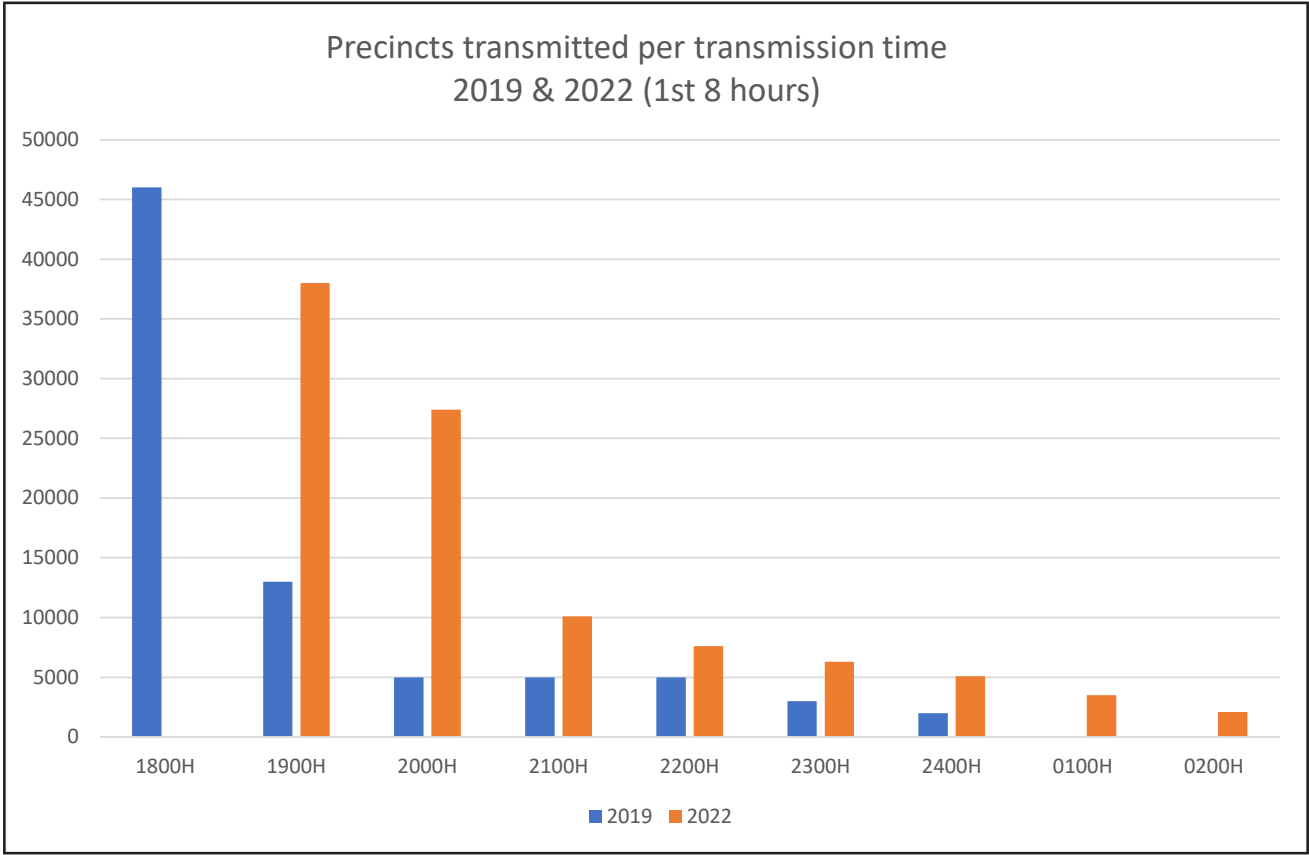
Chairman SAIDAMEN B. PANGARUNGAN  
Executive Director BARTOLOME J. SINOCRUZ, JR.  
Both of this Commission

LO/NAMFREL/2022 NLE/RESO IMPLEMENTATION

Annex C: Election Results Transmissions 2022 vs. 2019 NLE.







EXECUTIVE COMMITTEE	
<b>National Chairperson</b>	Mr. Angel S. Averia, Jr.
<b>Treasurer</b>	Mr. Angel S. Averia, Jr
<b>Finance Committee Chair</b>	Mr. Edward S. Mijares
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Mr. Fernando D. Contreras, Jr.	Bishop Efraim M. Tendero
Atty. Reynaldo G. Geronimo	
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<i>Administrative and Finance Officer</i>	Ms. Maria Corazon N. Bañaga
<i>Volunteer Monagement Associate/IT Infrastructure and Administrative Support Staff</i>	Ms. Josefa C. Aportadera
<i>Regional Desk Coordinator</i>	Ms. Kristine Marie D. Tapiz
<i>Legal Outreach Consultant</i>	Atty. Emir-Deogene V. Mendoza
<i>Procurement Monitoring Specialist</i>	Mr. Jeffrey F. Falco
<i>Research and Communications Assistant</i>	Ms. Ariadne F. Tolentino
<i>Procurement Monitoring Resource Person and Trainer</i>	Mr. Apolinar S. Dichoso



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[www.youtube.com/NamfrelBantayngBayan](https://www.youtube.com/NamfrelBantayngBayan)

NAMFREL WOULD LIKE TO THANK THE FOLLOWING  
ORGANIZATIONS AND INDIVIDUALS FOR THEIR SUPPORT



AUGUSTO C. LAGMAN  
RENATO TANSECO  
EDWARD S. MIJARES  
GEORGE BARCELON  
CORAZON DELA PAZ-BERNARDO

GUILLERMO M. LUZ  
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ATTY. RICARDO J. ROMULO  
SOCORRO REYES AND FRIENDS  
EVELYN R. SINGSON









