

December 27, 2004

Mr. Dean Logan
Director
King County Division of Records, Elections, and Licensing Services
500 4th Avenue, Room 553
Seattle, WA 98104

Re: **PUBLIC RECORDS ACT REQUEST**

Dear Mr. Logan:

Anecdotal reports around the state from the media, poll watchers, concerned citizens, and in one case an election worker who contacted us, cause us serious concern that there have been irregularities, errors, or perhaps worse in the conduct of this election. Among other things, the treatment of "no signature on file" ballots has raised many questions. It appears there may have been problems getting ballots out to military and overseas voters, resulting in voters not receiving ballots despite their requests or receiving them late. Our observers report that ballots have been enhanced or designated as overvotes using standards that changed throughout the counting process. We have heard reports that thousands of new registrations may not have been processed on time, and we are concerned about the ultimate disposition of those new registrations. We are also concerned about the process of verifying signatures, including those on provisional ballots that the voters were allowed to update or verify after the fact.

As I am sure you will agree, it is in the public interest to ensure that such reports are investigated. Rumors, even those that turn out to be false, can damage the confidence of Washington voters in our electoral process if they are not promptly investigated and resolved.

So that we may begin gathering information to allow us to decide how to proceed, and how best to investigate our concerns, I am requesting copies of the following records from September 1, 2004 to the present (except as noted), pursuant to the Pursuant to the Public Disclosure Act, RCW 42.17:

- A list of all voters who cast ballots in the November 2, 2004 general election.
- Any current policies regarding retention of documents, including electronic communications and draft documents.
- Any documents regarding the issuance, delivery, processing, and/or counting of military and overseas ballots.
- Any documents regarding processing of new voter registrations, including without limitation any documents regarding problems or difficulties completing the processing and/or data entry regarding such registrations.
- Any emails or other correspondence to or from employees or agents of the Records, Elections, and Licensing Services Division, or any other county employee or agent, with any duties or responsibilities related in any way to the 2004 election, including without limitation voter registration, ballot processing, inspection of ballots or ballot envelopes, and verification of signatures and registrations.

- All electronic mail messages to or from the following individuals, during the periods May 1 through May 28, 2004, September 14 and September 24, 2004 and from October 31 through November 23, 2004:
 1. Dean Logan
 2. Bill Huennekens
 3. Julie Moore
 4. Garth Fell
 5. Sean Buffiou
 6. Nicole Way

If it will not delay production of the records, you may produce only those electronic mail messages related to ballots with no signature on file, wrong signature on file, no signature on ballot, or signature mismatch. You may produce the records in electronic format, rather than as hard copies.

- Any emails or other correspondence to employees or agents of the Records, Elections, and Licensing Services Division, or any other county employee or agent, with election-related responsibilities from any person employed by or communicating on behalf of the office of the King County Executive.
- Any complaints by voters or others about problems receiving ballots, voting, or obtaining information about the disposition of ballots.
- Any ballot envelopes, updated signature cards or registration records, voter affidavits, and other documents related to provisional ballots that were rejected for signature mismatches, including those at issue in the recent hearings with Judge Lum.
- A list of the names of voters who cast provisional ballots on which signatures could not be verified.
- Any ballot envelopes, updated signature cards or registration records, voter affidavits, and other documents related to absentee ballots that were rejected for no signature on file or wrong signature on file.
- Any letters, or lists of voters who received letters, sent on or after August 1, 2004, because the voter did not have a valid signature on file.
- Any documents, including without limitation internal memoranda, email messages, and training materials, relating to the determination of when and how counters should enhance or duplicate ballots or declare a ballot to be an undervote or overvote.
- Audio tapes of all meetings of the King County canvassing board occurring after September 1, 2004.
- Records of the number of ballots sent to the canvassing board for disposition during each of the general election initial count, machine recount, and manual recount, and the dispositions of those ballots.
- List of all voter registrations deleted during 2004, including the date of deletion and reason for deletion.
- Any memoranda, letters, emails, or other communications or documents that discuss in any way any of the foregoing topics.

The Public Disclosure Act is a broad mandate in favor of disclosure. RCW 42.17.251. In accordance with the Act, we will expect “your fullest assistance” in responding to this request and “the most timely action possible” in releasing information promptly, which means no more

than five (5) business days (and less where possible). RCW 42.17.290. We also remind you that information can only be withheld to the extent that it is specifically exempt, and exemptions must be narrowly construed. RCW 42.17.260(1). Even if some information is arguably exempt, the remainder of the record must be released with redactions noted.

If you claim the right to withhold any documents, or redact any information, you must also include a statement of the specific exemption authorizing the withholding and a brief explanation as to how the exemption applies to the information withheld. RCW 42.17.310(4). The burden of proof is on the County to show that an exemption applies. RCW 42.17.340(1).

Please note that we intend to update this request regularly until after the results of the 2004 election are finalized, and you should not destroy any newly discovered or created responsive documents after compliance with this request. Under RCW 42.17.290, **you have an obligation to preserve the requested documents, even if they are scheduled for destruction in the near future. Such records must be preserved until the request for the records has been resolved. You must not allow electronic records to be erased, destroyed, or written over, and this may require preservation of back-up tapes and other electronic storage devices.**

This request was sent to the County on December 27, 2004. Your response should be directed to me. Please note that any denial of this request, including any partial denial or redaction, is subject to judicial review. Any person who prevails against an agency in an action seeking the right to inspect or copy any public record shall be awarded all costs, including reasonable attorneys' fees and a civil penalty to be determined by the court.

In accordance with the Public Disclosure Act, we will reimburse you for the actual costs of copying these documents. Please send the copies and the invoice to the above address. Thank you for your prompt attention to this request. If you have any questions about the nature or scope of this request, please contact me at _____.

Very truly yours,

Cc: Janine Joly, King County Prosecuting Attorney's Office
Chris Vance, Washington State Republican Party