

Subject: Public Records Request
From: Stefan Sharkansky
Date: Mon, 13 Mar 2006 13:01:29 -0800
To: pmccart@co.pierce.wa.us
CC: "Overstreet, Greg (ATG)" <GregO@ATG.WA.GOV>

Ms. McCarthy --

Thank you for your prompt reply last week to my letter of March 2. I have some follow-up questions.

(I'm cc'ing Greg Overstreet, Special Assistant Attorney General, who is in the process of formulating model rules for the Public Records Act as it relates to electronic records. I thought that some of the issues we're discussing will help inform his work. To bring Mr. Overstreet up to speed, I'm attaching our correspondence in this email)

1) You're asking for a total of \$600 for my items 1-4 and 9. I'm prepared to pay reasonable fees for the records I request, but this is quite a bit more than what other counties have charged me for similar items. For example, King County, which has nearly 3 times the voters as Pierce County (and I would assume nearly 3 times the amount of data per comparable data file) managed to provide the same files on two CDs for which they charged me a total of \$25. Please reconsider the requested fees and if you are unable to bring them in line with what King County charged for similar records, please document how these fees reflect the "actual costs directly incident to such copying" (per RCW 42.17.300).

2) Regarding my Request #5 -- Your response mentions ballot envelopes. I am not requesting envelopes at this time (Although I may request envelopes at a later time). My request was for data records on processed provisional ballots. If Pierce County uses the DIMS "failsafe" module, you should have the exact table that I requested. If you do not use the DIMS failsafe module, you must have some other mechanism to track provisional ballots and to implement the "free access system" which enables a provisional voter to check the status of their ballot, as required by the federal Help America Vote Act and also specified in RCW 29A.60.195 and WAC 434-253-048. These records should contain more information than is available in the voter credit notations. Please provide whatever database records (or maybe even just a spreadsheet?) that would have tracked all provisional ballots processed in Pierce County since the 2004 primary, and that served as the basis of the "free access system".

Also, as you must be aware, federal law mandates a 22 month retention period for all documents pertaining to a federal election (42 USC 1974). The retention periods for both of the 2004 fall elections are still in effect. Please double check with your staff to locate these records. If you conclude they have been destroyed, please confirm in writing that they have been destroyed.

3) Regarding my Requests #6 - #8. You assert that "Pierce County does not have the capability to export a voter transaction log". Implicit in your response is the acknowledgement that Pierce County maintains a voter transaction log, but please correct me if that is not the case. Per my understanding, Pierce County uses a similar if not identical version of the DIMS system that King County uses. King County has managed to export a transaction log. I accept that the members of your technical staff might never have responded to such a request and might not be familiar with the procedure for exporting a transaction log, although I would find it hard to believe that the capability does not exist. Indeed, as I understand RCW 29A.08.770, the transaction logs are covered under the requirement to "make available for public inspection and copying all records concerning the implementation of programs and activities conducted for the purpose of insuring the accuracy and currency of official lists of eligible voters". This is not a one-time only request. I anticipate that other citizens and I will request transaction logs in the future in the ordinary course of reviewing elections office performance, particularly in cases of close elections. Please ask your technical staff to research how to produce the transaction logs, perhaps by consulting with King County's IT staff and/or Diebold technical support. (And to avert any potential confusion as occurred with my request from King County -- I understand that the full transaction log contains some exempt personal voter information, such as driver license numbers, Social Security numbers and phone numbers. I am not requesting the exempt personal information and expect that the exempt information, and only the exempt information, would be redacted from the records that are produced).

4) Regarding my Requests 10 - 11 -- I would prefer the electronic versions of the documents if they exist. If they do not exist, I will accept the paper copies.

5) Your response did not address my Request 12 "Precinct canvasses showing how many polling place, absentee and provisional ballots were cast in each precinct and for which candidates for each of the Recent Elections." I request it in electronic form, if available. King County's "e-canvass" (e.g. <http://www.metrokc.gov/elections/canvass/2006/index.htm>) is an example of what I'm interested in, if you have it in this format. Please indicate whether and how you will provide this information

Kindly review and respond to my follow-up questions. Once I have a clearer understand of what will be provided and the cost, I will make arrangements with your staff to pay for the materials and to have them delivered to me at my expense.

Thank you very much
Stefan Sharkansky