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April 4, 2005

VIA FAX AND U.S. MAIL

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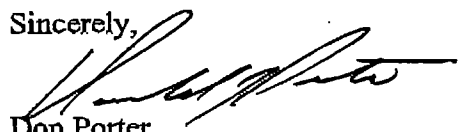
Dear Counsel,

I write to provide you with a report on the discovery of untabulated absentee ballots and the subsequent investigation by REALS staff. After the initial discovery, Dean Logan directed that Garth Fell, Assistant Superintendent of Elections, conduct a complete and thorough investigation of all absentee and provisional ballot envelopes. As documented in the accompanying report, a total of 93 untabulated ballots were found during the investigation that was completed the afternoon of Saturday, April 2.

The meticulous detail and chronological structure of the enclosed 14-page investigation report should put to rest the wholly unfounded suggestion that anyone in King County government ever intended to do anything other than provide a full and transparent accounting of this serious problem.

The enclosed report documents and tallies the untabulated ballots; it does not address what may have caused these ballots to be mishandled. Mr. Logan has called for a complete and independent review of ballot handling processes, and investigation into any employee misconduct that may have contributed to these ballots having gone uncounted.

Sincerely,



Don Porter
Senior Deputy Prosecuting Attorney
Enclosures

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King County

Records, Elections and Licensing Services Division Election Section

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April 4, 2005

TO: Dean Logan
Director of Records, Elections, and Licensing Services Division

FR: Garth Fell
Assistant Superintendent of Elections

RE: Discovery and Subsequent Investigation of Untabulated Absentee Ballots

Summary

On March 24, 2005 King County Elections staff discovered a bundle of 48 envelopes containing untabulated absentee ballots from the November 2004 General Election during the course of work being performed on the absentee signature envelopes as it relates to our continuing activities surrounding alleged registered felons. On March 24, following the discovery of this bundle, Records, Elections and Licensing Services Director Dean Logan directed that I conduct a full investigation of all absentee ballot envelopes from the November 2004 General Election. Mr. Logan and I met with legal counsel from the Prosecuting Attorney's Office and it was determined that a complete and thorough examination of all envelopes would be made before disclosure, and that all relevant facts and circumstances relating to the discovery and investigation would be documented in a memorandum to Mr. Logan for subsequent release to the parties to the election contest litigation. In the work that followed, 44 additional envelopes containing untabulated absentee ballots and one additional loose emailed or faxed ballot were found. All envelopes containing untabulated absentee ballots were found in boxes used to store empty signature envelopes, and all but one of the ballots were sealed within security envelopes. All but three of the absentee ballots were also within the outer signature envelope. In total 93 envelopes containing untabulated absentee ballots have been found.

On March 30, Mr. Logan directed that the investigation be expanded to include a complete examination of all provisional ballot envelopes to determine whether there were any untabulated provisional ballots within those envelopes. On March 30 and 31, staff examined the approximately 28,000 provisional ballot envelopes and determined that there were no untabulated ballots within the provisional ballot envelopes.

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The Discovery and Subsequent Investigation

The bundle of 48 envelopes containing untabulated absentee ballots was discovered by temporary employee Tom Oxley on the morning of March 24. The bundle of 48 envelopes was located in an archive box of outer envelopes, bundled separately from all other bundles of envelopes in the box. Typically, outer signature envelopes are bundled and then labeled in red pencil with the corresponding batch number from our election management and voter registration (EMVR) system. The bundle of envelopes containing untabulated absentee ballots had no indications with which batch it was associated.

Tom Oxley sought out the assistance of permanent employee Nona Peterson and temporary employee Lynda Smith to determine with which batch in our EMVR system this bundle of 48 envelopes containing untabulated absentee ballots was associated. Lynda performed a search within the EMVR system using data from the envelopes from the bundle of 48 envelopes and learned that the bundle of 48 envelopes was a subset of envelopes from Batch 248. Lynda labeled the bundle of 48 envelopes containing untabulated ballots with the corresponding batch number and observed that the envelopes had been green striped, indicating that they had been through the signature verification process. The bundle of 48 envelopes containing untabulated absentee ballots was secured by Nona Peterson and there was a discussion regarding the bundle of 48 envelopes with temporary employee Samantha Duncan, who was leading the document production effort. Samantha immediately called Mail Ballot Operations Supervisor Nicole Way who in turn immediately relayed the discovery to Garth Fell. Mr. Fell immediately pulled Superintendent of Elections Bill Huennekens from a meeting and together with Nicole Way shared the information regarding the discovery.

The bundle of 48 envelopes containing untabulated absentee ballots was secured in the ballot cage at our Mail Ballot Operations Satellite with other ballots from the 2004 General Election. The absentee ballots contained in the bundle of 48 envelopes remain sealed in their individual security envelope within the outer signature envelope. The bundle of 48 envelopes was accessed on Friday March 25, 2005 to determine with which precinct each envelope was associated and verify that the voters had been credited with voting. The bundle of 48 envelopes containing untabulated absentee ballots is currently secured in the ballot cage at the Mail Ballot Operations Satellite.

To investigate questions surrounding the bundle of 48 envelopes containing untabulated absentee ballots, Elections staff examined the original batch slip for Batch 248. The batch slip details information regarding a batch from the time it is brought into the EMVR system until it is tabulated. The batch slip for batch 248 showed that there was a discrepancy between what was initially verified and transferred to the opening process (257 ballots) and what was ultimately tabulated (193 ballots). Fifteen ballots of the overall discrepancy are accounted for on the batch slip as ballots sent for duplication/enhancement or as ballots segregated due to write-in votes for various races.

The batch slip also indicates that the ballots opened and transferred to tabulation were counted twice to verify the count at tabulation and an additional hand count of the ballots was performed. It is standard procedure to perform additional research on a batch that is off in the number of ballots tabulated from the number of ballots verified.

Records indicate that the envelopes in the bundle of 48 envelopes containing untabulated absentee ballots were returned on 10/20/2004 and that all of the signatures were verified as matching the signature in our EMVR system and the voters were credited with voting. All but two of the envelopes from the bundle of 48 have postal indications that they were delivered through the United States Postal Service, be it a stamp cancellation or a postal meter mark. The two envelopes that do not have cancellation indications have postage on the outer envelope.

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Returned absentee ballot envelopes are sorted into legislative districts prior to signature verification. The envelopes associated with the bundle of 48 envelopes containing untabulated absentee ballots are all from the 41st legislative district and with the breakdown of ballots by precinct as follows:

Precinct	Number of Ballots	Precinct	Number of Ballots
BEL 41-0102	1	NEW 41-0248	1
BEL 41-0116	1	NEW 41-0840	3
BEL 41-0179	1	NEW 41-1115	1
BEL 41-0200	1	Ptarmigan	1
BEL 41-0219	1	Renhill	1
BEL 41-0220	3	RNT 41-0964	1
BEL 41-1052	1	RNT 41-0983	5
BEL 41-2556	2	RNT 41-0993	1
BEL 41-2935	1	RNT 41-1007	1
BEL 41-3225	1	RNT 41-1011	1
BEL 41-3278	1	RNT 41-1018	2
BEL 41-3291	1	RNT 41-2475	1
Briar	1	RNT 41-3224	1
Cedar Park	1	RNT 41-3311	1
Coalfield	2	Sky Mountain	1
Horizon	1	Valencia	1
M-I 41-0777	1		
M-I 41-0779	1		
M-I 41-0782	1		
M-I 41-0791	2		
		Total	48

On March 29, 2005 a bundle of 27 envelopes containing untabulated absentee ballots was found when conducting further investigation following the initial discovery of a bundle of 48 envelopes containing untabulated absentee ballots. The bundle of 27 envelopes was discovered by permanent employee Joanne Gardner. The bundle of 27 envelopes was found in an archive box of outer envelopes and was banded with the empty outer envelopes from the batch it was associated with in EMVR system. The entire batch of envelopes including the bundle of 27 envelopes containing untabulated absentee ballots was labeled with the appropriate batch number 430.

Upon discovery of the bundle of 27 envelopes containing untabulated absentee ballots, Joanne Gardner brought the bundle to the attention of Mail Ballot Operations Supervisor Nicole Way and Assistant Superintendents Garth Fell and Julie Moore. Garth Fell immediately called Superintendent of Elections Bill Huennekens to inform him of the additional discovery.

The bundle of 27 envelopes containing untabulated absentee ballots was secured in the ballot cage at our Mail Ballot Operations Satellite with other ballots from the 2004 General Election. The ballots contained in the bundle of 27 envelopes remain sealed in their individual security envelope within the outer signature envelope. The bundle of 27 envelopes was accessed on Wednesday March 30, 2005 and Thursday, March 31, 2005 to detail what precinct each envelope was from and verify that the voters had been credited with voting. The bundle of 27 envelopes containing untabulated absentee ballots is currently secured in the ballot cage at the Mail Ballot Operations Satellite.

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The batch slip for batch 430 showed that there was a discrepancy between what was initially verified and transferred to the opening process (265 ballots) and what was ultimately tabulated (235 ballots).

The batch slip also indicates that the ballots opened and transferred to tabulation were counted twice to verify the count at tabulation and an additional hand count of the ballots was performed.

Current records indicate that the envelopes in the bundle of 27 envelopes containing untabulated absentee ballots were returned on 10/22/2004 and that all of the signatures were verified as matching the signature in our EMVR system and the voters were credited with voting. All of the envelopes from the bundle of 27 envelopes containing untabulated absentee ballots have postal indications that they were delivered through the United States Postal Service, be it a stamp cancellation or a postal meter mark.

Returned absentee ballot envelopes are sorted into legislative districts prior to signature verification. The envelopes associated with the bundle of 27 envelopes containing untabulated ballots are all from the 47th legislative district and with the breakdown of ballots by precinct as follows:

Precinct	Number of Ballots	Precinct	Number of Ballots
AUB 47-0047	1	KEN 47-0662	1
AUB 47-0072	1	KEN 47-0910	1
AUB 47-0074	1	KEN 47-2477	1
AUB 47-0078	1	KEN 47-2704	1
Berrydale	1	KEN 47-3184	1
Clay	1	Morton	1
COV 47-0279	1	Nathan	1
COV 47-1127	3	Potlatch	1
COV 47-3279	1	Ravensdale	1
Glenwood	1	Sedge	1
Hank	1		
Hansen	1		
KEN 47-0238	2		
KEN 47-0498	1		
		Total	27

On March 30, 2005, two envelopes containing untabulated absentee ballots were found when conducting further investigation following the initial discovery of a bundle of 48 envelopes containing untabulated absentee ballots. The two envelopes containing untabulated absentee ballots were discovered by temporary employee Tom Oxley. The two envelopes were found in an archive box of outer envelopes. The two envelopes containing untabulated absentee ballots were banded with the empty outer envelopes from the batch it was associated with in the EMVR system. The entire batch of envelopes, including the two envelopes containing untabulated absentee ballots, was labeled with the appropriate batch number 3078.

Upon discovery of the two envelopes containing untabulated absentee ballots, Tom Oxley informed permanent employee Mikki Asmundson who brought the ballots to the attention of Assistant Superintendents Garth Fell and Julie Moore. Garth Fell immediately called Superintendent of Elections Bill Huennekens to inform him of the additional discovery.

The two envelopes containing untabulated absentee ballots were secured in the ballot cage at our Mail Ballot Operations Satellite with other ballots from the 2004 General Election. The ballots contained in

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the two envelopes remain sealed in their individual security envelope within the outer signature envelope. The two envelopes were accessed on Wednesday March 30, 2005 and Thursday, March 31, 2005 to detail what precinct each envelope was from and verify that the voters had been credited with voting. The two envelopes containing untabulated absentee ballots are currently secured in the ballot cage at the Mail Ballot Operations Satellite.

The batch slip for batch 3078 showed that there was a discrepancy between what was initially verified and transferred to the opening process (254 ballots) and what was ultimately tabulated (221 ballots). Thirty-one ballots of the overall discrepancy are accounted for on the batch slip as ballots sent for duplication/enhancement or as ballots segregated due to write-in votes for various races.

The batch slip does not indicate that the ballots were tabulated twice to verify the count at tabulation or that an additional hand count of the ballots was performed.

Records indicate that the two envelopes containing untabulated absentee ballots were returned on 11/1/2004 and that the signatures were verified as matching the signature in our EMVR system and the voters were credited with voting. Each of the two envelopes containing untabulated absentee ballots have postal indications that they were delivered through the United States Postal Service.

The two envelopes containing untabulated absentee ballots are from the 11th legislative and 33rd legislative district and with the breakdown of ballots by precinct as follows:

Precinct	Number of Ballots
KEN 33-2443	1
TUK 11-2453	1
Total	2

Additionally on March 30, 2005, one individual security envelope containing an untabulated absentee ballot was found when conducting further investigation following the initial discovery of a bundle of 48 envelopes containing untabulated absentee ballots. The one individual security envelope containing an untabulated absentee ballot was discovered by temporary employee Joanne Bakko. The individual security envelope containing an untabulated absentee ballot was found in an archive box of outer envelopes and was banded with the empty outer envelopes from batch number 1564 in the EMVR system. The individual security envelope containing an untabulated absentee ballot was sealed but not contained within an outer signature envelope.

Upon discovery of the individual security envelope containing an untabulated absentee ballot, Mikki Asmundson and Joanne Bakko brought the individual security envelope to the attention of Assistant Superintendent Garth Fell. Garth Fell immediately called Superintendent of Elections Bill Huennekens to inform him of the additional discovery.

The individual security envelope containing an untabulated absentee ballot was secured in the ballot cage at our Mail Ballot Operations Satellite with other ballots from the 2004 General Election. The absentee ballot contained in the individual security envelope remains sealed. The envelope was accessed on Wednesday March 30, 2005 and Thursday, March 31, 2005 to determine with which precinct the ballot was associated. Because the absentee ballot in the individual security envelope was not within the outer signature envelope, there is no information to associate the absentee ballot with a specific voter in the

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batch. The individual security envelope containing an untabulated absentee ballot is currently secured in the ballot cage at the Mail Ballot Operations Satellite.

The batch slip for batch 1564 showed that there was a discrepancy between what was initially verified and transferred to the opening process (130 ballots) and what was ultimately tabulated (118 ballots). Ten ballots of the overall discrepancy are accounted for on the batch slip as ballots sent for duplication/enhancement or as ballots segregated due to write-in votes for various races.

The batch slip also indicates that the ballots opened and transferred to tabulation were hand counted.

Records indicate that the envelopes associated with batch 1564 were returned on 11/3/2004.

The ballot associated with the individual security envelope containing an untabulated absentee ballot is from the 47th legislative district as follows:

Precinct	Number of Ballots
Griffith	1
Total	1

On April 1, 2005, one envelope containing an untabulated absentee ballot was discovered by temporary employee Shirley Settles. The envelope was found in an archive box of outer envelopes and was banded with the empty outer envelopes from batch number 1469 in the EMVR system. The envelope containing an untabulated absentee ballot was sealed and contained within an outer signature envelope.

The envelope containing an untabulated absentee ballot was secured in the ballot cage at our Mail Ballot Operations Satellite with other ballots from the 2004 General Election. The absentee ballot contained in the envelope remains sealed in the security envelope within the outer signature envelope. The envelope was accessed on Friday April 1, 2005 to determine with which precinct the envelope was associated and verify that the voter had been credited with voting. The envelope containing an untabulated absentee ballot is currently secured in the ballot cage at the Mail Ballot Operations Satellite.

The batch slip for batch 1469 showed that there was a discrepancy between what was initially verified and transferred to the opening process (289 ballots) and what was ultimately tabulated (271 ballots). Seventeen ballots of the overall discrepancy are accounted for on the batch slip as ballots sent for duplication/enhancement or as ballots segregated due to write-in votes for various races.

The batch slip also indicates that the ballots opened and transferred to tabulation were hand counted.

Records indicate that the envelopes associated with batch 1469 were returned on 11/2/2004 and that the signature was verified as matching the signature in our EMVR system and the voter was credited with voting. The envelope containing an untabulated absentee ballot has postal indications that it was delivered through the United States Postal Service.

The ballot associated with the one envelope containing an untabulated absentee ballot is from the 41st legislative district as follows:

