



## King County

### Records, Elections and Licensing Services Division

Department of Executive Services

King County Administration Building  
500 Fourth Avenue, Room 553  
Seattle, WA 98104-2337

206-296-1540  
206-296-0108 Fax  
711 TTY Relay

September 7, 2004

VotersUnite!

Ellen Theisen, Executive Director  
660 Jefferson Avenue  
Port Ludlow, WA 98365

Dear Ms. Theisen:

This letter responds to your email correspondence of Monday, August 30, 2004 and various other letters or email communications, which have been forwarded or copied to me regarding King County Elections and our voting system.

The recent upgrade to the voting system in King County was made necessary by changes to Washington State's primary laws. Governor Gary Locke signed the new primary into law on April 1, 2004, giving counties just five months to upgrade their voting systems. While the Legislature allowed for two methods of presenting the new primary ballot to voters – a single, consolidated ballot or four separate ballots – an upgrade to our voting system was necessary under either option.

To accurately account for and tabulate a single, consolidated primary ballot, the system required upgrading to provide the association of the response to the party preference race to all partisan contests. Additionally, modifications were necessary to provide "second chance" voting options in the precinct count environment when the party preference race is left blank or over voted.

For both the single, consolidated ballot and the separate ballot options, the system required upgraded capacity and optimized viewer functionality to accommodate the significantly expanded number of contests resulting from essentially a tripling of the partisan contests and the addition of the precinct committee officer races that appear on the King County primary ballot.

Testing and certification of the upgraded software was conducted legally and publicly in the presence of several observers including representatives of the media. Prior to the upgrade, the process and the need for the changes were discussed with King County representatives of the

three major political parties and other election stakeholders. The need for the upgrade was well known.

With the exception of those functions and capabilities unique to Washington's new primary, the software installed in King County has been reviewed by an Independent Testing Authority (ITA) at the federal level for compliance with the voluntary, federal voting systems standards – the same process required for state certification.

The need to thoroughly test the changes unique to the new primary was also well known. King County cooperated fully with the Office of the Secretary of State in conducting rigorous functional and volume tests on these features. Additionally, functional and volume tests were conducted in a simulation of the General Election environment as further demonstration of the system's capacity and abilities. There has been no claim or assertion on the part of Diebold Election Systems suggesting any limitation on their liability related to this upgrade – nor has any such agreement been made with King County.

King County will conduct the September 14 primary and the November 2 General Election using Global Election Management System (GEMS) Version 1.18.23 manufactured by Diebold Election Systems. (The last version of the software reviewed and certified through the federal ITA process is 1.18.22.) The firmware version for the central tabulator is Visible Light Reader, cc 2.0.11. The firmware for the precinct counters (AccuVote-OS) is Visible Light Reader 1.96. This system was provisionally certified by the Secretary of State on August 18, 2004.

Under state law, we are required to conduct a logic and accuracy test prior to every election. This is a test conducted on the live election database. The test verifies that all ballot response positions are functional and that the system is properly tabulating. For the primary, this test will demonstrate that the logic between the party selection response and votes in the partisan contests is operating properly. Once this test is successfully completed, the entire database is sealed and secured until Election Day when it is unsealed in the presence of party observers. At that time, a report is run to demonstrate that the results of the test remain the same as when the database was secured. The database is then cleared of all votes, a "zero report" is run and verified, and then we begin processing live ballots.

New with the provisional certification of the software modifications, is a requirement that we run the logic and accuracy test again between Election Day and the final certification of the election. The purpose of this new requirement is to demonstrate that the programming has remained unchanged and is still properly operating during the canvassing period.

In previous meetings and correspondence I and others have outlined the legal authority and procedures for manual recounts and audits of election results. Citations to the applicable statutes have been provided. I have reviewed those regulations with our Prosecuting Attorney who has concurred that the limitations and parameters previously discussed are in place. State law does not allow a county or an official to arbitrarily re-open ballot containers and conduct recounts outside of these parameters.


In recognizing the importance of ensuring public confidence in the elections process, I have written to each of the three political party chairs in King County and I have encouraged them to exercise their legal options to select up to three precincts for a manual count of the votes cast on any office or issue. I am hopeful they will do so.

In King County, we have 2,616 voting precincts. While three precincts is not a significant percentage of the total, the law empowering the parties to request a manual count provides for a random selection of the precincts and the contest that is to be manually counted. In the event of an apparent discrepancy or an inconsistency is identified during the manual count, the canvassing board is then empowered to consider further auditing processes.

I appreciate that the responses above do not wholly satisfy the concerns of VotersUnite!. I have, however, continuously attempted to be cooperative and responsive to your requests for information.

There is great value in the consistent and transparent administration of elections. In Washington, that process is governed by state laws that have served us well in assuring accurate election results and in maintaining the integrity of the electoral process. I remain committed to those purposes.

Sincerely,

A handwritten signature in black ink that reads "Dean C. Logan". The signature is written in a cursive, flowing style.

Dean C. Logan  
Director

cc: Hon. Julia Patterson, Metropolitan King County Council, District 13  
Hon. Dow Constantine, Metropolitan King County Council, District 8  
Paul Tanaka, County Administrative Officer, Department of Executive Services