2004 King County Elections Report

"It is the policy of the State of Washington to encourage every eligible person to register to vote and to participate fully in all elections, and to protect the integrity of the electoral process by providing equal access to the process while guarding against discrimination and fraud."

Chapter 29A.04.205
Revised Code of Washington

2004 Elections Report

King County

Index

Elections Timeline.....4

Introduction.....5

Strength and Accomplishments.....8

A Series of Challenges.....12

Managing Through Challenges.....16

Proposed Election Reform.....18

Action Plan.....19

Summary and Conclusion.....22

Records, Elections and Licensing Services Division

King County Department of Executive Services

Dear Executive Sims:

I am pleased to present to you a comprehensive report on the 2004 elections. This report speaks to the successes and challenge King County faced in 2004. It includes an action plan for moving us forward – including recommendations for changes to state election laws and King County program initiatives that will improve and enhance our services to the public.

The public spotlight remains, appropriately so, on the elections process. As the courts review the close gubernatorial contest and the legislature considers reform measures, it will be incumbent on us to stay attuned to their conclusions and to adjust or expand our action plan accordingly. To that end, this report should remain an active document – one which we refer back to often to measure progress and as a reality check on its relevance.

The Elections Section has been responding to multiple inquiries regarding the gubernatorial election and recounts. Many of those issues raised are covered in this report. As readers review the report, they may identify additional or related issues they would like to see addressed. We welcome the opportunity to respond to those in supplemental reports or other correspondence.

I am proud of our 2004 accomplishments. Without question, there were challenges and obstacles to overcome, but we did so without compromising the transparency and integrity of the elections. There is more work ahead. Recognizing what must be done, and staying on a steady course of improvement will result in an elections process that is trusted and respected.

I remain committed to facilitating the opportunity for all King County voters to actively exercise their right to vote, for their votes to be counted and to building confidence in the integrity of our elections. I will need your help – and that of the public – in meeting this ever-changing challenge.

Respectfully submitted,

Dean C. Logan

Dean C. Logan, Director

King County Elections

2003–2006 King County Elections Timeline

July 2003: The Metropolitan King County Council forms the Citizens' Election Oversight Committee (CEOC) to improve performance and accountability of King County Elections.

September 2003: Primary reviewed by CEOC. No serious errors reported.

Dean Logan appointed as Director, King County Records, Elections and Licensing Services; shadows interim director until November 2003.

9th U.S. Circuit Court of Appeals finds Washington State's blanket primary unconstitutional.

November 2003: General Election reviewed by CEOC. No serious errors reported.

Dean Logan assumes role as Director, King County Records, Elections and Licensing Services.

Bill Huennekens appointed Superintendent of Elections.

February 2004: King County Special Election administered. U.S. Supreme Court refuses to hear Washington State's appeal of 9th U.S. Circuit Court decision on primary system.

March 2004: King County Special Election administered. Legislature scrambles to craft a new primary system, passes bill to create a "top-two" primary.

April 2004: King County Special Election administered. Governor Gary Locke vetos "top-two" primary and signs into law a new primary system known as the Montana Primary.

May 2004: King County Special Election administered. CEOC Report on King County Elections submitted to the King County Council.

June 2004: King County Elections converts to new Election Management and Voter Registration (EMVR) system.

July 2004: Council Labor, Operations and Technology Committee reviews the CEOC Report on King County Elections.

Countywide list maintenance and voter education mailing.

September 2004: New and complex primary system replaces blanket primary; election successfully administered by King County Elections.

Metropolitan King County Council reviews CEOC Report on King County Elections and passes motion in support of recommendations.

October 2004: Record number of new voter registrations processed by King County Elections.

November 2004: General Election is held.

Record number of absentee ballots issued.

Machine recount of governor's race.

December 2004: Manual recount of nearly 900,000 King County ballots in the governor's race.

January 2005: King County Council redistricting plan adopted. Gubernatorial Election contest lawsuit is filed.

February 2005: Special Election date

April 2005: Special Election date

May 2005: Special Election date

September 2005: New "top-two" primary system will be implemented.

November 2005: General Election

January 2006: New election administration requirements detailed in the Help America Vote Act (HAVA) must be implemented by King County.

Introduction

2004: Record Volumes and Historic Outcomes

It is the most important job we have: voting. This job means that we must enfranchise those who are eligible and who desire to vote, educate people on how to vote and watch out for those who are not eligible to vote. It is a delicate balance honed over a century of evolving processes, changes in laws, staff turnover and tight budgets.

Our electoral system was designed contemplating mandates. A process that depends on every vote being handled by a cadre of poll workers working a 20-hour day in 540 polling locations doesn't contemplate a result that leaves the leadership of our state hanging in the balance.

As the courts grapple with the legalities of the closest election contest in our state's history, we are becoming increasingly aware of the intricacies and delicacies of an electoral system we have too often taken for granted.

It is now time to assess what happened – where we excelled, where we struggled and where we stood firm against pressures to politicize the elections process. Throughout it all both positive and negative elements contributed to the outcome and to the resulting public debate. These elements must be examined.

Where We Excelled

King County's election system has many strengths. We experienced significant growth and success in 2004.

In record time a new, state-of-the-art elections management and voter registration system was implemented to meet the demands of record-breaking new registrants and absentee voters.

Without incident, a new primary system was implemented resulting in record-breaking turnout despite predictions of a decline.

A phenomenal outreach and education partnership with the Seattle League of Women Voters took voter registration out into the community, shared the history of voting with young people in schools, and guaranteed newly naturalized citizens the opportunity to voice an independent choice.

Timely mailed absentee ballots reached a record number of voters, including military service members and citizens overseas. Still others received absentee ballots via electronic mail, facsimile and overnight express mail distribution.

We processed and counted record numbers of absentee ballots on the day of the election in both the primary and General Election.

We can be and are proud of these accomplishments.

Facing the Struggles

The monumental volume of registration and absentee voting tested and, in some cases, exceeded the capacity of our systems and personnel.

Best efforts to fully implement recommendations of a citizens' election oversight committee and to fully compensate for inadequate administrative procedures and past workplace barriers were cut short by deadlines, court challenges, insufficient training and sheer volume. As a result, mistakes were made. The opportunity to achieve greater efficiency was diminished and public confidence declined.

These examples point out where things went wrong. In facing these struggles, King County Elections appropriately accepted responsibility, informed the public, took corrective action and is now poised to ensure improvement as we move forward.

Standing Firm

King County Elections stood firm in administering the election according to state law and in an open, transparent manner. In doing so, we resisted outside political efforts to influence how the election was conducted.

2004 was filled with heated point/counterpoint interpretations of each step we took to complete our mission of facilitating voter participation and counting votes. Small mistakes were nightly news headlines. Process inconsistencies were tried in the newspaper. Party leaders and their attorneys counter-interpreted our laws only for the courts to confirm the legitimacy of our processes.

The challenge now is to get beyond the emotion of who is winning and losing and deal with what is real. We all know emotion never trumps information – but now is the time for the electorate to come to the aid of democracy. It is time that information, reality and truth triumph over rhetoric and partisan maneuvering.

Getting it right

The solutions

The hardest changes that have to be made are not radical ones; they are reasonable ones. Indeed, our toughest job will be to convince those who care so deeply about the process not to seek radical change. This will only bring us more crises. The solution is not to throw away the people, the processes or the programs that fell short last year. Instead we must train people to get up to speed on new systems to ensure old mistakes are not repeated. We need the time and resources necessary to humanly process the work associated with record turnouts, and we need to seek changes to state election laws that make success possible.

What is our plan?

We need to work from the inside out. In order to accomplish this, we are proposing staff training programs – specifically a new employee training academy – improved workflow systems, and updated documentation of all procedures. We need to establish stronger accountability with benchmarks tracking voter registration, ballot processing and vote tallying. This is not going to get us headlines, but it is needed. Updating procedural manuals is not particularly provocative, but it is needed. Reducing the number of precincts and consolidating polling locations is not popular, but it is needed. Revising our information technology support models is not radical, but it is needed.

We need action by the state legislature. We need meaningful, reasonable election reform that includes:

- Moving the date of the primary;
- Authorizing local options for conducting certain elections entirely by mail;
- Reimbursing counties for the state share of even-year election costs;
- Clarification and uniformity of canvassing and ballot processing procedures; and
- Extending the time provided for certifying election results.

Introduction *continued*

We need to both educate and hear from our public. Between the challenges and the rhetoric of the close governor's race, the public was caught in the middle and left questioning whether their vote was counted. We need to assure the public that the most important civic responsibility they have is to vote, and our most important job is to protect that vote.

This will mean talking with them. It will mean getting out of our offices, expanding information accessible online and developing new ways to educate the public about their role and responsibility in free and fair elections.

Finally, we need a single location for all election-related activities and services. We must have the capacity for countywide vote-by-mail elections and a facility that demonstrates our open environment and the transparency incumbent in the system. This facility can house our much-needed training facility and our voter information phone bank. It needs to be an educational facility, including a model polling place, a research setting for future technology and pilot projects, state-of-the-art security systems, public viewing areas, video observation areas and a media center.

We have a unique chance to seize this moment – now, when we have everyone's attention. We may never have another election so close. Without that intense, almost vote-by-vote scrutiny, processes will never be perfected.

We have done many things right. We have many more things to do better. We need to persevere, stay the course and not adopt radical measures when reasonable ones will make the most difference.

Everyone has a role to play in making this system live up to the public's expectations. We have to change our internal practices. The public has to be reminded of the right and wrong ways to cast a ballot, and state lawmakers have to consider changes that make the processing a more human endeavor and to provide the resources to ensure the appropriate safeguards are in place.

Now that we know what happened our job is to make it better.

> ***"We have done many things right. We have many more things to do better. We need to persevere, stay the course and not adopt radical measures when reasonable ones will make the most difference."***
>
> Dean C. Logan, Director
> Records, Elections and Licensing Services

Strengths and Accomplishments

Election Management and Voter Registration System Implementation

Within the last two years, the Secretary of State, the Council's professional elections consultant, and the Citizens' Election Oversight Committee have reviewed all county elections systems and offered comprehensive recommendations. The most consistent recommendation was the need for a more modern, robust voter registration and election management system.

- King County Elections implemented a new election management and voter registration system in 2004. The new system replaced an outdated legacy mainframe system that lacked the capacity to adequately manage the number of voter registration transactions or absentee voters in King County.
- The system was installed and conversion occurred on an accelerated schedule and both the 2004 primary and General Election were administered using the updated technology and work flow systems.
- The Records, Elections and Licensing Services Division worked in partnership with the Office of Information and Resource Management and the Information and Technology Services Division throughout this project. The project plan and management have been referenced as models in following the county's technology governance structure.

Among the accomplishments of this program:

- The King County Elections Web site is one of the first bilingual elections Web sites in the country, offering an array of both general and election-specific information in English and Chinese.

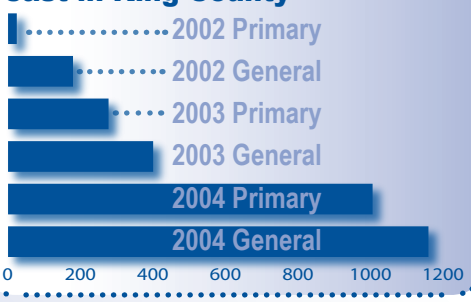
> ***"The county needs to acquire or build a voter registration system designed for a jurisdiction of their size. The large number of transactions and absentee ballots issued requires a system with more capacity and the ability to handle their volume and more efficient capture and storage of voter signature images."***
>
> Excerpt from 2002 Election Procedures Review conducted by the Office of the Secretary of State (February 2003).

Section 203 Voting Rights Act Minority Language Compliance

Based on data from the 2000 U.S. Census, King County is covered by the minority language provisions of the federal Voting Rights Act (Section 203) and is required to provide all voter registration and election materials in Chinese as well as English. In cooperation with various stakeholder groups and an advisory committee from the Chinese-American community, King County Elections has built a model program that has progressively served the Chinese-speaking population as well as providing outreach and educational opportunities to other minority communities.

- Each election since the program began the number of voters requesting and using Chinese language ballots and voting materials has progressively increased.
- Our Minority Language Coordinator has been called upon by the U.S. Department of State to participate in a teleconference with leaders in China who are developing their first electoral processes at the town level.

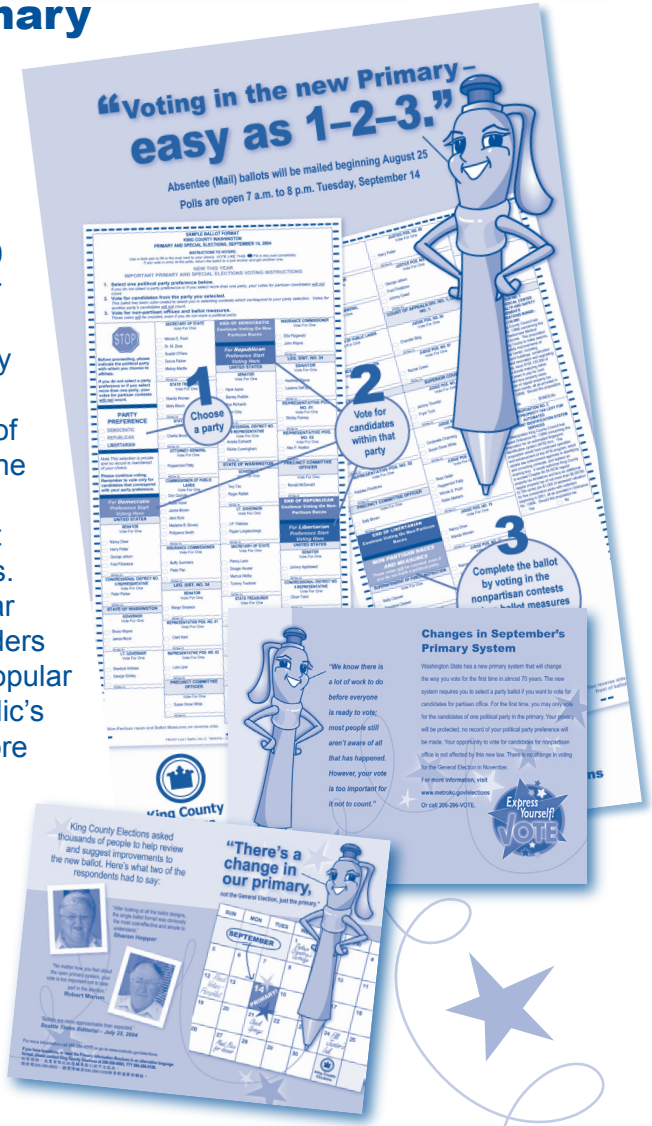
Number of Chinese ballots cast in King County



Strengths and Accomplishments *continued*

The New Primary

King County Elections faced the task of tailoring an entirely new primary format in 2004 – a process that had to be completed within 100 days of the court's order on June 10, 2004. This Herculean task began by first going to the public. We conducted a series of focus groups to determine which of three ballot formats might best meet the public's expectations. Indeed, the more popular format with political insiders was not the one most popular with the public. The public's choice was cheaper, more efficient and easier for us to accommodate on such short notice. It was adopted – and alongside one of the most extensive government voter education programs ever achieved – the county reached record-breaking turnout.



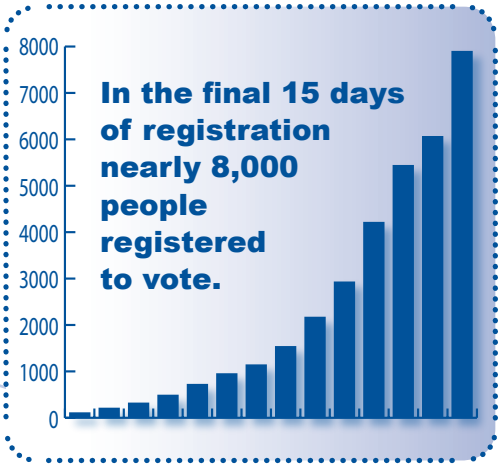
Political party liaison committees were established that allowed us to begin meaningful communication with the major parties. This communication link established good working relations that lasted until the General Election when political pressures in the close governor's race stressed those communication links.

King County took a leadership role in cooperative efforts with other Puget Sound counties. From joint editorial board meetings, TV interviews and press conferences, these counties determined similar procedures on many of the new primary efforts – another factor in the mutual success enjoyed in September's primary.

Voter Outreach and Education

In partnership with the Seattle League of Women Voters, King County Elections embarked on an aggressive voter outreach and education program in 2004. The primary education campaign resulted in a speakers' bureau where more than 100 presentations were given to 78,000 people, explaining the new system and urging new voters to become active. Outreach to minority communities was accomplished through a dozen multi-lingual registrants who spoke with people from many cultures during the last 45 days before the primary.

Cable television and transit advertising featured our mascot, "Penny" – a cartoon of a pen explaining how the new system worked. Cable TV spots reached throughout King County, and Penny spoke to voters on billboards and bus signs in an award-winning branding program.



Strengths and Accomplishments *continued*

We will see Penny again as we re-educate voters on their responsibilities in the voting process. In addition, programming aired on local access cable TV and on a series of League of Women Voters' special programs on the new primary.

We inaugurated the Vote Mobile – revived from the early days of the League of Women Voters. This RV served as our mobile community education center, an in-person voter registration site and as an absentee ballot drop-off location. A highlight of this program was registering newly naturalized U.S. citizens to vote on the final day to register for the 2004 Presidential Election. In just six days, more than 2,700 people registered through the Vote Mobile.

With the new primary, we built an extensive list of election stakeholders (political consultants, party leaders, campaign vendors, VIPs, legislative assistants, local columnists, former candidates, people who sent comments online, etc.) and regularly sent them online updates on local election news.

Our pre-election media briefings and unprecedented media coverage resulted in every TV, radio and print media outlet doing multiple, favorable, explanatory stories and features.

Record Setting Voter Registration & Absentee Ballot Processing

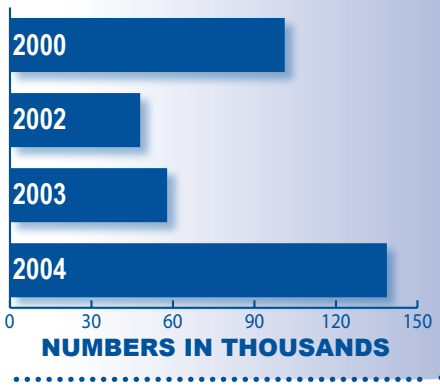
Leading up to the 2004 General Election, King County Elections processed a record-breaking 138,729 new registrations, a 40 percent increase for the same 10-month period leading up to the 2000 election.

To help prepare for record turnout, the Elections Section established procedures to help voters, observers and poll workers prepare for a historic turnout.

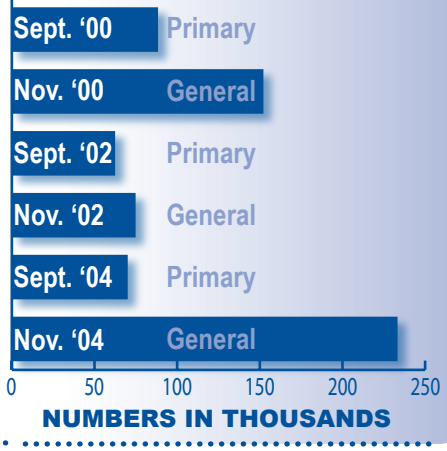
Procedures in place to accommodate record turnout included:

- Additional supplies of provisional ballots for voters whose names are not found in the poll books.
- Additional training for poll inspectors, alerting them to the anticipated high turnout and the presence of observers.
- Extensive training opportunities for individuals and organizations observing the elections process.
- Extended voter hotline and office hours to accommodate voters who encountered problems voting or who needed additional assistance.

New registrations surged in the 2004 General Election. By Election Day elections officials had registered **40 percent more new voters than in 2000.**



Working longer hours with more staff, King County tallied a **record number of absentee ballots on Election Day in 2004.**



- An online polling place look-up feature that allows voters to confirm their registration and find their polling location. *www.metrokc.gov/elections/pollingplace/birthday.aspx*

- Daily counts of absentee ballots through Friday the week of the election with an established media release and Web posting schedule.

Similarly, the numbers of absentee ballots issued in the General Election set a new record in November with 646,468 absentee ballots issued. Equally significant were new records for the number of absentee ballots processed and tabulated on Election Day (233,254), the number of provisional ballots issued (more than 31,000), the number of provisional ballots validated and included in the final returns (more than 28,000), and an overall voter turnout of 83 percent.

Manual Recount Procedures

Over and above all the rhetoric and political pressures associated with the final manual recount in the gubernatorial race, King County Elections' execution of the manual recount demonstrated our commitment to an open, transparent and public process. The recount itself was historic. King County had not conducted a countywide hand recount before and the level of detail, security and coordination involved was phenomenal.

To accommodate hundreds of observers, King County conducted its recount of nearly 900,000 ballots using 23,000 square feet of office space located near Boeing Field in Tukwila. Ballots were transported with uniformed law enforcement escorts from the Mail Ballot Operations Satellite to the recount facility where a security cage was constructed and uniformed sheriff's deputies were on-site 24 hours a day, seven days a week.

Eighty recount boards were organized into teams of three comprised of one designee each from the Democratic and Republican parties and a third member recruited through the elections seasonal staff registry. The boards hand sorted and counted the votes cast for governor. Multiple observer areas were established to allow for full viewing of the proceedings. Supervisory staff met daily with lead observers from each of the campaigns to address any areas of concern.

To ensure accuracy, after each precinct was counted, supervisors compared manual recount totals to the original and machine recount totals. If that number differed from either the original or machine total by one, the ballots were recounted by another board until two counts matched within a single number. In the end, near nearly 900,000 ballots were sorted and recounted by hand in 16 days.

> ***"Interveners-Respondents have not objected to the procedure because it provides an opportunity for each party to observe at a close range the ballots and to participate in determining the candidate for whom each elector voted. It is hard to imagine a fairer and more meaningful opportunity to observe. The procedure proposed by King County Records complies with the WAC requirements."***
>
> Washington State Republican Party petition in McDonald v. Secretary of State (76321-6; Dec.7, 2004)

A Series of Challenges

There has been no indication of calculated voter fraud or organized attempts to impact the outcome of the election.

Many claims have been attributed to King County Elections that either miss the mark or misrepresent the facts. The following are examples that have received particular attention.

Military and Overseas Ballots

Military and overseas ballots were mailed on time by Oct.8, 2004.

Reports and paid political advertising have raised concerns regarding the efforts made by King County to ensure our military service personnel and overseas voters were provided an opportunity to vote in the Nov. 2 General Election. King County prioritized its mail-out to ensure military and overseas ballots were mailed as soon as they were available and within timeframes required by state law and guidelines established by the U.S. Department of Defense.

Once King County mails absentee ballots, we have no ability to control when or how ballots are delivered. That responsibility rests with the Post Office and the Department of Defense. Military voters who do not receive their absentee ballot on time, have the option of casting a federal write-in ballot which is available through each unit's designated voting assistance officer.

QUICKFACTS

- **Military and overseas citizens' ballots were mailed on time by Oct.8, 2004.**
- **Once King County mails absentee ballots, the responsibility shifts to the Post Office and Department of Defense.**
- **The U.S. Department of Defense, Federal Voting Assistance Program coordinates with all branches of the armed services to assist military and overseas voters in obtaining ballots and voting.**
- **Voted ballots returned from outside the U.S. are valid and counted as long as they are signed by the date of the election and received prior to certification (15 days following a General Election).**
- **Out of more than 15,000 military, overseas and out-of-state ballots issued, only 16 were received too late to be counted.**

In addition to regular absentee ballots available to military personnel and overseas voters, King County was responsive to constraints on the timely receipt of ballots by these voters. Ballots were provided by facsimile, via e-mail and by overnight express mail to accommodate voters who contacted our office and who had not received their regular ballot prior to the date of the election. Several hundred of these ballots were issued.

Reports of deceased voters casting ballots

In 2004, 4,305 registrations were canceled in King County based on notification that the voter was deceased.

Elections officials have cautioned that while news reports indicate a small number of voters have acknowledged voting ballots issued to their now deceased spouses, there has been no indication of calculated voter fraud or organized attempts to impact the outcome of the election.

Election officials receive notices of deceased residents several times a year from the State Department of Health, Office of Vital Statistics. These lists are compared to the voter registration records to remove deceased voters from the rolls. The county also receives notices when a registered voter completes a form stating, subject to perjury, that another registered voter has died.

King County Elections takes seriously any attempt to violate state election law. Officials forwarded to the Prosecuting Attorney's Office the names and information of two people who

QUICKFACTS

- The Washington State Department of Health, Office of Vital Statistics is required to provide death notifications to the counties on a regular basis to assist in removing deceased voters from the rolls.
- By state law, voter registration files are closed 30 days prior to an election for new registrations sent by mail, cancellations and transfers.
- In 2004, 4,305 registrations were canceled in King County based on notification that the voter was deceased.
- Forms for cancellation of a deceased voter are available at all polling locations on Election Day for voters to complete if they are aware of the death of another voter.

allegedly admitted to reporters they cast an absentee ballot under their deceased spouse's name in the Nov. 2 General Election.

Reports of felons voting

In 2004, more than 600 registrations were canceled in King County as a result of felony convictions.

Tracking felons statewide will be streamlined in 2006 when the state implements a statewide voter registration database as required by the federal Help America Vote Act. With a single state database of registered voters, cross matching voter records with felon databases maintained by the Department of Corrections and the courts will allow for tracking and maintenance of voter files not currently available.

The single largest issue is the lack of a statewide registration database. Without it, election officials are only notified of King County felon convictions.

State law requires elections officials to cancel a voter's registration when notified by the courts of a felony conviction. These reports are mailed on a regular basis to the King County Elections Office from Superior Courts around the state. The reports are checked against the voter rolls and registrations are canceled when matched with information provided on the conviction reports.

Felons are prohibited from registering and voting in an election until they have completed their legal and financial obligations to the court and have been issued a certificate of discharge or restoration of rights.

A convicted felon who knowingly violates that law is guilty of a Class C felony. Any information indicating that an individual has cast an illegal ballot will be turned over to the Prosecuting Attorney for review.

Based on reports and information resulting from an investigative report conducted by the media, King County Elections has forwarded information to the King County Prosecuting Attorney's Office of more than 100 voters who may be convicted felons who have not received a certificate of discharge or restoration of rights.

QUICKFACTS

- By law, election officials cannot remove a convicted felon from the voter registration files without notification from the courts.
- State and federal laws compel election officials to add a new voter to the registration files when a registration application is received and includes the applicant's name, address, date of birth, drivers license or state identification number and a signature attesting to their qualifications to become a registered voter.
- More than 600 registrations were canceled in 2004 based on court notification of a felony conviction.
- The oath on the voter registration application, which must be signed, includes the statement that the applicant is not currently denied their civil rights as a result of a felony conviction.

A Series of Challenges *continued*

Washington is a voter intent state.

Ballot Duplication and Enhancement

King County followed both the letter and spirit of the law.

Because many ballots are received in a manner other than filling in the response position as instructed, it is sometimes necessary to duplicate or enhance the ballot to reflect the voter's intent and ensure the vote tabulation system can properly count the ballot. This process is governed by Washington Administrative Code and King County followed the guidelines as set forth in the statewide rules.

Examples of ballots requiring duplication or enhancement include those where the voter circles the name of their choices, or those where the voter fills in the oval for their candidate choices, but also writes the names of the candidates on the line provided for write-in votes.

Canvassing Board review of ballots

Washington is a voter intent state. Our election laws give deference to voter intent where it can be determined over following instructions on how to mark a ballot.

The three person King County Canvassing Board, consisting of the director of Elections, an appointee from the Prosecuting Attorney's Office, and a member of the King County Council, is an entity established in law to certify elections and oversee the canvassing of votes. The board was consistent and acted appropriately in reviewing ballots set aside and referred to them by Elections' staff. Staff were instructed to forward ballots to the canvassing board when voter intent was not clear.

The board followed the guidance of state law and administrative rule in carefully reviewing more than 1,600 ballots to discern whether the intent of the voter could be interpreted. The vast majority of those decisions were determined unanimously by all three members of the board.

Meetings of the Canvass Board were conducted publicly – some even aired on local access cable television – and a record of the proceedings is maintained.

Variance between ballots cast and voters credited with voting

The process of crediting voters for voting is not designed to determine if voter fraud occurred.

Statements and articles highlighting the difference between the numbers of votes cast and the number of voters credited with voting as evidence of fraud are misleading. This issue has been knowingly misrepresented to the public as if there were more ballots counted than there were voters in King County. This is not the case.

QUICKFACTS

- **Ballot duplications and enhancements are conducted by at least two people in the presence of political party observers.**
- **A log is maintained of all duplications and enhancements to ensure full accountability of all ballot handling.**
- **Ballot enhancement only occurs when the original marks on the ballot can be maintained. If enhancement would permanently obscure a ballot, the ballot is duplicated rather than enhanced.**
- **In the 2004 General Election, 4,902 ballots were duplicated and 55,177 ballots were enhanced out of nearly 900,000 ballots cast.**
- **The King County Canvassing Board reviewed more than 1,600 ballots to determine voter intent. The vast majority of these decisions were unanimous.**

A Series of Challenges *continued*

QUICKFACTS

The most common reasons people who voted may not appear on the list of registered voters is:

- **they cast a federal write-in ballot in accordance with provisions of the Federal Voting Assistance Program (which includes non-registered service personnel and overseas voters);**
- **they are participants in the state's Address Confidentiality Program (victims of domestic violence and stalking whose information is secured from public record); or**
- **human error during the crediting process and when voters sign the poll books.**

State election laws address ballot security and accountability on the front end of the elections process – at the polls, in ballot counting centers and throughout the verification process.

Elections oversight consists of direct involvement of representatives of the major political parties and final certification of a canvass board comprised of the county's chief elections officer, the county prosecuting attorney or his designee, and a member of the county's legislative body appointed by its chair.

Human error – in crediting or during various interaction points at poll sites or in crediting absentees – is most likely what resulted in a variance that is within two-tenths of a percent.

Crediting voters for voting is not designed to determine if voter fraud occurred, but rather a process to ensure voter registration lists are updated and current, to assist in administering and managing elections (i.e.; merging voter registration update information, updating absentee ballot requests, etc.) and to be available for use by political organizations for tracking voter participation.

The controls established in the administration of an election and inherent to our election laws, address voter registration and who should receive a ballot – be it an absentee ballot or a ballot marked at the polls. Those laws and rules require that administration and staffing of critical election processes are conducted in an open, public and secure manner.

Despite best efforts to fully implement safeguards and update procedures related to the new election management and voter registration system, the sheer volume and truncated timeframe between the primary and the General Election exposed the gaps in our systems and limits on our capacity.

> ***"..there is every indication that the King County Records, Elections and Licensing Services Division acted professionally and intended to act in the public's best interest under immense pressure and under intense public scrutiny. Armies of lawyers and poll watchers examine King County's every move, threatening litigation and more. Under the circumstances, King County's prudence is understandable."***
>
> Excerpt from King County Superior Court Opinion in Washington State Republican Party v. Washington State Democratic Central Committee v. King County Records, Elections and Licensing Services Division.(Case No. 04-2-36048-0 SEA; Nov.16, 2004)

Managing through Challenges

Absentee Ballots

While we met aggressive deadlines for preparing and mailing absentee ballots, a series of quality control issues resulted in mishaps that, while limited in scope, were cause for concern or confusion.

Duplicate Ballots – Due to the ongoing surge in voter registration activity and the legal deadline to mail absentee ballots, some voters received duplicate ballots at the same address. As voter records were updated after the initial mailing of absentee ballots, the system recognized the change and generated another ballot. However, changes and updates that did not affect the address or ballot style – such as adding a phone number, a drivers' license number, or middle initial also generated a new ballot.

Election workers corrected the problem by identifying the voters affected, setting up a phone bank to call and advise those impacted by the situation, instructing voters to return one ballot, and reassuring them of the integrity of their vote.

Postal Handling Errors – A small number of voters faced difficulties in returning their voted ballots when the Post Office misread the ballot barcode and returned them to the voters instead of delivering them to King County. Although this was a Post Office error, elections staff was in direct contact with the Postmaster's Office to disseminate information to all postal branches. No further incidence was reported.

Print Quality Issues – Other voters reported receiving ballots with poor print quality – some lacking the red colored ovals where the voter is instructed to indicate their choice. Coordination with the ballot printing vendor identified this as a quality control issue. This situation was limited to fewer than 50 ballots and remedial procedures and protocols have been adopted to prevent re-occurrence.

Additional challenges surfaced during the canvassing and certification of the General Election and in the conduct of the subsequent recounts for the gubernatorial contest.

"No Signature on File" Ballots – 735 absentee ballots were mistakenly not counted because the signature on the ballot did not match the original voter registration records. In fact, these were signed ballots where a signature image was not on file in the county's voter registration system. These ballots were received on time and were properly cast by registered voters. Original registration records should have been retrieved to verify the ballot signatures.

In mid-December the canvassing board instructed election staff to verify the signatures of the previously uncounted ballots. Once signatures were verified, the ballots were presented to the canvassing board for consideration and 566 were counted as part of the final certification of the manual recount.

Under state law, county canvassing boards are allowed to correct any discrepancies or inconsistencies in the returns of election results. The same authority was used in other counties during the machine recount to include previously uncounted ballots. In a challenge originally filed in Pierce County Superior Court, the Washington State Supreme Court unanimously held that the canvassing board acted appropriately in re-canvassing to include these validly cast, previously uncounted ballots.

Ballots retrieved from polls– Twenty absentee ballots and two provisional ballots were retrieved after certification of the election from the base units of voting equipment used at polling locations. Proper procedure is for poll workers to retrieve those ballots from the base units after the close of the polls and return them in sealed containers along with the voted ballots and equipment.

The canvassing board reviewed the 22 ballots during certification of the manual recount and determined that the two provisional ballots could be counted because there was clear indication they were cast on Election Day and that they had been issued by poll workers. The board determined that the 20 absentee ballots could not be counted because there was no verifiable chain of custody

that could prove the ballots were deposited into the base units on Election Day.

Poll worker training addresses this issue and properly instructs workers on how to retrieve these ballots. Future efforts will emphasize the importance of this procedure.

Provisional Ballots
– 348 provisional ballots were identified by poll workers as being improperly deposited into precinct vote counters (AccuVotes) at polling places on Election Day. While procedures and training were provided to prevent this from occurring, further safeguards are needed to keep these ballots from being counted before they are validated.

Since the certification of the election and the subsequent recounts, election staff has done extensive work to account for these ballots and report on their findings. As of the date of this report, we have been able to account for 341 of the ballots through further review and reconciliation. Of those, we have confirmed that 252 were cast by valid, King County registered voters and we have credited them for voting.

A change in procedures, which includes marking provisional ballots so that the precinct vote counters will reject them is being piloted during the February 8, 2005 Special Election.

Facing the challenge

Despite automation and advanced use of technology, our election system depends, in large measure, on manual, human interfaces. This results in a margin of administrative and procedural error. Safeguards and oversight are built into the process to mitigate this margin of error.

As we have faced these various challenges and allegations, King County Elections has appropriately accepted responsibility where applicable and we have stepped forward and publicly addressed the issues – staying true to our values and our commitment to a public process.

We recognize the seriousness of each of these items individually and the greater level of concern when looking at them collectively. The action plan presented in this report seeks to build an infrastructure and organizational culture that mitigates the impacts of these challenges and the potential for error.

> ***"Respondents would have us narrowly construe "an apparent discrepancy or an inconsistency in the returns" to mean only an arithmetic error disclosed on the face of the returns. But this is contrary to Doyle, which speaks in terms of "incorrect" returns and returns at odds with other evidence. Moreover, since the statute permits recanvassing, it is instructive to remember that canvassing involves "examining ballots or groups of ballots, subtotals, and cumulative totals in order to determine the "official returns," RCW 29A.04.013. Here, certain ballots were coded as having "no signature on file" without having been fully examined to properly place them in that category. In that sense they were never fully canvassed, and the seeming error in placing them in any category has become evident to the King County Canvassing Board. Under Doyle this is just the sort of apparent discrepancy or inconsistency that the board can correct through recanvassing."***
>
> Excerpt from the Washington State Supreme Court Opinion in Washington State Republican Party v. King County Division of Records, Elections and Licensing Services. (Case No. 76399-2; Dec.22, 2004)

Proposed Election Reform

In the aftermath of the close gubernatorial election, there have been many pieces of state legislation offered. Of these, some will help improve our elections process while others will either do nothing or may actually hamper our ability to run an election.

Moving the date of the primary from September to an earlier date provides sufficient time between the primary and the general and allows for adequate transit time for military and overseas ballots. We should SUPPORT this measure.

Washington currently has the latest primary in the nation. The most reasonable approach to moving the primary would allow for a minimum of 12 weeks from the end of the candidate filing period to the date of the primary and at least 12 weeks between the primary and the General Election.

Reimbursing counties for the state share of even-year election costs – ensuring counties receive the revenues we deserve and need. This proposal would eliminate the local government subsidy of statewide elections. We should SUPPORT this measure.

Local governments across the state foot the bill for election costs associated with their officials and ballot measures – and then they subsidize the cost of statewide elections. The state should be responsible for covering their share of those costs.

Extending the time provided for certification of election results – currently the emphasis every Election Day is in getting results as quickly as possible; we need to change this emphasis to accurately counting the ballots. We should SUPPORT this measure.

Extending the certification for special elections and primaries from 10 to 15 days and the certification of General Elections from 15 to 20 days would allow for more thorough canvassing and reconciliation efforts. Currently, counties are pressed to have all ballots processed and provide adequate reports by the certification date.

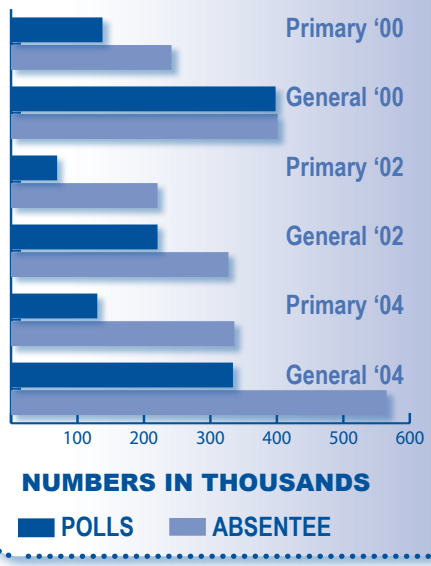
Authorizing local options for conducting certain elections entirely by mail – a measure that would allow local flexibility in responding to the rising costs of elections, increase vote tallying efficiency and save time. We should SUPPORT this measure.

With more than half of registered voters in King County requesting to vote by mail on a permanent basis, and 63 percent of the turnout being cast by mail in the 2004 General Election, it is time to consider whether conducting certain elections entirely by mail is more efficient and cost effective. This should be a decision made locally in concert with ensuring there is adequate infrastructure and facilities to successfully conduct full county vote-by-mail elections.

Canvassing and ballot processing procedures – this proposal establishes consistency in canvassing procedures used for processing absentee and provisional ballots. It clarifies that re-canvassing an election is intended to address election worker error and requires that election contests be filed in court within 10 days of final certification We should SUPPORT this measure.

Poll ballots cast v. Absentee ballots cast

With the popularity of absentee voting, 63 percent of voters cast a ballot by mail in King County.



Requiring absentee ballots to be returned by Election Day – this proposal would disenfranchise voters long accustomed to mailing their ballots by Election Day and only minimally increase the speed in which election results are released. We should OPPOSE this measure.

2005: Elections Action Plan

We have faced our shortcomings; we're ready to move on in improving our internal policies, promoting needed changes to state laws that regulate elections and building community confidence in us. Hundreds of improvements have already been made; we have come far in the 15 months since the first major changes started.

Now we have a chance to seize a moment we have never had or might never have again: we have the public, the media and the legislature's attention to make long-overdue systemic changes – changes that will take new funding, new laws and new people to implement.

State-of-the-art elections facility

Currently Elections staff and operations are located in four separate facilities. If there is any one thing that would increase the efficiency and decrease the mistakes, it is the consolidation of the management, staff, and processes that make up an election all in a single, state-of-the-art facility.

The ideal environment would include:

- a single location for all election related activities and services;
- the capacity to conduct countywide vote-by-mail elections;

> ***"King County should reorganize and consolidate key parts of its elections operations in order to reduce the potential for errors and to gain efficiencies."***
>
> Excerpt from the Citizens' Election Oversight Committee (May 2004)

- a comprehensive training facility for poll workers, seasonal election workers, volunteers, stakeholders, etc. to turn to for accurate information, new techniques and processes as well as official postings of election procedures;
- a fully functional communications center to house our voter hotline phone bank and to accommodate mass media;
- dedicated space for use as a topnotch educational facility that would include a model polling place and displays of the history of elections – a place where young people can come to learn about the importance of voting; and
- a laboratory setting where developing voting technology and systems could be researched, tested and demonstrated.

This modern example of transparency in the elections process would be available for pilot projects and public testing and auditing of voting systems. A one-stop elections facility should be designed with state-of-the-art security systems, public viewing areas, video observation areas and a press-friendly media center.

Continued organizational development and cultural change

Election systems change, managers change, staffs change, laws change and voters change. Yet our process for dealing with all the changes relies on training almost by osmosis. The workload increases though staff capacity and expertise seldom increase.

- There is a vital need for a formalized staff training program that realizes the change inherent in our elections administration. We need on-staff training coordinators and a new employee training academy.

- Organizational accountability needs to be institutionalized with minimum production benchmarks in areas such as voter registration transactions, absentee ballot processing, petition verification and telephone and e-mail customer response.
- The work flow design has to be updated; new systems must be fully utilized and expanded to replace outdated approaches that limit accuracy, productivity and efficiency.
- We require an updating of all procedural documentation; systems have evolved past the point of recognizable coordination.
- Security plans and protocols need support and updating. To do so, we must take advantage of the national studies and improvements made elsewhere including: updating and formalizing emergency preparedness procedures.
- We need to move forward in conducting an analysis on the benefits of reducing the number of precincts and consolidating polling locations.
- We need to fully implement the revised Information Technology Support Model placing skilled, technical support directly in the Elections Section.

> ***"The Elections Section should create a formal training plan and commit the resources necessary to implement it. The Election Section's training must ensure there is sufficent cross-training of workers to ensure smooth operations and better teamwork."***
>
> Excerpt from the Citizens' Election Oversight Committee (May 2004)

Implement remaining provisions of the Help America Vote Act (HAVA)

The Disability Access Voting Equipment (DAVE) project became a priority as part of this national legislation, which came of age after the problems identified in the 2000 Presidential Election.

King County adopted a direction to meet these standards with our own project plan.

- Required staffing is slated to begin in the first quarter of this year.
- A needs assessment and market analysis will be completed the second quarter of 2005.
- A public and stakeholder engagement strategy and subsequent demonstrations will be completed in the third and fourth quarters of 2005.
- The targeted implementation for the disability plan will be in place to begin phasing in the new equipment during the 2006 Special Election cycle.

Action Plan *continued*

Maintain our engagement with the public

As was the case prior to the new primary, we need to go back to our public and have them involved in educating the electorate and building confidence in how we enfranchise voters.

- Focus groups need to be conducted to determine what the public wants done regarding new education tools, watchdog techniques to detect unqualified voters and cost efficiencies they believe worth their investment.
- A speakers' bureau should be re-established to explain what happened in the last election cycle and to clarify the misunderstandings brought about by the close election.
- Our Web-based information and online services need to be enhanced and expanded based on what the public would like to see.
- Our stakeholders' lists need to be updated with explanations of what is being done to improve the system and explain the changes that some of the new pieces of legislation will necessitate.
- We must expand the use and development of the local voters' pamphlet, along with our developed cartoon "Penny" to keep voters interested, informed and engaged in their most important civic responsibility: voting. This might include cable TV productions on the rights and responsibilities of each voter, as well as explanations of the new "top two" primary and other legislative changes.

> ***"With adequate resources and personnel, King County has the potential to be a model for other counties to emulate."***
>
> Secretary of State Review of King County Elections (February 2003)

Summary and Conclusion

The strength of our democracy was tested in 2004. Each branch of our government was compelled to embrace its responsibility for the fair and impartial conduct of elections in ways they had not been called upon in the past. Our system withstood the tests, but not without clear indications of vulnerability when turnout is high and margins are razor thin.

As we move forward, new and recurring challenges remain at the forefront of the elections process in King County. Even as we resolve the issues of the historic gubernatorial race, new challenges await us, including:

- compliance with new federal laws calling for disability access voting equipment in each polling location;
- administration of another new primary system;
- responding to a changing public dynamic that relies on a new era of technology and media (Web sites, Internet blogs, talk radio, etc.) as the primary source of information; and almost assuredly
- some form of statewide election reform.

Our success in overcoming the challenges of the past and those ahead lies in seizing the opportunity that comes from the intense scrutiny and analysis we endured in 2004. Recognizing what must be done, and staying on a steady course of improvement and accountability will result in a process and system that is trusted and respected.

> ***"The citizens of King County have a right to expect high quality performance in the conduct of our elections. We cannot demand perfection; we know that there will be breakdowns and errors in the future. But we can insist that the Elections Section operate on a standard of professionalism, expertise, accountability and continuous improvement, and by the same token must insist that our elected officials provide the resources and organization required to achieve that standard."***
>
> Afterward, King County Citizens' Elections Oversight Committee (May 2004)

As Director of the Records, Elections and Licensing Services Division, I remain committed to facilitating the opportunity for all King County voters to actively exercise their right to vote, for their votes to be counted and to building confidence in the integrity of our elections. I will need your help – and that of the public — in meeting this ever-changing challenge.

King County Elections

Dean C. Logan, Director
February 9, 2005

King County
Elections

Mission Statement

We are public service professionals dedicated to the administration of accessible, open and impartial elections.

With pride, fairness and integrity we strive to ensure the opportunity for all to participate in democracy.

Our Guiding Principles

We value all members of our organization for all are equally important.

We act proactively by planning ahead and avoiding unnecessary crisis management.

We deal with conflict appropriately.

We share timely and appropriate information with all.

We create and foster an environment where it's safe to communicate with all levels.

Supervisors proactively work with staff to address workplace issues.

We encourage the public to participate in the election process through education, public notices and transparent processes.

We take responsibility both professionally and organizationally to communicate openly and honestly with each other and the public.

King County
Elections

500 Fourth Avenue, Room 553
Seattle, WA 98104-2337
206-296-VOTE
elections@metrokc.gov
www.metrokc.gov/elections