

Greg Kimsey response to election administration requests/concerns expressed by citizens at June 7, 2023 Council Hearing

- *“Don’t provide funding to expand Elections Office work area until a “forensic audit” is conducted.”*
 - o Every election in Clark County is audited. A forensic audit is one that is suitable to courts of justice. The election audits that are conducted in Clark County would be suitable to a court of justice.

In addition, some citizens have requested to review and copy the internal electronic, software, mechanical, logic and related components of the voting system. Such access by third parties would undermine the chain of custody requirements and access limitations necessary to prevent both intentional and inadvertent tampering of the voting system. This access would jeopardize the security and integrity of the system and would negate the ability of the voting system vendor to affirmatively state that the voting system continues to comply with federal and state accuracy and security requirements.

WAC 434-335-260 forbids county auditors to provide physical, electronic, or internal access to third parties seeking to copy and/or conduct an examination of state-certified voting systems. If such access as described occurs, those pieces of voting equipment will no longer be considered adequately secure or reliable for use in subsequent elections. As a result, incidents will be treated as a security breach under RCW 29A.12.180 and the Office of the Secretary of State may decertify the use of the system or component. The County would then have to purchase new equipment from a different vendor as the current vendor would not sell to the County again as a result of the county’s violation of the licensing agreement with the vendor.

- *Require full video/audio surveillance of ballot processing*
 - o Anyone who wants to observe any aspect of ballot processing is welcome to become a certified elections observer and observe the process. In addition, any member of the public may receive a tour and explanation of the ballot processing area upon request. It is not possible to fully understand the context of what is occurring when viewing ballot processing over the internet, we have seen that lack of context, as well as selective editing of videos, create a lack of understanding which then results in misinformation. In addition, it is not practical to provide constant surveillance of every square inch where ballot processing occurs.
 - o
- *Greg Kimsey’s “lack of cooperation in cleaning up voter registration.”*

When we are contacted with concerns regarding the integrity of the voter registration database we take those concerns seriously and thoroughly investigate them. Notably, since November 2021 a group of citizens identifying themselves as participants in the “Washington Voter Research Project” on four separate occasions have provided us the names of a total of 374 persons who they believed had “anomalies” in their voter registration record. Review of the records for these 374 people resulted in the identification of four people whose voter registration did not comply with state and/or federal laws. These four people had deceased prior to implementation of the statewide voter registration system in 2019. The ballots that had been issued to these four people had not been fraudulently returned after these voters became deceased. The voter registration status of these four people has now been changed to “cancelled.”

Household members receiving a ballot for someone that has moved or is deceased have the responsibility of contacting the Elections Office to provide information about the move or passing of the voter so research and follow-up may begin to cancel the person’s voter registration.

- *Full image retention/backup following every Primary and General Election for proper chain of custody in compliance with federal law.*
 - o All election related data and material required to be retained by state and/or federal law has been retained. Comprehensive chain of custody and security policies and procedures are in place and are complied with.

- *Establish citizens based committee to offer solutions to Council*
 - o Membership of the Elections Department’s Elections Advisory/Voting Accessibility Advisory Committee consists of interested citizens and meets several times each year. Persons who are interested in being a member of this committee are encouraged to contact the Elections Office. If the Council desires to create a separate committee it may do so.

- *Election Observers have been “muzzled”, can no longer take notes, ask questions about signatures, have now been prohibited from speaking.*

The statutorily defined role of election observers is to observe ballot processing, state law prohibits observers from challenging decisions made by election administrators. State law also prohibits observers from recording ballot or voter information. As of October, 2022 19 of Washington’s 39 counties prohibited observers from using a device to record ballot or voter information, another six Washington counties stated they intend to formally add this restriction. In order that elections staff are

not distracted as they process ballots, observers are required to be silent in the areas where ballot processing occurs, however observers are encouraged to ask Elections Office managers questions regarding the elections administration process.

- *Former election observer Ed O'Meara "fired without due process for questioning a break in the chain of custody of ballots"*

The required chain of custody of ballots was complied with during the election, and subsequent recount, that Mr. O'Meara observed.

Mr. O'Meara's election observer certification was revoked because of his repeated disruptions of the elections administration process (e.g. repeatedly talked with temporary elections staff and touched spreadsheets used by Inspection Board members). Mr. O'Meara had been warned multiple times that his behavior was in violation of Elections Office rules. This action was also the result of an interaction Mr. O'Meara had with the Elections Office Supervisor where he raised his voice to an inappropriate volume, made aggressive physical motions towards that person and in general demonstrated a lack of control of his emotions.

State law gives the county auditor unilateral authority to revoke an observer's certification, however at Mr. Kimsey's request the Canvassing Board adopted a rule providing an appeals process for a person whose election observer certification had been revoked. When Mr. O'Meara appealed Mr. Kimsey's decision he did not deny that he had disrupted the elections administration process and the Canvassing Board unanimously upheld Mr. Kimsey's decision.

"Mr. Kimsey refuses to adhere to Washington State law." - non-citizens cast ballots, dead people cast ballots, voters move out of state and after notifying Elections they continue to receive ballots.

Voter registration and elections administration in Clark County are conducted in full compliance with state and federal laws. Anyone who has evidence of illegal election related actions by the Clark County Elections Office should provide that to law enforcement, the Secretary of State and/or the State Auditor.

- *Auditor refuses to add audio/video surveillance of each ballot drop box.*
The controls and procedures to ensure that only properly registered voters are casting their proper ballot occur when the ballot arrives at the

Elections Office. Audio/video surveillance of ballot drop boxes would not prevent deposit of a fraudulent ballot. 40-60% of all ballots are deposited in USPS mail boxes. The Elections Office discussed the installation and maintenance of video surveillance of ballot drop boxes with vendors prior to the 2020 general election. The conclusion was that the initial and ongoing costs greatly exceeded any perceived benefit. However, if the Council would like to provide funding for audio/video surveillance of each ballot drop box the Elections Office is willing to assist it in that process.

- *“Mr. Kimsey has received numerous complaints about voter fraud (illegal voter registrations and illegally voted ballots), but he has chosen not to do anything about them.”*
 - o I take allegations of illegal actions very seriously, every “complaint of voter fraud” is investigated, evidence of illegal actions are provided to law enforcement. Since June 2017 evidence related to 85 incidences of alleged voter fraud have been provided to the Sheriff’s Office for investigation.

- *“ several campaign recounts proved that the error rate is higher than the standards stated in the “Help America Vote Act of 2002.”*

The Help America Vote Act (“HAVA”) sets standards for accuracy for the tabulation by voting systems of votes on ballots. The error that is referenced in the statement above was the result of a human error. That error resulted in two ballots not being scanned into the voting system and as a result the votes on those ballots could not be tabulated by the voting system. A process has been established to reduce the likelihood of that human error occurring again.

- *“Broken chain of custody” – hard drives sent to vendor in Texas while failing to retain 100% of hard drive data, including operating system and application software.*

Maintaining the security of election data is of the utmost importance. All election related material and data have been retained per state and federal law. An equipment chain of custody (Return Materials Authorization (RMA) document is provided to the voting system vendor when hard drives are sent to the vendor. The vendor returns the RMA to the Elections Office when the hard drives are returned.

- *As of May 22, 2023 360,937 active voters, 47,606 have not voted since prior to November 2016 election. 27,153 active registered voters have never voted.*

“This goes against federal law that says voters must remain on voter rolls unless they fail to vote in 2 general elections.”

It would be a violation of federal law to cancel the voter registration of a person who registers to vote and maintains their status as an “active registered voter” but does not cast a ballot.

A person who registers to vote and whose status is changed to “inactive” because they have moved out of the county and then does not vote in two federal elections will have their voter registration cancelled.

Clark County’s voter registration records are maintained per state and federal laws.

- *Auditor refuses to “request nor require for registering a voter proof of WA state 30 day permanent residency, proof of US Citizenship, photo id”*

When registering a person to vote, the auditor is required by law to rely on the information provided by that person on the voter registration form. That form requires the person to affirm, under penalty of law, that they meet the requirements to be registered to vote. The Auditor’s office has no investigatory powers for voter registrations. It would be a violation of state and federal law to request or require anything in addition to a completed voter registration application.

- *“Phantom voters” – two non-citizens registered to vote at DOL, received ballots but did not vote them, however VoteWA.gov showed that they had cast ballots in two elections.*

A person who believes another person is improperly registered to vote should file a challenge of that person’s voter registration.

If the name and date of birth of the two non-citizens referred to above are provided, it will be investigated by comparing the signatures on their drivers’ licenses to the signatures on the affidavit envelopes of the ballots that were cast. If it is determined that an illegal action occurred evidence of that will be provided to law enforcement.

Anyone with questions or concerns regarding the elections administration process is encouraged to contact Clark County Auditor Greg Kimsey (phone: 564-397-2078, email: greg.kimsey@clark.wa.gov) or the Clark County Elections Office (phone: 564-397-2345, email: elections@clark.wa.gov).