

Election Procedures Review  
Of  
**San Juan County**  
State of Washington  
2008 General Election



Conducted by the  
Office of the Secretary of State  
Election Certification and Training Program



# Introduction

The Washington State Legislature enacted legislation in 1992 mandating that the Office of the Secretary of State review county election procedures and practices. The Election Certification and Training Program was established within the Elections Division of the Office of the Secretary of State to conduct reviews and to provide for the certification of election administrators. In 2005, the Legislature expanded the Election Certification and Training Program to require that each County Auditor's Office be reviewed at least once every three years. The Legislature also added a requirement that the Program conduct a follow-up visit to verify that the County Auditor's Office has taken steps to correct the problems noted in the report.

The election review process is governed by RCW 29A.04.510 through 29A.04.590 and Chapter 434-260 of the Washington Administrative Code.

Pursuant to RCW 29A.04.570(1)(b), the Election Certification and Training Program conducted an election review in San Juan County during the 2008 General Election cycle. Libby Nieland, Program Specialist, represented the Election Certification and Training Program during the review. Milene Henley, San Juan County Auditor, Doris Schaller, Elections Supervisor and Carlys Allen, Elections Deputy participated on behalf of the San Juan County Auditor's Office.

Both the reviewer and the San Juan County Elections Department approached the review in a spirit of cooperation. The department allowed the reviewer to thoroughly review and examine all aspects of the election processes. The staff provided documentation and materials during the review which greatly contributed to a successful examination process.

The purpose of this review report is to provide the San Juan County Elections Department with a useful evaluation of its election procedures and policies and to encourage procedural consistency in the administration of elections throughout the state. This review report includes a series of recommendations and/or suggestions that are intended to assist the San Juan County Elections Department in improving and enhancing its election processes.

The reviewer is statutorily prohibited from making any evaluation, finding, or recommendation regarding the validity of any primary or election, or of any canvass of the election returns. Consequently, this review report should not be interpreted as affecting the validity of the outcome of any election or of any canvass of election returns.

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## Overview

Composed entirely of islands, San Juan County is unique among Washington State counties. For many residents, the rhythm of the islands is determined by the schedule of the Washington State Ferry System.

San Juan County votes entirely by mail. Voting by mail is particularly appropriate for San Juan County voters because poll site voting could not provide the level of service or convenience available through mail voting. Casting a ballot in a mail environment overcomes potential commuting delays between islands. In addition, the use of optical scan tabulation permits lower staffing levels while maintaining accountability.

The San Juan County Auditor meets the challenge of conducting elections on the islands in a secure and accountable manner. Twenty-four hour availability of ballot deposit sites on three islands provides ballot deposit service. The difficulties of securely transporting ballots to the San Juan County Elections Office are overcome by using public employees and officials residing on outer islands.

The San Juan County elections office has experienced turnover in staff in the past two years. This turnover has reduced the number of certified election administrators on staff. Every effort has been made by the County Auditor and staff to attend trainings and increase working knowledge of election administration. They continue to place emphasis on the integrity of election management.

The Disability Advisory Committee for San Juan County has been offering guidance to the San Juan County Auditor to make San Juan County elections more accommodating. There are still areas that need to be addressed, including positioning unmanned ballot deposit sites to allow for drive up delivery.

Staff has implemented a ballot resolution process that is commendable. Immediately following initial processing of ballots, the opening board members and any observers present, remain to collectively review and determine the resolution of digitally scanned votes. By projecting images of the questioned votes, all persons present may participate.

Some of the recommendations in this report require relatively minor changes in election procedures. However, because elections are complicated, even minor changes can impact the election process.

The following recommendations and suggestions will improve and enhance the County Auditor's election procedures and policies.

## Recommendations

The following recommendations identify ways in which the county is out of compliance with the Revised Code of Washington (RCW), the Washington Administrative Code (WAC), the Washington State Constitution, or Federal election law. The reviewer obtained information based on actual observation of a procedure, verbal explanation or written procedures. The reviewer provides a description of the county's procedure, a citation of the applicable law, and a recommendation based on the citation.

### Notices of Voter Registration Changes

The San Juan County Auditor sends notices to registered voters whenever a voter's name, address, or status has changed in the voter registration rolls. The notices sent comply with state requirements with the following exceptions:

A voter identification card is issued by the San Juan County Auditor to acknowledge changes in voter registration data. The date that a voter registered is one of the five items required on a voter identification card, but is not included on the card of San Juan County voters.

Only one confirmation notice is sent to a voter. In the event that no forwarding address has been provided, the notice is sent to the address of record. If a forwarding address is supplied by the post office the confirmation notice is sent to that address.

*WAC 434-324-085(2) "The notice must acknowledge that the request of the individual has been processed and must include: (e) The date the voter registered."*

*RCW 29A.08.030(3) defines "Confirmation notice means a notice sent to a registered voter . . . at the address indicated on the voter's permanent registration record and to any other address at which the county auditor or secretary of state could reasonably expect mail to be received by the voter in order to confirm the voter's residence address.."*

**Recommendations:** The San Juan County Auditor must revise the voter identification card to include the date of registration.

Confirmation notices should be sent to the address of record, plus any other mailing address where the voter might reasonably receive mail.

### Questionnaires to Cities, Towns, and Districts

The San Juan County Auditor last sent questionnaires confirming incumbents, positions, and salaries to junior taxing districts in 2007. No questionnaire was sent in 2008.

*WAC 434-215-005 requires "Prior to March 1 of each year, the county auditor shall send a questionnaire to the administrative authority of each local jurisdiction."*

**Recommendation:** The San Juan County Auditor’s Office must send a questionnaire to all junior taxing jurisdictions every year. This information, although not always applicable to the current election, is necessary in maintaining a list of elected officials.

**Local Voters’ Pamphlet and Notice of Election**

The San Juan County Auditor mailed a local voters’ pamphlet to every household in San Juan County for the 2008 General Election. In addition to the pamphlet, a notice of the 2008 General Election was printed in the county newspaper in a timely manner.

Two items required in a local voters’ pamphlet were missing.

- The pamphlet clearly was entitled as San Juan County’s, but did not state that it was the “official local voters’ pamphlet” for the county.
- No explanatory statement was printed with either of the two measures included in the pamphlet.

The Notice of Election omitted a statement regarding the need to affix postage when returning a ballot.

*RCW 29A.32.241 “The local voters’ pamphlet shall include but not be limited to the following:*

*(1) Appearing on the cover, the words “official local voters’ pamphlet,” the name of the jurisdiction producing the pamphlet, and the date of the election or primary;*

*(4) The text of each measure accompanied by an explanatory statement prepared by the prosecuting attorney for any county measure or by the attorney for the jurisdiction submitting the measure if other than a county measure. All explanatory statements for city, town, or district measures not approved by the attorney for the jurisdiction submitting the measure shall be reviewed and approved by the county prosecuting attorney or city attorney, when applicable, before inclusion in the pamphlet.”*

*WAC 434-250-310(3) in a notice of election “a county auditor conducting an election by mail, including a county auditor that conducts every election by mail, must state:*

*(d) Whether return postage is required;*

**Recommendation:** A local voter’s pamphlet must be identified as an “official local voter’s pamphlet.” Every ballot measure title must be accompanied by an explanatory statement. This statement must be prepared and reviewed in compliance with RCW 29A.32.241.

In a county conducting all mail elections the notice of election must meet all requirements stated in WAC 434-250-310.

**Ballot Security**

Security in the San Juan Elections Office is good with the exception that envelopes containing voted ballots were observed unsecured on staff desks while staff stepped away to attend to other office functions.

*WAC 434-261-045 “Received ballots and ballot images must be maintained in secure storage except during processing, duplication, inspection by the canvassing board, or tabulation. Secure storage must employ the use of numbered seals and logs, or other security measures that will detect any inappropriate access to the secured materials.”*

**Recommendation:** The San Juan County Auditor must make any changes necessary to ensure that voted ballots are secured when not actively being processed.

### **Voting Service Centers**

The San Juan County Elections Office served as the county voting service center. The office staff provided signage in compliance with the Americans with Disabilities Act and the Help America Voting Act of 2002 (HAVA) and the laws and rules of Washington State. Provisional ballots and a ballot deposit box were available. An accessible voting unit (AVU) was set up in the manner recommended by the San Juan County Disability Advisory Committee. The AVU was located well for accessibility, but votes cast by a voter on the machine would have been visible to any passerby.

*Washington State Constitution Article VI, Section 6 mandates, “The legislature shall provide for such method of voting as will secure to every elector absolute secrecy in preparing and depositing his ballot.”*

**Recommendation:** One of the traditional hallmarks of a democratic process is the use of a secret ballot. The AVU must be placed in an area to protect the privacy of the voter.

### **Mismatched Signatures on Ballot Affidavit**

If a voter’s signature on a returned ballot envelope does not match the signature on the voter’s registration record, the San Juan County Auditor correctly notifies the voter of the mismatch. The letter sent to the voter states that the voter “must provide a new signature that will match the voter’s registration card or current identification.” There is no explanation of what qualifies as acceptable identification for qualifying a signature on a ballot.

Written procedures regarding the notification of voters whose signature is missing or mismatched include the directive that “when returning a signed copy of the affidavit, the voter may also include a copy of a valid government or tribal ID.”

*WAC 434-261-050(3) prescribes “If the signature on the oath of an absentee or provisional ballot envelope does not match the signature on the voter registration record, the voter must either:*

*(a) Appear in person and sign a new registration form no later than the day before certification of the primary or election. The updated signature provided on the new registration form becomes the signature on the voter registration record for the current election and future elections; or*

*(b) Sign a copy of the affidavit provided by the auditor, and provide a photocopy of a valid government or tribal identification that includes the voter's current signature. The signature on the affidavit must match the signature on the identification, and both of those signatures must match the signature on the ballot envelope. The voter must return the signed affidavit and identification to the auditor no later than the day before*

*certification of the primary or election. The county auditor may also send the voter a new registration form to update the signature on the voter registration record for future elections; or*

*(c) Sign a copy of the affidavit provided by the auditor in front of two witnesses who attest to the signature. The signature on the affidavit must match the signature on the ballot envelope. The voter must return the signed affidavit to the auditor no later than the day before certification of the primary or election. The county auditor may also send the voter a new registration form to update the signature on the voter registration record for future elections.”*

**Recommendation:** The letter must be revised to clearly explain the three possible ways a voter may update a signature. Specific information on what is an acceptable form of identification must be included.

Written procedures for a mismatched signature resolved by mail must also address the use of an affidavit signed by two witnesses accompany the signed copy of the affidavit.

### **Reconciliation Report**

The San Juan County Auditor correctly submitted the required reconciliation report to the San Juan County Canvassing Board at the time of certifying the 2008 General Election. The number of provisional votes issued was incorrect.

*RCW 29A.60.235(1) requires, “The county auditor shall prepare, make publicly available at the auditor's office or on the auditor's web site, and submit at the time of certification an election reconciliation report that discloses the following information:*

- (c) The number of provisional ballots issued;*
- (d) The number of provisional ballots counted;*
- (e) The number of provisional ballots rejected.”*

**Recommendation:** The reconciliation report is intended to account for all ballots received. This means that the number of rejected plus accepted ballots must equal the total number received. The number of ballots by category must be represented correctly in this accounting.

The San Juan County Auditor must verify all the numbers on the reconciliation form prior to submission to the Canvassing Board.

## Suggestions

The following are suggestions for increasing efficiency and improving operations within the County Auditor's Office. Although these suggestions do not address issues involving compliance with state laws or administrative rules, the reviewer identified the tasks as areas of election administration in which the County Auditor might improve the efficiency and operation of the office.

### Office Security

Office security is paramount in conducting elections. Security and openness of the process in San Juan County may be enhanced by increasing the visibility of ballot storage areas. Staff and observers would benefit from being able to visually monitor those areas.

**Suggestion:** Add a visual aid that permits observers and staff to monitor the ballot security area. This may be accomplished by affixing an observation mirror to the wall or installing a video camera.

### Ballot Boxes

All ballots were removed from the ballot deposit box outside of the County Auditor's Office at exactly 8 p.m. on election night. It was observed that after the ballots were removed, the box was not sealed or locked in any manner to prevent late ballots or other items from being dropped into the box.

Sealing permanently installed deposit boxes will prevent late ballots, or other items, from being deposited. San Juan County has experienced a situation where completed voter registration forms were found in one of the unstaffed deposit sites after the voter registration was closed for an election. Since the forms were found after the deadline for voter registration, the San Juan County Auditor had to determine whether these registrations had been received in time. If the boxes had been secured to prevent random deposits, there would not have been an issue.

**Suggestion:** Seal or lock ballot boxes after emptying on election night may prevent the public from placing additional ballots in the box beyond the deadline. Securing the boxes from late or invalid deposits eliminates the need to determine timeliness of such deposits.

### Procedures

The San Juan Elections Department has been working on updating office procedures. Screen shots, graphics, and hyperlinks have been included to support understanding of the tasks described. The following suggestions may help staff when writing or updating policy and procedures.

**Suggestions:** Adopting a standard format for office procedures may help in organizing policies and tasks. Several counties utilize templates that document applicable statutes, the forms or documents needed to support the procedures, and any personnel assigned to

perform tasks. These templates also address timelines and deadlines applicable to the tasks.

Procedures should anticipate issues that may occur. For example, during candidate filing, staff sends both the original and the copy of every declaration of candidacy to be officially recorded to another building. Current office procedures do not anticipate the loss of a declaration. Yet the possibility of losing a declaration is increased when both copies of a document leave the possession of the elections office.

Review procedures at least once each year for correct citations, current practices, and applicable terminology. Any form, letter, or template is used in a procedure should be reviewed at the same time for accuracy and compliance.

### **Notice of Availability of Services**

The San Juan County Auditor publishes a notice of availability as part of the notice of closing of voter registration. These notices were published in a timely and compliant manner for the 2008 General Election; however, there was no specific mention of voter registration assistance available for the disabled and elderly.

**Suggestion:** In order to inform the public of all available services, any notice of assistance should mention that assistance for voter registration is available.

### **Ballot Deposit Sites**

There are three outside ballot deposit sites located throughout the county, all available on a 24-hour basis. The boxes are available to persons walking, but none are located in a way that allows voters to deposit ballots without leaving their vehicles.

**Suggestion:** The San Juan Disability Access Committee may wish to re-evaluate the 24-hour ballot deposit sites to assure that some or all meet accessibility requirements.

On the day of election it was observed the parking spaces in front of the ballot deposit box in Friday Harbor were occupied by parked cars and not reserved for voters.

**Suggestion:** The ballot deposit sites might better serve the public if parking were restricted on Election Day to voters dropping off ballots.

### **Delegation of Canvassing Board**

The San Juan County Auditor correctly retains the written delegation by the San Juan County Canvassing Board on file. The delegation specifies staff and duties that the San Juan County Auditor may conduct on behalf of the Canvassing Board. RCW 29A.40.110 is cited as the authority for the delegation. This citation is more specific to processing absentee ballots prior to tabulation.

There are items and personnel positions mentioned in the letter of delegation that no longer apply to the election process in the San Juan County. For example, inspectors are a function of poll site voting; yet, the delegation letter authorizes the San Juan County Auditor to utilize inspectors.

**Suggestion:** The authority for delegating tasks to the Auditor by the County Canvassing Board is RCW 29A.60.140. Delegation of tasks to the San Juan County Auditor and staff by the San Juan County Canvassing Board might wish to use this citation. The letter could also better reflect current tasks or staff positions being delegated.

### **Voters' Pamphlet**

**Suggestion:** A local voters' pamphlet mailed to all county residences may be issued in lieu of publishing a notice of election provided that the pamphlet includes all information required of the notice of election it is replacing.

### **Name Changes**

During the review, staff verbally confirmed that a change of name request will be honored if it includes all required information, no matter how the request is received. However, the letter sent by the elections department to voters, expressing a desire to change a name, states "a new Mail-In Voter Registration Form must be completed."

**Suggestion:** Staff correctly accepts a name change if all required information is included and the voter is not limited to submitting a new voter registration form. The form letter could be revised to better describe requirements and the process.

# **County's Response to Draft Review Report**

The Election Certification and Training Program issued a Draft Review Report to the San Juan County Canvassing Board in March 2009. In accordance with WAC 434-260-145, we provided San Juan County 10 days to respond, in writing, to recommendations listed in the draft report.

The San Juan County Canvassing Board provided the following response to the Draft Review Report. The signed original of their response is on file in the Office of the Secretary of State.



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The San Juan County Auditor, Canvassing Board, and Elections staff appreciate the thorough job done by the reviewer in examining all aspects of our election process. We have already taken steps to adopt most of the recommendations made in this report, and are looking at the feasibility of adopting some of the suggestions.

Regarding Notices of Voter Registration Changes, we have already revised the voter identification card to include the date of registration. Confirmation notices in the future will be sent to all known possible addresses, not just the address of record or the forwarding address.

Regarding questionnaires to the Town of Friday Harbor and junior taxing districts confirming incumbents, positions, and salaries, we have already sent one out for 2009 and have changed procedures to send one out every year.

Regarding Voters' Pamphlets and Notices of Election, we recognize that information was missing from both the pamphlet and the Notice of Election for the 2008 General Election. Our plan for the future is to do one of the two—either a Notice of Election or a Voters' Pamphlet—but not both, and to be sure that all legal requirements are met.

The reviewer's observation of envelopes containing ballots left unsecured on a staff desk, while certainly an unusual event, did happen. We have re-arranged office furniture in the office to better secure the staff desk in question. Most importantly, however, our ballot reconciliation procedures ensure that no ballots can be lost, because every ballot is accounted for at every stage.

Regarding the location of the AVU, the AVU was located exactly where the Disability Advisory Board wanted it. Nonetheless, we will review with the committee other possible locations that improve the privacy of the voter.

Regarding mismatched signatures, we will clarify the language on the notification to voters of a mismatched signature. Regarding the reconciliation report, we were, indeed, one of 13 counties who misunderstood the form and completed it incorrectly. We have now been taught how to fill it in correctly, and will do so in the future.

San Juan County Elections staff is committed to running an excellent election process. We appreciate the reviewer's affirmation of our success in conducting elections in a secure and accountable manner. We also appreciate the reviewer's suggestions as to ways we could improve the operations of the office. In fact, we have already re-arranged the location of the secure ballot storage, in order to make it visible to all participants in the election process. We have applied for a HAVA grant to improve the accessibility of the ballot boxes. And we are reviewing and updating all of our election procedures.

The Election Procedures Review of the San Juan County 2008 General Election was, as it was meant to be, a cooperative and helpful process, out of which San Juan County Elections staff learned ways to improve our operations, and the reviewer from the Secretary of State's office learned a little bit about what it means to live on an island.

A handwritten signature in black ink, appearing to read "Milene Henley". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

## Conclusion

Staffing for an election is not always easy. The San Juan County Auditor has faced several challenges with staffing.

Permanent office staffing consists of two people in San Juan County, both of whom are able to conduct every aspect of an election. Staff is encouraged to participate in training opportunities and to understand all responsibilities of election administration.

Additionally, the San Juan County Auditor has met the challenge of staffing for an all mail election by arranging transportation of ballots from remote deposit sites by utilizing public employees and public officials already residing on the islands with deposit sites.

There is a need to provide better access to ballot deposit sites in San Juan County. The San Juan Disability Advisory Committee is encouraged to assist the San Juan County Auditor in achieving this goal.

The accounting methods employed by staff during an election are thorough and accurate. Staff implements every possible means for verifying that an envelope has been processed and that a voter has been credited. Daily accounting of ballot processing is well organized.

The resolution process implemented by the San Juan County Auditor is especially commendable for the open manner in which it is conducted. Resolving votes in an open, public manner through group participation provides for a secure, accountable, and error free process.

The San Juan County Auditor and staff display tremendous support for the election process, the voters of their county, and for one another. They conduct elections conscientiously and are dedicated to maintaining the integrity of elections. This report is meant to enhance and improve San Juan County's procedures. To this end, the Office of the Secretary of State Election Certification and Training Program is available for any additional assistance that the County Auditor may request.

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