

## **SOS Election Watcher Advisory Panel - Topics for discussion – Harvie Branscomb 4/28/2015**

Recognition of at least three separate election contexts: Title 1 elections, SD elections, Title 31 elections. (no SOS involvement in SD or Title 31 elections at present- will this panel recommend SOS oversight?)

**Constituency of panel:** Role of SDA/CML on a panel advising a SOS not overseeing SD or muni elections?

**Policy:** Reaffirm current role of the watcher? Facilitate expansion into new all mail/VSPC environment? Make clear how the watcher roles differ from judges, other officials.

**Law:** What changes to CRS are needed to enable successful and constructive watching in a modernized Colorado election?

**Rules:** What watcher rules changes are needed?

**Practices:** What best practices can be taught by extrapolating on rules?

**Enforcement, tracking:** What mechanisms will ensure practices are as uniform as expected? How to ensure that officials/watchers/ public conform to the CRS and rules and best practices? What is the oversight, appeal, and review mechanism?

Clarify the **types of watchers:** appt. by candidates, appt. by parties, media, official, local, outside expert

- Why limit watchers to jurisdiction included in election? Could prevent benefits of outsiders' expertise.

**Oath of watchers:** what responsibility and accountability? Better if it mirrors the judge's oath so that every eventuality is covered. When is certificate approved and by whom? DEO allowed to delay/veto?

**Watcher protest/challenge-** what mechanisms?

- **Forms** - New forms specific to watching incoming mail/UOCAVA or resolution boards etc.?
  - How much information needed? How soon must challenge be initiated?
- **Procedure of protest** – judges aware of contest? How soon handled? Voter involvement?
  - Possibility to contest either an approval or a rejection for reason of discrepancy?
- **Access to follow-up-** watcher involved in or access to resolution of challenge/protest by judges?
- **Result of protest at DA** – access to information needed to justify withdrawal of challenge/protest before delivery to DA?

**Means of effective contact –**

- How and why limit contact between watchers, officials, judges, outsiders...
- Provide mechanism for timely and archival sharing of constructive information collected
- Provide for means to have exceptional events/cases alerted to watchers by judges/staff
- Provide flow interlocks to avoid irreversible steps taken before watching of input is completed

### **Access to records –**

- Relationship to CORA- does CORA apply for any watcher functions?
- Ability to record data, sound, video – when, how, and why restricted?
- Collection of evidence for remedies: contest/protest/quality reporting etc.
- Ability to obtain electronic copies of files in use or paper copies, in timely manner.
- Provide for list of names and summaries of forms, reports, records.
- Relationship of oath to access of information (similar to official oath/access)?
- Definition of confidential – no definition yet outside of CORA.
- Definition of original election record – first of many prints isn't uniquely valuable.
- Potential for public flow of election data from SCORE to complement watcher functions.

**Mentoring/monitoring** – clerks personally intercept and monitor or in other cases hire staff or judges to birdddog watchers – regulation/best practices?

**Access to planned activities** - Publication of schedule of “steps in the conduct of an election”

**Access to explanations, identifications** – ensure any refusal to answer questions or to identify personnel is limited to specific justifiable cases (if any) – rules needed to improve flow of information – when requests to put questions on paper are fulfilled, timely answers must be provided

**Timeliness of access** to answers needed for above functions-

- Need to delay/query a decision by election judge while data is flowing, or:
- Possible delayed access to materials and decisions to avoid interfering with process flow

**Physical proximity** of access to source of data, visibility of non-confidential information

- Design physical screen layouts and fonts for max visibility
- Constrain confidential portions of screens/forms to prevent unnecessary viewing/redaction
- Clarify the 6 foot rule is specifically for context of voter while voting

**Expectations of judges/officials** regarding function of watchers –

- Education of all as a mechanism for lessening angst between watchers and others
- Mechanism to encourage more responsible watching – recruitment, convenience, training

**Encourage budgeting of funds** within election jurisdictions to support transparency such as provisions for time of staff or judges to answer questions from watchers and provide electronic and paper copies.

**Provide data interchange standards** and incentives or requirements where possible for design of election process software (such as for signature verification management) to provide readily available **log information** for purposes of oversight and watcher functions as well as time-delayed watching

**Venues for watching** that have different characteristics and should be included:

- Management of election/training of staff, judges
- Ballot and form design
- Printing
- Fulfillment- stuffing, posting
- Logic and Accuracy testing
- Envelope intake/chain of custody
- Signature verification of incoming envelopes
- Cure process

- Deconstruction
- Central count tabulation
- VSPC (and clerk office)
  - eligibility check
  - voting
  - onsite scanning
  - results reporting
  - provisional ballots
  - ballot transfer
  - ballot storage
  - new and changed registration
  - replacement ballot
- Audit
- Canvass
- Recount
- Judicial Contest

## **FYI Some Notable Observations from Watching the 2014 General Election**

Harvie Branscomb, watcher for state Green and Libertarian parties updated 4/29/2015

I began 15 days before election deadline day and continued through the end of the certification process watching almost full time in the following counties: Adams, Boulder, Pueblo – multi day watching; Jefferson, Arapahoe – several instances of watching; Park, Fremont, Denver. El Paso- single instance watching during voting period; Weld, Larimer, Summit, Clear Creek, Douglas, Gilpin, Broomfield – post voting deadline interview with officials

### **What follows are a selection of references to events observed by myself during the 2014 election period:**

Arapahoe, Denver – place all voter ID information on one side of the return envelope- excellent

Arapahoe– Optech 400C high speed scanner is capable of batch tabulation enabling the statutory audit (comparison of election night tabulations to hand count of same ballots). Pueblo and Denver also similarly equipped and capable.

El Paso, Weld, Adams – have Diebold/Premier/ESS networked scanner farms that are capable of tabulation by deck that conforms to the audit required by statute. Weld and El Paso conforming.

Fremont – lone election judge opening all envelopes and secrecy sleeves without adequate privacy concern.

Larimer – clerk advised that paper ballot duplication is performed by election judges voting on a DRE

Adams – clerk declined to inform me the name of an election judge

Adams – clerk personally decided that a signature was discrepant and requested diversion of the envelope to cure process

Park – horrendously insufficient space to operate election – ballot stock in folders on floor of a store-room

Arapahoe – permanent county staff serving as election judge performing resolution function

Gilpin – duplication without numbering original and duplicate for accountability, also destructive marking of original with large “X”

Pueblo, Arapahoe – deliberately printed non-tabulating ballots (style not precinct) that require duplication onto precinct style for tabulation- adding sources of error to solve an inventory problem created when vote centers replaced precinct polling

Boulder – quality of photo images of signatures extremely poor contrast, interface shows two pairs of signatures simultaneously, interface appears built for single pair, confusing and impossible to follow as a watcher, second tier screens too small

Jefferson – watchers refused access to observe second tier signature verification, or any other access of SCORE system

Adams, Pueblo, Boulder – watchers refused ability to slow down signature verification to obtain sufficient information for a challenge

Adams, Arapahoe, other Agilis counties- font used for voter name too small to see from watcher perspective

Adams – Agilis system at end of run blocked further operations for fifteen minutes waiting for a timeout

Adams – signature verification suspended while SOS watchers were present

Pueblo – chain across door prevents watcher access to room with tabulation system and spreadsheet where ballot inventory is kept

Pueblo – Clerk refused to allow election integrity information to be supplied by watcher to canvass board, declared that activity was equivalent to electioneering - disallowed within 100 feet of counting facility

Pueblo – Clerk expressed doubt of accuracy of SCORE reports obtained in a valiant attempt to replace poll book for canvass for only 5 precincts

Pueblo – Clerk asserted that single printout of election results from voting system was an “original election record” and therefore a reason for prosecution for stealing

Pueblo – watcher reported undeliverable envelopes being processed by lone election staff, including research of possible alternate address using SCORE

Pueblo – election watcher request treated as CORA (response delayed, research costs quoted and required to be paid in advance)]

Adams, Boulder, Arapahoe – election watcher requests for information ignored

Eagle – reports new registrants allowed to vote without ID, after registering without ID

Eagle – uses “COUNTER” stamp on envelope when replacement ballot obtained at clerk’s office after showing ID – eliminates need for signature verification—but who actually voted the ballot?

Boulder – VSPC allowed ID to be presented on cell phone

Adams – supervisor judge reported that out of county residents may vote provisional – portions of ballot may count – saw provisional ballots being duplicated

Adams – provisional ballot being duplicated with affidavit envelope (voter identity) available to duplication team

Adams – duplication performed on remote EveryoneCounts web site – reportedly at a fixed cost per ballot

Adams – election judges performing signature verification often unbalanced in interaction

Eagle – second tier signature verification typically performed by election official instead of judge

Adams – new address labels printed in advance of decision to allow household switch rule to apply

Adams – second team of second tier allowed to approve envelope for counting – two chances for a single judge to allow approval of an envelope in case of disagreement (after a prior challenge by software automation and also a challenge by first tier judges).

Arapahoe – added an additional second tier review similar to Adams upon request of a canvass board member

Arapahoe – statistics presented to canvass board showed substantial difference of approval rating between two second tier teams

**Notable differences in practices between counties:**

Number and roles of people performing first tier and second tier signature verification

Treatment of household switch (e.g. circular switch in household allowed? Simple single same last name wrong first name from same address acceptable?)

Watcher access to SCORE screen (Jeffco – none) Boulder – “confidential info” covered by post-its – many counties full access to watch

Use of Ballot On Demand systems vary widely – many counties have no use, some for emergency only, some for part or all in person ballots, some for all replacement ballots, some for all duplicated ballots. Some use Simulo for printing pre-marked ballots either from regular duplication or from UOCAVA

All counties: When an incorrect signature is approved for counting, it becomes the prototype for the next election

All counties when asked: Were unable to provide any detailed data on numbers of signatures processed by verification status or final determination. Except Denver.

SOS – have not posted audit reports since 2013 recall in spite of CRS requirement

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