Good morning,

As some of you know the State Auditor has been looking at certain election procedures, particularly in regards to the primary election last week. I know some of you have been contacted by the Auditor's office or received visits from state auditors.

Attached is a letter outlining a couple of areas of concern that were raised regarding ballot secrecy and provisional ballot envelopes, along with some recommendations. I encourage you to review this letter and take any steps you can to alleviate these areas of concern. If there are additional questions we can discuss them on the VISTA call this Thursday.

Thank you for all your work,
Justin

Justin Lee
Deputy Director of Elections
Office of the Lieutenant Governor
State of Utah
801.538.1129
justinlee@utah.gov

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You received this message because you are subscribed to the Google Groups "vsug@utah.gov" group.
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In one of the counties where the wrong mail-in ballots were mistakenly sent to unaffiliated voters, we observed that poll workers physically segregated mail-in ballots received from unaffiliated voters from those received from registered Republican voters. Second, these poll workers tabulated mail-in ballots received from unaffiliated voters on a separate server from the server used to tabulate all other ballots. Third, internal logic programmed into the ballot counting software excluded votes cast by unaffiliated voters for the CD3 Republican Primary while still counting votes for municipal races. Finally, county officials assured us that the counting of mail-in ballots for unaffiliated voters would take place *after* the counting of mail-in ballots for Republican voters and all provisional ballots to ensure that unaffiliated individuals who wished to affiliate with the Republican Party on election day could vote provisionally in the CD3 race even if they had previously mailed in their unaffiliated mail-in ballot.

In another county, since CD3 mail-in ballots were sent only to unaffiliated voters in unincorporated portions of the county, none of the mail-in ballots received from unaffiliated voters in these unincorporated precincts were counted since there were no municipal contests on the ballot. In addition, the county had notified these unaffiliated voters of the option to affiliate with the Republican Party and vote at one of several physical polling locations on election day.

More generally, during our observation process, our team focused on county poll worker compliance with relevant portions of Utah Code § 20A-3-308, which governs the processing and counting of mail-in ballots, including "opening envelopes, verifying signatures, confirming eligibility of the ballots, and depositing [ballots] in a ballot box."[4] County election personnel appeared to largely execute their duties with adherence to relevant portions of the state election code; however, we did observe some areas of concern regarding ballot secrecy and provisional ballot envelopes.

Concerns Regarding Ballot Secrecy
The Utah Constitution states that, "All elections . . . shall be by secret ballot."[5] We have two specific concerns with the election processes and materials observed which may indicate that insufficient protection was provided regarding the constitutional mandate to ensure a secret ballot.

First, an individual's votes may be visible through the return envelope with or without the assistance of backlighting. Since a voter's name and possibly address appear on the return envelope, it would be possible for anyone handling the return envelope to link an individual voter to that voter's specific votes.

One of the counties reviewed provides a "security sleeve"[6] in which to enclose the mail-in ballot. This sleeve appeared to provide greater secrecy when enclosed within the return envelope; however, once removed from the return envelope, individual votes were legible through the sleeve. Although neither of the other two counties surveyed provide a similar

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[4] Utah Code § 20A-3-309(2)(b).

[5] UT CONST. art. IV, § 8, cl. 1; *see also*, Utah Code § 20A-3-102.

[6] This county calculated a cost-per-security sleeve of $.03 for this primary election.

As demonstrated in Figure 1, below, two of the parties not included on the provisional ballot envelope have party memberships well in excess of the Constitution Party, which is listed.

Figure 1. Office of the Lieutenant Governor Party Membership Statistics (as of August 14, 2017)

Political Party	Membership Total (Active & Inactive)
Republican	715,177
Unaffiliated	600,393
Democratic	176,517
Independent American*	24,926
Libertarian*	13,531
Constitution	5,556
United Utah Party*	82

*Not included on provisional ballot envelopes in two counties.

We are concerned with the disparate treatment of political parties on official election materials.

Recommendations:
We recommend that steps be taken to ensure:
- the constitutional protection of a secret ballot; and
- the uniform treatment of political parties on the provisional ballot envelope.

The pending general election prompted our immediate disclosure of these primary election observations and associated recommendations. However, we are still engaged in a review of other aspects of the recent election process and will share any additional findings and recommendations at a later date.

Overall, we observed county officials executing the election in a professional and careful manner, with each county demonstrating concern for the integrity of the electoral process. We appreciate and acknowledge the cooperation and efforts of election officials and county clerks in addition to the members of the Lieutenant Governor's State Elections Office.

From:	Sherrie Swensen
To:	Justin Lee
Cc:	Pam Tueller; Lannie Chapman
Subject:	RE: Election Security Memo
Date:	Monday, February 24, 2020 2:37:06 PM
Attachments:	image007.png
	image008.png
	image009.jpg

Hi Justin,

No, we have not reached out to DHS on doing security assessments. I have discussed it in our Management Meetings and I sent the email to Mark Pemberton. He in turn will share it with Mark Evans, who oversees IT security for the County.

Of course, we will not be able to participate before we finalize the Presidential Primary Election.

Thanks,

Sherrie Swensen
Salt Lake County Clerk
sswensen@slco.org
385-468-7370

SLCO Clerk Website

From: Justin Lee <justinlee@utah.gov>
Sent: Monday, February 24, 2020 11:18 AM
To: Sherrie Swensen <SSwensen@slco.org>
Cc: Pam Tueller <PTueller@slco.org>; Lannie Chapman <LKChapman@slco.org>
Subject: Re: Election Security Memo

Hi Sherrie,

I hope all is well during this busy time. I'm following up on this email and memo from last month. Have you been able to reach out to DHS on doing security assessments for Salt Lake County?

Please let me know if we can help with this in any way.

Thanks,
Justin

Justin Lee

From:	Mark Mitchell <markm@utah.gov>
Sent:	Friday, May 29, 2020 12:20 PM
To:	Pam Tueller
Cc:	Justin Lee; Sherrie Swensen; Lannie Chapman
Subject:	Re: Notice of NVRA Violation

██████ has vote history; I don't see that ███ does.

██████'s vote history indicates that it was entered by hand, but I can't see where. I'm going to have the dev guys see if they can dig into the logs to determine anything more than that.

Best,

Mark B. Mitchell
Director of Elections Systems
Office of the Lieutenant Governor
State of Utah

markm@utah.gov
(801) 538-9581

On Fri, May 29, 2020 at 11:25 AM Pam Tueller <PTueller@slco.org> wrote:

Mark,

I am doing some research on a voter that filed a claim against us that was forwarded to us by Justin Lee. In looking he has received voting credit for this June Primary election and he is not even a registered voter, he is in state holding. How could this happen? Please see below.

Sherrie,

I received the attached letter regarding voters ████████ (voter ID ████████) and ████████ (voter ID #3████████). It appears to me that both voters were sent the appropriate notices and were removed from the roles using the appropriate procedures. ████████ has subsequently registered to vote and is currently listed as an active voter.

Could I please get a response from your office on this matter that I could provide to the attorney along with our response?

Thank you,

Justin

Justin Lee

Director of Elections

Office of the Lieutenant Governor

State of Utah

801.538.1129

justinlee@utah.gov

---------- Forwarded message ---------
From: **Michael Teter** ████████ >
Date: Wed, May 27, 2020 at 2:12 PM
Subject: Notice of NVRA Violation
To: justinlee@utah.gov <justinlee@utah.gov>
Cc: Chloe Lehman ████████

Dear Mr. Lee,

Please see the attached letter regarding ████████ .

Hi Justin,

As a result of the discussion at UAC regarding the different ways counties are handling requests for lists of voters for whom we are trying to confirm signatures, I was wondering if you have an opinion from your legal counsel at the AG's Office.

We started getting requests for our Primary Election Cure Letter List right after Election Night, and our legal counsel was looking into the issue. When we released the second update on Thursday, August 15th and the Salt Lake City Mayoral results widened, the requests for the list ceased. However, I am sure this will happen again in the future.

The position that some of the counties took that the list is a "draft" seems viable since it was constantly changing as people submitted their cure letters. I think it is important for all counties to handle this issue consistently. A legal opinion from the AG would be helpful. If the AG determines the lists are public information, do you think there is a possibility that the legislature would classify the information as private?

Thank you,

Sherrie Swensen
Salt Lake County Clerk
sswensen@slco.org
385-468-7370
SLCO Clerk Website