



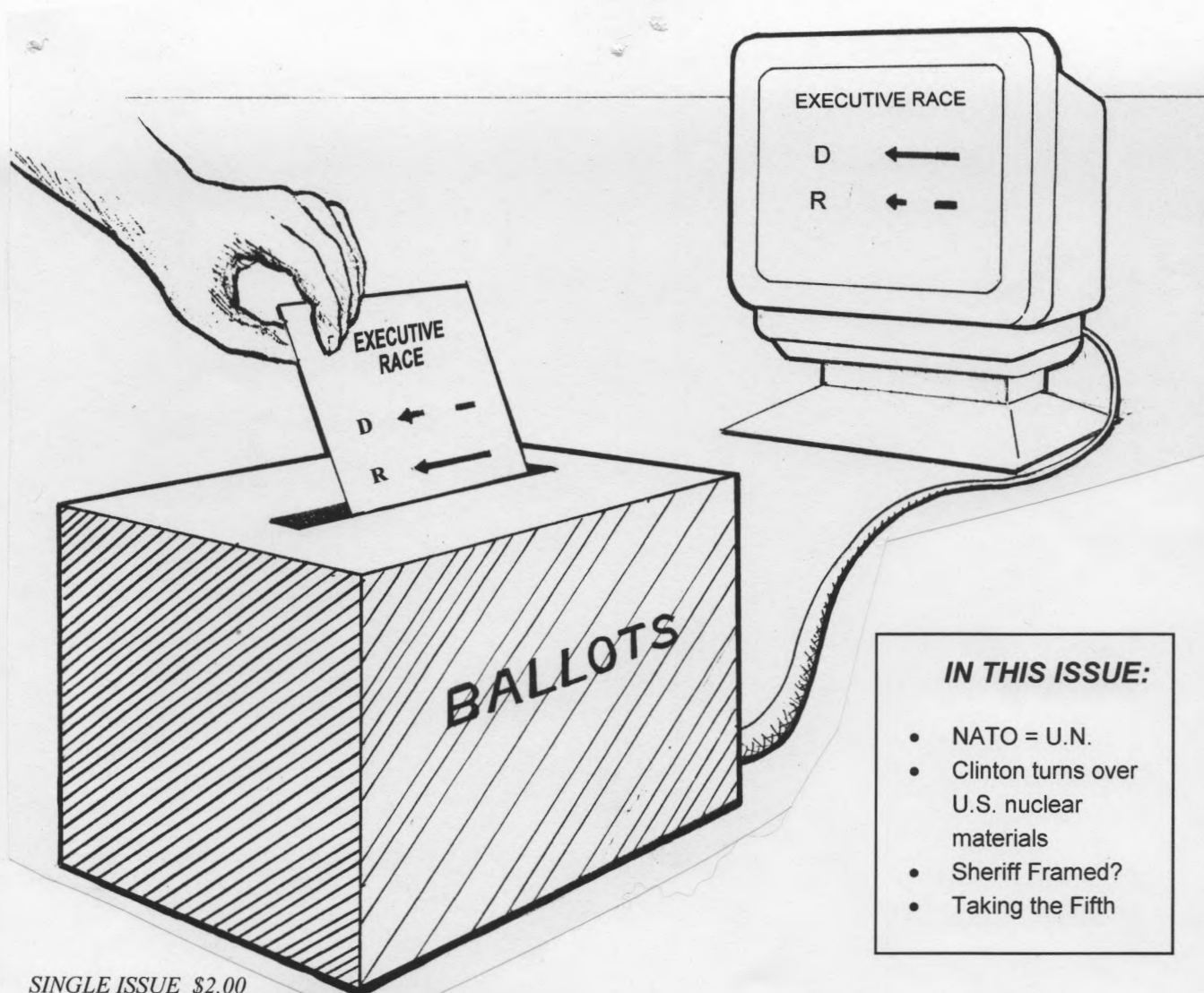
THE WESTERN COURIER

Vol. 1, No. 6

An Investigative News Journal

December 1995

HOW RELIABLE ARE COMPUTERIZED VOTING SYSTEMS?



SINGLE ISSUE \$2.00

AUDITOR FOUND IN VIOLATION OF STATE ELECTION LAW

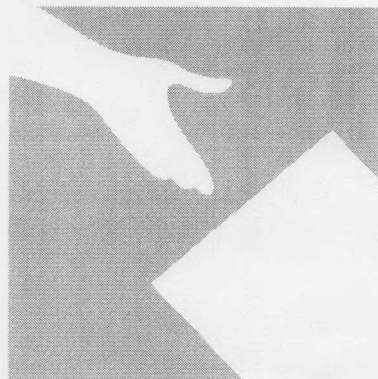
By Robert Strahm

On December 22, 1995, Snohomish County Superior Court Judge John Wynne found County Auditor Bob Terwilliger in violation of state election law and ordered the Lake Stevens Mayoral election to be re-certified. This November's general election was plagued by numerous mistakes by election officials in Snohomish County. So many mistakes that two judges have required re-certification and new absentee ballots sent in two local races this year. The auditors office sets the blame squarely on the new voting system acquired just prior to the September primary. Responding to questions directed at the high number of incorrect absentee ballots sent out in the general election, auditor Terwilliger stated "It was a QC (quality control) problem of the printer" unfortunately the printer just happens to be the same organization that provided the new voting system.

In this world of emerging digital technology, the responsibility to ensure accuracy in our election process has been increased dramatically. On November 7, a newly installed computerized voting system in Montgomery County, Pennsylvania "produced a bleeping mess" soon after the polls opened. According to the *Philadelphia Inquirer*, "What was lauded as a forward-thinking move that would push the election process into the 21st century, ended in a flurry of finger-pointing, missing voter cartridges, and calls for an investigation into the integrity of the tabulation". Sound familiar? In Snohomish County, Washington an auditors office has created a similar mess by jumping into the computerized voting arena head-first.

In a bold move just prior to this years election season, the county auditor's office installed a newly developed optical-scan digital vote tallying system,

with little or no public knowledge or input. Any new system or modification to an existing voting system is subject to prior evaluation and approval by the Secretary of State's office *before* acquisition. Unfortunately for Snohomish County voters, the newly installed voting system is only conditionally approved by the Secretary of State's office due to many defects and shortcomings that were identified in the states' evaluation process. Regardless of the fact that specific safety requirements are to be met when using this system, the auditor's office blatantly ignored the states' criteria for use and proceeded



with the election process uninhibited by state restrictions. Not only did the auditor's office ignore state requirements when using the conditionally approved tallying system, but for quite some time the office has been ignoring it's most fundamental of functions - properly canceling voter registrations and updating active and inactive voter lists.

Integrity of the eligible voter lists is crucial when using computerized vote tallying. Since the process of registering votes per race is done without the ability to physically verify how each vote was recorded (due to the digital nature of the system), potential to manipulate the results is increased. How could this be done? One possible

way this could be accomplished is by designing the tally programming to record an extra vote for the candidate of choice when a certain event occurs. For example, when a challenger (to the candidate of choice) would gain to a predetermined point, the tally program would merely add a sufficient number of (bogus) votes to the total of the chosen candidate, to ensure he holds his lead.

This would cause an accounting problem by increasing the total number of votes cast in a particular race out of proportion to all races, creating a large number of under-votes in races that did not receive an equal number of extra votes. The problem could be solved by selecting other races and ensuring that those candidates receive an equal number of extra (fraudulent) votes. This type of manipulation would require that the total number of votes cast being variable. In order for the extra votes not to be detected a pool of bogus voters would be included in the overall number of votes cast during the election - a form of "digital ballot box stuffing". There is an infinite number of ways a digital voting system could be programmed to manipulate results. This is why the integrity of the voter lists is absolutely critical to accurate vote tallying. With accurate lists an audit trail is provided and verifiable. Without accurate voter lists the number of votes cast in a race is not verifiable and subject to potential manipulation.

In Snohomish County total regular votes cast at the polling place are tallied and verified by a precinct official and an inspector. This figure is fairly reliable due to the fact that the majority of the process is conducted in the presence of representatives from both major political parties. In Snohomish County the precinct tally sheets differed from the official canvass by only 769 votes out of 134,000 (less than 1%). The real problem lies in the block of votes that are

sent out and subsequently verified exclusively by the auditor's office - the absentee ballots. State law requires that the processing of these ballots be done by the county canvassing board.

State law also requires the auditor to acquire an affidavit from anyone requesting to be placed on the permanent absentee status list. A printout of the on-going absentee voter list, obtained from the auditor, indicated that specific request affidavits were on file to justify the placement of voters on the permanent absentee voters list.

On December 6, 1995, a request was made to examine the request affidavits for permanent absentee status. The auditor stated that his office no longer requires written application for on-going absentee ballot status. He also stated that no records have been kept recently. The "affidavits" indicated on the printout do not exist, and no explanation has been given for the subterfuge.

Judge Wynne found **auditor Terwilliger in violation of state law regarding on-going absentee status.** Proper applications have not been required by the office for an indeterminable amount of time (due to the fact that the auditor has not provided access) and the on-going absentee status has been granted to a large number of people improperly in the interim.

Bob Terwilliger seems to prefer permanent absentee voters. In a recent county publication the auditor asks voters "if you like the idea of turning your kitchen into a polling place request to become a permanent absentee voter". RCW 29.36.013 requires written application and acceptance based on a criteria set out in WAC 434-40-050. The **permanent absentee** application must conform to five minimum standards, two of the standards are:

(1) A place to indicate that the voter is eligible for an ongoing absentee ballot because he or she is either disabled or over the age of sixty-five or is a certified participant in the address confidentiality program authorized by chapter 23, Laws of 1991;

(2) A definition of disabled voter consistent with the definition appearing in WAC 434-40-010: "disabled voter" is any blind voter, voter requiring assistance, or any voter who has:

- (a) Lost both lower limbs;
- (b) Lost normal or full use of the lower limbs to sufficiently constitute severe disability;
- (c) No ability to move without crutches or a wheelchair;
- (d) Lost both hands;
- (e) A lung disease where forced respiratory volume when measured by spirometry is less than one liter per second;
- (f) Cardiovascular disease classified as Class III or IV under American Heart Association standards;

The auditors *standard* absentee ballot application contains only a box to be checked by any voter wishing to be included on the auditor's permanent absentee list.

On December 6 and 10 requests were made for access to certificates of registration cancellations (based on death, etc.) that are to be "carefully preserved" by the county auditor. Reports of these cancellations are also required to be sent to the Secretary of State's office weekly. Washington State public disclosure laws provide for mandatory access to records such as these, at no cost. Auditor office representative Russ Harlan, denied our request for access and stated the information would not be available without paying the cost of copying, which he estimated to be between \$700 and \$900. Harlan claimed the cancellation certificates could not be examined because they contained what he considered to be confidential information. He suggested we access the records in Olympia.

In an affidavit filed by Russ Harlan, he explained "the intent of the inactive file" "The inactive file contains all voter records that are based on: death notices; out of county (or out of state) cancellations; duplicate registrations; requested cancellations and returned mail from the USPS as undeliverable".

The Doug Smith for County Executive campaign committee acquired the complete "inactive voter list" from the auditor immediately after the general election - ***the list does not contain any voter records based on death.***

The on-going absentee list and the registration cancellations are important in controlling the *reported* results of an election. In the case of Snohomish County these two elements of the election process have been inexplicably removed from public scrutiny and therefore open verification. The unverifiable pool of ballots needed to manipulate election results may very well reside within these two inaccessible, unverifiable county files.

What has been discovered is that in many cases people have received absentee ballots that were not requested. People have been placed on the on-going absentee status list without request, written application or even confirmation notice by the county in any way.

Individuals have received absentee ballots that were not on any registration list, nor could they have been. In an affidavit to the court hearing the contested election suit by Doug Smith and Gary Britsch, Lorene Valliant of Arlington, Washington describes how her deceased husband received two absentee ballots from the county auditor. One ballot was received for the primary and one for the general election, even after she sent the primary ballot back marked deceased. What can be derived from this? It's a big job - mistakes can be made?

Maintenance of an audit trail, on absentee ballots, is required of all county auditors by Washington Administrative Code 434-40-270. Due in part to the integrated nature of the new voting system's software, auditing election results by precinct is almost impossible. By entering precinct information into the Optech IV 400 voting system, the system then is claimed to be able to design ballots for all races throughout the county. Unfortunately by using this procedure to create ballot types, the ability to accurately audit precincts is all but

eliminated. Smith's campaign committee was able to audit approximately 50 precincts as reported in the final official canvass. Of those 50 precincts 24% reported *absentee votes exceeding the total number of absentee voters registered in that precinct*

As well as being deficient in the basic operations needed to accurately tabulate voter ballots, the auditor's office ignored the instructions outlined by the Secretary of State's office on setup and use of the optical scan digital vote tallying system acquired by the county.

"The Optech IV model 400 is a centralized, automatic feed, high volume optical scan/mark sense ballot card reader. The reader interprets ballots and records vote totals onto a personal computer that is a part of the Optech IV C. The personal computer module is an IBM-PC compatible computer which accumulates results and generates reports. The PC runs the A.E.R.O. software. There is a printer attached to the PC for printing results. The software is menu driven and allows the user to describe all aspects of an election. In preparation for ballot counting, the user enters all office descriptions, positions, precinct combinations, ballot types, and any statistical information such as registered voter totals. The A.E.R.O. is used to produce the program module, which is then used to count ballots in the card reader."

Instead of using one PC per card reader as provided above, the Snohomish County auditor's office decided to network all results from four card readers to a fifth PC that aggregated the results. Joe Smith from the auditors office explained that he had created the files and programming to accomplish this.

Procedures for use of this system were specifically detailed by the state:

"This system does not process write-in votes in a manner consistent with Washington State

law. In order to record a write-in vote using the BRC Optech IV C system, a voter must fill in an arrow next to the write-in blank in addition to writing in the name of the candidate of their choice. RCW 29.01.180 states that a voter "need only specify the name of the candidate in the appropriate location on the ballot in order to be counted." This system will not record a write-in vote if the voter fails to fill in the arrow next to the write-in blank. Additionally, if a voter creates an overvote, by voting for a candidate on the ballot, and writing in a candidate for the same office, but not filling in the arrow, the BRC Optech IV C will incorrectly record this overvote as a vote for the candidate on the ballot. The design of the BRC reader, and the requirements of Washington State law, necessitate a pre-tabulation inspection of ballots."

Snohomish County auditor Bob Terwilliger in anticipation to complete the election must have overlooked the provision for pre-tabulation inspection due to the high number of rejected ballots during tallying.

"This system can be operated in two ballot counting modes. The first is called "precinct header mode" and the second is "mixed mode". In mixed mode, ballots from any precinct or absentee format can be counted. While this facilitates absentee counting it may reduce the efficacy of the audit trail for regular precinct counting. In order to maintain the best possible audit trail *precinct ballots must be counted in precinct header mode*. However absentee ballots may be counted in mixed mode."

The polling place structure in the 1995 general election necessitated that the

tallying system be operated in the mixed mode. In a video taped interview with election officials, it was admitted that the **"whole election was run in mixed mode"** by the auditors office, thereby leaving no audit trail as required by state law.

"The system is to be used as a central counting system, each ballot is to be manually inspected for write-in votes cast by a voter who has used the incorrect marking tool, or a ballot where a voter has used a method for voting other than filling in the arrow. Furthermore, precinct ballots must be counted in batches in precinct header mode, reserving the mixed mode for absentee ballots. It is recommended that the canvassing board of any county which is using this system adopt written procedures governing this process."

Snohomish County has no written procedures controlling any aspect of this system excepting the manufacturers operation manual.

Whether any fraud occurred in the November election or not, will in all likelihood, never be publicly known. Due to the lack of cooperation and "stonewalling" by election officials, the complete extent of the problems can not be adequately ascertained. An audit of the September "all mail" primary by the county internal auditor, completed on December 21, 1995, states that 35,000 ballots were returned as undeliverable by the post office. Information provided by the auditor to the Smith committee stated that only 28,000 ballots were returned in the primary just another minor mistake?

Vote fraud has occurred since the idea (of voting) was conceived. With the era of digital vote tallying upon us, propriety in the transition is needed. Did I forget to mention the auditors office purchased over 400,000 ballots (at a cost of \$139,000) for 275,000 registered voters, of which 134,000 turned out for the November election?

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Summary of Complaint and Discrepancies

The Snohomish County Auditor failed to comply with the provisions of RCW 29.10.071 in that he failed to reassign registered voters to inactive status and send a proper confirmation notice to those voters to whom ballots were addressed but whose ballots were returned by the Postal Service as "undeliverable".

At the September 19, 1995 mail-in-ballot election 28,360 voter ballots were returned to the Auditor's office as undeliverable by the Postal Service. Under RCW 29.10.071 these names were required to be placed on inactive status, and confirmation notice of changed status was required to be sent. There is no record or other evidence that this was done, and the auditor's office admits that no change of status was undertaken for mail-in-ballots returned as undeliverable.

RCW 29.33.145 requires testing of the ballot-handling and counting equipment sufficient to demonstrate that the equipment is identical to that certified by the Secretary of State, and that the equipment is operating correctly as delivered to the county. The Auditor has admitted that no such testing was done.

RCW 29.33.300(6) states that no voting device shall be approved by the secretary of state unless it has been "... tested, certified and used in at least one other state or election jurisdiction. The Snohomish County Auditor has been either unwilling or unable to provide evidence that this requirement has been complied with.

RCW 29.33.340(1) also requires that "before each primary or general election at which voting systems are to be used, the county auditor shall instruct all ... political party observers designated under RCW 29.54.025 in the proper conduct of their duties."

RCW 29.33.340(4) also requires that "no person may serve as a political party observer unless that person has received the required instruction and is familiar

with the operation of the counting center and the vote tallying system and the procedures to be employed to verify the accuracy of the programming for that vote tallying system." The Snohomish County Auditor in fact refused to release the programming information when requested in writing. Further, since the observers were not properly instructed, the manual count of random precincts permitted under RCW 29.54.025(2) was not done. Thus the accuracy of the counting operation was compromised.

RCW 29.33.350 requires that at least three days before each state primary and general election, programming for the vote tallying system shall be tested by the Secretary of State's office. These tests are to be conducted "by processing a pre-audited group of ballots marked with a predetermined number of ballot votes for each candidate, and for and against each measure. For each office for which there are two or more candidates, and for each issue, the group of test ballots shall include one or more ballots which have votes in excess of the number allowed by law, in order to verify the ability of the vote tallying system to reject such votes. The test shall verify the capability of the vote tallying system to perform all functions that can reasonably be expected to occur during the conduct of that particular election."

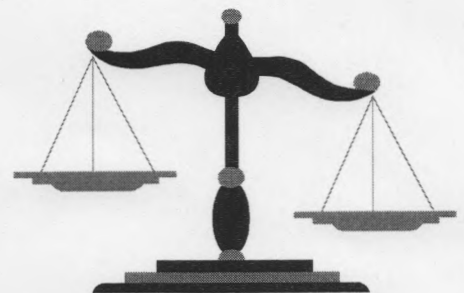
RCW 29.33.350 further provides that "all programming materials, test results, and test ballots shall be securely sealed until the day of the primary or general election.

The following discrepancies were noted:

1. The group of ballots provided by the Secretary of State were not pre-audited, because the ballots contained errors. A computer-corrected version was used as a

permanent record at the test run.

2. The tests required for excess votes for each office for which there were two or more candidates, and for issue, were not done.
3. Tests required to determine that the tallying system can perform all functions that can reasonably be expected to occur during the conduct of the general election were not done. For example, tests for ballots with bleed-through lines, lightly-marked lines, angled lines, thin lines, pen lines, erasures or other likely defects were not performed.
4. One vote tallying machine was not tested at all.



RCW 29.33.360 provides that "the Secretary of State shall publish a manual of recommended procedures for the operation of the various vote tallying systems that have been approved ... and the duties and functions of the counting center personnel and operators of vote tallying systems at counting centers.

No such state-published manual was produced by the Snohomish County Auditor when written request was made. No such procedure manual is believed to exist.

RCW 29.36.010(2) states that "for any registered voter, a request for an absentee ballot for a primary shall be honored as a request for an absentee ballot for the following general election if the voter indicates in his or her request.

RCW 29.36.013 provides that "any voter may apply, in writing, for status as an

ongoing absentee voter, . . ." However, the ". . . status as an ongoing voter shall be terminated upon . . . the return of an ongoing absentee ballot as undeliverable.

The Snohomish County Auditor's office has no written record of any written applications for ongoing absentee requests. Computer records can not, and do not, constitute a written request, nor can they be construed as evidence that such written request was ever made.

There is no evidence that from 28,360 "undeliverable" ballot returns of the September 19, 1995 primary election, any of the ongoing absentee voters, were terminated from the ongoing absentee list and placed on the inactive list. This is a clear violation of RCW 29.07.010 and RCW 29.36.013(4).

RCW 29.54.042 requires that "the tabulation of ballots at the polling place or at the counting center shall proceed without interruption or adjournment until all the ballots cast at the primary or election have been tabulated."

The counting procedures employed for the November 7, 1995 general election was not continuous for the ballots cast at the polls. In fact, the counting has been interrupted for many days to allow for "enhancement," i.e. modification of ballots, so that the tallying machines could process the modified ballots. This provides many opportunities for ballot count discrepancies or election fraud, to subvert the election process.

Furthermore, no certification has been provided to show that testing was performed to assure the accuracy of tallying machines on restart.

RCW 29.36.060 requires that "the opening of the security envelopes and tabulation of absentee ballots shall not commence until after 8:00 o'clock on the day of the primary".

Prior to 8:00 o'clock p.m. on November 7, 1995 at least 19,938 ballots were processed and tabulated, and absentee ballots were removed from security envelopes and sealed containers several hours prior to 8:00 o'clock p.m.

RCW 29.10.100 requires that each county auditor must weekly certify to all cancellations or name changes of registered voters made during the previous week to the Secretary of State.

The Snohomish County Auditor in fact makes no such reports and keeps no permanent record of such cancellations or name changes, with the result that changes can only be traced by manually comparing the accumulated on-going absentee and voter registration lists with prior and subsequent voter lists. Since the Auditor has been unable or unwilling to provide archived copies of such lists, it is impossible to determine the accuracy of any of the current lists.

RCW 29.54.010 requires that "at each precinct immediately after the last qualified voter has cast his or her vote, the precinct election officer shall identify and seal all unused ballots for that precinct and seal them in a container to be returned to the county auditor".

The procedures manual issued by the Auditor's office instructed poll workers to tear or cut all leftover, unused ballots, thus making accurate accounting for unused ballots impossible. The fact that 400,000 ballots were printed for an election where only 287,000 registered voters are eligible to vote makes this a particularly egregious error. The fact is there are over one hundred thousand unaccounted for ballots, any or all of which may have been used to commit election fraud.

Threatened Destruction of Public Records

RCW 29.04.100 and 29.07.180 provide that poll books, voter registration records and precinct lists shall remain available for public inspection. The Snohomish County Auditor has communicated his intent to have all general election material within his purview destroyed on or after January 6, 1996, including but not limited to precinct polling records and absentee ballots.

(Continued from page 3)

centralized control being refined?

The NATO Charter was created as an amendment to the U.N. Charter. This is clearly indicated in the preamble of the NATO charter "The parties to this *treaty* reaffirm their faith in the purposes and principles of the *Charter of the United Nations*...". The firm relationship between the U.N. and NATO is clearly spelled out in the North Atlantic Treaty of 1949.

ARTICLE 1: "The Parties undertake, as set forth in the *Charter of the United Nations*, to settle any international dispute in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered, and to refrain in their International relations from the threat or use of force in any manner inconsistent with the purpose of the *United Nations*".

ARTICLE 5: "The Parties agree. . . if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defense recognized by *Article 51 of the Charter of the United Nations*, will assist the Party or Parties so attacked . . . any such armed attack and all measures taken as a result thereof shall immediately be reported to the (United Nations) Security Council". Such measure shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security. Has a United Nations police force been replaced with a United Nations military force in Bosnia?

With the majority of decisions and actions within the U.N. being controlled by socialist and communist elements, is there any wonder why Americans question the intentions of this "humanitarian" organization? Should we question the motivations of a president that has clearly been involved in anti-American activities for a large portion of his life? Maybe he's just looking out for the welfare of the whole of world society.



THE WESTERN COURIER

Vol. 2, No. 4

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July/August 1996

Does Your Vote Count?

County
Auditor
Ignores
Election
Laws –
Again



Plus:

- ♦ Interview with Gary Alderich, Author of *Unlimited Access*
- ♦ Russia Still Conducting Nuclear Tests
- ♦ Clinton Administration Shares Intelligence
- ♦ New County Movement Update
- ♦ Clinton Ties To Organized Crime

Bob Terwilliger, Snohomish Co. Auditor

SINGLE ISSUE \$2.00

County Auditor Continues Questionable Elections Practices

By Robert Strahm

Everett, Washington - Snohomish County Auditor Bob Terwilliger (D), appears to be headed right down the same path of election mayhem he created in the election of 1995. In January of 1996 - immediately subsequent to being found in violation of state election laws regarding permanent absentee ballot procedures, Auditor Terwilliger made it publicly apparent that he would be ignoring the ruling of Judge Thomas Wynne and proceed with the election process unaffected by the decision. The auditor's office had improperly placed approximately 40,000 names on the permanent absentee list, and was found guilty regarding this, on December 22, 1995. The ruling would ostensibly require the auditor to receive proper written requests from voters prior to placement on the permanent absentee list including the 40,000 plus names that had been improperly accumulated without written requests. As of the beginning of August 1996, the auditor's office has miraculously accumulated 54,000 names on the permanent absentee list in a mere 7 months. This would account for approximately 30% of the vote in the upcoming primary election.

A recent disclosure request to the auditor, for *written requests* by voters, for permanent absentee ballot status, was denied by the auditor. Terwilliger's office also denied inspection of *lists* of absentee ballot requests (by date), to be available for public inspection, as required by state law.

Integrity of the eligible voter lists is crucial when using computerized vote tallying. Since the process of tabulating votes per race is done without the ability to physically verify how each vote was recorded (due to the digital nature of the system), potential to manipulate the results is increased. There is an infinite



State Rep. David Schmidt, Bob Terwilliger, and Joan Hammond (from left to right) at public meeting regarding county election policies.

number of ways a digital voting system could be programmed to manipulate results. This is why the integrity of the voter lists is absolutely critical to accurate vote tallying. With accurate lists an audit trail is provided and verifiable. Without accurate voter lists the number of votes cast in a race is not verifiable and results become subject to potential manipulation.

Not only has the auditor's office stonewalled any meaningful inquiry regarding absentee ballot voters, the office has also been ignoring it's most fundamental of functions - properly canceling voter registrations and updating active and inactive voter lists. On December 6 and 10, 1995 requests were made for access to certificates of registration cancellations (based on death, etc.) that are to be "carefully preserved" by the county auditor. Reports of these cancellations are also required to be sent to the Secretary of

State's office weekly. Washington State public disclosure laws provide for mandatory access to records such as these, at no cost. Auditor office representative Russ Harlan, denied our request for access and stated the information would not be available without paying the cost of copying, which he estimated to be between \$700 and \$900. Harlan claimed the cancellation certificates could not be examined because they contained what he considered to be confidential information. He suggested we access the records in Olympia.

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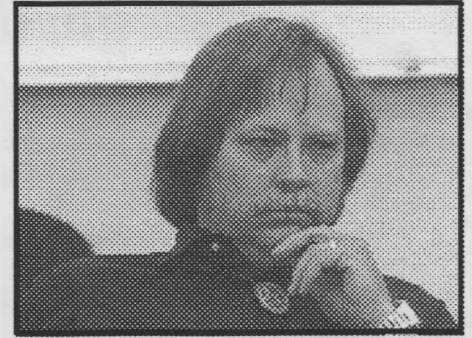
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contested election suit by Doug Smith (for County Executive) and Gary Britsch (for Mayor of Lake Stevens), Lorene Valliant of Arlington, Washington describes how her *deceased husband received two absentee ballots from the county auditor.* One ballot was received for the primary and one for the general election, even after she sent the primary ballot back marked deceased. What can be derived from this? It's a big job - mistakes can be made?

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Russ Harlan, county elections manager retired in July.

all but eliminated. Smith's campaign committee was able to audit approximately 50 precincts as reported in the final official canvass. Of those 50 precincts 24% reported *absentee votes exceeding the total number of absentee voters registered in that precinct per the poll books!!!*

The Snohomish County Auditor's election processes will be monitored very closely this year. The result will be interesting. ♦

