

OFFICE OF THE PROSECUTING ATTORNEY  
KING COUNTY, WASHINGTON  
CIVIL DIVISION


Norm Maleng  
Prosecuting Attorney

E550 King County Courthouse  
516 Third Avenue  
Seattle, Washington 98104  
(206) 296-9015  
FAX (206) 296-0191

15 April 2005

**MEMORANDUM**

TO: Dean Logan, Director  
King County Records, Elections and Licensing Services Division

FROM: Janine Joly   
Senior Deputy Prosecuting Attorney

SUBJECT: Voter Registration

Question Presented

You asked for the advice of this office on your responsibilities as the Elections Director related to voter registration. Specially, you asked whether you have a duty to verify the information provided by individuals on their voter registration applications prior to registering them to vote.

Short Answer

State statute does not authorize county auditors to independently verify the accuracy of information on a voter registration application prior to registering an individual to vote. Rather, RCW 29A.08.110(1) directs that county auditors (or the elections director in King County) shall register individuals to vote if they submit an application with the required information.

If a county auditor has reason to believe that the information provided on a voter registration application (citizenship, age, length of residency, and no felony convictions without a corresponding restoration of rights) is incorrect, as opposed to merely incomplete, the auditor must accept the application but may then forward the matter to the prosecuting attorney's office for review and appropriate follow-up action as permitted by statute.

Discussion

Article VI, section 7 of the Washington Constitution states in part:

The legislature shall enact a registration law, and shall require [a] compliance with such law before any elector shall be allowed to vote . . .”

As this section directs, the legislature has enacted voter registration statutes. RCW 29A.08.110(1) states:

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On receipt of an application for voter registration under this chapter, the county auditor shall review the application to determine whether the information supplied is complete. An application that contains the applicant's name, complete valid residence address, date of birth, and signature attesting to the truth of the information provided on the application is complete. If it is not complete, the auditor shall promptly mail a verification notice of the deficiency to the applicant. This verification notice shall require the applicant to provide the missing information. If the verification notice is not returned by the applicant or is returned as undeliverable the auditor shall not place the name of the applicant on the county voter list. If the applicant provides the required information, the applicant shall be registered to vote as of the date of mailing of the original registration.

(Emphasis added.)

As the underlined sentence above states, the director's duty is to review the voter registration application "to determine whether the information supplied is complete." The director is not directed to verify the accuracy of the information, only to see that the information is supplied. As such, the duties prescribed by RCW 29A.08.110 are properly categorized as ministerial in nature. The statute does not allow auditors the discretion to decide not to register an individual to vote as long as the voter registration application is complete.

However, this does not mean that public officials are powerless to act when presented with an invalid, albeit complete, registration form. If the elections director believes that a person provided false information on a registration application, the statutory framework allows him to refer the matter to the Office of the Prosecuting Attorney ("PAO") as soon as the suspect application is received. The PAO can investigate the matter and, if warranted, file a voter registration challenge under RCW 29A.08.810-850 and/or criminal charges relating to perjury or election fraud.

With respect to the hypothetical of the well-known felon who sends in a completed voter registration application, the registration challenge process noted above provides a means of removing such a person from the registration rolls after the voter has been provided with the necessary notice and opportunity to be heard and the party bringing the challenge has proven its case by clear and convincing evidence. These are the same processes currently being followed with respect to the list given to your office of alleged felons who voted in the November 2004 general election. Although you did not have the authority to independently investigate and remove these individuals from the registration rolls on your own, you did have the authority to refer the information to the PAO for investigation and the filing of challenges in those instances where the evidence supported doing so.

I trust that the foregoing has been responsive to your request. Please do hesitate to contact me if you have any questions.

cc: Sally Bagshaw, Chief Civil Deputy Prosecuting Attorney  
Thomas Kuffel, Sr. Deputy Prosecuting Attorney

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FAX (206) 296-0191

April 28, 2005

Alex Bohler  
2403 Pacific Avenue SE  
Olympia, Washington 98501

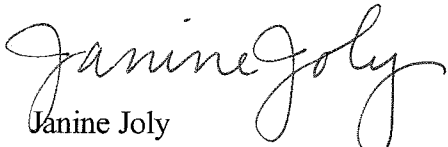
Re: Memorandum Regarding Voter Registration

Dear Mr. Bohler:

Pursuant to your request, please find enclosed a copy of the memorandum that this office prepared for Dean Logan, the Director of the King County Records, Elections and Licensing Services Division regarding voter registration issues.

Sincerely,

For NORM MALENG  
King County Prosecuting Attorney



Janine Joly  
Senior Deputy Prosecuting Attorney