



Office of the County Attorney

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December 26, 2012

Hon. Scott Gessler
Colorado Secretary of State
1700 Broadway Suite 200
Denver, CO 80290

Via e-mail: stefanie.mann@sos.state.co.us

RE: HAVA Complaint # SOS-HAVA-07-12-0001

Dear Secretary Gessler:

This is Clerk Hall's official response to HAVA Complaint SOS-HAVA-07-12-0001. Please incorporate this letter and the attached documents into the record of this proceeding and consider it in conjunction with the December 26, 2012, hearing. As explained below, Clerk Hall's position is as follows: (1) the notice and hearing procedures the Secretary of State ("SOS") has applied to this complaint are flawed; (2) the SOS has no jurisdiction to act upon, investigate, or hold a hearing regarding this complaint because it fails to state a Help America Vote Act of 2002 ("HAVA") violation; (3) even assuming the SOS has jurisdiction, the complainant has failed to demonstrate a violation of any provision of Title III of HAVA; and (4) HAVA aside, Clerk Hall is prepared to provide a demonstration of the Bell and Howell machine in February of 2013 so that constituents with questions about the purpose and functioning of the machine may better understand it.

1) Overview

Boulder County election activist Al Kolwicz sent the SOS a complaint on or about October 1, 2012. The complaint is part of a pattern and practice of Mr. Kolwicz, who has filed at least four prior HAVA complaints over the last several years, none of which has resulted in a finding that any provision of HAVA has been violated. (*See www.sos.state.co.us/pubs/election/HAVA/ArchivedComplaint.html.*) In this year's complaint, Mr. Kolwicz alleged Boulder County's Bell and Howell machine was "integrated" into Boulder County's voting system. He further alleged that because the Bell and Howell machine did not receive a separate certification from the SOS, that the SOS was improperly allowing Boulder County "and perhaps other Colorado Counties" to use a non-certified voting system. Although Mr. Kolwicz notes that term "voting system" is defined by HAVA, the complaint fails to specifically allege a violation of any provision of Title III of HAVA.

The Bell and Howell machine does not cast or count votes. Instead, it is a mail sorting machine that identifies and sorts mail ballot envelopes. (*See* Affidavit of Boulder County Clerk and Recorder Hillary Hall, para. 12 (attached).) For the 2012 General Election, Clerk Hall leased the Bell and Howell system to (1) increase the efficiency in processing mail ballot envelopes and (2) further protect anonymity of ballots through the batching process. (*Id.*) Use of a mail sorter machine for such purposes is not suspect or unusual. In fact, the Bell and Howell mail sorter has been used successfully for envelope sorting in mail ballot elections in Ventura County, CA; Sonoma County, CA; and four counties in the state of Oregon, among others. (*Id.*) At least four other large counties in Colorado (Jefferson, Adams, Larimer, and Douglas) use similar mail sorter systems for similar purposes.

2) Hearing Procedure

The SOS provided notice of this hearing after 5:00 p.m. on December 17. As a practical matter, that left Clerk Hall with only six business days—including Christmas Eve—to prepare written materials. Further, prior to the hearing setting, Clerk Hall informed the SOS's office that she and key election staff would not be available for a hearing on December 26 because of the holiday. While Clerk Hall understands that the SOS was constrained by the applicable statutory deadlines, the setting of the hearing could have been handled in a more timely and organized fashion.

Clerk Hall also has concerns about whether the SOS has in place sufficient procedures to ensure that these matters are heard by objective and unbiased hearing officers. Clerk Hall's staff is often required to work on election-related matters in conjunction with the SOS's election staff. Although Clerk Hall's staff enjoys a cooperative relationship with the SOS's staff, it is possible that conflicts or disagreements may arise if the SOS's staff is required to act in multiple roles. As a result, a practice or procedure should be in place to ensure that the objectivity of a particular hearing officer could not be questioned.

3) The SOS lacks Jurisdiction

Colorado's HAVA complaint statute authorizes the SOS to establish a complaint procedure "to remedy grievances brought *under Title III of HAVA*." § 1-1.5-105(1), C.R.S. (emphasis added). *See* HAVA, Title IV, § 402(a)(2)(B) (limiting state procedures to Title III violations). The statute explicitly states that "[n]o complaint shall be brought pursuant to the procedure created by this section unless the complaint alleges a violation of Title III of HAVA." § 1-1.5-105(3)(d), C.R.S. Accordingly, the Administrative Complaint Procedures under SOS Election Rule 31 require a HAVA complaint to contain "a reference to the section of Title III of HAVA alleged to have been violated." SOS Election Rule 31.2(c).

Mr. Kolwicz's complaint is not a complaint under HAVA nor does it contain the required reference to the Section of Title III alleged to have been violated. In fact, the only citation to HAVA included in the complaint is to HAVA's definition of "voting system" in Title III, Section 301(b)(1). Section 301(b)(1) is merely a definition, not a regulation. Furthermore, even assuming that the Bell and Howell machine *is* a "voting system" as defined by HAVA (which Clerk Hall disputes for the reasons set forth in section 4 below),

such a determination would not state a grievance under Title III of HAVA. The provision of HAVA addressing the certification and testing of voting systems is contained in Section 231 of HAVA, which falls under Title II, not Title III. In other words, use of a non-certified voting system does not violate any provision of Title III of HAVA.

As a practical matter, if the SOS permits a voter to use the complaint procedure under HAVA to challenge a voting system or certification of such a system despite certification appearing in a different section of HAVA, then such a challenge would circumvent the certification process established in SOS Election Rule 45. A determination about the Bell and Howell system made in the context of a HAVA complaint rather than in the context of certification or rulemaking could affect other jurisdictions that use mail sorters without the opportunity for those jurisdictions to provide input or request reconsideration. *See* § 1-5-62 (2), (5), and (6), C.R.S (notice and opportunity for input provided “to all political subdivisions that use the system” in the context of malfunction or decertification of a voting system). Thus, from a policy standpoint, a demonstration like that outlined in section 5 of this letter makes far more sense when a voter raises questions about a voting system that do not involve violations of Title III of HAVA than permitting the voter to use the HAVA complaint procedure.

The statutory provisions related to HAVA, including the requirement that the complaint be resolved within a particular timeframe, are inapplicable when the complaint is not a grievance under Title III under HAVA. Thus, the proper course of action for the SOS to have followed would have been to reject the complaint on its face without further hearing or investigation. Even if the statutory requirements did apply, the Secretary is authorized to do a preliminary review of any complaint and to dismiss any complaint that is not supported by credible evidence. *See* § 1-1.5-105(2)(k), C.R.S. Where, as here, a voter fails to state a legitimate grievance on the face of the complaint, the Secretary should dismiss it, similar to the manner in which a civil complaint gets dismissed under Colo.R.Civ.P. 12(b)(5).

- 4) Use of the Bell and Howell System Did Not Violate Election Rules
 - a) The Bell and Howell machine is not a “voting system”

Rather than stating a violation of Title III of HAVA, the crux of Mr. Kolwicz's allegations are that the Bell and Howell mail sorting machine is a voting system that should have been certified by the Secretary of State in accordance with Election Rule 37.4 prior to the machine's use in the 2012 General Election.¹ Section 301(b) of HAVA defines a “voting system” as follows:

(1) the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used—

¹ Because the 2012 Election is completed and finalized, the complaint is largely moot. At this point, any investigation or determination could only be relevant to future elections in which the Bell and Howell machine may be used—a speculative exercise at best.

- (A) to define ballots;
 - (B) to cast and count votes;
 - (C) to report or display election results; and
 - (D) to maintain and produce any audit trail information;
- and
- (2) the practices and associated documentation used—
 - (A) to identify system components and versions of such components;
 - (B) to test the system during its development and maintenance;
 - (C) to maintain records of system errors and defects;
 - (D) to determine specific system changes to be made to a system after the initial qualification of the system; and
 - (E) to make available any materials to the voter (such as notices, instructions, forms, or paper ballots).

The Bell and Howell machine employed in the course of the 2012 General Election did not define ballots, was not used to cast votes, was not used to count votes, was not used to report or display election results, and was not used to maintain and produce any audit trail information. (*See* Hall Affidavit, para. 2.) The Bell and Howell machine employed in the course of the 2012 General Election was not a practice or associated documentation used to identify system components and versions of such components, to test the system during its development and maintenance, to maintain records of system errors and defects, to determine specific system changes to be made to a system after the initial qualification of the system, and to make available any materials to the voter (such as notices, instructions, forms, or paper ballots). (*Id.*) Thus, the Bell and Howell machine does not meet HAVA's definition of "voting system" and the certification requirements in Title II of HAVA do not apply.

The absence of a certification requirement for the Bell and Howell machine is bolstered by the fact that the Secretary was informed in advance of Clerk Hall's intent to use the Bell and Howell machine and raised no objection or concern regarding certification. Specifically, on September 18, 2012, Clerk Hall sent an e-mail to Secretary of State Gessler which included a document explaining the 2012 election process in Boulder County. (Hall Affidavit, para. 3 and exhibits A and B to the affidavit.) The election process document clearly indicated Boulder County's intent to use the Bell and Howell machine to process mail ballot envelopes. (*Id.*) In addition, Clerk Hall and her staff met in person with SOS election staff to discuss the 2012 General Election process, including the use of the Bell and Howell sorter. (*Id.*) At no time did any member of the SOS staff indicate that they believed the Bell and Howell machine may be a voting system, that it was subject to certification by the Secretary of State's Office, or that use of the system might in any way be problematic. (*Id.*) In fact, the Secretary of State's office encouraged the use of the system because of the manner in which it helped to ameliorate ballot anonymity concerns. (*Id.*) If Boulder County had elected not to use, or discontinue the use of, the Bell and Howell machine as a part of the

2012 General Election, Clerk Hall believed it likely that the Secretary would have asserted that Boulder County's Election process did not comply with Emergency Election Rule 10.8. (*Id.*)

As shown above, the Bell and Howell machine is not a "voting system" as defined by HAVA or by the SOS and, consequently, is not subject to any certification requirements. Thus, assuming the SOS reaches the merits of the complaint, the SOS should conclude that Clerk Hall's use of the Bell and Howell machine did not violate any provision of Title III of HAVA and dismiss the complaint.

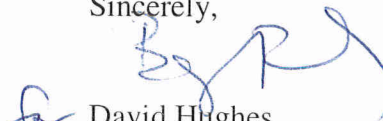
b) Boulder County's Voting System for the 2012 Election Complied with Title III of HAVA

For purposes of compliance with Title III of HAVA, the important question is not whether the Bell and Howell system is a "voting system" or, if so, whether it should have been certified by the SOS. Instead, Title III of HAVA specifies certain requirements for voting systems intended to help ensure that voters are able to vote. (*See, e.g.*, p. 2 of the SOS Complaint form, which specifies HAVA violations such as "I was not able to vote because my polling place was not accessible to individuals with disabilities" and "I was not allowed to vote using a provisional ballot.") Thus, even assuming the Bell and Howell machine was a component of Boulder County 2012 voting system, that system complied with the substantive requirements of HAVA. As specifically outlined in paragraphs four through eleven of the attached affidavit of Clerk Hall, Boulder County's 2012 voting system met the specific HAVA requirements for voting systems set forth in Title III, Section 301(a) and therefore is not subject to challenge under HAVA.

5) A Better Approach to Questions about the Bell and Howell Machine

Clerk Hall recognizes that questions and concerns can arise any time a change is made related to the conduct of an election. For this reason, Clerk Hall plans to conduct a mock election exercise in the Spring of 2013, which will include a demonstration of the Bell and Howell machine. The demonstration would be open to all interested parties, including Mr. Kolwicz and SOS staff. Conducting this exercise in Spring of 2013 will allow Clerk Hall's election staff sufficient time to complete other election related duties and then plan for and prepare an appropriate demonstration. Clerk Hall believes this process will be more effective than the hasty and limited-scope process provided for resolution of alleged HAVA violation.

Sincerely,


David Hughes
Deputy Boulder County Attorney

AFFIDAVIT OF HILLARY HALL

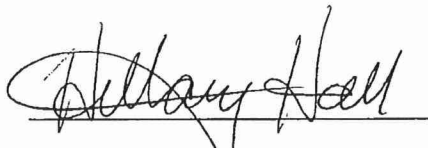
I, Hillary Hall, depose and state as follows:

- 1) I am the Boulder County Clerk and Recorder. My duties as Clerk and Recorder include administering elections in Boulder County, Colorado. I was elected as the Boulder County Clerk and Recorder in 2006 and re-elected for a second term in 2010. I have personal knowledge of the voting system used in Boulder County during the 2012 General Election.
- 2) The Bell and Howell machine employed in the course of the 2012 General Election did not define ballots, was not used to cast votes, was not used to count votes, was not used to report or display election results, and was not used to maintain and produce any audit trail information. The Bell and Howell machine employed in the course of the 2012 General Election was not a practice or associated documentation used to identify system components and versions of such components, to test the system during its development and maintenance, to maintain records of system errors and defects, to determine specific system changes to be made to a system after the initial qualification of the system, and to make available any materials to the voter (such as notices, instructions, forms, or paper ballots).
- 3) On September 18, 2012, I sent an e-mail to Secretary of State Gessler (attached as exhibit A is a true and correct copy of the e-mail) which included a document explaining the 2012 election process in Boulder County (attached as exhibit B is a true and correct copy). The election process document clearly indicated Boulder County's intent to use the Bell and Howell machine to process mail ballot envelopes. In addition, my staff and I met in person with Secretary of State election staff to discuss our process, including the use of the Bell and Howell sorter. At no time did any member of the Secretary of State staff indicate that they believed the Bell and Howell machine may be a voting system, that it was subject to certification by the Secretary of State's Office, or that use of the system might in any way problematic. In fact, the Secretary of State's office encouraged the use of the system because of manner in which it helped to ameliorate ballot anonymity concerns. If Boulder County had elected not to use, or discontinue the use of, the Bell and Howell machine as a part of the 2012 General Election, believed it likely that the Secretary of State would have asserted that Boulder County's Election process did not comply with Emergency Election Rule 10.8.
- 4) The voting system used in Boulder County during the 2012 General Election, regardless of whether the Bell and Howell machine is considered a component of that voting system, permitted all voters to verify (in a private an independent manner) the votes selected by the voter on the ballot before the ballot was cast and counted. For the majority of voters, this was done through filling out a paper ballot. Other voters used a machine that permitted such verification.
- 5) The voting system used in Boulder County during the 2012 General Election, regardless of whether the Bell and Howell machine is considered a component of that voting system, provided all voters with the opportunity (in a private an independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable

to change the ballot or correct any error). Specifically, voters were permitted to mark changed votes on a ballot or permitted to spoil a ballot and cast a replacement ballot in accordance with the Colorado Election Code. In addition, voter education and instructions were provided to voters regarding the effect of casting multiple votes for and office and on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error.

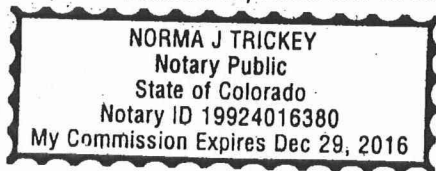
- 6) The voting system used in Boulder County during the 2012 General Election, regardless of whether the Bell and Howell machine is considered a component of that voting system, ensured that any notification required under HAVA preserved the privacy of the voter and the confidentiality of the ballot.
- 7) The voting system used in Boulder County during the 2012 General Election, regardless of whether the Bell and Howell machine is considered a component of that voting system, produces a record with an audit capacity, including a permanent paper record with a manual audit capacity and an official record available for any recount conducted with respect to any election in which the system is used.
- 8) The voting system used in Boulder County during the 2012 General Election, regardless of whether the Bell and Howell machine is considered a component of that voting system was accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. At least one direct recording electronic voting system equipped for individuals with disabilities were available in each polling place.
- 9) The voting system used in Boulder County during the 2012 General Election, regardless of whether the Bell and Howell machine is considered a component of that voting system, provided alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Action of 1968.
- 10) The voting system used in Boulder County during the 2012 General Election, regardless of whether the Bell and Howell machine is considered a component of that voting system, complied with the error rate standards established under section 3.2.1 of the voting system standards issued by the Federal Election Commission currently in effect.
- 11) The voting system used in Boulder County during the 2012 General Election used the uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote.
- 12) The Bell and Howell machine does not cast of count votes. Instead, it is a mail sorting machine that identifies and sorts mail ballot envelopes. For the 2012 General Election, Clerk Hall leased the Bell and Howell system to (1) increase the efficiency in processing mail ballot envelopes and (2) further protect anonymity of ballots through the batching process. The Bell and Howell mail sorter has been used successfully for envelope sorting in mail ballot elections in Ventura County, CA, Sonoma County, CA, and four counties in the state of Oregon, among others. At least four other large counties (Jefferson, Adams, Larimer, and Douglas) use similar mail sorter systems for similar purposes.


DATED: 12-21-12


HILLARY HALL

Subscribed and sworn to before me this 21st day of December, 2012, by Hillary Hall.

Witness my hand and official seal.




Notary Public

My Commission expires: 12-29-2016

From: Hall, Hillary [<mailto:hhall@bouldercounty.org>]
Sent: Tuesday, September 18, 2012 8:33 PM
To: Scott Gessler
Cc: Judd Choate; Hilary Rudy; DJ Davis
Subject: Additional information to our ballot production document.

Secretary Gessler,

We have continued to review the document we sent yesterday and have added additional information to help clarify a few of the processes. We have made minor changes throughout the document to hopefully increase clarity. We have added additional information to Mail/Mail-in Ballot Creation and Mailing number 1) c i and ii, and 5). We have also added additional information to Polling Place Printing and Processing number 5).

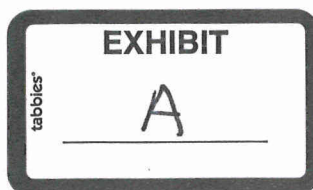
Please let me know if you have any additional questions or concerns.

Thank you,
Hillary

Hillary Hall

Boulder County Clerk and Recorder
1750 33rd Street
Boulder CO 80301-2534
303.413.7700
hhall@co.boulder.co.us

*As trusted stewards of Boulder County's future,
we provide the best in public service.*



2012 General Election Process

Boulder County Elections Division - September 2012

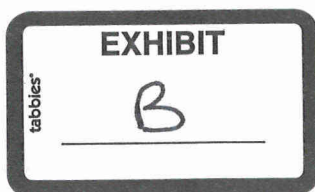
This document explains the Boulder County Clerk and Recorder's Office plan for designing and producing ballots for the 2012 general election. We sought a solution that would address concerns about anonymity that have arisen in other counties while allowing us to use many processes and procedures that have been tested and successfully used in prior elections. In addition to assuring anonymity, the processes ensures the security, integrity, accuracy and efficiency of elections, as well as the successful canvassing, auditing, and, if necessary, recounting of elections. We believe the solutions we outline in this document are Boulder County's best option for addressing questions about sequential numbers, sorting methods and recent judicial opinions related to ballots as open records.

Boulder County recognized that differing ballot design approaches may be used in other Colorado counties. For example, many counties have opted to switch the numbers on their ballots to zeroes (aka "sequence numbers"). However, most other Hart counties have a significantly smaller population, so the impacts of these systematic changes are likely to be different. Additionally, other counties – including Douglas County, which is more comparable to Boulder County in terms of population – make greater use of machine voting in polling places, so their systems may not be affected in the same way as Boulder County's. In short Boulder County requires a unique plan for producing its ballots because its circumstances are unique among Colorado counties using the Hart election equipment. If Boulder County were required to use a different process, we believe it could have a negative impact on the election, including the likelihood of a significant delay in election results.

Boulder County has been refining and perfecting our processes for the last three and half years. We have been further adjusting our practices since March of this year and took steps forward with the primary election. We have built upon the experience from the primary. We believe our solution for the general election allows us to produce anonymous ballots. Our strategy for printing anonymous ballots has been properly tested and effectively, accurately and efficiently utilizes the election voting equipment Boulder County purchased in 2004. After the general election, we will continue to look at all the solutions being suggested when there is time to review the impact of and thoroughly test any changes.

The basic concept for our 2012 General Election process is to ensure that every precinct ballot style is repeated a minimum of 10 times. In order to ensure that no one can tell who will receive a certain ballot number, we will shuffle the ballot images and the ballots. The first shuffling will occur when we create the ballot image or PDF for each ballot. We will use multiple machines and scramble the order in which ballots are produced. The PDFs will then be sent to our printer, who will print the ballots from these images. Once the ballots have been printed, the Boulder County elections staff will physically shuffle each set of precinct style ballots. After the ballots have been shuffled physically, they will then be inserted into voter envelopes and mailed to voters. A similar process will take place for precinct polling place ballots, but instead of mailing them they will be handed out at the polling locations.

We believe the following plan is truly the best option for Boulder County's voters for the 2012 general election.



Acronym Guide and Definitions:

B&H - Bell & Howell mail verification system used to process and sort returned mail ballot envelopes

Ballot Now - Hart InterCivic software and system that allows for the production of ballots and ballot images, as well as for the scanning and processing of voted ballots

CO = Clerk's Office

CVR – Cast Vote Records, the anonymous records of contest options that voters have selected on their cast ballots

FTP = File Transfer Protocol

End Batches - small groups of ballots kept to be scanned after Election Day and within the 8 day deadline with valid ballots received or voter resolution ballots

EV/SC= Early voting and service centers

LAT = the public Logic and Accuracy Test conducted prior to each election

MBB - Hart InterCivic PC card that stores the cast vote records from Ballot Now in electronic format and is used for result tabulation in Tally (mobile ballot box)

O&S = Opening and Separating of mail-in ballot envelopes

PDF = a document created in Portable Document Format

Precinct Style - precinct-specific ballot style(s) containing the content for a given district in a given precinct. A precinct can have multiple precinct style ballots depending on what districts are coordinating in a particular election.

SCORE - Statewide Colorado Voter Registration and Election system maintained by the Colorado Secretary of State

SCORE batch - group of registered Colorado voters selected from the SCORE system who have an active mail ballot request on file

Tally - Hart InterCivic software and system used to tabulate votes cast in an election

UOCAVA = Uniformed and Overseas Citizens Absentee Voting Act

USPS = United States Postal Service

Zeroed Out Number - a 12 digit ballot inventory number where the middle 8 digits are all zeros and first and last 3 digits rotate.

Mail/Mail-in Ballot Creation and Mailing

1) CO creates:

- a. SCORE batch files in text file format for all Boulder County active registered voters who have submitted a request for a mail ballot (SCORE); and
- b. Mail Ballot Order: spreadsheet that indicates quantities required for each ballot style
- c. Ballot image files corresponding with the quantity of mail ballot voters (from SCORE batch) for each ballot style, plus one or more additional images for each ballot style, as necessary to protect voter privacy and for use in LAT (Ballot Now). (See example table)

- i. First, a set of 10 ballot images with a zeroed out number for each precinct style will be created. (This is for additional EV/SC protection)

- The zeroed out number process produces a 12 digit ballot inventory number where the middle 8 digits are all zeros and first and last 3 digits rotate. (Ten varieties of the outer digits are produced in a repeated pattern in Ballot Now).
 - Each ballot style image is copied 10 times and integrated in the single ballot style file produced in item 1(c)(ii).
 - This will create the first 100 ballot image files for each precinct style. If there are more than 100 voters in a precinct style, we will create additional ballot images using process outlined in bullet 1(c) ii below
 - For precinct styles with less than 20 voters, only one image would be produced for that precinct style and copied for the total number needed.
 - These ballots would be added to the mail ballot order and mailed to voters.
 - The reason this additional numbering is necessary is so that when we use our Ballot on Demand system at early voting, we know that the numbers on the early voting ballots will be duplicates of those used in the mail ballots.
- ii. A set of ballot images in PDF format produced in Ballot Now for each ballot style in a random order. Each ballot image file is copied a minimum of 10 times and re-assembled into a single ballot style file that meets the quantity needed to provide a ballot for each voter listed in the SCORE batch files. No less than 10 non-unique ballot images are created for any precinct style
- In order to add another layer of shuffling for increased anonymity, we create a spreadsheet that contains all of the precincts with all of the precinct styles. Then, using a random number generator, we assign a number to each precinct style and create images for each precinct style based on that order.
 - Then, once all images have been created in this random fashion, the order is reassembled by precinct style, starting with the first precinct and first style within that precinct. This effectively randomizes the numbers on the ballot images.
- iii. Approximately 30 days prior to ballots being mailed, CO places its initial mail ballot printing/insertion order with the vendor. This consists of uploading the data and documents identified in 1(a), (b) and (c) above to the vendor FTP site.
- 2) Vendor uses the PDF files to print the paper ballots.
Resulting paper ballots are folded and placed in separate boxes for each ballot style.
- 3) Vendor uses the SCORE batch file data to create voter addressed envelopes. Bar code printed on envelope contains voter information provided by SCORE database.

- a. Between initial order (#2 above) and Wednesday prior to required mailing date, CO submits one or more additional SCORE batches and ballot image files to vendor for newly registered and change of address voters.
Any additional printed ballots needed to fulfill additional orders would be produced from the images created for the first order ensuring they are non-unique, non-sequential and shuffled.
- 4) Prior to insertion, CO travels to vendor site and inspects ballots for quality assurance, shuffles the ballots for each precinct style.
 - a. How the ballots will be shuffled: After printing, ballots are stored in their own container by precinct style. Each precinct style will be pulled from its container. CO staff will spread out all the ballots from the container, randomly reorder them, and return them to the container. This step will be videotaped to document that this process occurs.
 - b. Staff will also randomly select one ballot from each precinct style for use in the LAT. The use of live ballots for testing is an additional quality assurance test performed by the CO in Boulder County.
- 5) Vendor inserts ballots, secrecy sleeve, and voting instructions into envelope. Neither vendor nor CO has any record of the ballot inventory number inserted into envelope.
- 6) Ballots are mailed by vendor via USPS and by the elections office.
- 7) All further voter ballot packets required for mailing are done in-house by CO (last mailing one week before Election Day). Remaining packets are picked up by voter at CO.

Mail/Mail-In Voted Ballot Processing

- 1) Voted ballots in envelopes are delivered to PO Box at USPS and designated drop sites. Ballots are picked up by two members of CO staff from different parties and taken to Clerk's Office.
- 2) CO counts and date stamps envelopes containing ballots and signature tabs are removed.
- 3) Mail ballot envelopes are processed through B&H , capturing the SCORE voter information from the envelope bar code and an image of the envelope and voter signature.
Election judges then verify each envelope signature against the voter registration signature from the SCORE database to confirm voter registration signature matches return envelope signature.
- 4) Status information for each received envelope is uploaded into the SCORE database into one large batch per day, with one received absentee batch number assigned (at a minimum by close of business each day).
- 5) Signature verified envelopes are processed through B&H a second time to separate those that have been accepted by election judges from those requiring additional research. Accepted envelopes are processed a third time providing a fine sort grouping of envelopes, as defined by election specific requirements. Up to 5

- envelopes of each district style are retained for end batches. Unaccepted envelopes are researched manually in SCORE and voter contact made, as applicable.
- 6) When #5 above is completed, the sorted groups are used to create Opening and Separating (O&S) trays of 150 envelopes (minimum of 5 envelopes from the same district style are required). A batch accounting form is now created and attached to each tray of envelopes which is then taken to envelope opener. (No O&S batch number assigned corresponds to a SCORE received absentee batch (RAB) number). Trays are then delivered to O&S election judges.
 - 7) Teams of election judges with different affiliation, overseen by CO staff, remove the contents from envelope. Member A removes ballot from the envelope and announce the ballot style to team member B. Keeping the folded ballot in the secrecy sleeve, member B first ensures that there is only one ballot in the secrecy sleeve and then verifies that the ballot style matches the style on envelope label. If there is a discrepancy the ballot is put back in the envelope and set aside for a lead judge to resolve with the team. Ballot remains in the secrecy sleeve until the envelopes are accounted for and set aside.
The ballots are then removed from the secrecy sleeve, unfolded and inspected in accordance with Rule 27.4.2(a).
 - 8) Envelope and ballot counts are confirmed; then envelopes are moved to secure room, and O&S batch is moved to the scan ready location for scanning.

Polling Place Printing and Processing:

- 1) CO creates:
 - a. Polling place order: spreadsheet that indicates quantities required for each ballot style
 - b. Ballot image files corresponding with the quantity required for each ballot style, plus one or more additional images for each ballot style, to provide additional voter privacy and for use in LAT (Ballot Now).
 - i. Mail ballot image files are used to create the polling place image file. By using the mail ballot file we are repeating the images already used and mailed to voters. For the few precinct styles where the polling place ballots needed are greater in number than the mail ballot needed, mail ballots will be created from the polling place images.
- 2) Shortly following the mail ballot order, CO places its polling place printing/packaging order with the vendor. This consists of uploading the data and documents identified in 1(a) and (b) above to the vendor FTP site.
- 3) Vendor uses the PDF files to print the paper ballots.
- 4) Resulting paper ballots are kept in separate containers for each precinct ballot style.
- 5) Prior to packaging, CO inspects ballots for quality assurance, shuffles each precinct ballot style in each box, and randomly selects one ballot from each box, for use in the LAT. This is a separate visit to the mail ballot quality assurance, shuffling and LAT pull.

- a. How the ballots will be shuffled: After printing, ballots are stored in their own container by precinct style. Each precinct style will be pulled from its container. CO staff will spread out all the ballots from the container, randomly reorder them, and return them to the container. This step will be videotaped to document that this process occurs.
 - b. Staff will also randomly select one ballot from each precinct style for use in the LAT. The use of live ballots for testing is an additional quality assurance test performed by the CO in Boulder County.
- 6) Vendor then packages the ballots in groups of 50 by ballot style, and delivers all materials to CO
 - 7) CO confirms ballot style inventory counts, then prepares and provides ballot style packages to Polling Place judges for Election Day voting. CO has no record for which ballots are contained in each package, or the order in which they will be provided.
 - 8) Ballots are then voted at Election Day Poll locations, placed in a secrecy sleeve, and inserted into the sealed ballot box for secure transfer to central processing station.
 - 9) Ballot boxes are returned up by two members of CO staff/election judges from different parties and taken to Clerk's Office for reception process.
 - 10) Ballot boxes are opened; secrecy sleeves with ballots are removed and counted.
 - 11) After count verification all ballots are removed from secrecy sleeve and inspected.
 - 12) Batches are created using poll ballots, placed in tray with a newly created batch accounting form and moved to the scan ready location for scanning.

Early Voting Printing and Processing

- 1) Voters are verified in SCORE database, immediate credit given, and a ballot print label is produced from SCORE containing the voter's information and ballot style. Ballot print label is used by election judge to print the ballot corresponding to the ballot print label in Ballot Now.
 - a. Zeroed out numbering will be used for early voting ballots. The zeroed out number process produces a 12 digit ballot inventory number where the middle 8 digits are all zeros and first and last 3 digits rotate. (Ten varieties of the outer digits are produced in a repeated pattern in Ballot Now).
 - b. Due to the inclusion of the zeroed out number ballots in the mail ballot print order to the vendor, no voter receiving a printed ballot on demand will receive a unique ballot.
- 2) Ballots are voted at Early Voting site, placed in a secrecy sleeve, and inserted into the sealed ballot box for secure transfer to central processing station.
- 3) Ballot boxes are picked up by two members of CO staff from different parties and taken to Clerk's Office daily for reception process.
- 4) Ballot boxes are opened; secrecy sleeves with ballots are removed and counted. Ballot remain in secrecy sleeves until accurate counts are confirmed
- 5) All ballots are removed from secrecy sleeve, counted and inspected. So long as second count matches initial count, ballots are shuffled and gathered in the designated

combining tray(s) with an inventory form and held in secure room until scanning begins.

- 6) When ballots are prepared for scanning, staged batches of approximately 150 are created and a batch accounting form is created. Batch is then moved to the scan ready location for scanning. No association exists between the staged batch and the EV site, receipt date, or vote credit date.
- 7) Ballots processed using the zeroed out number on them will take longer to process; we can accommodate this additional time as early voted ballots will be scanned by Monday, Nov. 5.

Voted ballot counting (Scanning & Tabulation): All paper methods

- 1) Individual batches are scanned into Ballot Now by different set of election judges, who do not have contact with the stored envelopes
- 2) Judges insert ballots into Kodak scanners and use Ballot Now software to scan and process voted ballot images captured. So long as the scan count matches number on batch accounting from opening and separating, the batch is saved and processed; the batch accounting form is then updated to note the scan batch number, accepted and rejected ballot counts.

No pre-scanning batch information is captured as scan batch notes in Ballot Now. The white copy of the batch accounting form is severed:

It is cut in half and the scanning portion placed with the ballots in the ballot box. The remaining half is kept at the scanning station to be used to assist in scan log reconciliation and then stored as part of election record

Yellow copies of the scan form are immediately deposited in a sealed ballot box after scan log verification by the lead, and stored in secure room, unsealed and severed after the challenge period has ended. They are then stored as part of the election records

At this time the ballots and scanned batch information stored in the ballot box have been disconnected from the O&S batch information; breaking any connection between the ballots and their envelopes.

- 3) Batch information is recorded in the Scan Log for use in daily verification and election reconciliation. Only scan room judges and supervisors enter and verify scan logs and to ensure all batches have been scanned and scanned only once. When all batches have been accounted for and scan room counts are reconciled, pre-scan batch numbers are deleted from the spreadsheet permanently.
- 4) Images of ballots requiring resolution of voter intent are then processed at the resolution stations by bi-partisan teams. After resolution is complete, the CVRs are recorded to an MBB through Ballot Now, stored until Election Day and then transferred to Tally, for vote tabulation. Ballots are sealed and stored in secure room.

Concluding summary

Areas highlighted above are changes from 2010 and 2011 elections that provide additional voter anonymity protections prompted by changes in Colorado records law related to the nature of ballots.

1. Most directly, the newly designed ballot image creation and shuffling processes ensure that no printed ballots contain unique numbers or are sequentially numbered, and that neither the county nor vendor has record for which specific ballot was provided to a specific voter.
2. The use of B&H processing and sorting as well as shuffled batch creation that now occurs at the time of Opening & Separating results in the disconnect between the O&S batch of received envelopes and a particular SCORE Received Absentee Batch (RAB).
3. And lastly, separating and securing only the scan batch information with the stored ballots results in the ultimate dissolution of pre-scan batch tracking identifiers and the stored ballots.

The county has implemented action-oriented changes across the election management process, dissolving any possible connections and shuffling any ties along the way. We have investigated the creation of ballots, mailing of ballots, receipt and recording of ballots, processing of ballots and ultimate storage of ballots, breaking possible connections at each phase while implementing process that also allows Boulder County to continue executing a risk-limiting audit and thorough election canvass. More importantly, Boulder County changes further protect voter privacy, as well as maintain the ability to ensure the integrity of county elections while producing accurate and timely outcomes to voters.