

To: All county auditors and election administrators

Fr: Mark Ritchie, Secretary of State

Re: Election Materials Retention and Security

I am sure that you are all keenly aware of your respective responsibilities relating to the safeguarding of ballots and other election materials following the November 4, 2008 election. There has been significant public interest in the security of the ballots, and therefore, I wanted to take a minute to remind you of the numerous safeguards in Minnesota Statutes. This memo, when shared with the media, will underscore what a fantastic system we have to protect the integrity of our elections. Accordingly, it is essential that all election-related materials as required by law are preserved and safeguarded throughout any contest period. Many of these materials are already secured in your sealed ballot boxes and precinct supply boxes. These materials include:

1. All ballots cast and counted in original sealed envelopes. Minn. Stat. §§ 204C.27, 204C.28, 209.05; Minn. R. 8235.0400, 8235.0600.
2. All precinct summary statements. Minn. Stat. §§ 204C.27, Minn. Stat. §§ 204C.28
3. All defective ballots not counted in original sealed envelopes. Minn. Stat. §§ 204C.23, 204C.25, 204C.27, 204C.28.
4. All spoiled and unused ballots. Minn. Stat. §§ 204C.27, Minn. Stat. §§ 204C.28
5. All electronic voting systems and counting programs.
6. All polling place rosters and completed election day registration cards. Minn. Stat. § 204C. 27.
7. All county auditor records of materials delivered to them after completion of voting. Minn. Stat. § 204C.28.
8. All county canvassing board reports. Minn. Stat. § 204C.33.
9. All records of access to ballots. Minn. Stat. § 204C.28.
10. All lists submitted by residential facilities and educational institutions pursuant to Minn. Stat. §§ 135A.17 and 201.061, subd. 3.
11. All election day challenges to voters pursuant to Minn. Stat. § 204C.12.
12. All precinct incident logs. Minn. Stat. §§ 204C.27, Minn. Stat. §§ 204C.28

13. All absentee ballot applications. Minn. Stat. § 203B.06.
14. All absentee ballot return envelopes. Minn. Stat. §§ 203B.08, 203B.12.
15. Any voting machine tape reports recording the votes cast on Election Day in each precinct. Minn. Stat. §§ 204C.27, Minn. Stat. §§ 204C.28

In addition, you should also secure other materials as provided for during their normal retention period, including:

1. Pre-election accuracy test results, including copies of any machine tapes generated as part of this process, or copies of any other similar documented means of verification. Minn. Stat. §§ 206.83
2. All voter registration cards. Minn. Stat. § 201.081.
3. All records of notices of late, incomplete, deficient and late registrations. Minn. Stat. § 201.061, Minn. R. 8200.2900, 8200.3100, 8200.3110.
4. All records of notices of ineligibility for registration. Minn. Stat. §§ 201.061, Subd. 7
5. All reports of deceased voters, name changes, felony convictions, guardianships and commitments. Minn. Stat. §§ 201.13-201.155.
6. All records of notices of challenge removal. Minn. R. 8200.3550.
7. All records of notices of application removal. Minn. R. 8200.3700.
8. All challenges to voter registration submitted pursuant to Minn. Stat. § 201.195.
9. Copies of post-election machine audits, including machine tapes generated as part of that process, or copies of any other similar documented means of verification. Minn. Stat. §§ 206.89

In addition to your responsibilities specified under Minnesota Statutes, we recommend, and would very much appreciate you taking the following additional steps. These steps will help ensure the public that the election results will be determined in the most accurate, transparent and fair means possible.

1. Please consider immediately providing a copy of this communication to all persons acting under your jurisdiction and authority who are currently responsible or may become responsible in the future for preserving and/or protecting any of the items identified in the aforementioned subparagraphs.

2. If you have not already done so, please consider an immediate search of all offices and premises under your jurisdiction and authority, including your computer network systems, to ensure that all documents, materials, and items described above are preserved and protected.
3. Except when needed for official purposes, we recommend the ballots shall at all times remain under lock and key. Only election staff may enter the ballot storage room and no less than two staff shall enter the room at any time. A log, including the time, date and purpose, shall be kept of all election staff entering the ballot storage room. In no case shall a campaign "visual guard" posted pursuant to Minnesota Statutes, section 209.05 enter the ballot storage room.
4. A copy of this document will also be posted on the Secretary of State's website and we recommend a copy also be placed on the door of each ballot storage room.

If you have not done so already, I strongly suggest that you consult with your county or city attorney regarding this matter. Of course, you can also contact this office if you have any questions. Please direct any questions to this office to:

Gary Poser, at (651)556-0612 or gary.poser@state.mn.us

Thank you in advance for all the help you are giving us with this mandatory recount.