

A REVIEW OF CACHE COUNTY ELECTIONS



OFFICE OF THE LIEUTENANT GOVERNOR
DEIDRE M. HENDERSON - LIEUTENANT GOVERNOR

STATE OF UTAH
OFFICE OF THE LIEUTENANT GOVERNOR



DEIDRE M. HENDERSON
LIEUTENANT GOVERNOR

Dear Cache County Clerk David Benson:

On December 5, 2023, my election staff conducted a thorough in-person review of your municipal general election, held on November 21, 2023. Their observations and findings are deeply troubling. My team not only found an unprecedented lack of controls, widespread violations of Utah election law and administrative rule, but also a pointed disregard for policy and practices established by my office.

As the Cache County clerk, it is your statutory duty under Utah code section 20A-1-106(2) to diligently learn and comply with state and federal laws, rules, policies, and directions of the lieutenant governor. Under your watch, the 2023 Cache County municipal primary and general elections fell unacceptably short of those statutory obligations. Failure to adhere to statute creates opportunities for fraud and election manipulation to occur. Fidelity to your oath of office demands that you correct these problems immediately.

In my capacity as the state's chief election officer, under Utah code section 20A-1-105, I hereby order you to review this report and provide a written response to my office for each of the recommendations no later than February 20, 2024. Your response must include an action plan for each recommendation and a timeframe in which it will be implemented. My staff remains fully committed to your success and the success of your team and stands ready to provide resources and continued training as you and your office seek to comply with the law.

Sincerely,

A handwritten signature in black ink that reads "Deidre M. Henderson".

Deidre Henderson
Lieutenant Governor



CACHE REPORT - EXECUTIVE SUMMARY

Spurred by a number of serious concerns that arose in Cache County during the 2023 Municipal General Election, Lieutenant Governor Deidre Henderson and her staff conducted a review of the county clerk's election processes on December 5, 2023. The review exposed multiple violations of Utah election law, administrative rule, the Utah Election Handbook, and basic principles of election administration. Although no evidence of fraud was discovered, the review uncovered significant problems including poor chain of custody practices that could have introduced numerous opportunities for bad actors to impact the county's election results. The major findings include the following:

The Lieutenant Governor's Office has prepared a list of 31 findings and recommendations which can be found at the beginning of the report.

KEY FINDINGS:

- The county clerk's office failed to perform statutorily required Logic and Accuracy tests (L&A) before running ballots through ballot tabulation (counting) machines. These tests ensure that all machines are working properly and counting ballots correctly. When pressed for the statutorily required documentation that the tests had been completed, the Lieutenant Governor's Office was presented with a falsified report.
- Ballots containing major errors were mailed to voters in Paradise and Amalga. This necessitated updating and mailing new ballots to the affected areas. After the errors were corrected, the county continued to use the old database on its tabulation (counting) equipment. This was not discovered and corrected until the night before the election, which then required all ballots to be rescanned.
- The county clerk's office repeatedly violated statutorily required chain of custody practices. This means that ballots were not properly retrieved, handled, batched, documented, organized, or stored. Poor chain of custody practices were the single most troubling aspect of the review. (see administrative rule R623-8-5 and Utah Code, section 20A-3a-401.1).
- The county clerk's office failed to properly reconcile ballots. Reconciliation is the process of ensuring and documenting that the number of ballots in a batch matches the number that were tabulated (counted), and the number of individuals that received credit for voting; any discrepancies should be documented.

- The county clerk's office did not use the tools in VISTA, the state's election software, to properly document and process challenged ballots. A challenged ballot is a ballot where the voter's signature fails verification. An affidavit is then sent to the voter to resolve the issue. Failure to utilize VISTA unnecessarily exposed personal information and undermined safeguards that ensure the correct ballot is counted.

KEY RECOMMENDATIONS:

- The county clerk's office must review the Utah Elections Handbook, Utah election law, administrative rules, and direction from the Lieutenant Governor's Office to ensure Cache County is fully compliant with the law.
- The county clerk's office must review all chain of custody practices and begin following the chain of custody requirements outlined in Utah code and administrative rule when retrieving ballots, processing ballots, and storing ballots. (See Utah Code, section 20A-3a-401.1; Administrative Rule R623)
- The county clerk's office must complete Logic and Accuracy (L&A) tests in accordance with statute. The county clerk's office must utilize the resources prepared by the Office of the Lieutenant Governor for L&A tests..
- The county clerk's office must properly batch and reconcile ballots in accordance with statute and administrative rule.

Summary of Findings and Recommendations

Section One Findings and Recommendations:

Finding 1.1: *The county clerk's office failed to maintain an equipment maintenance log as required by statute.*

Recommendation 1.1 - The county clerk must create a maintenance log for each piece of equipment. This log should include the name and serial number at the top and the information required in the handbook and statute referenced above. These logs should be maintained in the area where the equipment is stored and updated each time that maintenance is performed.

Finding 1.2: *The county clerk's office failed to update its precinct boundaries.*

Recommendation 1.2 - The county should review all of its precinct boundaries and splits to understand why each of them was created. Municipalities and special district stakeholders should be involved in the process. This will aid in preventing ballot error #3 from occurring.

Finding 1.3: *The county clerk's office and municipal recorders failed to properly proof their ballots.*

Recommendation 1.3 - Develop written checklist(s) for ballot proofing that include sign-off and approval from other election officials who have races or propositions on the ballot. This checklist should document approval from the vendor creating the ballots and the company who will be printing the ballots. The Lieutenant Governor's Office has already created and provided a basic checklist to all counties that they can refine and adjust to meet their needs.

Finding 1.4 - *The county clerk's office improperly deleted candidates out of VISTA.*

Recommendation 1.4 - The county should use the "candidate tools and status" in VISTA to manage candidates rather than deleting candidates and races.

Finding 1.5 - *The county clerk's office failed to utilize the resources provided by the Lieutenant Governor's Office for ballot proofing.*

Recommendation 1.5 - To prevent what happened in the general election from happening again, the county must review and utilize the resources the Lieutenant Governor's Office has provided, and develop processes and procedures internally to ensure that ballot proofing and exact reviews are performed properly.

Section Two Findings and Recommendations:

Finding 2.1: *The county clerk's office failed to perform a statutorily required L&A prior to election day. Falsified documents were presented to the Lieutenant Governor's Office in an attempt to certify the L&A had been performed.*

Recommendation 2.1 - A full internal L&A must be completed and documented in accordance with the election handbook and 20A-4-104 before any ballots are processed.

Finding 2.2 - The county clerk's office failed to perform a statutorily required public L&A prior to election day.

Recommendation 2.2 - A public L&A must be completed and documented in accordance with the election handbook and 20A-4-104 before any ballots are processed.

Section Three Findings and Recommendations:

Finding 3.1 - *The county clerk's office failed to properly log or document ballot retrieval. Ballot retrieval was performed by a single individual.*

Recommendation 3.1 - Ballot collection must be documented and involve two election officials in accordance with R623-8-5 and 20A-3a-401.1.

Finding 3.2 - *The county clerk's office failed to properly batch ballots or document ballot chain of custody on batch cards.*

Recommendation 3.2 - Ballots must be separated into batches when first received for processing and kept together in that batch for the duration of processing. When ballots are removed from a batch because they are diverted, or challenged, they must be logged and accounted for. The documentation must include the poll workers initials, date, time, and reason. No additional ballots should ever be introduced or commingled with ballots from another batch. At the end of processing, the number of ballots tabulated must be reconciled to the number of ballots that were initially in that batch (See 20A-3a-401.1(4)(5)).

Finding 3.3 - *The county clerk's office failed to separate batches of ballots as required by law (Utah Code, 20A-3a-401.1(5)(a)) and Administrative Rule R623-8-6.*

Recommendation 3.3 - Ballots that are in Group 1 stage of signature review should be placed in a colored tray that is different from other ballots and stored in a location where they cannot be confused with other batches that have been reviewed (Utah Code, 20A-3a-401.1(5)(a), Administrative Rule R623-8-6)

Finding 3.4 - *Ballots were processed in two locations: the county clerk's office and the ballot center.*

Recommendation 3.4 - Ballots should never be removed from the ballot center for any reason. Undeliverable ballots and challenged ballots should be processed at the ballot center. This may necessitate the purchase of additional computers to perform those functions on site.

Finding 3.5 - *Diverted ballots were not properly batched and handled according to statutorily required chain of custody procedures.*

Recommendation 3.5 - The process for handling diverted ballots should be documented with clear chain of custody and reconciliation procedures. Diverted ballots should be logged in new batches with new control numbers while maintaining the ability to trace them back to their original batch if necessary. They should never be added or comingled with the ballots of an existing batch (See 20A-3a-401.1(4)(5)).

Finding 3.6 - The county clerk's office used a Google Sheet rather than VISTA to track challenged ballots. This exposed personal information and created greater potential for errors.

Recommendation 3.6 - Use the built-in VISTA reporting tools to track and send challenged ballot notices instead of using a Google Sheet. If the sheet is used, access and security should be reviewed to ensure proper usage and control.

Finding 3.7 - Ballots were improperly separated from their original batches and repeatedly handled by one election worker, violating statutorily required chain of custody procedures.

Recommendation 3.7 - Ballots must remain together with their original batch. Two election workers should work on a single batch at a time as they prepare them for scanning (See 20A-3a-401.1(5)(e)).

Finding 3.8 - Ballots were damaged when stored because the rubber bands used were too small. The ballot batches were improperly labeled when stored.

Recommendation 3.8 - Use larger rubber bands or card stock to divide the ballots in storage boxes. Each batch should be clearly labeled and separated in the box. This will organize the ballots without damaging them.

Finding 3.9 - The county clerk's office failed to perform statutorily required reconciliation when processing ballots.

Recommendation 3.9 - The number of ballots in a batch should be reconciled with the number of ballots counted by the tabulation machine. No batch should be finalized until the difference between the number of ballots in a batch and the number of ballots tabulated is zero. When the batch fully reconciles, the batch card should be signed and then retained with the other election materials.

Finding 3.10 - The county clerk's office failed to properly label and store ballots after processing was complete.

Recommendation 3.10 - Scanned ballots should be prepared for storage, placed in a storage tote, and sealed. Each county was offered sealable storage totes through Help America Vote Act (HAVA) grant funds available through the Lieutenant Governor's Office. The clerk's office should purchase these totes and seek reimbursement through the grant program. The totes should be clearly labeled with the batches, quantities, date processed, election, and destroy date. Once properly labeled, it should be sealed and securely stored for 22 months (Utah Code, 20A-4-202(1)).

Finding 3.11 - The county clerk's office failed to perform a statutorily required reconciliation after ballot processing was complete.

Recommendation 3.11 - After each scanning session a reconciliation must be performed by the clerk to ensure that the number of individuals that received vote credit, the number of ballots prepared for scanning, and the number of ballots scanned match. This reconciliation was a point of failure during the primary election. As part of our review, The Lieutenant Governor's Office requested a copy of the reconciliations performed by Cache County; they were not sent in a timely manner and were incomplete. These reconciliations are paramount to ensuring that each verified ballot was scanned and that no batches were scanned multiple times (Utah Code, 20A-4-109). Statute requires that these

reconciliations be publicly available. A final reconciliation is required as part of the canvass report (20A-4-304(2)(g)).

Finding 3.12 - County election staff were observed performing multiple tasks at the same time. This created unnecessary confusion and opportunities for error.

Recommendation 3.12 - Each process should have a dedicated staff member assigned to oversee that process. These staff members should be free from other responsibilities and distractions while the process they oversee is performed.

Finding 3.13 - Based on observations during the review, the county election's office may be inadequately staffed and undertrained.

Recommendation 3.13 - Cache County should review their election staffing plan to determine if more staff are needed, and whether more time should be dedicated to elections to build institutional knowledge and increase employee capacity to oversee processes.

Section Four Findings and Recommendations:

Finding 4.1 - The county clerk's office failed to perform statutorily required signature audits as outlined in Utah Code.

Recommendation 4.1 - Conduct signature audits regularly during ballot processing and complete these audits before separating any ballot from its envelope (Utah Code, 20A-3a-402.5).

Finding 4.2 - When signature audits were performed, the individual performing the audit was auditing their own work.

Recommendation 4.2 - Never allow an individual to conduct an audit on their own work (Utah Code, 20A-3a-402.5(2)).

Finding 4.3 - The county clerk's office has not submitted their audit policy to the Lieutenant Governor's Office.

Recommendation 4.3 - Submit a written policy to the Lieutenant Governor's Office on randomly selecting signatures to audit in accordance with the Lieutenant Governor's Audit Policy - Signature Verification Audit Policy (4).

Finding 4.4 - The county clerk's office failed to properly document the signature audits performed.

Recommendation 4.4 - Document each signature audit that is performed. The log should include the date, time, ballots audited, who performed the audit, the findings of the audit, and remedial action. (20A-3a-402.5) and the Lieutenant Governor's Audit Policy.

Finding 4.5 - The county clerk's office failed to properly batch envelopes after ballots were removed from them.

Recommendation 4.5 - Once ballots are separated from an envelope, the envelopes should be bundled in batches that correspond to the ballot batches and stored for 22 months.

Section Five Findings and Recommendations:

Finding 5.1 - *The instructions placed on the ballot explaining how a voter can remedy a mistake on their ballot may cause confusion.*

Recommendation 5.1 - The county should revise the instructions placed on the ballot explaining how a voter can correct an error or mistake.

Finding 5.2 - *The adjudication log used by the county clerk's office does not comply with statute. Adjudications performed by the county were not properly logged.*

Recommendation 5.2 - The county must create and use an adjudication log that is signed by the workers who performed the adjudications. The log should be stored where it is accessible and can be reviewed by the public (R623-8-6).

Finding 5.3 - *The Clerk's election staff may not have reviewed the voter intent guide before the election.*

Recommendation 5.3 - Workers performing adjudication should be required to review the voter intent guide before each election. A copy of the voter intent guide should be placed at each adjudication station.

Finding 5.4 - *The county clerk's office failed to use the replication log created by the Lieutenant Governor's Office as required by statute.*

Recommendation 5.4 - Begin using the replication log provided by the Lieutenant Governor's Office in accordance with Utah Code, 20A-4-104(3).

Finding 5.5 - *The county clerk's office was unable to provide the replication log when requested during the review, but did so later.*

Recommendation 5.5 - Maintain the replication log where it is available to election workers, and to the public. At the end of each day, a digital copy of the log should be stored and maintained for 22 months 20A-4-104(3)(c).

Section Six Findings and Recommendations:

Finding 6.1 - *The county clerk's office failed to store ballots in accordance with Utah Code and administrative rule.*

Recommendation 6.1 - Store scanned ballots in sealable totes. These totes should be clearly marked with the batches, dates, and retention period. The totes should then be sealed and stored for 22 months following the canvass.

A Review of 2023 Cache County Elections **Administered by County Clerk David Benson**

Introduction

The lieutenant governor is tasked with providing oversight and supervision for all elections and election related functions in the State of Utah (Utah Code, section 20A-1-105(1)). This includes, when necessary, enforcing compliance of election statutes. In fulfillment of that statutory obligation, the lieutenant governor and her elections team visited Cache County's ballot center on December 5, 2023, to perform a review of election processes, procedures, and administration. This review was spurred by a number of serious issues that arose during the 2023 Municipal General Election. The purpose of this report is to present the findings of that review. The report is organized into three sections:

Section One: Background and Pre-election Administration

Section Two: Chain of Custody, Signature Verification and Signature Verification Audits, and Tabulation

Section Three: Post-election Administration

Based on the information obtained during the review, the Office of the Lieutenant Governor found no evidence that the 2023 municipal general election results were improperly certified; however, serious concerns were raised by poor administrative practices and procedures, particularly in relation to ballot preparation, equipment testing, and chain of custody. Poor chain of custody practices resulted in unnecessary confusion, delays during the recount process for Hyrum and Logan cities, and a general sense of disorganization in the ballot center. Other statutory violations occurred as well, which are addressed in greater detail throughout the report. In an effort to provide ongoing support and correction, this report includes relevant statutory citations, administrative rules, and other training materials at the end of each section and subsection.

Section One: Background and Pre-election Administration

Background

Municipal elections are jointly facilitated by municipal recorders and the county clerk. During the 2023 municipal general election, incorrect ballots were mailed out to three areas of Cache County: the towns of Paradise (ballot error #1) and Amalga (ballot error #2), and several split precincts in Logan that are in the Cache County School District (ballot error #3). The following issues were identified:

- Ballot error #1 - Town of Paradise: Although attempted, the county clerk never obtained written approval from the Paradise Town Clerk for their ballot proof.¹ Although there were two open seats on the town council, only one individual initially filed. Before the write-in deadline, two additional candidates filed as write-in candidates. This was never communicated to the county clerk. Without the two write-in candidates, Paradise would have been able to cancel their election

¹ A ballot proof is a template reviewed by election officials to ensure that all races and contests are properly indicated on the ballot.

under Utah Code, section 20A-1-206.² With the write-in candidates, the race should have appeared on the general election ballot but did not. When residents of the Town of Paradise received their ballot, only the county race appeared because of the lapse in communication.

- Ballot error #2 - Town of Amalga: The county clerk and city recorder both reviewed and approved the town's ballot which incorrectly combined two town council races: a 4-year term seat and a 2-year term seat. When voters received their ballot, there was one town council race instead of two.
- Ballot error #3 - Logan City: The county clerk received approval from the Cache School District on the ballot faces emailed to the district.³ However, neither the school district or the county clerk were aware that the Cache School District includes parts of Logan City. Because the precinct information was incorrect, voters in Logan city that should have had the district's bond measure on their ballot did not.

After the clerk's office reviewed the other races on their ballots, it became clear that the office would need to reprogram their election database and mail new, corrected ballots to all voters in the affected areas. The clerk's office notified their election vendor that incorrect ballots were sent; the vendor then made necessary corrections to the ballots and promptly provided the corrected version of the election database and new ballot faces. The clerk's office then mailed affected voters the corrected ballots with an insert instructing the voter to complete the new, amended ballot.

Despite receiving an updated database, the clerk's office did not load the database onto its tabulation computer and failed to perform a new logic and accuracy test (L&A) before processing ballots.^{4,5} Thus, when the corrected ballots were returned and scanned, the machine could not tabulate (count) the ballots correctly. It was then that the clerk's office realized they were using an old version of the database. This error was discovered November 20, the day prior to the election. Although the correct database was eventually loaded and all of the ballots rescanned, failure to upload the new database delayed tabulation and created unnecessary confusion.

There are several ways the incorrect database version should have been caught before ballots were tabulated:

1. The clerk's office should have utilized a checklist to ensure that each task was completed and completed properly (Utah Code, section 20A-3a-401.1(5)(e)).
2. The clerk's office should have opened the database loaded on the tabulation equipment to review the new ballot styles prior to tabulation. The office would have seen the corrected database had not been uploaded.

² A cancellation of the election would have required a resolution passed by the city council. The resolution would then have been forwarded to the clerk.

³ A ballot face is a digital proof of what a ballot will look like when printed.

⁴ The tabulation equipment and computer are used to count the ballots after signatures have been verified.

⁵ A logic and accuracy test "is the act of testing every ballot style, from every source, on every piece of voting equipment. The L&A is the first step in testing that an election is programmed correctly, equipment works properly, and results will be tabulated correctly" (Utah Elections Handbook).

3. The clerk's office should have completed a statutorily required logic and accuracy test (L&A) when the new database was received.⁶ These tests must be performed each time a new database is received from the county's vendor (Utah Code, section 20A-5-802). During the L&A, the county clerk would have noticed that the ballot errors persisted by looking at reports procured as part of the L&A. Had an L&A test been performed, it would have been unsuccessful because the incorrect database was being used.
4. If the clerk's office processed ballots as they came in rather than waiting until the day prior to the election, it would have been obvious that the incorrect database was loaded into the system; rejection errors during scanning would have occurred and the wrong ballots would have been shown up in adjudication.⁷

By the end of the election, the county clerk's office had sent two sets of ballots to voters in the towns of Paradise and Amalga. This and other concerning practices observed by a member of the lieutenant governor's staff on Election Day were the impetus for an unannounced visit and review by the Lieutenant Governor's Office on December 5, 2023. This review included all aspects of the election, reports, and processes. The Lieutenant Governor's Office also conducted its own ballot and signature audits to ensure the results of the election were accurate.

Pre-election Administration

Because successful election administration begins long before Election Day, this portion of the report focuses on the responsibilities of a clerk, required vendor maintenance logs, ballot proofing and approvals, and logic and accuracy tests - all tasks that should be performed and completed prior to ballots being mailed to voters.

The Responsibilities of a Clerk

Utah employs a federalist-type system in relation to election administration – responsibilities and authority are distributed between the lieutenant governor, county clerks, and other municipal election officials. Although the lieutenant governor provides training and oversight, statute prohibits her from performing the duties assigned to the county clerk or other election officers (Utah Code, section 67-1a-2(2)(b)(iii)). Thus, successful administration at the county level is the responsibility of the county clerk. Clerks are responsible to “diligently learn and become familiar with the laws, rules, policies, and direction” established in statute relating to elections, and ensure that those elections are conducted accordingly (Utah Code, section 20A-1-106(2)).

Vendor Maintenance Logs

Statutory Requirements of Vendor Maintenance Logs

In relation to vendor maintenance logs, the Utah Elections Handbook states, “The election officer shall maintain a log of all maintenance that is performed. This log must include the piece of equipment, the date, the names of all individuals who supervise the service, and a description of the service performed.” (Utah Elections Handbook: Equipment Maintenance (Logs), Utah Code, section 20A-5-902)

⁶ This is explored in greater depth in the Logic and Accuracy Test section of the report.

⁷ See “Adjudication and Replication” on page 14, paragraph one for an explanation of adjudication.

Vendor Maintenance Logs in Cache County Clerk's Office

The county clerk's office was unable to produce the voter maintenance logs when the lieutenant governor's staff requested them. The logs should always be kept in the area with the machines that are serviced.

Findings and Recommendations		
<p>Finding 1.1: <i>The county clerk's office failed to maintain an equipment maintenance log as required by statute.</i></p> <p>Recommendation 1.1 - The county clerk must create a maintenance log for each piece of equipment. This log should include the name and serial number at the top and the information required in the handbook and statute referenced above. These logs should be maintained in the area where the equipment is stored and updated each time that maintenance is performed.</p>		
Code	Administrative Rule	Handbook/Training Materials
20A-5-902	R623-7-8 R623-8-8	Utah Elections Handbook: 15. Equipment Maintenance 16. Chain of Custody

Ballot Proofing and Approvals

Statutory Requirements of Ballot Proofing

Ballots are a compilation of different races and ballot questions based on an individual voter's assigned precinct. This means that the ballot voters receive will vary by the precinct in which the voter's specific address is assigned within the county. Ballot proofing is the process of reviewing the content of the ballot for accuracy and is the responsibility of both the county clerk and city recorder. Clerks should receive written documentation from the city recorder that the races displayed on the ballot for the municipality are correct.

One important element of ensuring ballots are correct is properly entering and maintaining candidate information in VISTA, the state's voter registration and election administration system. Candidates were improperly deleted out of VISTA rather than being marked as withdrawn or disqualified. Changing candidate statuses in VISTA rather than deleting them from the system ensures that proper records are kept, provides transparency, and enhances the ballot proofing process. VISTA produces reports to use in ballot proofing to ensure that information on ballots is accurate. Because candidate information was improperly deleted, the reports, if used, would have been useless.

Ballot Proofing in the Cache County Clerk's Office

If ballot proofing had been conducted properly, the incorrect ballots mailed to Amalga could have been caught. In addition to the review performed by the clerk and municipal recorders, candidates should have been sent a sample ballot for their review. It is possible that one of the candidates may have noticed the errors on the ballot, and notified the clerk or their city recorder (Utah Code, section 20A-5-405). Utah code requires an election official to "without delay, correct any errors in ballots" (Utah Code, section 20A-1-403). That cannot be accomplished unless ballots are properly proofed. The county clerk's office should continue its efforts to develop a checklist to ensure that ballots are properly proofed before being

sent to the printer, and clearly communicate the importance of thoroughly proofing the ballots to the city recorders.

The Lieutenant Governor's Office has provided ample training on the ballot proofing process. These resources were either underutilized or ignored.

Findings and Recommendations		
<p><i>Finding 1.2:</i> <i>The county clerk's office failed to update its precinct boundaries.</i> Recommendation 1.2 - The county clerk’s office should review all of Cache County’s precinct boundaries and splits to understand why each of them was created. Municipalities and special district stakeholders should be involved in the process. This will aid in preventing ballot error #3 from occurring.</p> <p><i>Finding 1.3:</i> <i>The county clerk’s office and municipal recorders failed to properly proof their ballots.</i> Recommendation 1.3 - Develop written checklist(s) for ballot proofing that include sign-off and approval from other election officials who have races or propositions on the ballot. This checklist should document approval from the vendor creating the ballots and the company who will be printing the ballots. The Lieutenant Governor's Office has already created and provided a basic checklist to all counties that they can refine and adjust to meet their needs.</p> <p><i>Finding 1.4</i> - <i>The county clerk’s office improperly deleted candidates out of VISTA.</i> Recommendation 1.4 - The county clerk’s office should use the “candidate tools and status” in VISTA to manage candidates rather than deleting candidates and races.</p> <p><i>Finding 1.5</i> - <i>The county clerk’s office failed to utilize the resources provided by the Lieutenant Governor’s Office for ballot proofing.</i> Recommendation 1.5 - To prevent what happened in the general election from happening again, the county clerk’s office must review and utilize the resources the Lieutenant Governor's Office has provided and develop processes and procedures internally to ensure that ballot proofing and exact reviews are performed properly.</p>		
Code	Administrative Rule	Handbook/Training Materials
20A- Part 6 20A-1-403 20A-5-405	R623-9	Utah Elections Handbook: 5. Ballot Creation 6. Ballot Design 7. Ballot Delivery

Logic and Accuracy Tests (L&A)

L&A Statutory Requirements

A logic and accuracy test ensures that all tabulation equipment is working properly and that ballots are being tabulated (counted) properly. The Utah Elections Handbook states, “Before counting ballots using automatic tabulating equipment, the county clerk shall test the automatic tabulating equipment to ensure

that it will accurately count the votes cast for all offices and all measures as outlined in Utah Code, section 20A-4-104.” Test decks for each type of ballot are tested to ensure that the tabulation machines are counting ballots properly.⁸ In short, performing a logic and accuracy test is “the act of testing every ballot style, from every source, on every piece of voting equipment” (Utah Elections Handbook).

Both an internal and public L&A are required by statute to be conducted each election. An internal L&A is conducted on all pieces of equipment and every ballot style before the public L&A. The public L&A is a smaller version of the internal L&A; it must be properly noticed and conducted in a public meeting (Utah Code, section 20A-4-104(1)(b)). During the public L&A, at least one piece of every type of election equipment should be tested. The machines tested should be selected at random. A “zeros” report should be printed and signed before running the test deck. This report demonstrates that there are no results loaded on the machine. A log should also be kept showing that the appropriate test deck was used, and verification that the results of running the ballots matched the predetermined or expected results (Utah Code, section 20A-1-102(26)).

Completed L&A tests are documented through the following reports which are verified and signed by two election workers. These reports should be produced for each piece of equipment tested both internally and publicly:

- A zeros report from each tabulation machine. A zeros report shows that there have been no ballots tabulated for that election.
- A summary results report from each scanner that matches the expected results. This summary report shows that there have been no ballots tabulated for the election.
- A zeros report from the reporting software.
- A summary results report from the reporting software that matches the expected results. The summary report allows a county to compare the tabulation results to the expected results from the sample ballots used.

Once the L&A has been completed, the test decks should be securely stored away from all other ballots in a box clearly marked “test deck.”

Logic and Accuracy Tests Performed by the Cache County Clerk’s Office

In this year's municipal general election, the Cache County Clerk’s Office should have conducted two logic and accuracy tests. It remains unclear how, or if, the first two L&As were properly completed. The county clerk’s office was unable to provide the necessary documentation on site. The Office of the Lieutenant Governor requested this information in a follow-up to our visit, but only some of the information requested was provided. Below is a timeline of the information obtained during our December 5 visit and in follow-up correspondence in relation to the three logic and accuracy tests that should have been performed:

⁸ A test deck is a set of demo ballots that are pre-marked and mirror the actual ballots that will be processed on the tabulation machine(s). Because the test deck results are known, election workers can use them to ensure that the machine is tabulating (counting) votes properly.

1. (L&A #1) The original database on the tabulation equipment included all three ballot errors mentioned above. The clerk's office reported that an L&A was done on October 27, 2023, but the reports later sent to the Lieutenant Governor's Office were dated October 26, 2023.

After the visit by the lieutenant governor's election staff on December 5, the Cache County Clerk was sent a follow-up request for additional documentation on the reports that should have been produced as part of the L&As allegedly conducted. The Lieutenant Governor's Office identified several problems in the L&A reports provided by the county clerk's office:

- None of the reports were signed by the individuals who performed the tests.
- Two reports contained a timestamp that was the same day and time down to the second. Since the reports are generated from separate equipment, an identical timestamp was highly irregular and unlikely.
- The reports, allegedly created during the first L&A performed on October 26, 2023, contained the corrected races for Paradise and Amalga. This was impossible since the clerk's office was unaware of the incorrect ballots until November 1, 2023. This suggested that the reports had been altered by someone with the necessary access. The issue was immediately brought to the county clerk's attention, and an investigation into the matter is being conducted by the Cache County Attorney's Office.

Failure to complete this L&A test and the submission of falsified reports are obviously troubling. Logic and Accuracy tests are essential to ensuring that election results are tabulated correctly. However, since this old version of the database was not used, it did not affect the outcome of any races.

2. (L&A #2) A second internal L&A should have been conducted by the clerk after receiving the corrected database from the county's election vendor. The county clerk admitted to the state elections director on December 8, 2023, that this L&A was never performed. This directly contradicted what the lieutenant governor's staff had been previously told by members of the clerk's election staff. During the election, the Lieutenant Governor's Office repeatedly emphasized that the clerk's office would have to conduct a new L&A test, and were repeatedly assured that a new L&A would be performed. Upon review, it was clear that the county clerk did not conduct a new L&A. Had this L&A been done, the clerk's office would have known prior to November 20 that the wrong database was loaded on the tabulation equipment.
3. (L&A #3) Because test decks were improperly mixed and due to ongoing confusion over the database versions, the Office of the Lieutenant Governor and the county's election vendor, Election Systems and Software (ES&S), ordered a new L&A to be done on the evening of November 20, 2023.⁹ Because all the previous test decks, regardless of the version, were stored in the same box, it was impossible to identify which test deck belonged to each version of the database. This necessitated the creation of a new test desk by the county's election vendor to ensure the version was correct and accurate. The new test desk was printed by the Cache County Clerk's office, and the third L&A performed. The clerk's office was then able to begin processing ballots.

⁹ ES&S was on site during the L&A and remained on site to provide assistance.

Findings and Recommendations		
<p>Finding 2.1: The county clerk’s office failed to perform a statutorily required L&A prior to election day. Falsified documents were presented to the Lieutenant Governor’s Office in an attempt to certify the L&A had been performed.</p> <p>Recommendation 2.1 - A full internal L&A must be completed and documented in accordance with the election handbook and 20A-4-104 <u>before</u> any ballots are processed.</p> <p>Finding 2.2 - The county clerk’s office failed to perform a statutorily required public L&A prior to election day.</p> <p>Recommendation 2.2 - A public L&A must be completed and documented in accordance with the election handbook and 20A-4-104 <u>before</u> any ballots are processed.</p>		
Code	Administrative Rule	Handbook/Training Materials
20A-1-102(26) 20A-4-104	R623-8-10	Utah Elections Handbook: 13. Logic and Accuracy Testing 16. Chain of Custody

Section Two: Chain of Custody, Signature Verification, and Tabulation

Chain of Custody:

Statutory Chain of Custody Requirements

Chain of custody is the “sequence of custody, control, and transfer of (election) materials” (Rule 623-8). Administrative rule, statute, and the Utah Election Handbook (Section 16) provide guidance, direction, and requirements for both ensuring proper chain of custody and documenting it. The following are required by law (Utah Code, section 20A-3a-401.1):

- Two people must accompany ballots any time they are collected, handled, or delivered (Utah Code, section 20A-5-403.5(7)).
- The names of individuals handling ballots in each stage of the election process must be documented, along with the date and time the ballots were handled.
- Ballots must be sealed upon collection, and the seal numbers documented.
- Any damage to ballots, ballot boxes, or concerns when retrieving ballots should be documented.
- After ballots are collected and returned to the ballot center, a log should be completed documenting who retrieved the ballots and the date/time they returned. The seal numbers should also be documented to ensure they match with the seal numbers used when the ballots were retrieved.

As ballots are prepared for processing, administrative rule (623-8) and state statute (Utah Code, section 20A-3a-401.1) require that ballots be placed in batches. Placing ballots into batches upon arrival at the ballot center ensures that each ballot is tracked from beginning to end, and makes managing and reconciling ballots much easier. Batch cards should be used to document chain of custody throughout the

process.¹⁰ This rule and code section also clearly outline the chain of custody requirements as ballots are processed.

Chain of Custody in the Cache County Clerk's Office

Chain of custody was virtually non-existent in Cache County's 2023 municipal general election. There was no documented chain of custody for ballots collected from the county office building or from drop boxes. A single election worker was observed multiple times delivering ballots to the ballot center. Ballot bags were not sealed. There was no record kept of how many ballots were in them, where they were from, or who handled them. Batch cards were not used during the 2023 primary or the 2023 general election, making it impossible to determine who handled ballots during each phase of processing.

Although the Lieutenant Governor's Office found no evidence of fraud, poor chain of custody practices introduced numerous opportunities for bad actors to have impacted the county's election results. The Lieutenant Governor's Office has provided multiple trainings on both the importance of chain of custody and on best chain of custody practices. The actions of the Cache County Clerk's Office in relation to chain of custody demonstrate both a pointed lack of understanding of, and blatant disregard for, statutorily required chain of custody practices. Most of the problems the Lieutenant Governor's Office observed during its review would have been prevented or detected had the clerk's office followed proper chain of custody controls. Chain of custody is the foundation of election integrity and must be strictly enforced throughout every step of ballot processing.

The absence of proper chain of custody also made statutorily required reconciliation impossible.¹¹ Because ballots were never batched, the clerk's office could never determine if the number of ballots scanned in each batch matched the number of ballots that were processed. Ballots were repeatedly reintroduced onto a table with other ballots as explored in the next section. This further obscured the total number of ballots. These chain of custody issues also plagued the recount, making it much more difficult and time consuming to conduct than was necessary.

Signature Verification:

Once ballots arrived at the election center, they were prepared for signature verification. After the ballots were placed in a large pile on a table, the tabs were pulled off so the signatures could be scanned by the automated signature verification machine, the Mail Ballot Verifier (MBV). The envelopes were then fed into the MBV machine to be scanned for the first round of signature verification. The machine also grouped ballots into batches of 200.

As the machine processed ballots, they were separated into two groups:

- Group 1: This group consisted of ballots from the correct election that were signed.
- Group 2: This group consisted of ballots that were spoiled, from the wrong election, did not have a signature, or were otherwise unreadable. These ballots are commonly referred to as "diverted."¹²

¹⁰ A batch card documents who handled a ballot in any given phase of the process.

¹¹ Reconciliation is the process of ensuring that the number of ballots received, the number of ballots tabulated (counted), and the number of individuals that received vote credit match.

¹² A spoiled ballot essentially means a canceled ballot. A ballot may be spoiled if a voter has moved and failed to update their address, received the wrong ballot, or requested a new ballot.

Each of these outcomes is explored in greater depth below.

Group 1 Ballots - Signature Review and Challenges

Group 1 ballots were put in trays and set aside while up to three levels of signature review were performed. There were three steps to the process:

1. The MBV completed a first level signature review and ballots that passed were marked as good. The machine also identified those signatures that needed further review.
2. The ballot envelopes that passed signature review were opened using a machine, placed on a table, then separated from their envelopes. They were then picked up and sorted into groups of approximately 200 ballots and sent for tabulation.
3. All signatures that failed the automatic review performed by the MBV were then reviewed by a trained election worker;¹³ signatures that passed the second review were marked as good; those that failed the second review were pulled from the ballots in Group 1. These pulled ballots are known as challenged signatures. A report can be printed in the MBV software to facilitate removing challenged signatures, but it appears this report was not always used.
4. The challenged ballots were placed into bins and taken back to the main office in Logan for a third round of signature review. If the signature failed a third level of review, the ballot's information was logged into a Google Sheet; the ballots then had to be cured (corrected) by the voter. Using the information in the spreadsheet, the clerk's office sent a cure letter with an affidavit for the voter to sign.¹⁴ If the voter returned the affidavit and the signature was verifiable, their vote was counted.

Group 2 Ballots - Diverted Ballots

Occasionally the MBV will divert (separate) a ballot onto a separate tray on the machine. Common reasons a ballot may be diverted include the following:

- there is no signature on the ballot
- the barcode is unreadable
- the ballot is from the wrong election
- the ballot was spoiled

Diverted ballots are still considered part of the initial batch of 200 ballots processed by the MBV, and should be documented as being diverted on the batch card. The diverted ballots can then be rebatched as necessary, but the clerk should always be able to trace the diverted ballots back to their original batch. The diverted ballots were taken by a staff member and reviewed to identify why they were diverted. Some ballots were given manual vote history and re-introduced for processing/tabulation. They were not assigned a new batch number, recorded, or accounted for and were reintroduced to the pile of the ballots on the table.

¹³ Documentation was provided to the Lieutenant Governor's Office that each worker had completed the training required under Utah Code, section 20A-7-107(3)(b).

¹⁴ A cure letter notifies a voter that the clerk's office was unable to verify the signature on their ballot, and outlines the process by which a voter can correct the issue. An affidavit is included for the voter to sign and return.

Statutory Requirements vs. Practices in the Cache County Clerk's Office

Administrative rule R623 clearly outlines the chain of custody requirements as ballots are being processed. In addition to processing ballots in a space that is secure and monitored, election officials must ensure:

- Ballots are divided into batches and separated from other active ballots through each phase of processing.
- The phase each batch of ballots is in can be identified.
- Perform reconciliation each time ballots are processed to ensure that the number of ballots, the number of ballots processed, and the number of individuals that received credit for voting match.

The Office of the Lieutenant Governor is concerned that failure to utilize the MBV reports and failure to properly segregate batches could have inadvertently created opportunities for unverified or challenged ballots to be counted. On at least two occasions in Cache County's 2023 municipal general election, trays of Group 1 ballots moved to the ballot opening process before signature review was completed or challenged ballots were removed from the machine. It appears this was corrected before ballots were removed from their envelopes, but this represents a serious vulnerability in the process.

Challenged ballots were handled incorrectly as well. The Google Sheet used by the clerk's office contained sensitive information; various employees, (including seasonal workers) were given unrestricted access to the sheet, and were able to access it at any time on any device. While convenient, using a Google Sheet defeats the security features of VISTA, and violates good chain of custody practices. If the ballot was returned, the clerk's office looked up the voter ID and manually gave the voter credit for voting. Manual vote history should rarely, if ever, be given to a voter because it is prone to human error and key security features in VISTA. VISTA has several features and reports that can be used to manage both challenged ballots and to give voters voting credit. These include the "Not Counted Absentee Labels" report and the "Absentee Ballot - Scan returned absentee ballots" page. Training on how to utilize these reports has been provided to the county clerk's office.

Also of concern were the repeated violations of chain of custody throughout the signature review process. There were no logs documenting what ballots were separated from the group, how many were separated, who separated them, when they were separated, how they were transported, or what happened to the ballots after undergoing third round verification. It appears that after receiving vote history, challenged ballots were returned to the ballot center for further processing. No logs or tracking information accompanied these ballots. Ballots that were not cured remained at the office. Having two different locations for processing ballots is a poor practice, and should be corrected.

The ballot envelopes were also improperly stored. The envelopes were not grouped, which made it impossible to determine which envelopes were associated with a particular batch. This is important because occasionally a ballot may be inadvertently left in an envelope. Without properly batching and labeling the envelopes, it was impossible to associate a batch of envelopes with a batch of ballots.

Tabulation

Once ballots have been through signature verification, they then move to tabulation. There were no logs, records, or tracking that accompanied the ballots from the signature verification phase to ballot tabulation,

a clear violation of chain of custody. The clerk's office uses two DS450 scanners to tabulate ballots. The same person was observed operating both scanners and at times performing other tasks, answering questions, taking phone calls, etc. These machines should each have their own operator when running, and that individual should be free from other tasks to prevent errors.

After tabulation was complete, the ballots were rubber banded and placed in unlabeled boxes. The tabulated ballots were never reconciled against a known starting quantity, because there was no known starting quantity to match against; the ballots had all been mixed together on a table and never logged or documented, thus making it impossible to reconcile. The rubber bands used were too small and cut into the side of ballots. This damage slowed the recount process. Furthermore, if a batch had to be deleted from the DS450 and re-scanned, the lack of original batch numbers caused confusion during the recount. Several hours were lost tracking down batches that did not exist.

Findings and Recommendations

Finding 3.1 - The county clerk's office failed to properly log or document ballot retrieval. Ballot retrieval was performed by a single individual.

Recommendation 3.1 - Ballot collection must be documented and involve two election officials in accordance with R623-8-5 and 20A-3a-401.1.

Finding 3.2 - The county clerk's office failed to properly batch ballots or document ballot chain of custody on batch cards.

Recommendation 3.2 - Ballots must be separated into batches when first received for processing and kept together in that batch for the duration of processing. When ballots are removed from a batch because they are diverted, or challenged, they must be logged and accounted for. The documentation must include the poll workers initials, date, time, and reason. No additional ballots should ever be introduced or commingled with ballots from another batch. At the end of processing, the number of ballots tabulated must be reconciled to the number of ballots that were initially in that batch (See 20A-3a-401.1(4)(5)).

Finding 3.3 - The county clerk's office failed to separate batches of ballots as required by law (Utah Code, section 20A-3a-401.1(5)(a)) and Administrative Rule R623-8-6.

Recommendation 3.3 - Ballots that are in Group 1 stage of signature review should be placed in a colored tray that is different from other ballots and stored in a location where they cannot be confused with other batches that have been reviewed (Utah Code, section 20A-3a-401.1(5)(a), administrative rule R623-8-6)

Finding 3.4 - Ballots were processed in two locations: the county clerk's office and the ballot center.

Recommendation 3.4 - Ballots should never be removed from the ballot center for any reason. Undeliverable ballots and challenged ballots should be processed at the ballot center. This may necessitate the purchase of additional computers to perform those functions on site.

Finding 3.5 - Diverted ballots were not properly batched and handled according to statutorily required chain of custody procedures.

Recommendation 3.5 - The process for handling diverted ballots should be documented with clear chain of custody and reconciliation procedures. Diverted ballots should be logged in new batches with new control numbers while maintaining the ability to trace them back to their original batch if necessary. They should never be added or comingled with the ballots of an existing batch (See 20A-3a-401.1(4)(5)).

Finding 3.6 - The county clerk's office used a Google Sheet rather than VISTA to track challenged ballots. This exposed personal information and created greater potential for errors.

Recommendation 3.6 - Use the built-in VISTA reporting tools to track and send challenged ballot notices instead of using a Google Sheet. If the sheet is used, access and security should be reviewed to ensure proper usage and control.

Finding 3.7 - Ballots were improperly separated from their original batches and repeatedly handled by one election worker, violating statutorily required chain of custody procedures.

Recommendation 3.7 - Ballots must remain together with their original batch. Two election workers should work on a single batch at a time as they prepare them for scanning (See 20A-3a-401.1(5)(e))

Finding 3.8 - Ballots were damaged when stored because the rubber bands used were too small. The ballot batches were improperly labeled when stored.

Recommendation 3.8 - Use larger rubber bands or card stock to divide the ballots in storage boxes. Each batch should be clearly labeled and separated in the box. This will organize the ballots without damaging them.

Finding 3.9 - The county clerk's office failed to perform statutorily required reconciliation when processing ballots.

Recommendation 3.9 - The number of ballots in a batch should be reconciled with the number of ballots counted by the tabulation machine. No batch should be finalized until the difference between the number of ballots in a batch and the number of ballots tabulated is zero. When the batch fully reconciles, the batch card should be signed and then retained with the other election materials.

Finding 3.10 - The county clerk's office failed to properly label and store ballots after processing was complete.

Recommendation 3.10 - Scanned ballots should be prepared for storage, placed in a storage tote, and sealed. Each county was offered sealable storage totes through Help America Vote Act (HAVA) grant funds available through the Lieutenant Governor's Office. The clerk's office should purchase these totes and seek reimbursement through the grant program. The totes should be clearly labeled with the batches, quantities, date processed, election, and destroy date. Once properly labeled, it should be sealed and securely stored for 22 months (Utah Code, section 20A-4-202(1)).

Finding 3.11 - The county clerk's office failed to perform a statutorily required reconciliation after ballot processing was complete.

Recommendation 3.11 - After each scanning session a reconciliation must be performed by the clerk to ensure that the number of individuals that received vote credit, the number of ballots prepared for scanning, and the number of ballots scanned match. This reconciliation was a point of failure during the primary election. As part of our review, The Lieutenant Governor's Office requested a copy of the reconciliations performed by the clerk's office; they were not sent in a timely manner and were incomplete. These reconciliations are paramount to ensuring that each verified ballot was scanned and that no batches were scanned multiple times (Utah Code, section 20A-4-109). Statute requires that these reconciliations be publicly available. A final reconciliation is required as part of the canvass report (20A-4-304(2)(g)).

Finding 3.12 - County election staff were observed performing multiple tasks at the same time. This created unnecessary confusion and opportunities for error.

Recommendation 3.12 - Each process should have a dedicated staff member assigned to oversee that process. These staff members should be free from other responsibilities and distractions while the process they oversee is performed.

Finding 3.13 - Based on observations during the review, the county election's office may be inadequately staffed and undertrained.

Recommendation 3.13 - Cache County should review their election staffing plan to determine if more staff are needed, and whether more time should be dedicated to elections to build institutional knowledge and increase employee capacity to oversee processes.

Code	Administrative Rule	Handbook/Training Materials
20A-3a-401.1 20A-4-304(2)(g) 20A-4-109 20A-4-202(1)	R623-8-5	Utah Elections Handbook: 10. Voting Methods (Ballot Collection) 16. Chain of Custody 17. Ballot Processing

Signature Verification and Signature Verification Audits

Statutory Requirements for Signature Verification

As mentioned previously, signatures that the MBV was unable to verify were sent for a second round of review by election workers. Each election worker is required to complete the signature verification training course provided by the Lieutenant Governor's Office (Utah Code, section 20A-1-107(3)(b)). Audits of signature verification performed by election workers are also required by law (Utah Code, section 20A-3a-402.5). The purpose of the signature verification audit is to ensure that election workers perform signature verification by properly passing or challenging ballots prior to tabulation (Utah Code, section 20A-3a-402.5).

Signature verification audits must be performed on 1% of all ballot envelopes **prior** to any passed ballots in that group being separated from their envelopes **and** on 1% of all challenged ballots prior to separating

ballots from the envelopes. This allows the clerk to find and address any issues prior to tabulation. Statute and policy allow election officials to set the timing of the audit so as not to interfere with process flows. These audits must occur regularly throughout ballot processing and can be done daily, hourly, etc. as the clerk chooses.

Elections officials must do the following as part of the signature verification audit:

1. Ensure that each election worker performing signature review has completed the signature verification training provided by the Lieutenant Governor's Office.
2. Conduct a signature review audit on passed ballots before separating them from the envelope and tabulating the ballots.
3. Conduct a signature review audit on challenged ballots prior to sending out cure notifications to voters whose ballots have been challenged. Ballots that were initially challenged and have been reviewed at least once by an additional person who is trained in signature verification are considered audited.
4. Create a written policy for determining the 1% selection of ballots to be audited. Selecting random samples that check signatures in multiple batches and multiple election workers is ideal. Audit processes will vary by county as there are differing election processes and equipment. The county's written policy should be provided to the Lieutenant Governor's Office and be made available to anyone who requests a copy.
5. Auditors cannot audit their own work, and the same auditor should not conduct all audits.
6. Auditors will compare the signature on the envelope to the signature(s) on file in VISTA to determine if the correct decision was made to count or challenge the ballot. If the auditor finds a discrepancy, they should note the issue and audit a larger sample of that individual's work.
7. Clerks must provide additional training or staff reassignments, as needed, based on the results of the audit. The additional training should be documented and included with the audit summary report.
8. Document each audit that is performed and submit the audit reports in accordance with Utah Code, section 20A-3a-402.5(4).

Signature Verification/Signature Verification Audits Performed by the Cache County Clerk's Office

Although two audits allegedly took place, there is no log documenting who performed the audit, or when (Utah Code, section 20A-3a-402.5(4)). One audit was reportedly performed on November 17, 2023, with 400 ballots, and another on November 20, 2023, with 200 ballots. Both signature audits were performed by the same individual who initially verified the signatures, violating Utah Code and the provisions mentioned above. Signature verification audits must be performed every time ballots are processed and before the ballot is separated from the envelope. Signature audits cannot be conducted by the same individual who did the initial signature review (Utah Code, section 20A-3a-402.5(2)).

After the audit was completed on November 20, 2023, a staff member was moved off of signature verification. This issue could have been caught earlier and used as a training opportunity if ballot processing had begun earlier, and 1% of all signatures had been audited from the beginning rather than only twice. The clerk's office would also have had more time to audit a larger portion of the employee's work if ballot processing had begun earlier.

The importance of signature verification training was clearly illustrated during the recounts for Logan and Hyrum cities. In accordance with the statute, all uncounted ballots were reviewed (Utah Code, section 20A-4-401(1)(e)). Many errors in signature verification were found, resulting in 40 ballots being added for tabulation as part of the recount.

Findings and Recommendations		
<p><i>Finding 4.1</i> - The county clerk's office failed to perform statutorily required signature audits as outlined in Utah Code.</p> <p>Recommendation 4.1 - Conduct signature audits regularly during ballot processing and complete these audits before separating any ballot from its envelope (Utah Code, section 20A-3a-402.5).</p> <p><i>Finding 4.2</i> - When signature audits were performed, the individual performing the audit was auditing their own work.</p> <p>Recommendation 4.2 - Never allow an individual to conduct an audit on their own work (Utah Code, section 20A-3a-402.5(2)).</p> <p><i>Finding 4.3</i> - The county clerk's office has not submitted their audit policy to the Lieutenant Governor's Office.</p> <p>Recommendation 4.3 - Submit a written policy to the Lieutenant Governor's Office on randomly selecting signatures to audit in accordance with the Lieutenant Governor's Audit Policy - Signature Verification Audit Policy (4).</p> <p><i>Finding 4.4</i> - The county clerk's office failed to properly document the signature audits performed.</p> <p>Recommendation 4.4 - Document each signature audit that is performed. The log should include the date, time, ballots audited, who performed the audit, the findings of the audit, and remedial action. (20A-3a-402.5) and the Lieutenant Governor's Audit Policy.</p> <p><i>Finding 4.5</i> - The county clerk's office failed to properly batch envelopes after ballots were removed from them.</p> <p>Recommendation 4.5 - Once ballots are separated from an envelope, the envelopes should be bundled in batches that correspond to the ballot batches and stored for 22 months.</p>		
Code	Administrative Rule	Handbook/Training Materials
20A-3a-402.5 20A-4-401(1)(e) 20A-1-107(3)(b)	R623-11 (pending)	Utah Elections Handbook: 17. Ballot Processing Lieutenant Governor's Audit Policy

Adjudication and Replication

Statutory Requirements for Adjudication

After signature verification is complete, ballots are then tabulated (counted) by scanners. Occasionally a scanner may be unable to determine how an individual voted on their ballot. If this occurs, the ballot is sent for adjudication. Adjudication is the process of determining a voter's intent on a ballot. Some

common reasons adjudication may be necessary include write-ins, overvotes, unclear markings or marks outside of the target area (ballot bubble), having no contests marked on the ballot, or the ballot being unreadable by a scanner (Utah Elections Handbook and Voter Intent Guide).

Adjudication in the Cache County Clerk’s Office

Ballot adjudication takes place in the Cache County election center on a large monitor. Two individuals then review scanned images of ballots to determine the voter’s intent. During our election review, there was not a copy of the state Voter Intent Guide available at the adjudication station, nor were adjudicated ballots properly documented. A county election staff member explained the adjudication log is currently kept on their computer. This log was never produced. The adjudication log should be signed by those who completed adjudication and stored where it is accessible for review by the public or by county election staff. It should also document who performed the adjudication in Electionware.

Statutory Requirements for Replication

Occasionally a ballot may be damaged and need to be remade so it can be scanned by the tabulation equipment. As noted in the Utah Elections Handbook, “If any ballot is damaged or defective so that it cannot be properly counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly: (1) make a true replication of the ballot with an identifying serial number; (2) substitute the replicated ballot for the damaged or defective ballot; (3) label the replicated ballot "replicated"; and (4) record the replicated ballot's serial number on the damaged or defective ballot (Utah Elections Handbook, 20A-4-104(3)).”

In accordance with code, the Office of the Lieutenant Governor has prepared a log/form for counties to use when a ballot must be remade. Code requires the following to be included in that log (Utah Code, section 20A-4-104(3)):

- the serial number;
- the initials of the individuals who replicated the ballot;
- the reason for the replication; and
- any other information required by the lieutenant governor.

Replication in the Cache County Clerk’s Office

The replication log currently used by the clerk’s office is not the log prepared by the Lieutenant Governor's Office, nor does it contain all of the information required in statute. The clerk’s office used an electronic log that does not provide an auditable tracking number and does not contain a record of who remade the ballot. This log was unavailable for the lieutenant governor’s staff to view during the election review, but was provided when requested in a follow up.

Findings and Recommendations

Finding 5.1 - *The instructions placed on the ballot explaining how a voter can remedy a mistake on their ballot may cause confusion.*

Recommendation 5.1 - The county clerk’s office should revise the instructions placed on the ballot explaining how a voter can correct an error or mistake.

Finding 5.2 - *The adjudication log used by the county clerk's office does not comply with statute. Adjudications performed by the county were not properly logged.*

Recommendation 5.2 - The county clerk's office must create and use an adjudication log that is signed by the workers who performed the adjudications. The log should be stored where it is accessible and can be reviewed by the public (R623-8-6).

Finding 5.3 - *The Clerk's election staff may not have reviewed the voter intent guide before the election.*

Recommendation 5.3 - Workers performing adjudication should be required to review the voter intent guide before each election. A copy of the voter intent guide should be placed at each adjudication station.

Finding 5.4 - *The county clerk's office failed to use the replication log created by the Lieutenant Governor's Office as required by statute.*

Recommendation 5.4 - Begin using the replication log provided by the Lieutenant Governor's Office in accordance with Utah Code, section 20A-4-104(3).

Finding 5.5 - *The county clerk's office was unable to provide the replication log when requested during the review, but did so later.*

Recommendation 5.5 - Maintain the replication log where it is available to election workers, and to the public. At the end of each day, a digital copy of the log should be stored and maintained for 22 months 20A-4-104(3)(c).

Code	Administrative Rule	Handbook/Training Materials
20A-4-104 20A-4-104(3)	R623-8-6	Utah Elections Handbook: 17(I) Ballot Processing (Remakes) 18: Voter Intent Guide

Section Three: Post-Election Administration

Ballot Storage

Statutory Requirements for Ballot Storage

After an election is over, ballots must be properly labeled and stored in accordance with code and administrative rule. (R623-8-10; Utah Code, sections 20A-1-102(26), 20A-3a-404, 20A Part 4) The following are required for each box holding election materials:

- a description of the contents
- the name and date of the election
- the destruction date

Ballot Storage in the Cache County Clerk's Office

Although Cache County ballots are currently being stored in a secure facility, they were not properly labeled in accordance with administrative rule as of the date of the review. The state has repeatedly

notified counties that the Lieutenant Governor's Office has Help America Vote Act (HAVA) funds available to assist in purchasing totes and seals for ballot storage (See also Recommendation 3.10).

Findings and Recommendations		
<p><i>Finding 6.1</i> - <i>The county clerk's office failed to store ballots in accordance with Utah Code and administrative rule.</i></p> <p>Recommendation 6.1 - Store scanned ballots in sealable totes. These totes should be clearly marked with the batches, dates, and retention period. The totes should then be sealed and stored for 22 months following the canvass.</p>		
Code	Administrative Rule	Handbook/Training Materials
20A-1-102(26) 20A-3a-404	623-8-10	