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TO: Michael Curtis, Chair
State of Hawai'i Elections Commission

SUBJECT: Report on the Investigation into State and Kauai County Compliance with
HAR 3-177 and Discrepancies in Ballot Counts and Recommendations to
the State of Hawai'i Elections Commission

DATE: July 13, 2025

This is a report of the Permitted Interaction Group (PIG), which concludes:

- The complaints regarding chain of custody and election result discrepancies on Kauai are valid.
- No logs or records complying with HAR 3-177-453 (b) requiring "The clerk shall maintain a complete and current count of all mark sense ballots issued, spoiled, and received in their county" were received from the County of Kauai.
- The count - based on scans of ballot envelopes into the Statewide Voter Registration System (SVRS) - is not reconciled with any manual counts and is not verifiable.
- The number of mail-in ballots increased from the number collected (26,633 less 219 rejected in signature verification as reported by the County, but not officially) to the final number counted on Kauai (27,075 - as officially reported by the State). No plausible explanation for the increase of 661 ballots was offered by Chief Election Officer Scott Nago or the Kauai County Clerk.

PIG Investigation Summary

The Permitted Interaction Group (PIG) was formed at the March 19, 2025 meeting of the Elections Commission with three members: Peter Young (Chair & Commissioner), Anita Aquino (Member & Commissioner), and Lindsay Kamm (citizen member). Its charge was to collect information to validate complaints regarding chain of custody and election results discrepancies on Kauai, then to present its findings and make recommendations back to the State of Hawai'i Elections Commission.

On March 17, 2025, Chief Election Officer Scott Nago wrote to the Elections Commission stating that, despite inquiries, “election officials, at all levels, work with the utmost integrity and dignity to ensure secure and accurate elections.” He also stated that the division of election responsibilities between the counties and the State is meant to prevent fraud. He further explained that the various checks and balances that assure an honest and accurate election may not be visible to an observer and may occur at some other point in time. The PIG recognizes the excellent work of the various election units throughout the State and commend their continued efforts to improve the processes involved in State of Hawai‘i [various] elections each year.

On April 11, 2025, the PIG sent letters to Mr. Nago and the County Clerk requesting the daily records of the number of ballot envelopes received by the counties, the number verified, and the number transferred to the Counting Centers. The PIG asked the Clerk to demonstrate how they fulfilled HAR 3-177-453, which specifies,

“The clerk shall maintain a complete and current count of all mark sense ballots issued, spoiled, and received in their county. The accounting of mark sense ballots by the clerk shall be recorded on forms prescribed by the chief election officer.”

Over the last three months, the PIG has had several written exchanges with Chief Election Officer Nago, Kauai County Clerk Jade Fountain-Tanigawa, and Kauai Deputy Clerk Lyndon Yoshioka. Both offices have responded to our requests, furnished documents, and offered explanations.

They have not, however, provided a clear understanding of how the checks and balances work, nor have they removed doubt about the integrity of the election procedures. The PIG did not receive documents that comply with the law cited above. There are discrepancies in the processes for us to have full confidence in 1) the County of Kauai’s ballot envelope count (manual hand-count vs. official count), or 2) the Statewide Voter Registration System (SVRS).

Specifically, the number of ballot envelopes increased from the number collected (26,633) to the number transferred to the Counting Center (26,954) after the 219 ballot envelopes that did not pass signature verification were removed. Both these counts are less than the total mail-in ballots counted on Kauai as reported by the State (27,075). Lyndon Yoshioka’s response to four separate questions is that

“Any perceived inconsistency or correction within the manual hand-counts of return identification envelopes is irrelevant to the official election results, as they do not represent the official count.”

While this quote is true to fact, it does leave the PIG members trying to understand why there is a manual hand-count if it is “irrelevant” and why this manual hand-count discrepancy is not noted throughout the County’s documentation to address this confusion. The word “irrelevant” is off-putting to the members of the PIG.

The breakdown with the County occurs because all the documents that record the number of ballot envelopes received from the post office and collected from the ballot boxes have a disclaimer printed on them:

Figures in this spreadsheet represent a manual count of envelopes – not the number of ballots counted. This spreadsheet was created for internal purposes to track election progress with the understanding that it would not match official election results.

If this manual hand-count is not official, providing a full explanation at each hand-count iteration would address this discrepancy from the counts that are official. The PIG could not find any iterative explanation between the manual hand-count and the official count. There appears to be no inventory control of ballot envelopes, and the Statewide Voter Registration System (SVRS) logs are electronic and unverifiable by the PIG. Although the law clearly makes the Counties responsible for this task and the State assures the people that there is a chain of custody in which every ballot envelope is accounted for, there remain questions. In addition, the law does not provide for Official Observers outside of the Counting Room; if they are allowed to observe ballot envelope collection or signature verification, it is as a courtesy.

Mr. Nago stated in his letter to the PIG on April 25, 2025:

“Overall, the structure of sharing responsibilities between entities (State and County) creates natural checks and balances such as the comparison of the number of voters who cast their vote in the election -maintained by the County Clerk, to the number of voted ballots counted – compiled by the Office of Elections.”

In theory, it sounds valid, but in practice, there is no reconciliation between the two. One would expect the number of signature-verified ballot envelopes in SVRS to equal the number delivered to the Counting Center, but neither of those numbers are provided in real time, nor are they official. Mr. Nago states that the official count begins when the ballot envelopes are scanned by the Counties and recorded in the SVRS. This, then, is where the chain of custody begins, but there are opportunities to remove or add ballot envelopes prior to scanning.

PIG Recommendations

Having concluded our investigation, the PIG's recommendations are as follows:

- 1) Hold the State and County officials accountable for what happened during the 2024 General Election:
 - a. From the County, request an official audit of ballot envelopes from the collection points to the transfer to the Counting Center.
 - b. From the State, request an official audit to confirm that the State has 27,075 mail-in paper ballots in its possession.
 - c. Hold a hearing to address the State and County elections officials about how the total number of mail-in ballots counted on Kauai grew to 27,075. This is in keeping with 3-170-9: "The elections commission may convene a public hearing to receive evidence and to solicit public comment concerning the investigation. Such a public hearing will be held within a reasonable time after the elections commission has completed its investigation."
- 2) Request that efforts be made to modify the administration of elections in the future and change the rules to ensure:
 - a. Counties keep an accurate official daily count of ballot envelopes collected and received and publish a summary of the same. Any discrepancies between manual hand-count and official count be explained and attached to all summary statements of an election. This is not irrelevant.
 - b. Allow Official Observers to be present for collection of ballot envelopes from ballot boxes and the sign-off on the numbers recorded.
 - c. Allow Official Observers to be present for all steps of Signature Verification and sign-off on results.
 - d. Counties keep an official record of the number of ballot envelopes that do not pass signature verification each day and publish a chart summarizing those numbers.
 - e. Counties keep an official count of ballot envelopes transported to the County Centers and publish those counts. These counts should be included in any manual hand-count vs. official count discrepancy reports that are attached to any election summary report.