



Gardenia M. Henley/Diplomat/Ret.
*“The Tough Issues Must Always Be
Addressed And Dealt With Effectively”*

THE HENLEY REPORT VII

REPORT OF FORSYTH COUNTY BOARD OF ELECTION’S CONFLICT WITH THE U.S. POSTAL SERVICE

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DECEMBER 31, 2013

MEMORANDUM

FOR: *USPS
NCSBOE, FCBOE, WSSU, et al.*

FROM: *Gardenia M. Henley Diplomat/FSO/Ret.*

SUBJECT: *REPORT ON THE FORSYTH BOARD OF ELECTION CONFLICT WITH
THE U.S. POSTAL SERVICE*

I am respectfully presenting *The Henley Report VII* for your immediate attention. The contents of this report contains numerous instances where the Forsyth County Board of Election (FCBOE), the North Carolina State Board of Election (NCSBOE) and the Winston Salem State University (WSSU) Post Office did not always follow the United States Postal Service (USPS) guideline and regulations especially as it applies to the State of North Carolina Voter Data Card Mailings. Although these regulations were ignored by at least one university WSSU, the USPS guidance may have also been ignored by other state and local universities and other entities which have U.S. Postal Service contracts. Instances of these violations are supported by responsible appointed officials own admissions and are also supported by affidavits and other “sworn to” statements, given by current and former FCBOE, NCSBOE, university employees, and by other media reports and my own observations. Specific supporting documentation will be made available to you upon request.

The USPS should assure that the NCSBOE, the FCBOE and other contracted USPS service providers who deal with board of election data, create an approved USPS policy where the USPS guidance is clearly stated. Postal contactors should be prohibited from participating in political activities. This should be clearly addressed in writing in the form of some type of memorandum of understanding. Please note that a quick fix is needed to correct this problem as year 2014 is an election year for Forsyth County in Winston-Salem, and other counties in North Carolina.

Finally, please note and for public information, prior to issuing this The Henley Report VII, on December 12, 2013 I met with postal inspectors and extensively discussed the contents of this report. The findings in this report are in part, based on established Federal USPS guidance and the State of North Carolina General Statutes and the North Carolina tax payer’s concerns. This report contains 6 recommendations for USPS consideration and response. I am asking that the USPS respond to this report in writing by January 27, 2014 by acknowledging receipt of this report and any actions taken.

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Background

The Forsyth County Board of Election (FCBOE) is a three person board which is appointed every two years by the North Carolina State Board of Elections, (NCSBOE). Members of the North Carolina State Board of Elections are appointed by the Governor. Principal functions of the FCBOE include establishing election precincts and voting sites, appointing and training precinct officials, preparing and distributing ballots and voting equipment, canvassing and certifying the ballots cast in elections, and investigating any voting irregularities. It maintains voter registration and participation records and provides public information on voters and elections. Federal laws require that state and local efforts are funded through the Help American Vote Act (HAVA) to ensure that all people, including those with disabilities have access to the election process. Another direct function of the FCBOE is to assure that registered tax payers within Forsyth County, North Carolina, receive applicable voter mailings through the use of the Federal, State and local U.S. Postal Service (USPS). Accordingly, USPS regulations also require that the entities that have USPS contracts and who also service these tax payers adhere to the following guidance:

U.S. Postal Service Contacts:

Who should an Election Official contact for advice or to resolve conflicts with local postal representatives related to mail preparation, mail piece design, eligibility and rule interpretation?

Besides the local postmaster, election officials are encouraged to contact the nearest [USPS Election Mail Contacts](#) for advice concerning mail preparation, mail piece design, eligibility, and general guidance concerning classification matters. In cases where an election official disagrees with a classification decision by a local post office or other postal official, the decision may be appealed, in writing, within 30 days of the decision to the [Pricing and Classification Service Center](#) (PCSC) in New York. The PCSC will provide the final decisions regarding proposed mailings. The PCSC is open from 8:30 a.m. to 8 p.m. Eastern Time (7:30 a.m. to 7 p.m. CST).

Pricing and Classification Service Center

United States Postal Service

90 Church Street, Suite 3100

New York, NY 10007-2951

212-330-5300

212-330-5320 (fax)

Prior to issuing this Henley Report Number VII, on February 5, 2011, I also issued the Henley Report I which contained a report of Election Crimes and Offences. That report contained **five recommendations**, recommendation number 5 is the basis of this report, for your review and consideration. **Recommendation (number5) of that report stated that:**

Recommendation: 5:

WSSU's late delivery of voter registration cards should be reported to the U.S. Postal Office, Inspector General's Office.

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Objectives

I performed this review to identify the following objectives:

- (1) Do USPS contracted entities in Forsyth County located in Winston-Salem, N.C. and North Carolina State Government and elected officials follow USPS guidance?
- (2) What is the financial impact of the stated contracted entities and the FCBOE and the NCSBOE non adherence to USPS guidance and regulations?
- (3) Are there any egregious violations of federal, state and local laws by individual, state and local officials?

To answer these objectives, I conducted interviews with elected and appointed officials in Forsyth County, the State of North Carolina, including officials at the FCBOE, the NCSBOE, and with private citizens. I also reviewed relevant federal laws, regulations, guidance, and other documentation, to reach general conclusions relating to the objectives as stated in this report. To identify some conditions in this report, I relied in part on my own observations and audit field work, affidavits, interviews with USPS contracted individuals and employees of the FCBOE and the NCSBOE. Statements were also received from persons familiar with individuals in this report and with expertise in relevant areas. Specific USPS federal, state, and local laws, requirements and guidance, were also used as the criteria for this report.

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FCBOE Officials Lack of adherence to USPS Guidance

On August 24, 2010, I conducted an investigation of the WSSU campus postal office in part based on former complaints of FCBOE employees, and also as a result of a comment made by Mr. Coffman during a December 2009 FCBOE board meeting that, “a large amount of voter registration cards were returned from the U.S. Post Office located” at Winston Salem State University, (WSSU), after the Forsyth County election results were tallied and disclosed to the public as the official 2009 election results.

*My investigation of this incident at WSSU’s post office during calendar year 2010 found that, **the WSSU postal officials confirmed and admitted to having “a very large number of voter mailing cards, which were being kept at that post office in part because of staffing problems.”** The supervisor of the post office acknowledged that some voter registration cards are normally returned to the FCBOE later than required even though these cards are stamped as first class mail. In fact, the FCBOE pays substantially more for first class mail.*

*To date, the FCBOE did not request the USPS to conduct an official investigation of this incident, as I recommended in the Henley Report I dated February 5, 2011. When I met with the WSSU Post Office, I also found that the staff was not informed of the impact of this long standing problem and that they were not following the USPS guidelines for voter mailings. **I also found that although Mr. Coffman stated that he had taken care of this problem, he in fact had not dealt with this issue effectively at all,** again as I had recommended during my 2011 Henley Report I. Furthermore,, when I met with the WSSU Post Office officials, I found that they were never informed of the ramifications of this long standing problem.*

On September 5, 2013, I forwarded the detailed results of my 2010 investigation of the WSSU post office to the Chairman of the FCBOE, Mr. Ken Raymond. The voter mailing cards were still being held by WSSU as recent as October 2013 as confirmed by Mr. Raymond, some dating as far back as when I conducted my investigation of them during 2010, where by the WSSU postal staff’s own admissions, there were also voter mailing cards at that time dating back to 2009.

During my investigation of this incident at WSSU’s post office, the officials there stated that the registration cards were returned late because of staffing problems. The supervisor of the post office acknowledged that some voter registration cards are normally returned to the FCBOE later than required even though these cards are stamped as first class mail with a 3 to 5 day return status. In fact, the FCBOE through our tax dollars pays substantially more for first class mail.

I clearly know and understand that the USPS does not and should not play a role in the local, state, or federal electoral process. However, when USPS contract offices conduct business by not following the USPS guidelines, it gives the appearance that there may or could be some type of political motivation. It should also be noted that:

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*FCBOE members are making requirements for the WSSU post office, when the post office should be adhering to the USPS guidelines and not guidelines developed by the FCBOE for the USPS. This requirement was noted in the October 22, 2013 edition of the Winston-Salem Journal, (WSJ). Also, it was noted by WSJ staff, that FCBOE officials are making agreements with staff at all other **Campus Postal Locations**. **This FCBOE decision and practice may not** be consistent with USPS guidelines. While I agree that policies should be made across the board for all university postal locations the guidelines should be consistent with the USPS.*

*I spoke with former FCBOE officials, especially **Mrs. Rebecca Pope**, who stated that she remembered that hundreds of registration cards were returned from the WSSU post office later than required and were processed even after the final voting results were disclosed to the public. Thus, it was again confirmed that there are problems with the FCBOE and the WSSU post office returning voter data cards.*

***Mrs. Pope** stated that she, as well as others, scanned these voter registration cards into the system, thus, making ineligible voters eligible to vote. The individuals who are not eligible to vote for whatever reason are currently identified as legal voters. This is one of the most critical and negative impacts of service providers who have contracts with the USPS, and who handle board of election voter data cards. The scanning of voter data cards in part is a problem for the NCSBOE, and this matter has been reported to the NCSBOE.*

I was not able to identify the exact amount of voter registration cards that were returned from WSSU's post office after the final election votes were tallied and disclosed to the public, but was told that these votes were included in the final voter result totals for election years 2009 and 2010. These voter cards are the current subject of numerous conversations relating to WSSU's post office's inability to return voter data cards in a timely manner. The USPS has a policy for refunding the amount paid for its inability to meet its timeframes as it relates to the cost of non deliverable priority mail. There is also a question that should be addressed as to whether or not individuals who do not work for the USPS have the authority to pick up or deliver USPS stamped mail.

I could not find a policy within the State of North Carolina which specifically addresses the local universities and entities which have postal contracts with the USPS. Thus, I am making a recommendation to the USPS to create a blanket agreement or memorandum of understanding to be used by the NCSBOE where the USPS guidance is clearly explained to all USPS contractors and affiliated entities.

Finally, because Mr. Robert Coffman, the Director of the FCBOE's credibility has been questioned by the FCBOE in a petition to the NCSBOE which is requesting his termination, I am requesting that any pertinent comments made by him be verified during the conduct of any investigations. I am also asking the USPS to consider whether or not there has been any breach of contracts with WSSU's post office or any other entities in Forsyth County who are USPS contractors. I would also like to know the monetary impact of the undeliverable voter mailings.

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Scope and Methodology

Scope

I conducted this review in accordance with GAO's generally accepted government auditing standards. The purpose of this review was not to form an opinion on the information reported or the individuals identified, instead it was to:

- Verify the integrity of state and local elected and appointed officials, including whether or not government officials conducted business ethically and legally.
- Identify problems with WSSU, the FCBOE and the NCSBOE voter mailing systems including internal controls.
- Identify any violations of the USPS laws by contracted entities, federal, state and local elected and appointed officials.

This audit/investigation contains 6 recommendations. The audit/investigation was conducted in Forsyth County located in Winston-Salem, North Carolina and in Raleigh, North Carolina, during the period of January 2009 through December 2013. The audit/investigation primarily focused on election years 2006-2013 and as necessary, I considered other relative information associated with former and current appointed and elected, FCBOE and NCSBOE officials .

Methodology

I conducted this audit/investigation to gain an understanding of the voter data mailing system activities of the WSSU Post Office, FCBOE and the NCSBOE and other state and local entities to answer the objectives of this report. To obtain a more detailed understanding of the North Carolina Board of Election voter data card mailings and USPS contracted entities, I conducted interviews and site visits at various USPS facilities, the NCSBOE and the FCBOE.

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Recommendation: 1:

The USPS should consider whether or not there has been any breach of contracts with WSSU or other entities mentioned in this report as it relates to the USPS contractors in Forsyth County, or other counties in North Carolina.

Recommendation: 2:

The USPS should assure that the NCSBOE, the FCBOE and other service providers who deal with board of election data, create an approved USPS policy where the USPS guidance is clearly stated to all contract and affiliated USPS entities. Postal contactors should be prohibited from participating in political activities; this should also be clearly addressed in writing in the form of some type of memorandum of understanding between the USPS and its postal contractors.

Recommendation: 3:

The USPS should require that the FCBOE and WSSU or any other service provider that deals with official board of elections data communicate and work with the USPS officials especially as it relates to its policy for non deliverable priority or first class mail.

Recommendation: 4:

USPS should address the issue as to whether or not its contracted service providers has the authority to allow board of election employees to pick up or deliver USPS stamped mail.

Recommendation: 5:

The USPS should state clearly whether or not Forsyth County is due any refund amounts as it relates to the undeliverable mail during the years 2009 thru December 2013 dates that are currently in question within this report.

Recommendation: 6:

USPS should address the guidelines for and the monetary impact of non deliverable mail as it relates to its contracted postal service providers.

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Conclusion

I have found that, some USPS affiliated individuals as well as state and local officials are willfully remiss as it pertains to following and adhering to USPS guidance. In fact, as previously noted, after the FCBOE Director Rob Coffman and certain WSSU officials were informed of the USPS guidance they still continued to ignore the USPS and N.C. state guidelines.

The FCBOE and the NCSBOE's lack of a consistent and uniform USPS policy both locally and statewide could possibly create instances of USPS contractual problems if not a breach of the USPS contract with negative consequences. Furthermore, entities that have a contractual relationship with the USPS, should not allow their USPS roles to become politically motivated or have the appearance that their actions are politically motivated. In essence, any board of election office is political by nature and for the Director of the any Board of election local or state to dictate any guidance to a USPS service provider should be strictly forbidden. Also again it should be noted that:

- **On December 1, 2010**, I presented the findings in **The Henley Report I** to the Chairman of the FCBOE, **Ms. Linda Sutton**, detailing conflicts between FCBOE and WSSU's Post Office.
- **On December 3, 2010** I met with officials at the NCSBOE, **Mr. Don Wright, and former employee Mr. Gary Bartlett**. I gave them a detailed briefing of the **Henley Report I** and discussed the details of my meeting with the former FCBOE Chairman, **Ms. Linda Sutton**.
- I discussed the undeliverable voter mailing with *both the attorney for the NCSBOE, Mr. Don Wright and former NCSBOE Chairman Mr. Gary Bartlett*.
- **On September 5, 2013** I shared the contents of my investigative of the WSSU Postal officials with the current chairman of the FCBOE with Mr. Ken Raymond.

Finally, as I have previously noted any representatives appointed or elected, mentioned in this report or directly involved with the State of North Carolina Board of elections process, who have currently or previously played a role in the NCSBOE or the FCBOE voter mailing issues should not opt to investigate these matters, especially if they relate to their appointed positions. Any such participation would be an additional conflict of interest. Especially when currently there are some individuals involved in the election process who were N.C. State and Forsyth County employees during calendar year 2011 and played a role in the NCSBOE and the FCBOE's "investigation of themselves." ***This is important to note because no actions were taken in 2011 which could have prevented Mr. Coffman and other staff members from violating USPS laws and N.C.G.S. regulations, as these individuals had conflicting interests then and they have conflicting interest now. No one knows the exact amount of voter data cards that the WSSU Post office did not return to the FCBOE, but we do know that there were over 500 hundred undelivered voter data cards. Many officials benefited in some form or fashion from the failure of WSSU's. Post Office to return these voter mailing cards to the FCBOE and the failure of the FCBOE to take the initiative to go get the cards, or to ask WSSU to return the cards. If needed, the N.C., State law allows for an independent investigation and review into this very critical matter.*** Thank you for your review and for considering this report.

**I Remain,
Gardenia M. Henley
Diplomat/FSO/Ret.**