

Attorney General of Missouri

JEFFERSON CITY

65102

(314) 751-3321

JOHN ASHCROFT
ATTORNEY GENERAL

March 6, 1981

OPINION LETTER NO. 91
(Answer by Letter-Klaffenbach)

The Honorable Robert B. Langworthy
Linde, Thomson, Fairchild, et al.
Attorneys for the Board of Election
Commissioners-Kansas City
City Center Square, 27th Floor
Post Office Box 26010
Kansas City, Missouri 64196



Dear Mr. Langworthy:

This letter is in response to your question asking whether 15 CSR 30-10.060(9) authorizes a board of election commissioners to use ballots cast in a general election to test the accuracy of new and unused automatic tabulating equipment.

The rule to which you refer provides:

(9) The election authority may, at his discretion (at any time following a recount, or the last day to demand a recount if none is demanded), conduct an audit of any precinct or precincts.

It is our view that this rule does not authorize such a test.

Additionally, we note that although there is statutory authority for other tests, §§ 115.233 and 115.479, RSMo, there is no specific statutory authority for the test to which you refer.

We conclude that the board of election commissioners does not have authority to use ballots cast in a general election to test the accuracy of new and unused automatic tabulating equipment.

Very truly yours,

JOHN ASHCROFT
Attorney General