



County of Ventura
COUNTY CLERK AND RECORDER

MARK A. LUNN
County Clerk and Recorder

August 9, 2011

The Honorable Vincent O'Neill, Jr.
Presiding Judge of the Superior Court
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

RECEIVED

AUG 10 2011

VENTURA COUNTY
GRAND JURY

JAMES B. BECKER
Assistant County Clerk and Recorder

TRACY D. SAUCEDO
Assistant Registrar of Voters

DAVID G. VALENZUELA
Manager, Clerk and Recorder Operations

JANE McCARTHY
Manager, Fiscal and Administrative Services

Re: *Ventura County Grand Jury 2011-12 Final Report Election Process*

Dear Judge O'Neill:

Please find enclosed my responses to the findings and recommendations contained in the June 10, 2011 *Ventura County Grand Jury 2011-12 Final Report Elections Process*. I appreciate the opportunity to respond to this report.

If you have any questions, please call me at (805) 654-2266.

Sincerely,

MARK A. LUNN
County Clerk Recorder/Registrar of Voters

Enclosure

c: Foreman, Ventura County Grand Jury
Michael Powers, County Executive Officer

Report Title: *Ventura County Grand Jury 2011-12 Final Report Election Process*

Report Date: June 10, 2011

Response By: Mark A. Lunn **Title:** County Clerk Recorder/Registrar of Voters

FINDINGS

I agree with the findings numbered: 1 (partially), 2 (partially), 3, 4, 5 (partially), 6 (partially), and 7 (partially).

I respectfully disagree wholly or partially with the findings numbered: 1 (partially), 2 (partially), 5 (partially), 6 (partially), and 7 (partially).

Finding #1: I agree with and appreciate the finding that the election officer training materials provide clear and in-depth documentation of the requirements for establishing polling places and conducting the elections process.

I am respectfully unable to agree wholly with the finding that violations of procedures and noncompliance to guidelines occurred. Although the Grand Jury reported instances on Election Day during which a number of polling place configurations did not follow the Election Handbook guidelines, Elections Division staff did not independently observe these instances and are unable to adequately investigate these occurrences since the specific locations of the polling places were not made available.

With more than 1,400 election officers and 350 polling places to oversee on Election Day, Elections Division staff cannot monitor every procedure at each polling place. As such, independent observations by the Grand Jury and other "election observers" are critical to our being able to continually evaluate and improve our elections process and procedures. Elections Division staff and election officer training for future elections will reinforce the importance of the following procedures: posting the Voters' Bill of Rights inside and outside polling places, posting the Voter Register Log outside polling places, situating voting booths to maximize privacy, posting adequate directional signage at polling places, maximizing available lighting at polling places after dark to indicate their location.

Finding #2: I agree with and appreciate the finding that the training materials provided to election workers are detailed and accurate.

I respectfully agree partially with the finding that election officer training classes require improvement to emphasize the importance of laws pertaining to elections. All training classes, especially those that teach knowledge and skills that are utilized only occasionally, need to be continually updated and enhanced. Election officer training classes are no exception. Due to the number and complexity of election laws, the three-hour election officer training classes focus on the laws that pertain to issuing, processing, and returning official, Vote By Mail (VMB), and provisional ballots in addition

to the set-up and use of the voting equipment machines. These classes detail and emphasize the importance of these laws and each polling place supply kit includes a 57-page Elections Officer's Digest pamphlet that includes the California Elections Code. While election officer training classes are continually improved based on changing requirements and our experience conducting elections, future training classes will emphasize the issues cited, including the importance of laws pertaining to elections, transportation of voted ballots by two election officers, voting booth set up procedures, and polling place signage requirements.

Finding #3: I agree with the finding that, if VBM voters ensure their ballots arrived at the Registrar of Voters prior to Election Day, it will facilitate their ballots being processed earlier and ease the post-election workload. Because the Elections Code allows Vote By Mail ballots to be tallied beginning seven business days prior to the election, the earlier these ballots are returned to the Elections Division prior to Election Day, the fewer Vote By Mail ballots that would remain to be counted as part of the post-election workload.

Finding #4: I agree with the finding that the majority of voter signatures are not verified against voter registration rolls. The majority of voters in Ventura County vote at their precinct polling place; the remaining voters (approximately 46%) vote by mail. By law, voters who vote by mail are required to be verified against their signatures on file when they last registered to vote. Their signatures must match prior to their VBM ballot being counted.

To the contrary, voters who cast their ballots at precincts are not required by law to present identification nor are their signatures on the Master Roster verified prior to being allowed to vote. These varying legal requirements result in these two groups of voters being treated differently in terms of identification required in order to vote.

I believe a simple legislative solution that would allow all voters to be treated equally and reduce the potential for voter fraud at the polls would be to require all voters - those voting at their precincts and who vote by mail - to present identification prior to being allowed to vote. One of my most important duties is to be vigilant in identifying and preventing areas of potential voter fraud in order to ensure the integrity of the elections process. This legislative change would provide me an additional tool to do so.

Finding #5: I am respectfully unable to agree wholly with the finding that a violation of elections code occurred at one receiving station when election workers were unaccompanied when dropping off ballots.

The Grand Jury reported observing eight instances at one receiving station of a single precinct officer dropping off ballot and equipment unaccompanied by a required second precinct officer. The California Elections Code and standard Elections Division practice require that two precinct workers accompany the transport of all voted ballots. Without the benefit of firsthand observation, knowing the location of the specific receiving station

and being able to interview precinct workers, it is impossible to determine what occurred at this receiving station.

Although only a single precinct officer may have dropped off the ballots and voting equipment, there may have been extenuating circumstances or alternate explanations involving these eight instances that occurred but were not readily apparent to the Grand Jury members at that receiving station. Precinct workers are directed by the Elections Division that an inspector and a clerk are to take the ballots and voting equipment to their respective receiving station at night after the close of polls. Prior to Election Day, the inspector and clerk may have never met. The two precinct workers are encouraged to ride together to the receiving station in the same car and then return to their polling place. However, some precinct workers may feel uncomfortable riding back to an isolated polling place in the dark with only the other precinct worker in the car. One or both precinct workers may feel more comfortable with one precinct worker following the other precinct worker each in their own car to the receiving station. This arrangement allows two precinct workers to deliver the ballots and voting equipment to the receiving station in separate cars. In this case, it is possible many, most, or all of these precinct workers appeared to be unaccompanied when delivering ballots and voting equipment to the receiving station.

It is also possible that the two precinct workers arrived in the same car while only one precinct worker dropped off the ballots and voting equipment. Under either scenario, it is possible that the ballots and voting equipment were delivered by two precinct workers but only a single precinct worker was observed by the Grand Jury delivering the ballots and voting equipment.

Despite not being able to conclude what exactly occurred in each of those eight instances, Elections Division staff will increase their efforts to ensure that all voted ballots are under observation and accompanied by two persons at all times. Beginning with the November 2011 Consolidated General Election, precinct workers will be reminded during training that two precinct workers must load the ballots and voting equipment into a precinct worker's car and two precinct workers must be identifiable at the receiving station when the ballots and voting equipment are unloaded and the receiving station personnel take custody.

Finding #6: I am respectfully unable to agree wholly with the finding that, in violation of the Election Code Handbook, some polling places had few directional signs and, in one case, no signage, while other polling places did not place voting booths so voters had privacy. Although the Grand Jury reported instances on Election Day in which a number of polling place configurations did not follow the Election Handbook guidelines, my staff did not independently observe these instances nor were they able to adequately investigate these occurrences since the specific locations were not made available.

Elections Division staff and election officer training for future elections will provide direction and reinforce the importance of these procedures, including posting adequate

directional signage at all polling places and situating voting booths to maximize voter privacy.

Finding #7: I am respectfully unable to agree wholly with the finding that the benefits of Countywide Vote By Mail as the sole electoral process include: (1) eliminate the need for precinct polling places; (2) eliminate the need for precinct workers; (3) eliminate the need for trainers and training classes; (4) eliminate the need for provisional ballots; (5) allow each signature to be verified; (6) establish an accurate Master Voters Roster by having Vote By Mail ballots returned when the name or address of a voter is wrong; (7) increase the number of voters for all elections; (8) reduce errors by having a single voting method; and (9) save money.

Similar to most other counties, Ventura County currently utilizes a hybrid voting model to conduct elections: approximately half the voters go to their polling place to vote and the other half vote by mail. With the exception of a limited number of "mail only precincts" (precincts containing fewer than 250 voters in which no polling places are available and all voters vote by mail), voters have historically decided themselves whether they wanted to vote at the polls or vote by mail. Changing this traditional elections model to require that all elections be conducted by mail would significantly alter the existing elections process with some potential benefits being realized and with other potential limitations being experienced.

Some of the potential benefits may include: a reduction in the number of precinct polling places and precinct workers, a reduction in the need for precinct worker training, a reduction in the need for provisional ballots, an increase in the number of Vote By Mail ballot signatures that could be verified, an increase in the accuracy of the Master Voter Roster, potential increased voter turnout (based on the experience of other states/counties who have conducted all Vote By Mail elections), and potential for reduced errors by eliminating much of the "human factor" in the elections process.

Some of the potential limitations and concerns may include: increased costs (e.g., postage that would be required to be paid for both mailing and mailing back the Vote By Mail ballots, additional temporary help and machinery required to process a doubling of Vote By Mail ballots), additional recruitment and training requirements to satisfy the increased reliance on temporary help, need for increased and scarce facility space as the entire elections process is brought "in house," loss of a treasured American tradition (going to the polls to vote) that is deeply rooted in the freedoms we enjoy and that is currently the choice of more than half of Ventura County voters, and a loss of transparency and personal experience with the voting process as people and neighborhood polling places are replaced with a dependence on machines and central count facilities.

RECOMMENDATIONS

Recommendations numbered 1 (partially), 2 (partially), 3 (partially), 4 (partially), 5, and 6 have been implemented. Please see a summary describing the implemented actions for each of these recommendations below.

Recommendations numbered 2 (partially) and 4 (partially) have not yet been implemented, but will be implemented in the future. Please see a timeframe for the implementation for each of these recommendations below.

Recommendations numbered 1 and 3 require further analysis. Please see an explanation and the scope and parameters of an analysis or study, and a timeframe below.

Recommendation numbered 4 (partially) will not be implemented because it is not warranted or is not reasonable. Please see an explanation for this recommendation below.

Recommendation #1: I agree with the recommendation that the Registrar of Voters and the Board of Supervisors *investigate* the feasibility and economics of Countywide Vote By Mail as the only voting system. I cannot support at this time restricting voter choice to a single method of voting. Nevertheless, I can appreciate the value of undertaking a thorough and objective investigation and discussion of this issue. I would welcome actively participating in an open public dialogue pertaining to the costs, benefits, limitations, and historical traditions of voting in our county as they relate to the question of mandating an all Vote By Mail voting system for voters in Ventura County.

I have already engaged the Elections Division in a preliminary cost and operational analysis to determine the fiscal impacts of conducting only Vote By Mail elections. Although their analysis is not complete, preliminary data indicate that an all Vote By Mail election may actually be more costly than the traditional combined precinct/Vote By Mail model and, in those elections in which savings may be achieved, the savings are not significant. This preliminary analysis also needs to be adjusted in light of the State's recent suspension of revenue reimbursement to Ventura County for Vote By Mail expenditures under SB 90. I welcome working with the County Executive Office during the next three months to further jointly evaluate the implications of an all Vote By Mail voting system for Ventura County.

Recommendation #2: I respectfully agree partially with the recommendation that the Registrar of Voters should send notices in the Vote By Mail ballot packages encouraging Vote By Mail voters to mail their ballots early so they are received prior to Election Day. Although voters have the right by law to deliver their Vote My Bail ballots as late as 8 p.m. on Election Day and it is my view that voters should never feel pressured or rushed to vote earlier than they choose, certain election process and cost benefits can be achieved by willing Vote By Mail voters delivering their ballots earlier. Prior to every election, the Elections Division currently includes an "Information About

the Return of Vote By Mail Ballots” notice in each Vote By Mail ballot envelope. This notice reads: “The deadline for the return of Vote By Mail ballots is 8:00 p.m. Election Day. Ballots received after 8:00 p.m. will not be counted. The Elections Division has more time to process the returned Vote By Mail ballots if they are returned before Election Day.” For the November 2011 Consolidated General Election, the Elections Division will strengthen the language in this notice that encourages Vote By Mail voters to return their ballots at the earliest possible time.

Recommendation #3: I respectfully agree partially with the recommendation that the Registrar of Voters should provide optional drop-off sites for Vote By Mail ballots at police and fire stations. During the November 2010 General Election, Vote By Mail voters enjoyed a total of 14 optional drop-off sites Countywide to deliver their ballots. These included 11 sites open during regular business hours (City Clerk offices in all 10 incorporated cities and the County Elections Division office) and three sites available 24/7: outside the County Government Center and at two new fire station drop-off locations in Thousand Oaks and Simi Valley. The actual number of Vote By Mail ballots dropped off at the two East County fire stations was surprisingly low. In the upcoming November 2011 Consolidated General Election and future elections, voter utilization of these fire station locations to drop off their ballots will be further evaluated to determine if increased costs to taxpayers to establish and operate additional drop-off sites in other areas of the County are justified. Based on this utilization experience and any cost benefits that can be identified, Vote By Mail 24/7 drop-off locations may be expanded beginning with the June 2012 Presidential Primary Election to other areas of the county, including possibly Oxnard, Camarillo, and/or the Santa Clara River Valley.

Recommendation #4: I respectfully agree partially with the recommendation that the Registrar of Voters should require that all precinct officers attend training classes and that the Elections Handbook should be reviewed thoroughly, with interactive discussion of major points and election codes, especially during the long audiovisual presentation.

California Elections Code Section 12309 requires only inspectors (including roving inspectors) to attend training classes. Clerks are not required under the law to attend training. However, the Elections Division has historically trained a high percentage of precinct workers, including clerks. For the November 2010 General Election, 1,231 (78.3%) of the total 1,573 precinct workers received training in one of 38 available training classes. This is typical of the average precinct officer training class attendance in Ventura County. By comparison, only 22.7% of those 1,231 precinct workers in that election were required by law to attend training. As the numbers indicate, Ventura County currently meets and exceeds by a wide margin the State requirements for training precinct officers. Requiring all precinct workers (including clerks) to attend training classes is a worthy recommendation on its face. However, this must be balanced against the practical reality that there is no legal basis and the ongoing need to recruit sufficient clerks to staff more than 350 polling places (the average polling place requires approximately three clerks).

The Elections Officers Handbook is reviewed thoroughly and updated for each election. Beginning with the November 2011 Consolidated General Election, election officer training classes will include increased interactive discussion, including discussion of important election code requirements. In response to the Grand Jury's observation of some precinct workers sleeping or texting during the audiovisual portion of the training, participants will be required to turn off electronic devices during future trainings and only use their cell phones during breaks.

Recommendation #5: I agree with the recommendation that the Registrar of Voters should require roving inspectors carry extra directional signage and instruct precinct officers on the proper placement of voting booths. This recommendation has been implemented. Each roving inspector carries a minimum of 10 directional signs and is instructed to return to the Elections Division on Election Day if additional directional signage is required. Precinct officers and roving inspectors are instructed to place voting booths according to a diagram in the Elections Officers Handbook. However, they are also advised to use their discretion in placing voting booths based on the size of the polling place location, the need to ensure adequate traffic flow, and the need to ensure privacy for voters.

Recommendation #6: I agree with the recommendation that the Registrar of Voters should enforce the legal requirement that precinct inspectors always assign an election officer to accompany them when delivering voted ballots. Precinct workers are advised by the Elections Division that an inspector and a clerk are to transport the ballots and voting equipment to their respective receiving station after the close of polls. In addition, the Elections Division contracts with the Sheriff's Department for Sheriff Reserve Deputies to subsequently transport ballots and voting equipment in teams from the receiving stations to the Elections Division central counting facility on Election Day. These procedures for the transportation of ballots from the polling places to the receiving stations and subsequently from the receiving stations to the Elections Division central count facility will be reviewed with precinct workers and the Sheriff Reserve Deputies during future elections.

In conclusion, I would like to thank the members of the 2010-11 Grand Jury for their professional diligence and cooperation in reviewing the work of the County Elections Division, for their astute and considered recommendations, and for the opportunity to respond and further comment on the valuable insights this report has offered into the elections process in Ventura County.

Date: August 9, 2011

Signed:



Number of pages attached: 7