

Registrar of Voters Earns High Marks for 2012 Election

SUMMARY

The November 6, 2012, General Election was Orange County's third presidential election using electronic voting equipment.

The Registrar of Voters and his permanent staff, temporary employees and volunteers conducted the 2012 General Election in an efficient, effective and cost-conscious manner.

The 2012 – 2013 Orange County Grand Jury is pleased to affirm its confidence in the integrity of Orange County's voting system and procedures.

REASON FOR STUDY

During the past eight years the Grand Jury has released four comprehensive reports on the election process in Orange County. Since the 2012 General Election was anticipated to be very close, the 2012 – 2013 Orange County Grand Jury decided to again review the election process.

Since a national increase in voter fraud and voter identification have been in the news and subject of judicial action lately, the Grand Jury decided to analyze potential and/or existing voter fraud issues in Orange County.

Since vote-by-mail has become so popular (more voters used the vote-by-mail process to cast their vote than were cast by voting at the polls during the 2010 General Election) The Grand Jury wanted to determine if 'vote by mail' is secure, as compared to the traditional 'vote at the polls' process.

METHOD OF INVESTIGATION

After an orientation by the Registrar of Voters at the their facility in Santa Ana, the Grand Jury made the decision to divide the study into three phases and to use as many members of the Grand Jury as wished to participate. The three phases were:

- Pre-Election Process
- Election Day Procedures
- Post-Election Process

Grand Jurors members interviewed the Registrar of Voters and various members of his staff. Information was obtained through on-site interviews, review of requested documents, and individual research on the Internet. Publications obtained from the Registrar's office included the following:

- Election Survey Report November 6, 2012 Presidential General Election

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- Voter Registration Accuracy and Voter List Maintenance
- Polling Place Operations Manual (June 5, 2012 Primary Election)
- Survey Results November 2, 2010 Statewide General Election

The Grand Jury reviewed the online training course given to prospective polling place workers.

The Grand Jury opted to include topics more contemporary than had been included in prior reports due to the concerns expressed in the media about voter fraud, voter identification, vote-by-mail, and online registration.

The Grand Jury also sought out stakeholders such as Orange County's major political parties and the League of Women Voters for their input and concerns.

Hurricane Sandy's effect on East Coast voters presented a prime catalyst for examining Orange County's preparedness in the event of a major disaster at or near the time of an election. The Grand Jury visited the County's Emergency Operations Center and examined the Registrar's information technology systems.

While due diligence was used to review all election related data and processes, not all of these data or those processes will be included in this study, except where fault was found with the existing policies and/or procedures.

On Election Day, the majority of the members of the Grand Jury visited multiple polling places to observe the progress of the election from the opening of the polls, mid-day voting, end of day poll closing, the delivery of the ballots to the Registrar of Voters' facility and the tabulation of votes. Observations were subsequently documented and shared with the staff of the Registrar of Voters as part of a routine post-election debriefing.¹

BACKGROUND AND FACTS

The Grand Jury decided to monitor and audit the 2012 General Election for the following reasons:

- Traditionally, the Grand Jury has published a report regarding the national election process.
- The presidential race was drawing much interest and promised to be a close contest.
- There had been substantial media coverage regarding voter identification and possible voter fraud.

¹ Grand Jury Election Day Checklist and Report Forms

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- The State of California started a new online registration system prior to the election and the Grand Jury wanted to assure Orange County Residents that the Registrar of Voters was ready for the changes.
- Hurricane Sandy raised concerns about Orange County's ability to respond in the event a critical disaster occurred here.

The study began shortly after the Registrar of Voters' (ROV) orientation to the 2012 – 2013 Orange County Grand Jury at the ROV office on Grand Avenue. The designated Grand Jury members requested additional information for their review.

Once documentation was reviewed, the study was expanded to include system security, possible voter fraud, the vote-by-mail process, the new online voter registration process, and outreach to stakeholders.

Election Statistics

The following will give the reader a sense of the 2012 national election in Orange County:²

1. More vote-by-mail ballots were received than were cast at polling places in Orange County during a Presidential election.
2. For the first time, more than 50 percent of vote-by-mail ballots were from permanent vote-by-mail voters.
3. More vote-by-mail ballots (112,000) were dropped off at polling places than ever before.
4. All sample ballots were mailed on the first day legally allowed.
5. Although the legal period to certify election results is much longer, the Registrar of Voters was able to certify after just 14 days.

The increase in vote-by-mail had the biggest impact on this election than any other statistical factor. There was a 10.5 percent increase of vote-by-mail ballots counted in 2012 (575,843) compared to 2008 (521,348).

Vote-by-mail ballots represented 34.3 percent of all registered voters. Vote-by-mail ballots were 50.8 percent of ballots cast. 72.9 percent of vote-by-mail ballots mailed to voters were cast.

Polling place ballots cast decreased by 11.6 percent from 2008 (624,181) to 2012 (552,018) due to the increase in vote-by-mail participation.

² Memorandum from O.C. Registrar dated December 17, 2012

For more information about Orange County's election process the reader is encouraged to visit the Registrar of Voters website at www.ocvote.com. This outstanding website covers the entire voting process. Voters can register to vote, view newsletters showing various phases of the election process, read newsletters that update volunteers on the election, and see many charts of almost any statistic on registrations and elections any user would want to see.

Disaster Preparedness

Hurricane Sandy was a super storm that devastated parts of the Caribbean, Mid-Atlantic and New England during the latter part of October 2012. The storm affected 24 U.S. states that included the entire eastern seaboard. Particularly hard hit were the States of New Jersey and New York. Much of the devastation resulted from wind damage, flooding and loss of electrical power. In terms of economic loss, the storm is estimated to have caused over \$71.4 billion dollars in damage.³

Although governors in those states issued disaster declarations in advance of the storm that struck in earnest on October 29th, election officials were faced with a daunting task: the presidential election was one week away. Officials scrambled to move polling places to locations with electrical power, curtailed early voting, closed registration offices, and increased the use of provisional ballots.^{4,5}

NEW YORK — Power generators are being marshaled, polling locations moved and voting machines hurriedly put into place as officials prepare to hold a national election in storm-ravaged sections of New York and New Jersey barely a week after Superstorm Sandy.

--Huffington Post article
November 4, 2012

Scholars with the Voting Technology Project at the California Technical Institute issued a post 2012 election update and recommended that "...local election officials must study the disruptions caused by Hurricane Sandy, examine how election officials in the affected states reacted to those disruptions, and develop contingency plans for dealing with similar emergencies in the future."⁶

The Grand Jury wanted to see if Orange County officials were prepared for an emergency similar in scope to Hurricane Sandy such as a major earthquake, wildfire or Santa Ana Wind event. The Grand Jury spoke with officials at the Registrar of Voters' Office and the County's Emergency Operations Center. Relevant plans and documents were then examined.

³ Hurricane Sandy article, retrieved 2/8/13 from http://en.wikipedia.org/wiki/Hurricane_Sandy

⁴ Fabian, J. and Deruy, E., ABC News dated 10/30/12, retrieved 2/8/13 from http://abcnews.go.com/ABC_Univision/Politics/hurricane-sandy-push-back-election-day/story?id=17598371&page=2

⁵ Halbfinger, D., Kaplan, T. and Ruderman, W. The New York Times dated 11/5/12, retrieved 2/8/13 from

<http://www.nytimes.com/2012/11/06/nyregion/after-hurricane-sandy-efforts-to-help-the-displaced-vote.html?pagewanted=all&r=0>

⁶ Alvarez, R. et al, (CalTech, MIT & University of Utah) retrieved 2/13/13, from <http://vote.caltech.edu/content/voting-what-has-changed-what-hasnt-what-needs-improvement>

The Orange County Registrar of Voters has a plan titled, “Business Continuity Plan for Business Processes.” The 150-page document includes checklists, tables, scenarios and a resource guide that provide direction to maintain stability in the event of disaster or other unusual circumstance.⁷ It was refreshing for the Grand Jury to see that the plan was created and in place prior to events on the East Coast. Review of the Registrar of Voters disaster preparedness procedures showed that they are prepared for most anticipated emergencies; however, a disaster of the size of Hurricane Sandy would probably be more than the Registrar of Voters’ staff could handle alone and would have to be coordinated through the County’s Emergency Operations Center (EOC).

The Grand Jury toured the EOC and studied emergency response plans and protocols for dealing with major disasters most likely to strike Orange County. The EOC coordinates emergency response from law enforcement, fire, health services, public works and other disciplines as needed.⁸

During the Grand Jury’s tour of the EOC, they were shown documentation relating to procedures for dealing with major disasters and the required coordination that takes place to timely address concerns, as they arise. The obvious major disaster that could occur in Orange County is “the big one.” A major earthquake that disrupts the distribution of electrical power throughout Orange County preceding an election could have devastating effects. While the election could be conducted on paper instead of electronically, it is not known whether sufficient paper ballots would be available for all voters able to make it to the polls. Presently, paper ballots are distributed to polling places to accommodate a percentage of the voting public. The number of ballots distributed is based on historical need.⁹

Voter Fraud

Earl K. Long was a three-time governor of the State of Louisiana.¹⁰ Quotes attributed to him include: “*I can make them voting machines sing “Home Sweet Home”*”¹¹ and “*When I die, I want to be buried in St. Martin’s Parish so I can remain politically active.*”¹² While amusing, these quotes underscore widespread allegations and concerns about “voter fraud.” The Grand Jury researched the topic, finding that actual voter fraud is greatly exaggerated.

⁷ The business continuity plan covers topics such as absentee ballot processing, ballot generation, candidate filing, voter supply distribution, media relations, and poll site support and information technology systems.

⁸ Per Registrar of Voters

¹⁰ Retrieved 2/8/13, from http://en.wikipedia.org/wiki/Earl_Long

¹¹ Quotation retrieved 2/8/13 from http://www.brainyquote.com/quotes/authors/e/earl_long.html#5wOAvSrtMpSmoOO6.99

¹² Hartford Courant, retrieved 2/8/13 from http://articles.courant.com/2000-11-14/features/0011140283_1_secretaries-touch-football-rose-kennedy

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While the Registrar of Voters felt that voter fraud issues were minor (the few cases of possible voter fraud would not have changed the election result) due to the many checks and cross checks with both internal and external data, the Grand Jury did much research in this area. A report titled *The Truth About Voter Fraud* by Justin Levitt published in 2007 by the Brennan Center for Justice at New York University of Law provided much good information and was consistently referenced by other reports on the subject.

The report stated that many issues are often combined under the umbrella of “voter fraud.” These issues include irregularities such as: errors in the poll books, errors in registration records, unintentional dual registrations, and issues dealing with criminal and death records.

The most common type of voter irregularity involved vote-by-mail. In some instances the voter forgot they had mailed in the vote-by-mail ballot and went to their polling place with the intension of voting. Those common errors are easily caught in Orange County because of the cross-checking of voter lists that follows after the election.

Actual “voter fraud” perpetuated by “individual voters is a singularly foolish and ineffective way to attempt to win an election.”¹³ Each act of voter fraud in connection with a federal election risks five years in prison and a \$10,000 fine, in addition to any state penalties.¹⁴ Actual voter fraud large enough to affect the outcome of an election requires a significant degree of conspiracy and organization. The ability to keep secret such a large-scale operation is directly affected by the number of people who know about it. Common sense dictates that such a criminal enterprise would come to the attention of federal and local authorities.

Common examples of actual voter fraud consist of faulty voter registration documents, registration collectors completing voter registration documents without the registrant’s permission, and destruction of voter registration documents by registration collectors if the party preference was other than that of the party paying for the registration collection. Some parties were prosecuted.

Other types of voter fraud involve vote-by-mail. In this instance, the voter receives a vote-by-mail ballot; however, dies before the election. The vote-by-mail ballot may be mailed early or the survivors of the vote-by-mail ballot may wish to comply with the voter’s wishes and submit the vote-by-mail ballot after the voter’s death, but

DENVER (AP) — State officials in key presidential battleground states have found only a tiny fraction of the illegal voters they initially suspected existed. Searches in Colorado and Florida have yielded numbers that amount to less than one-tenth of 1 percent of all registered voters in either state.

--Ivan Moreno Associated Press 9/24/12

¹³ Levitt, J. *The Truth About Voter Fraud*, Brennan Center for Justice New York University School of Law (New York) p. 7

¹⁴ 42 U.S.C. §1973(i) – Prohibited Acts retrieved 2/8/13, from <http://www.law.cornell.edu/uscode/text/42/1973i>

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before the election. Orange County's post-election processes also easily catch this type of vote fraud as the voter rolls are checked against various databases to ensure that only living qualified voters voted.

Online Registration

The State of California initiated its online registration system on September 19, 2012. The Registrar of Voters was ready for the new process and integrated it into their existing processes without incident. Voter registration deadline was October 22, 2012. It is believed that the new online registration system allowed even more people to register for the election than had been expected. A total of 1.8 million were registered for this election compared to 1.6 million in 2008. That was a 4.7 percent increase, part of which was attributed to on-line registration.

Security

The Registrar of Voters (ROV) provides a superior level of security for all types of voter information and ballots. From the ballot box to the counting room, the ROV strives to provide the highest level of security and protection for electronic and absentee ballots. For security reasons this report will not describe the specific security measures employed by the ROV to protect voter and ballot integrity. Overall the security measures deployed in the ROV ballot counting room are sufficient to safeguard vital voting processes and information.

The County's entire electronic voting system is stand-alone, meaning it is not dependent on a connection to the Internet or other network. Likewise, it has no wireless connectivity. The Secretary of State provides a copy of the tabulation software used with each specific election. The Registrar of Voters can reset passwords and can reload backed-up data files. Only services explicitly required by the proprietary computer systems are enabled.

The Judges Booth Controllers, similar to electronic sealed ballot **boxes**, have tamper-resistant tape applied to their connectors. Serialized seals, cables and locks are used throughout the process.

There is extensive video monitoring and controlled access to the Registrar of Voters' building entrances and to all sensitive areas within the building.

Armed Sheriff's Department deputies accompany the ballots in transit and guard them at the Registrar of Voters' site on Election Day.

Electronic Voting Equipment

Orange County first utilized electronic voting equipment for the March 2004 primary election. During the intervening years, the public has become accustomed to

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voting electronically. Vote-by-mail offers the convenience of not having to go to the polls on Election Day but many voters prefer to cast their vote in person. Even as vote-by-mail continues to increase, electronic voting equipment will be required for years.

Orange County needs to plan for the replacement of their existing electronic voting equipment. While the equipment is only eight years old, it carried only a three-year warranty. Since technology changes so quickly, it may become more cost effective to replace the existing equipment with newer technology than to maintain it.

Accuracy

An election is one of the human endeavors where “close” isn’t good enough. Each step of the process requires accuracy to guarantee a fair outcome. Starting with the processing of candidates, to the registration of voters, to the preparation of sample ballots, to the administration of the election, to the counting of the ballots, and finally to the certification of the election, each step depends on accurate processing. State law requires that the voting system in each county be tested prior to each election. The Orange County Registrar’s office conducted the “Logic and Accuracy Test” on October 30, 2012, which resulted in a 100% accuracy rating. The test was open to the public.¹⁵ The Grand Jury did not find any evidence of inaccuracies in the processes observed during this election.

Vote by Mail

A New York Times article raised concerns about fraud with the increase of absentee / vote-by-mail balloting. With many states accelerating the use of vote-by-mail balloting, uncounted votes and potential for fraud appear to be on the rise.

*On the most basic level, absentee voting replaces the oversight that exists at polling places with something akin to an honor system.*¹⁶

The Orange County Register published an article, “Trouble at the Ballot Box” citing a Pew Charitable Trusts study¹⁷ that examined the 2010 election results nationwide. The study found that both California and New York finished just ahead of Mississippi for last place in the nation based on “more than 15 criteria, including wait times, lost votes and problems with absentee and provisional ballots...”¹⁸ Californians who voted by mail in 2010 suffered a 0.7% rejection rate in that election.¹⁹ The registrar of voters for a large California county said that the rejection rate is “partly a byproduct of

¹⁵ O.C. Registrar of Voters website, retrieved 2/11/13 from <http://www.ocvote.com/media/pressrelease/?id=486>

¹⁶ Liptak, A., New York Times article dated 10/6/12. Retrieved 2/11/13 from <http://www.nytimes.com/2012/10/07/us/politics/as-more-vote-by-mail-faulty-ballots-could-impact-elections.html?pagewanted=all&r=0>

¹⁷ PEW Charitable Trusts Study: The Elections Performance Index, retrieved 2/11/13 from <http://www.pewstates.org/projects/election-initiatives-328601>

¹⁸ O.C. Register Article, retrieved 2/11/13 from <http://www.ocregister.com/news/ballot-495267-trouble-focus.html>

¹⁹ ibid

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the popularity of voting by mail in California and partly a function of how the state defines rejected ballots.”²⁰ As an example, State law requires the rejection of ballots requested by voters that were returned by the U.S. Post Office as, “Undeliverable” and ballots in which the voter did not sign his/her name.²¹ Even with the noted constraints, according to the California Secretary of State’s Office, Orange County had a rejection rate of 0.54%²² of its vote by mail ballots in the November election – a rate lower than the state average of 1.02%.

The flaws of absentee voting raise questions about the most elementary promises of democracy. “The right to have one’s vote counted is as important as the act of voting itself,”

--Justice Paul H. Anderson of the Minnesota Supreme Court wrote while considering disputed absentee ballots in the close 2008 Senate election.

Elections Code §3000-3024 governs voting by mail in California.²³ The Secretary of State issues a document titled, *Uniform Vote Counting Standards*²⁴, setting forth guidelines with respect to the counting of cast ballots. Here are the reasons why vote by mail ballots were rejected:

1. The voter did not sign vote-by-mail ballot envelope.
2. The vote-by-mail ballot envelope was signed using power of attorney.
3. The vote-by-mail ballot envelope was received after the close of the polls on Election Day.
4. The vote-by-mail ballot envelope was returned by a third party who is not eligible or authorized to return the voted ballot on behalf of the absent voter.
5. The voter, who was not a special absentee voter,²⁵ transmits his or her voted ballot by facsimile.
6. The voter’s signature on the vote-by-mail ballot envelope, when compared to the signature on the affidavit of registration, did not appear to be the same, including:
 - a. The voter used a mark on the vote-by-mail envelope that is not properly witnessed, and the affidavit of registration has a signature of the voter.
 - b. The voter printed his or her name on the signature portion of the vote-by-mail ballot envelope but had a written signature on the signature portion of the affidavit of registration.
7. The vote-by-mail ballot return envelope contained two or more voted vote-by-mail ballots but there were less than an equal number of distinct signatures on

²⁰ ibid

²¹ ibid

²² California Secretary of State’s Website, retrieved 2/13/13 from <http://www.sos.ca.gov/elections/elections.m.htm> Orange County did not count 3,159 vote-by-mail ballots of 579,002 returned.

²³ Election Code retrieved 2/13/13, from www.leginfo.ca.gov

²⁴ Bowen, D., California Secretary of State publication *Uniform Vote Counting Standards* retrieved 2/13/13 from <http://www.sos.ca.gov/voting-systems/uniform-vote-count.pdf>

²⁵ i.e. Military personnel stationed overseas

the vote-by-mail envelope.

The Caltech/MIT Voting Technology Project²⁶ was begun after the 2000 presidential election to provide scientific analysis regarding voting technology and election administration. In their report released on October 18, 2012, following recommendations were made regarding absentee and early voting:

- *Discourage the continued rise of no-excuse absentee balloting and resist pressures to expand to all-mail elections. Similarly, discourage the use of Internet voting until the time when accurate auditing can be ensured and the substantial risks entailed by voting over the Internet can be sufficiently mitigated.*
- *Require the states publish election returns in such a way that allows the calculation of the residual vote rate by voting mode.*
- *Continue research into new methods to get usable ballots to military and overseas civilian voters securely, accurately, and rapidly, and to ensure their secure return in time to be counted.*

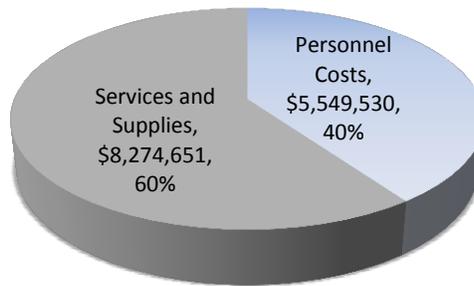
While the report might cause alarm to the average voter, the vote-by-mail process in Orange County has been very successful with a very high rate of counted ballots. The use of automation allows for quick processing of the ballots. Error-checking software identifies problem ballots, which are quickly identified. If possible, the staff can resolve the problems immediately or they can contact the voter for assistance in resolving the issues. The biggest issue with the vote-by-mail process is that voters make errors, which causes a rejection rate of vote-by-mail ballots to be greater than the rejection of ballots cast at polling places. The challenge continues to be how to make the vote-by-mail process convenient and easy for the voter while at the same time secure.

Cost Efficiency

The Grand Jury examined the Registrar of Voters budget (both revenue and expenditures) and cost saving measures taken to gauge the department's stewardship of public funds. Major personnel expenditures included salaries, extra help, overtime, pensions and insurance. Major services and supply expenditures included communications, reproduction costs, postage, professional services, equipment rental, space rental and equipment.

²⁶ Alvarez, R. et al. (CalTech, MIT & University of Utah) retrieved 2/13/13, from <http://vote.caltech.edu/content/voting-what-has-changed-what-hasnt-what-needs-improvement>

Actual Expenditures
\$13,824,181



The Registrar’s office offset costs 37.66% by earning \$5,206,122 in revenue. Major sources of revenue included service to cities, state mandates and election consolidations.²⁷

Orange County realized additional savings in the amount of \$2,725,293 beginning with the 2008 fiscal year. This was accomplished in part by reviewing expenditures, “strategically deactivating” mobile phones, instituting a “pre-approval” policy regarding overtime usage, removing batteries from voting machines, personnel reductions, and renegotiation of contracts.²⁸

Most interesting is the Cost per Voter comparison between Orange County and four other counties in California. More than any other financial statistic, this comparison easily illustrates how well the Registrar’s Office is managing its fiscal responsibilities.²⁹

COST PER VOTER	COUNTY				
	Orange	Los Angeles	San Diego	Contra Costa	Sacramento
Overall	\$5.54	\$7.19	\$7.96	\$8.78	\$5.86
Vote-by-Mail	\$1.30	\$4.36	\$4.28	\$3.18	\$3.23
Polling Place	\$2.77	\$8.10	\$13.01	\$6.95	Unknown

Consistency

For an election to be fair, consistency is required at all stages of the process. The candidates insist on their applications being processed in a similar manner. The voters insist on a consistent experience no matter where, or how, they cast their vote. The State of California insists that all votes be counted in a consistent manner.

²⁷ FY 2010/11 Budget Data obtained from the Registrar of Voters

²⁸ Kelley, N. Memorandum to the O.C. Grand Jury dated 8/15/12

²⁹ Kelley, N. Memorandum to the O.C. Grand Jury dated 8/22/13

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The Registrar of Voters ensures consistency by utilizing written training material, written documentation, checklists for essential critical tasks, and guarantees consistency by monitoring every step of each process.

A detailed de-briefing after the election ensures that whatever issues need to be addressed before the next election are documented and resolved.

Sustainability of Processes

Based on the Grand Jury's observations, the primary reasons for sustainability of the election process were: (1) efficient management that concentrates on process details, (2) good documentation regarding training and the **processes**, (3) good detailed schedules that ensure all of the functions are performed at the appropriate time, and (4) a thorough de-briefing process following the election so that any concerns can be documented and addressed before the next election.

Management takes seriously the challenge of making sure the details of the various functions are executed well. Very importantly, management's standing with staff helps ensure staff will respond adequately.

Written documentation observed included poll worker training manuals, process documentation, and process checklists. The documentation appeared to be accurate and up-to-date.

The master schedule shared with the Grand Jury was very detailed and in proper sequence to ensure functions were performed in the proper order.

The most important function observed was the post-election de-briefing. For this election, the de-briefing took three days and generated over 200 action items.³⁰ The most impressive part of the de-briefing was the extent to which participants evaluated issues and came up recommendations to improve the process.

Examples of the types of action items identified during this election's de-briefing sessions are show below:

Item 34: Explore reserving large schoolrooms to avoid assignment to smaller rooms for the election.

This highlighted the issue that schools frequently change the allocation of Election Day rooms due to unknown school priorities.

³⁰ 200 action items doesn't mean that there were many problems. It simply attests to the level of detail addressed at every level and stage of the election process.

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- Item 42: Explore other options in sending/receiving ballots via email to Military and Overseas voters and seek legislation to assist process.

This highlighted the issue that exchanges between the Registrar of Voters' staff and military personnel and overseas voters is often very time consuming and may cause delays in the eventual receipt of ballots. In California, completed ballots, presently, must be received no later than the closing of polling places and cannot be received via email.

- Item 98: Look into the type of masking tape provided to polling places with the voting supplies to avoid any paint damage to polling place walls.

This highlighted the issue that the placing of required voting signs on walls could sometimes cause damage to the paint on the walls. Although this may seem a trivial point, it highlights the attention to detail discussed at the debriefing.

Space Requirements

The Registrar of Voters' office space requirements continue to expand as new equipment is purchased and integrated into the existing voting system. During the debriefing process, staff identified requirements for new equipment. If the Registrar of Voters continues to add and or replace existing equipment, there will be a need for more office space to continue efficient election operations.

Temporary office space is rented for the distribution of the election supply packets to the polling place workers. This space is only needed shortly before the election and can be released once all of the election supply packets have been distributed. Availability of rentals for periods of no more than two weeks has proven difficult.

The entire parking lot at the Registrar of Voters' facility is utilized for almost two weeks prior to an election to provide an area for training and drive-thru service for the public to complete the registration process and turn-in vote-by-mail ballots. While use of the parking lot is convenient for Registrar of Voters' staff, it does create issues for the other tenants operating at the site, as they are required to park off-site.

Succession Development Planning

The election processes work very well; however, the Grand Jury had concerns regarding the possible replacement of critical management personnel. While the staff is committed to providing good service, it was not evident that this level of service would continue under different top management. The Grand Jury is concerned that the Registrar is such a dynamic leader that any future replacement may have an insurmountable task to fill some very big shoes. It appears to the Grand Jury that the Registrar has fostered a working environment where employees are empowered with a sense that their contributions are valued and their input is accepted with serious regard.

Stakeholder Outreach

The Grand Jury contacted all of the major Orange County political parties and the League of Women Voters early in the study process. Only the League of Women Voters expressed a desire to meet with the Grand Jury. Representatives from that organization said they were very satisfied with the customer service provided by the Registrar of Voters Office. Employees of the Registrar were described as, “knowledgeable, courteous and helpful.” (Based on first-hand observation, the Grand Jury concurs with the League’s assessment of county employees working for the Registrar) The Registrar himself was commended for being responsive to their needs as a voter advocacy group in Orange County.³¹

Military Voters

Election Code §3101-3123 regulates military and overseas voters’ ability to register and vote in federal, state and local elections.³² Presently, Californians serving in the military overseas can register to vote as a special absentee voter. They can request the special status and receive ballots via e-mail but must return them to their respective registrars via regular postage. Given the rigor of military service – particularly those serving in combat zones, the requirement to print an electronic ballot, complete it and place it in the mail could be problematic and disenfranchise some of our best and brightest citizens.

The State of Connecticut’s Office of Legislative Research produced a 2013 report that identified 28 states that allow some or all of their military and overseas voters to return voted ballots electronically. Twenty of the states allow the return of voted ballots via e-mail.³³ California legislation to allow for voting using the referenced methods is indeed worth exploring.

As a military voter, you may be eligible to return your voted ballot by fax or email if you are an active member of the army, navy, marine corps, merchant marine, coast guard, air force, or Iowa National Guard and are outside the U.S. or any of its territories

--Iowa Secretary of State website at:

<http://sos.iowa.gov/elections/voterinformation/uocava/returnballot.html>

FINDINGS

In accordance with California Penal Code Sections §933 and §933.05, the 2012 - 2013 Grand Jury requests responses from each agency affected by the findings

³¹ Grand Jury interview conducted 9/28/2012

³² Election Code retrieved 2/13/13, from www.leginfo.ca.gov

³³ Adams, T., Legislative Analyst II, OLR Report, *Electronic Ballot Submission by Military and Overseas Voters (1/8/13)* Connecticut General Assembly, retrieved 2/13/13 from <http://www.cga.ct.gov/2013/rpt/2013-R-0022.htm>

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presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation of the Registrar of Voters, the County Executive Officer, and the County's Emergency Manager in Orange County, the 2012 - 2013 Orange County Grand Jury has arrived at eleven principal findings as follows:

- F1. The County's electronic voting system coupled with the Registrar's system of collecting, processing and counting ballots is very proficient both in terms of efficiency and cost effectiveness.
- F2. The Grand Jury has confidence in the security of ballot processing and the accuracy of election results.
- F3. The Registrar fosters a climate of technological innovation, teamwork, efficiency, purpose and introspection that results in employees that appear to be highly competent, cheerful and driven to providing outstanding customer service.
- F4. **The Registrar of Voters Office is a model for other County Departments and Agencies to emulate.**
- F5. The Registrar of Voters is supported by a large number of volunteer poll workers and election-day help that contribute greatly to the efficiency of Election Day operations.
- F6. There was no evidence of widespread or organized voter fraud.
- F7. Voting by Mail increased in popularity among the Orange County electorate, but due to voter error, casting a ballot in this manner is more likely to be disqualified than any other method of voting; however, such possibility of rejection is still only .54%.
- F8. The Registrar's Office has a plan to maintain operations in the event of natural or man-made disaster.
- F9. Orange County residents serving in the U.S. Military abroad cannot return their ballots to the Registrar of Voters via e-mail per state law.
- F10. The existing voting system meets the current requirements of the Registrar of Voters; however, new voting systems should be explored to determine if it is time to upgrade.
- F11. The existing office and warehouse space is overcrowded.

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The Registrar of Voters shall respond to **Findings F1, F2, F3, F5, F6, F7, F9, F10 and F11**

The County Executive Officer shall respond to **Findings F1, F2, F3, F4, F5 and F10**

The County's Emergency Manager shall respond to **Finding F8**

RECOMMENDATIONS

In accordance with California Penal Code Sections §933 and §933.05, the 2012 - 2013 Grand Jury requests responses from each agency affected by the recommendations presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation of the Registrar of Voters, the County Executive Officer, and the County's Emergency Manager in Orange County, the 2012 - 2013 Orange County Grand Jury makes the following eight recommendations.

- R1. The Registrar of Voters shall determine the projected lifespan of its electronic voting equipment and report his findings to the County Executive Officer of the County. [F1, F2, F3, F5, F10]
- R2. The Registrar of Voters shall determine office and warehouse space needs for the future and work with the County Executive Officer to fulfill their office space needs for the next decade. [F11]
- R3. The Registrar of Voters shall continue efforts through training, outreach and design to minimize the amount of vote-by-mail ballots that must be rejected³⁴ due to voter error. [F7]
- R4. The Registrar of Voters shall continue vigilance in detecting voter fraud and other irregularities and use cutting edge technology to assist Orange County in this effort. [F6]
- R5. The Registrar of Voters will partner with and lobby within the State of California to identify appropriate safeguards and recommend legislative changes that allow Californians serving in the military to return completed ballots electronically to their respective registrars including Orange County. [F9]
- R6. The County Executive Officer shall ensure the viability of the electronic voting system by earmarking funds for the procurement of replacement equipment, as needed over time. [F1, F2, F3, F5, F10]

³⁴ As required by California state law

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- R7. The County Executive Officer shall determine how the Registrar has developed a motivated, efficient and customer-friendly workforce and use those principles in training of other County Departments and Agencies. [F3]
- R8. The County's Emergency Manager shall plan and host a table top emergency management exercise that involves an event likely to strike Orange County (earthquake, wildfire, power grid failure, Santa Ana wind event) in the days prior to a general election. [F8]

The Registrar of Voters shall respond to **Recommendations R1, R2, R3, R4 and R5**.
The County Executive Officer shall respond to **Recommendations R5, R6 and R7**.
The County's Emergency Manager shall respond to **Recommendation R8**

REQUIREMENTS AND INSTRUCTIONS:

The California Penal Code §933 requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code Section §933.05 (a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

(a) As to each Grand Jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b) As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

(c) If a finding or recommendation of the Grand Jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the Grand Jury, but the response of the Board of Supervisors shall address only those budgetary /or personnel matters over which it has some decision making aspects of the findings or recommendations affecting his or her agency or department.

COMMENDATION

Orange County grand juries have commended the Registrar of Voters office on several prior occasions citing management and staff for exemplary performance. The 2012-13 Orange County Grand Jury is pleased to commend the Registrar and his employees again for a “job well done” during the November election.
