

FINAL REPORT - CASE NO. 01-07(C) FOLLOW-UP REPORT SAN JOAQUIN COUNTY REGISTRAR OF VOTERS

REASON FOR INVESTIGATION:

California law requires that before an election all voting units undergo “logic and accuracy” testing prior to each election. As part of that process, the Registrar of Voters invited the Civil Grand Jury, as in prior years, to serve as the Validation Monitor Panel. Full election testing by the Registrar of Voters occurred over the course of thirty days. The Grand Jury’s purpose was to serve as an official body to verify the ballot process for the November 2006 election using the Diebold touch screen election systems and to verify a subset of the full election testing. The specific job for the Grand Jury was to observe, verify, test and attest that the voting system is counting the voted ballots accurately.

In addition, several of the Grand Jury members served as volunteer officers at various precincts in the County during the November election. From that perspective the members noted some concerns about the efficiency of the process.

BACKGROUND:

In March 2006, after extensive testing at the state level, the former California Secretary of State, Bruce McPherson, certified the Diebold machines for use in elections. Subsequent to this certification, the machines were used in the Primary Election in June and in the General Election in November 2006. It was the use of this equipment in the November 2006 election that the Grand Jury was to test and verify.

METHOD OF FOLLOW-UP INVESTIGATION:

- Interviewed the Interim Registrar of Voters
- Participated in attesting the Primary election for 2008
- Reviewed revised documents for testing procedures
- Volunteer members of this Grand Jury again participated in various roles at various precincts throughout the county
- Volunteer members of this Grand Jury attended training for Clerks and Inspectors

RECOMMENDATIONS FROM THE 2006-2007 GRAND JURY:

The 2006-2007 Grand Jury made the following recommendations:

1. The Registrar of Voters should continue to work closely with the Grand Jury members to ensure that the attesting process prior to the election works smoothly and allows the Grand Jury to fulfill its obligation as a certifying body.

2007-2008 Grand Jury Finding: The Registrar of Voters has made significant efforts to work with the Grand Jury in ensuring the process is clear and concise.

2. The Grand Jury has no recommendations regarding the ballot delivery process. However, the County should seek ways to improve the efficiency of absentee ballot counting in order to present the official results as early as possible.

2007-2008 Grand Jury Finding: Although the Registrar of Voters agreed with the recommendation to improve efficiency of absentee ballot counting, this Grand Jury did not see any changes to the process from the previous year.

- 3a. The Registrar of Voters must take action to see that precincts open on time. Part of the training should be to have inspectors contact headquarters as soon as they anticipate that they will not open on time so that support can be provided. The training should also include instructions that paper ballots can be used by anyone in line who wants one as soon as the precinct fails to open on time.

2007-2008 Grand Jury Finding: The Registrar of Voters has included in their training a contact at headquarters should the precinct have trouble opening on time. Support staff is then dispatched to that precinct. Since the decertification of the Diebold machines and the use by everyone of paper ballots, the second part of the recommendation becomes a moot point.

- 3b. The problems with the paper rolls have to be fixed prior to the next election. The Registrar of Voters should ensure that Diebold not only fixes this problem but also demonstrates convincingly that it works correctly.

2007-2008 Grand Jury Finding: This Grand Jury is aware that the Diebold machines and any changes or repairs must be done at the State and Federal level. Since the decertification of the machines this also is a moot point.

3c. The precinct worker training needs to be improved to cover those items listed in the findings. This training should include separate training for inspectors and clerks to specifically cover their exact jobs in the precinct.

2007-2008 Grand Jury Finding: Improvements in the training for precinct workers has been implemented. Additional training has been implemented for inspectors and field inspectors as well.

3d. A written handout of the instructions should be given to voters so that they can refer to it throughout the voting process. These instructions could also explain the “multiple” printing process required at the end. A possible suggestion to avoid confusion as to whether voters are to expect a printout is the change “print” to “record.”

2007-2008 Grand Jury Finding: The Registrar of Voters now sends a sample ballot to every voter with instructions prior to elections. To change the wording would require federal and state action.

RECOMMENDATIONS:

The 2007-2008 Civil Grand Jury makes the following recommendations:

1. If and when the Diebold machines are recertified for use in our County, the Registrar of Voters needs to make every effort to inform the State of the concerns of this Grand Jury regarding wording for printing the ballot.
2. Should the Diebold machines be recertified, the precinct workers need to be trained to inform anyone that they may vote by paper ballot at any time.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The San Joaquin County Board of Supervisors shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

As to each recommendation, a response indicating one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.

- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.