

November 10, 2009

Board of Supervisors  
County of Ventura  
800 South Victoria Avenue  
Ventura, CA 93009

Subject: Receive and File County Clerk and Recorder's Office Responses to  
2008-09 Ventura County Grand Jury "Did Your Vote Count?" Report

Recommendation:

Receive and file.

Fiscal/Mandates Impact:

None

Discussion:

The 2008-09 Ventura County Grand Jury reviewed the elections policies and procedures of the County Elections Division and personally observed the voting process during the November 4, 2008 Presidential General Election. Their findings, including eight recommendations, were published in a report entitled "Did Your Vote Count?".

Attached (Exhibit 1) are the County Clerk and Recorder's Office responses to those eight recommendations contained in the 2008-09 Ventura County Grand Jury Report entitled "Did Your Vote Count?".

This letter has been reviewed by the County Executive Office, Auditor-Controller's Office, County Counsel, and the Ventura County Grand Jury.

If you have any questions regarding this item, please call me at 654-2293. Thank you.

JAMES B. BECKER  
Assistant County Clerk and Recorder

Exhibit 1: County Clerk and Recorder's Office Responses to 2008-09  
Ventura County Grand Jury "Did Your Vote Count?" Report



**County of Ventura  
COUNTY CLERK AND RECORDER**

**JAMES B. BECKER**  
Assistant County Clerk and Recorder

**TRACY D. SAUCEDO**  
Assistant Registrar of Voters

**DAVID G. VALENZUELA**  
Manager, Clerk and Recorder Operations

**STEVEN K. TANIGUCHI**  
Manager, Information Technology

**JANE McCARTHY**  
Manager, Electoral Administrative Services

**Date:** October 30, 2009

**To:** The Honorable Kevin J. McGee, Presiding Judge  
Superior Court of California-Ventura County

✓ Henry G. Kelley, Foreman  
Ventura County Grand Jury

**From:** James B. Becker *BB*  
Assistant County Clerk and Recorder

**Subject: County Clerk and Recorder Responses to "Did Your Vote Count?"  
2008-09 Ventura County Grand Jury Report**

RECEIVED  
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VENTURA COUNTY  
GRAND JURY

This report provides the County Clerk and Recorder's responses to the April 27, 2009 "Did Your Vote Count?" 2008-09 Ventura County Grand Jury Report. Thank you for the opportunity to respond in detail to this report. I also want to thank the 2008-09 Grand Jury for its commendation to the Elections Division "for its integrity and nonpartisan actions in counting the ballots in the November 4, 2008 Presidential General Election."

The Grand Jury selected the November 4, 2008 Presidential General Election for its review. In considering these recommendations and responses, it is helpful to first put the November 4 election in its proper historical context. This election was by far one of the largest and most challenging elections conducted by the County Elections Division in recent history. Of the 425,968 registered voters for this election, 343,690 voters voted representing an almost unprecedented 81% voter turnout. By comparison, the election that immediately followed (the May 19, 2009 Statewide Special Election) saw only 132,856 voters cast their vote representing a 31% voter turnout.

In addition, the November 4, 2008 election required that a total of 150 different ballot types be designed and provided to specific types of voters by mail and at 365 different polling places Countywide in the 14 hectic hours on Election Day during which the polls were open. Many voters naturally assume that in an election there is just one ballot for everyone; these same voters would likely be amazed to learn that there were actually 150 different ballot types required for just that one election. By comparison, only two ballot types were required for the May 19, 2009 Election.

The November 4, 2008 election involved 365 polling places Countywide staffed by 1,800 volunteer Election Officers (poll workers), with approximately 4-6 Election Officers at each polling place. By comparison, the May 19, 2009 election included 298 polling

places and only 1,200 volunteer Election Officers, with approximately 3-4 Election Officers at each polling place.

Clearly, the magnitude, the public interest represented by voter turnout, the length of some lines at the polls, and the huge logistical demands required by the November 4, 2008 election were extraordinary and, if the Elections Division's performance were to ever be tested and the question "Did your vote count?" asked, this was the election to do so.

It should be noted that the November 4, 2008 election was conducted under the direction of the former (retired) elected County Clerk and Recorder, The Honorable Philip J. Schmit. I am responding to these recommendations in my capacity as Assistant County Clerk and Recorder. The elected office of County Clerk and Recorder has been vacant since January 4, 2009, and is anticipated to be filled again on January 3, 2011, when the next elected County Clerk and Recorder assumes office.

### **Recommendations**

**R-01: "The Grand Jury recommends that the CED should minimize polling places with more than one ballot (e.g., City vs. unincorporated area) by adding polling places. (C-01 through C-05)"**

We concur in part. This recommendation has already been implemented. The existence of multiple ballot types (the availability of more than one type of ballot to voters at a particular polling place) arises due to two factors: (1) the existence of "portion precincts"; and (2) the need to combine more than one precinct at a single polling place location.

First, portion precincts are precincts in which a smaller subset of the voters within that precinct vote on a different ballot than the rest of the voters in that same precinct. For example, some voters in a precinct may live in geographic area in which a water or sewer district office is on the ballot for that election. Other voters in that same precinct do not reside within the geographical boundaries of that water or sewer district and would not vote on that office. As a result, there would be different ballot types for the same election for voters in the same precinct based on where they live within that precinct.

The Elections Division will eliminate all portion precincts (by converting portion precincts into separate mail ballot precincts) by the June 2010 Gubernatorial Primary Election. No portion precincts were included on either the May 19, 2009 Statewide Special Election ballot or the November 3, 2009 Consolidated General Election ballot.

Second, the number and locations of polling places are determined based on the availability of sites and cost. Ideally, there would be one polling place for every precinct in the County for every election. However, there are not sufficient polling places in all the needed locations available and those available do not always offer the most

desirable layout, size, or parking. And the more polling places that are added, the more the costs (Election Officer subsidies, polling place rent, voting system equipment, supplies, transportation, etc.) increase to conduct an election. Also ideally, all polling places would be available to the Elections Division on Election Day free of charge as a public service. The reality is that, although the Elections Division is able to negotiate many polling places at no cost, other polling places we need charge from \$25 up to several hundred dollars each.

As a result of these two limiting factors (availability and cost), the Elections Division attempts to provide the minimum number of polling places required at the most efficient locations. However, this then creates the occasional situation in which more than one ballot type is being used by voters at the same polling place location. In those cases in which the Elections Division must locate more than one precinct in the same polling place building, the different precincts are separated (each have a separate table and separate voting equipment) and additional Election Officers are assigned to that polling site to direct voters to their correct precinct table.

**R-02: “The CED should improve procedures to ensure that at multi-precinct polling places, voters are given the correct ballot (e.g., City vs. unincorporated County). (C-01 through C-05)”**

We concur. This recommendation has already been implemented. Multi-precinct polling places (polling places that contain more than one precinct in the same building) result from the practical need to locate too many voters into too few polling places. As stated earlier, there should ideally be one polling place for every precinct in the County for every election, but due to the lack of availability and costs to operate polling places, this ideal condition does not exist. The Elections Division is required to conduct elections under real world conditions and within existing resource limitations.

The vast majority of multi-precinct polling places have only one ballot type. In fact, during the November 4, 2008 election, only 17 polling places Countywide (out of 365 total polling places) had more than one ballot type at the same polling place. The existence of multiple ballot types at polling places has been the *exception* and not the norm.

Multi-precinct polling places that have only *one* ballot type are known as “Alpha Splits” (in reference to splitting the voters alphabetically). Alpha Split polling places are polling places that draw voters from the same geographic area but may have two or more precincts assigned to it based on voters’ last names. For example, there may be an A-L precinct and an M-Z precinct located at the same polling place. These two precincts would have the same single ballot type and share the same geographic boundaries but be divided alphabetically into two groups in order to accommodate more voters at a polling place.

A polling place can even have three or more Alpha Split precincts assigned to it. In that situation, an additional Election Officer (known as a "Traffic Director") is assigned to that polling place to direct voters to the correct table.

For polling places that house two precincts with *different* ballot types, the Elections Division will assign additional "Traffic Directors" to those polling places to direct voters to the correct table. It is important to understand that, at these polling places, different ballot types would not be available to voters at the same table. Different ballot types may be available at different tables. Voters would only be directed to one table.

The Elections Division will make every effort to limit the number of polling places that have two precincts with different ballot types through increased efforts to recruit additional polling places. However, the reality again is that some areas in the County have limited polling place locations available.

As stated earlier, during the November 4, 2008 election, only 17 polling places Countywide (out of 365 total polling places) had more than one ballot type at the same polling place. An issue related to voters being handed an incorrect ballot type, although not widespread, was reported during the November 4, 2008 election. This issue was also referenced in the Grand Jury Report as possibly having had a material effect on the outcome of that particular contest. Immediately upon receiving these reports, the Elections Division conducted a thorough review to determine what may have occurred.

The issue involved a candidate for the Santa Paula Elementary School District Board of Trustees, who was one of five candidates on the ballot. The voters were instructed to vote for two of the five candidates. This candidate came in third in the contest and lost to the second place candidate by one vote.

The incident occurred at the Church of the Nazarene polling place in Santa Paula in the morning on Election Day. Two different ballot types (one with the school district race on it and one without) were provided to voters at that polling place based on the voter's residence within that precinct. Two Grand Jury members who were acting as observers were present at that polling place at the time.

The Elections Division, to the best of their knowledge, was able to determine that as many as 14 of the incorrect ballot types may have been provided to voters at that polling place until the time the mistake was discovered. All voters who were entitled to vote for that school district race were provided the correct ballot type; however, as many as 14 voters who were not entitled to vote for that school district race received the incorrect ballot type which allowed them the possibility to vote for a contest in which they were not entitled to vote. As a result, no voters who were entitled to vote for that school district race were disenfranchised; however, as many as 14 additional voters were provided the opportunity to vote for that school district race that should not have been. Since ballots are secret, the Elections Division could not identify which specific voters may have been handed the incorrect ballot type.

The only conclusion that can be reasonably drawn from this occurrence is that those 14 incorrect ballot types should not have been handed out (that was a human error by a volunteer citizen poll worker) but the outcome of that action on that contest remains unknown and cannot be demonstrated to have had a material effect on this contest.

To prevent this incident from recurring in future elections, the Elections Division will eliminate from all polling places the possibility of a voter signing in at a voting table and possibly being given more than one different ballot type. This will be accomplished by creating more mail ballot only precincts for the small portions of precincts that require a separate ballot type (e.g., a small water/sewer district) that is different from the ballot type used by the rest of that precinct that would not contain that small water/sewer district.

**R-03: “The CED should improve procedures to ensure an experienced poll worker is assigned to direct voters to the correct table to receive their ballot and to oversee the overall location at polling places with more than one precinct. (C-01 and C-05)”**

We concur. This recommendation has already been implemented. During the November 4, 2008 election, Election Officer staffing was increased from the standard 3-4 Election Officers at each polling place to 4-6 Election Officers at a single polling place. One of the additional Election Officers was assigned as a “traffic director” to direct voters to their correct precinct table. This strategy will be repeated in all future larger elections in which more than one precinct is located at the same polling site.

**R-04: “The CED should ensure that at least one worker at each site is able to lift and handle heavy equipment. (C-04)”**

We concur in part. This recommendation has already been implemented. The Elections Division makes every effort in assigning Election Officers to a polling place to ensure that at least one of those Election Officers is able to lift and handle the voting equipment which can be heavy based on the physical size and strength of the Election Officer. Although this will always be the goal of the Elections Division, on occasion, there may be no Election Officers who are able to lift and handle the voting equipment available or willing to work at a particular polling place. In other cases, an Election Officer who is able to lift and handle the voting equipment may cancel at the last moment leaving that polling place without that capability.

In the event of these scenarios, a Roving Inspector (who supervises and serves as a troubleshooter for several polling places within a specific geographic area) is available to be dispatched to that polling place to assist with lifting and handling the voting equipment. Elections Division staff can also be sent to a polling place to assist in resolving any problems that arise.

**R-05: “The CED should require that all poll workers, especially inspectors, get the proper training so that they understand what needs to be done before, during, and after the election. (C-01 through C-06)”**

We concur. This recommendation has already been implemented. California Elections Code Section 12309 mandates only Inspectors to attend training. Although training for Clerks is by law optional, the Elections Division strongly encourages Clerks each election to attend training also. Two of the three Clerks assigned to a polling place during an election have typically attended training. Historically, the Elections Division has trained approximately 60-78% of the assigned Election Officers (poll workers) for each election.

As an incentive to attend training, all Election Officers receive \$20 for completing the training in addition to their regular poll worker stipend for serving on Election Day (\$90 for Clerks, \$120 for Inspectors, and \$140 for Roving Inspectors).

Election Officer training is 3½ hours in length consisting of 1½ hours of classroom instruction (the classroom instruction can alternatively be taken online) and two hours of hands-on instruction in the operation of the electronic voting equipment. Election Officer training is scheduled prior to each election at various locations and times throughout the County.

During the November 4, 2008 election, approximately 1,800 Election Officers were recruited (and the majority of them trained) to staff 365 polling places Countywide on Election Day.

During 2010, the Elections Division will be evaluating all aspects of the Election Officer training program (including classroom, online, and hands-on training, training materials, and training methods) as part of the Elections Division's ongoing Lean Six Sigma (process improvement) program. Volunteer Election Officers who have experience “working the polls” will be invited to participate in this internal review to assist in identifying areas for improvement.

**R-06: “The CED should explore ways, including State legislation, to streamline the voting process, such as: (C-01 through C-07)**

- **Enabling registered voters to swipe their driver’s license or ID card through an automated system to process them to vote**
- **100% voting by mail**
- **100% voting by mail with prepaid return postage**

We concur in part. With the exception of streamlining the voting process, the other components of this recommendation will not be implemented at this time.

The Elections Division monitors legislative proposals and changes to State legislation and actively participates on the legislative committees of Statewide professional elections organizations. There is currently no product on the market of which the

Elections Division is aware that would allow a voter to swipe his/her driver license or ID card in order to verify his/her eligibility to vote. If a new product of this nature becomes available, the Elections Division will evaluate the cost and effectiveness of any such product for potential implementation in Ventura County.

The State legislative climate has been opposed to allowing counties to conduct 100% Vote By Mail elections. The Elections Division was previously part of a proposed pilot program that would have allowed five counties to conduct their elections 100% Vote By Mail. However, this legislation failed to pass. The Elections Division will continue to actively monitor any legislative proposals that would allow counties to conduct 100% Vote By Mail elections.

Presently, return postage is prepaid only for "Mail Ballot Precinct Voters" who reside in "mail ballot" precincts. These are precincts with fewer than 250 voters in which no polling places are set up on Election Day due to the small size of the precinct. All voters in these mail ballot precincts vote by mail.

Expansion of prepaid return postage to all Vote By Mail (absentee) voters or to all registered voters is primarily a cost issue that would result in significant additional public costs to conduct elections. As an example, for the November 4, 2008 Presidential General Election, there were 425,968 registered voters. Of these total registered voters, 343,690 voters cast ballots. The return postage cost in that election for the two-card ballot was 67 cents (\$0.59 + \$0.08 for business reply). The estimated total *potential* cost to pay the return postage for all those 425,968 registered voters would have been \$285,399 (425,968 registered voters x \$0.67 return postage). The estimated total *actual* cost to pay the return postage for the 343,690 voters who cast ballots would have been \$230,272 (343,690 voters x \$0.67 return postage) based on the number of those voters who returned their ballot envelopes. These would have been the estimated return postage costs for this election alone. In 2008, there were three elections so the annual prepaid return postage cost would have been even greater.

As previously discussed, expansion of prepaid return postage for voters is a matter of cost and would be a policy issue as to how that additional cost would be paid. In addition, there may be legal issues regarding providing payment (prepaid return postage) for voting by mail as opposed to voting at the polls. The Elections Division's FY 2009-10 Adopted Budget does not include funding for any additional prepaid return postage.

The Elections Division is continually exploring ways to streamline the elections process. During the most recent May 19, 2009 Statewide Special Election, the Elections Division provided a survey to all 1,200 Election Officers (including a prepaid return envelope) to solicit their first-hand observations of what went right and what could be improved during that election. Approximately 900 surveys were returned. This extremely high return rate (and the high return rates of prior Election Officer surveys) reflects the interest that Election Officers have in the election process and the interest that the Elections Division has historically demonstrated in listening to the experience of its



Election Officers. Practical suggestions derived from this survey are being evaluated by Elections Division staff as part of the Elections Division's Lean Six Sigma (process improvement) program. A similar survey will continue to be provided to all Election Officers in all future elections.

Also, the Elections Division is currently redesigning its website. This redesign (which is anticipated to be completed in early 2010) will include enhanced voter information and educational resources for voters and Election Officers and links to Elections Division staff for voters to submit comments and specific suggestions for streamlining the voting process in Ventura County.

Further, the Elections Division will offer for the June 2010 Gubernatorial Primary Election a 24/7 secure public drop-off box for voters to return their Vote By Mail ballots at the County Government Center during hours that the Elections Division is not open to the public.

A similar drop-off box and other election services are also being evaluated for potential location in the East County as additional services that could be provided to our East County voters to reduce their travel time and costs to the Elections Division.

In addition, the Elections Division is actively evaluating available technology and identifying partial funding sources to allow purchase of state-of-the-art equipment for the June 2010 Gubernatorial Primary Election that will automate and expedite the verification of signatures, opening, and sorting of Vote By Mail ballots and reduce the labor costs and time required to certify election results for the public.

**R-07: “The CED should educate the public on how to delete deceased voters from the voter rolls by putting information in the pre-election voter pamphlet and in the sample ballot. (C-07)”**

We concur in part. This recommendation will be implemented in June 2010. The pre-election voter pamphlet (officially known as the “Voter Information Guide”) is published by the Secretary of State who controls its format and content. However, the “Sample Ballot” is produced locally by the Elections Division. Beginning with the June 2010 Gubernatorial Primary Election, the Elections Division will include a brief explanation in the Sample Ballot for each election to educate voters how to contact the Elections Division regarding voters who are deceased who may still be on the voter rolls. In addition, the Elections Division is currently redesigning its website. This redesign (which is anticipated to be completed in early 2010) will include information as to contacting the Elections Division regarding potentially deceased voters.

**R-08: “The CED should ensure that policies and procedures, such as verification of federal, State, and County data bases, are in place to purge all deceased voters from the ballot process before each election. (C-05 through C-07)”**

We concur. This recommendation has already been implemented. Such policies and procedures are in place. California Elections Code Section 2205 governs the cancellation of the voter registration of deceased persons. The Elections Division is required to cancel the affidavit of registration of each deceased voter upon notification of the State Registrar of Vital Statistics.

In Ventura County, deceased persons are removed from the voter registration rolls by the Elections Division in three ways. First, the Secretary of State sends the Elections Division an electronic file quarterly (soon this will be monthly) listing all deceased voters. The Elections Division then compares this electronic file with their voter registration records and cancels the affidavit of registration of any deceased Ventura County registered voters.

Second, the Public Health Department of the Ventura County Health Care Agency sends the Elections Division quarterly a paper copy of all deceased persons in Ventura County age 18 and over. The Elections Division then compares this hard copy list with their voter registration records and cancels the affidavit of registration of any deceased Ventura County registered voters.

Third, the Elections Division is occasionally notified by family members or others that a voter has become deceased. If a person provides written notification to the Elections Division of a voter's death, the deceased voter's affidavit of registration is made inactive by the Elections Division.

I appreciate the opportunity to respond to this report. The Elections Division and I welcome the Grand Jury's involvement and participation in the November 4 election and in all elections. It is through concerned independent observers like yourselves that the public is reminded and assured of the openness and integrity of the elections process that we conduct in Ventura County. When you and other concerned voters identify potential issues and ask questions and the Elections Division is provided the opportunity to respond and make changes, as necessary, we all benefit. Thank you again for getting involved in the elections process and for your astute and detailed observations and recommendations that we will continue to evaluate seriously.

Please call me at (805) 654-2293 if you have any questions or if our office can provide you with additional information.

c: Marty Robinson, County Executive Officer  
Matt Carroll, Assistant County Executive Officer  
Robert Orellana, Assistant County Counsel  
Tracy Saucedo, Assistant Registrar of Voters