



County of Orange
California

Thomas G. Mauk
County Executive Officer

April 28, 2004

B. Lewis Avera Jr., Foreman
FY 04/05 Grand Jury
Superior Court of California
700 Civic Center Drive West
Santa Ana, CA 92702

Subject: Response to Orange County Grand Jury Report, "November 2,
2004 General Election Orange County California"

Dear Mr. Avera:

Per your request, and in accordance with Penal Code 993, enclosed please find the County of Orange response to the subject report as approved by the Board of Supervisors. If you have any questions, please contact Brian Wayt at (714) 834-4104 in the County Executive Office who will either assist you or direct you to the appropriate individual.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas G. Mauk", is written over a faint, larger version of the same signature.

Thomas G. Mauk
County Executive Officer

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2004-2005 Grand Jury Report
“November 2, 2004, General Election Orange County California”
Response to Findings and Recommendations

Response to Findings 7.1.1 - 7.1.4, 7.2.1 - 7.2.5, 7.3.1 - 7.3.5, 7.4.1 - 7.4.4:

- 7.1.1 In all but one case (reported to the ROV early in the training period), the instructors were highly competent.

Response: Agrees with finding

- 7.1.2 Although the training sessions were three hours long, it was not enough time to absorb the heavily detailed election process.

Response: Disagrees partially with finding

Extensive research was accomplished into the best mix of training time for the poll worker versus material covered. This research determined 3 hours to be optimum. Although some small amount of poll workers stated a desire for an extended amount of training, the vast majority of poll workers interviewed stated agreement with the 3-hour timeframe. However, lessons learned from this and previous elections will be incorporated into training for future elections.

- 7.1.3 The class sessions did not allow enough hands-on experience with the electronic voting machines, including the setting up and taking down of the machines.

Response: Disagrees partially with finding

Extensive research was accomplished into the best mix of training time for the poll worker versus material covered. This research determined the time spent with the voting equipment to be optimum. Although some small amount of poll workers stated a desire for an extended amount of training, the vast majority of poll workers interviewed stated agreement with the amount of time provided. However, lessons learned from this and previous elections will be incorporated into training for future elections.

- 7.1.4 There were no written tests that would indicate a comprehension of the materials.

Response: Agrees with finding

- 7.2.1 Many early voters would have been unable to vote had it not been for the early voting process because they had not applied for absentee ballots.

Response: Agrees with finding

- 7.2.2 Voting at malls, city halls, supermarkets, and John Wayne Airport made early voting convenient.

Response: Agrees with finding

- 7.2.3 There was not enough advance publicity about early voting.

Response: Disagrees wholly with finding

Extensive news coverage of early voting was provided by both printed and electronic news media. Every voter received a sample ballot. Contained within this sample ballot was information about early voting. We also provided information concerning early voting on our web site.

- 7.2.4 The early voting period (October 5-29) was too long.

Response: Agrees with finding

- 7.2.5 The mobile unit developed by the registrar's office to promote voter registration, early voting, and voting in general appears to be an effective public relations tool.

Response: Agrees with finding

- 7.3.1 There were many voting options in this election. On Election Day, voters could cast ballots electronically, by paper at the polls, by absentee ballot delivered to a polling place, or by one of two kinds of provisional ballots-blue for absentee voters who misplaced or did not receive their mailed ballots and white for voters whose names did not appear on the official roster for that precinct.

Response: Agrees with finding

- 7.3.2 A small number of voters (all age groups) expressed their desire for "a paper backup ballot" in case any recounts were required.

Response: Agrees with finding

- 7.3.3 A small number of people believed the instructions for electronic voting should be simplified.

Response: Agrees with finding

- 7.3.4 The use of County and City employees, as well as high school students, as poll workers was effective. It lowered the average age of poll workers, an important factor in the process that typically demands 16-hour days of senior citizens, who as a group traditionally have been the major source of poll workers.

Response: Agrees with finding

- 7.3.5 Substantial numbers of voters showed up at precincts other than the ones to which they were assigned.

Response: Agrees with finding

- 7.4.1 The variety of paper ballots complicated the counting process. These allowed opportunities for error and a potential to weaken voter confidence. The electronic votes were tallied within hours of the polls closing, while the count of various types of paper ballots was not completed until 22 days after the election.

Response: Agrees with finding

- 7.4.2 Under current state law, the county must conduct elections under statutes that are not necessarily compatible with current technology.

Response: Agrees with finding

- 7.4.3 A difficulty in counting paper ballots developed because of the ballot size. The optical scanner counting the two-page ballots required that the pages be lined up exactly, or ballots would be mistakenly rejected.

Response: Disagrees partially with finding

The main difficulty with the two-page ballot was the need to have the pages together and in order. This concern has been raised with Hart Intercivic, which will provide an upgrade to allow pages to be scanned in any order and then matched electronically.

- 7.4.4 The cost of counting electronic ballots versus the cost of counting various styles of paper ballots needs to be determined and disseminated.

Response: Disagrees partially with finding

The Registrar of Voters is uncertain as to the need to gather this information. Electronic voting at polling locations is required to meet partisan and language requirements of ballots and accessibility by persons with disabilities. Paper absentee ballots are required to meet various California election codes authorizing persons to vote absentee.

Response to Recommendations 8.1.1 - 8.1.3, 8.2.1 - 8.2.4, 8.3.1 - 8.3.4, 8.4.1 - 8.4.4:

- 8.1.1 The ROV should continue to seek and hire competent instructors. Additionally, more time should be given to hands-on training with the electronic voting equipment (including JBC operations), equipment set-up, and equipment teardown.

Response: The recommendation has been implemented

Each election-training program builds upon the lessons learned during the previous election. The needs of working with the required paper audit trail system will be incorporated into future training and the length of training and its scope adjusted accordingly.

- 8.1.2 To gauge understanding of instructions, an oral or written test should be incorporated in training.

Response: The recommendation has been implemented

Clearly there are methods that the ROV's office will explore in developing better ways to measure levels of understanding of poll worker training. The ROV will work towards developing an exit exam and use it as a test in the next countywide election. This exam could be given at random and anonymously at first as a test to determine how training could be improved and to gain an understanding of how such a test might affect poll workers in general. The retention of quality poll workers should be a factor in how we implement such an exam and if in the long run how effective the exam will be on improving understanding of the material.

- 8.1.3 The ROV's drive to recruit poll workers from the ranks of county and city employees and high school government classes should continue in the interests of expanding the pool of younger election workers and as an educational tool for students.

Response: The recommendation has been implemented

The program used to recruit high school students and county workers for the November election proved highly successful and will be continued. Our efforts to recruit city workers will be intensified for future elections.

- 8.2.1 Early voting is off to a good start in Orange County and should be continued, although more voter education and publicity about this opportunity is necessary.

Response: The recommendation has been implemented

Lessons learned from the start up of early voting in Orange County will be incorporated into how early voting is provided in future elections. The dramatic

increase in early voting from March to November of 2004 shows that the County is providing adequate information to the public on when and where to vote early. We expect the current advertisement methods, usage, and word of mouth to continue the increase in early voting by Orange County's voters.

- 8.2.2 As a cost and time saving measure, it would be prudent to shorten the window of early voting.

Response: The recommendation has been implemented

It is difficult to apply a cost benefit analysis to a person's ability to vote. However, Orange County has always intended to use the results from March and November 2004 early voting as a guide to its structure for future elections. Future early voting will be optimized to meet the needs of Orange County and its voters.

- 8.2.3 Greater effort should be made to secure voting places with the most foot traffic and best visibility.

Response: The recommendation has been implemented

Every effort has been, and will continue to be made in future elections to maximize the accessibility of early voting locations to the voters of Orange County.

- 8.2.4 To encourage early voting, ways should be found to take even greater advantage of the registrar's mobile unit.

Response: The recommendation has been implemented

The Registrar of Voters is actively pursuing means to further maximize the effectiveness of our Votemobile during the early voting period.

- 8.3.1 Precinct locations should be displayed more prominently in individual sample ballots.

Response: The recommendation has been implemented

Ensuring each voter knows the location of his/her polling place is very important. Orange County has used various means to draw the attention of the voter to this address shown in the back of the sample ballot pamphlet. To further assist this effort, Orange County adds the major cross streets for the polling location. For the November election the area showing the polling place address was highlighted with an orange background. ROV staff is using feedback from voters and poll workers on the success of this and will modify the attention gathering methods to further improve the ability of the voter to know the location of his/her polling place

- 8.3.2 County election officials, including the BOS, should lobby state legislators to pass legislation that would change Election Day voting to the methods used in early voting, wherein there is no specific precinct.

Response: The recommendation requires further analysis

This is a policy decision, which needs to be studied by the Board of Supervisors to determine what is best for Orange County's voters. Although countywide voting is possible in concept, its practical implementation is questionable with current technology. Each of approximately 1300 polling locations would need to be connected in real time to the central voter database. Currently, this would cost the County several million dollars and require a larger ROV IT staff to oversee.

- 8.3.3 To help voters feel more secure and build trust in electronic voting, intensify voter education about Orange County's voting system, the system's security, and voter receipts (paper audit trails), prior to the next regularly scheduled general election.

Response: The recommendation has been implemented

Orange County will use its lessons learned from the March and November 2004 elections to better target voter education for future elections.

- 8.3.4 Voter instruction sheets for casting electronic ballots should be simplified (less verbiage).

Response: The recommendation requires further analysis

It is agreed that the sheets given to voters is long and contains a great deal of information. The extensive amount of information communicated in the original document (which was used in the initial roll out of the equipment as well as the General Election of 2004) was based on benchmarking other counties throughout the country who had implemented the Hart system. The ROV will work to reduce the amount of verbiage and seek a better method of communicating this information to the voters. During upcoming outreach events we will develop samples and will obtain data from users. In addition we will gauge their level of understanding and their opinions on the newly improved instruction sheets.

- 8.4.1 The Registrar of Voters and the Board of Supervisors' subcommittee on elections should seek, with the County's representatives in the State Legislature, counting efficiencies that more closely match the capabilities of electronic voting.

Response: The recommendation requires further analysis

As stated in the response to finding 7.4.4, both electronic (polling place) and paper (absentee) voting are required by federal and state law. We believe the issue being referred to in this recommendation pertains to Election Day paper ballot

voting. This voting was performed either by voters voting provisionally, asking for a paper ballot at the polling location, or turning their absentee ballot in on Election Day. These voting methods resulted in delays in counting and providing voting results. The paper ballot option at polling locations will not be offered in future elections. We are currently reviewing education methods to reduce the need for provisional voting and making the return of absentee ballots timelier. Wider use of early voting should also reduce counting provisional ballots and absentee ballots after the close of polls on Election Day. Reducing provisional voting and decreasing absentee ballots returned on Election Day will allow us to more fully use the counting efficiencies of our systems.

- 8.4.2 The ROV should publish a comparison of the costs of counting electronic ballots versus the cost of counting paper ballots.

Response: The recommendation requires further analysis

The reason to perform this study is unclear to the Registrar of Voters. Both voting methods are required to conform to federal and state law. Election law also precludes the Registrar of Voters from recommending or encouraging voters to use one voting method over another. The Registrar of Voters will work with the CEO and Board of Supervisors to determine how best to approach this recommendation.

- 8.4.3 County election officials should explore the possibility of combining the various voting methods used in the November 2nd election.

Response: The recommendation has been implemented

Beginning next year, Orange County's electronic voting system will be equipped with an Accessible Voter Verifiable Paper Audit Trail (AVVPAT). This will allow us to eliminate paper ballots at the polling location. Provisional voters will vote on the County's electronic system. Absentee voters will also be offered the option of voting electronically at early voting locations. These changes will greatly reduce the number of paper ballots needing to be processed after the close of polls.

- 8.4.4 The ROV should address mechanical difficulties encountered in processing paper ballots.

Response: The recommendation has been implemented

As stated in the answer to finding 7.4.3, this issue has been identified to Hart Intercivic and a solution is in process.