



County of Orange
C a l i f o r n i a

Thomas G. Mauk
County Executive Officer

July 17, 2007

Mike Penn, Foreperson
FY 06/07 Grand Jury
Superior Court of California
700 Civic Center Drive West
Santa Ana, CA 92702

Subject: Response to Orange County Grand Jury Report, "The Absentee
Ballot Process: Does Your Vote Count?"

Dear Mr. Penn:

Per your request, and in accordance with Penal Code 933, 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 Theresa Stanberry at (714) 834-3727 in the County Executive Office who will either assist you or direct you to the appropriate individual.

Very truly yours,

Thomas G. Mauk
County Executive Officer

Enclosure

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2006-07 Grand Jury Report
“The Absentee Ballot Process: Does Your Vote Count?”
Response to Findings and Recommendations

Response to Findings F-1 through F-5

- F-1 **The Increasing Number of Absentee Ballots:** There is an increasingly larger number of Registered Voters choosing to vote by Absentee Ballot.

Response: Agrees with finding.

The Grand Jury is correct in this assessment. The number of Absentee Voters has increased steadily between the General Elections of 2002 and 2007 in which there were 190,676 (14.7% of voters) and 361,128 (24.1% of voters) absentee voters respectively. The increase is attributable to the recent availability in the law for any registered voter to easily request an absentee ballot via a voter registration card. Additionally, absentee ballot request drives administered by political parties have increased.

As demonstrated in the Grand Jury’s report, approximately one-third (500,000) of Orange County’s registered voters (1,500,000) request absentee ballots for countywide elections while over 400,000 are Permanent Absentee Voters.

- F-2 **Mechanization of Absentee Ballots:** Pre-election, the Registrar of Voters relies heavily on two high-speed mechanized systems to generate and mail Absentee Ballots within statutory deadlines.

Response: Agrees with finding.

The Grand Jury report gives an accurate depiction of how the two high-speed systems are used for the delivery and return of the absentee ballots. The outbound mailing absentee processing system that inserts the ballots into the envelopes is a crucial component in ensuring that every absentee voter receives the proper ballot and ballot instructions in the language requested by the voter. The prior insertion process previously took hundreds of man-hours and required approximately 30 people, mostly extra-help brought in specifically for this task. With the purchase of new technologically advanced systems, the Registrar of Voters now uses about five permanent staff members to accomplish the absentee mailings.

As part of the outbound process, images of the ballots are recorded and they are sorted for mailing efficiencies. By keeping an image of the ballot, the Registrar is able to validate with certainty the precise day in which a specific voter’s ballot was delivered. This is an important customer service feature as Election Day approaches and voters inquire about the location of their ballot. The Department

is in the process of broadening this service to allow tracking of a voter's ballot is in the mailing process down to the carrier level.

- F-3 **Hand Tabulation**: Pre and post-election, the hand preparation of the Absentee Ballots to be tabulated is labor intensive.

Response: Agrees with finding.

The Grand Jury has provided an exceptionally accurate description of Absentee Ballot preparation for countywide elections. The preparation of the ballots is labor intensive involving over 80 volunteers receiving a stipend of \$75 per day working diligently for 10-14 days pulling ballots to be scanned. The Department would like to note that these volunteers are dedicated to the elections process and the majority of the volunteers support every election.

- F-4 **Ballot Instructions**: Absentee Ballot instructions are complex and confusing to the voter.

Response: Agrees with finding.

The Department agrees that absentee voter instructions can be complex and confusing to the voter. Everything in the instructions, however, is necessary for the voter to ensure that his or her vote is counted. Given the complexity of the instructions, the Department created an instructional flyer called "Steps to Avoid When Marking Your Ballot."

The flyer is simple to read and includes a sample of a ballot with improper markings. It contains examples of the most common ways in which ballots will be voided. The instructions currently can be found on the Registrar of Voters' website at <http://ocvote.com/vote/avoid.htm>. This new easy-to-read instruction sheet was included with every absentee ballot sent during the June 2007 Yorba Linda City Council election. The instructions were well received by the public with minimal issues noted. The Department will include the instructions with every Sample Ballot and in every Absentee Ballot envelope in future elections.

- F-5 **The Role of Absentee Ballots**: Absentee Ballots are playing an increasingly important role in election recounts.

Response: Agrees with finding.

When recounts occur, the absentee ballots are undoubtedly the first and most important ballots for a candidate to have reviewed. One will never be able to completely eliminate, even with complete and easy to understand absentee voting instructions, the human element. One issue found with any paper ballot is overvoting. Overvoting occurs when a voter chooses more candidates in a contest

than allowed. This issue is completely eliminated with electronic voting which does not allow a voter to vote for more candidates than permitted.

Proper instructions must be given to the voter who must then take responsibility for reading and following instructions. Recent recounted elections in Orange County have come down to the smallest of margins of victory and were decided by the Registrar of Voters making a ruling on voter intent. It is clear that absentee ballots play a crucial role in the ultimate outcome of recounts as the margin of elections continues to narrow.

Response to Recommendations R-1 through R-4

- R-1 **Consequences of Absentee Ballots:** The Registrar of Voters must be aware of and prepared to explore the consequences of the increasing shift of voters to Absentee Ballots, and then institute new procedures to handle their preparation to meet the challenge of this changing trend.

Response: The recommendation has been implemented.

The Department reviews its absentee ballot procedures and preparation process after each election. Depending on the size and scope of the election and the number of estimated absentee ballots projected to be mailed and returned, the Department prepares accordingly for ballot printing, inserting, mailing, pulling, scanning, and tallying. At times, additional volunteers and/or additional staff working longer hours are required to pull voted ballots from the envelopes and scan ballots for tallying.

The Department is conscientious of the absentee voter's right to receive his or her ballot in a timely manner and to have his or her vote recorded. The public has the right and need to know results as soon as possible. The Registrar of Voters has and will continue to utilize sufficient staff and scanners to accomplish the vote tallying process in an expedient timeframe while maintaining the utmost accuracy and integrity.

The Registrar of Voters has established internal work groups to review and make recommendations on the various processes of elections as we plan for the 2008 Presidential election cycle. There is a work group that will deal exclusively with Absentee Voting.

- R-2 **Back-Up Equipment:** The Registrar of Voters needs a second system or back up equipment should their Absentee Ballot preparation machines fail.

Response: The recommendation has been implemented.

The Board of Supervisors approved the Registrar of Voters' request to purchase a second Pitney Bowes Absentee Ballot inserting machine on June 26, 2007. The Registrar of Voters has made the expansion of absentee capacity a priority especially as the 2008 election cycle approaches. The Board of Supervisors was provided with detailed information regarding the growth of absentees in Orange County and the need to increase the capacity. The Department will work over the next several months preparing for the delivery of this second piece of equipment, which will not only increase capacity but will provide the redundancy the Grand Jury has recommended. The final installation and acceptance testing of this equipment is scheduled for October of 2007. The equipment purchase is fully reimbursable through the federal Help America Vote Act (HAVA) funding.

- R-3 **Alternative Tally Preparation:** The Registrar of Voters should explore alternative Absentee Ballot tally preparation procedures.

Response: The recommendation has been implemented.

The Registrar of Voters is always open to new ideas for conducting elections and continually reviews its policies and procedures, including Absentee Ballot tallying. For the Yorba Linda City Council election we explored alternative tally preparation procedures. As a result, the Department implemented new methods of preparation which have improved operations (such as precinct based sorting, which results in a much more efficient method of preparation).

- R-4 **Voter Education:** The Registrar of Voters needs to explore the expansion of voter education outreach programs regarding both Absentee Ballot information and to clarify voting instructions.

Response: The recommendation has been implemented.

The Department has created an instructional flyer called "Steps to Avoid When Marking Your Ballot." The instructions are simple to read and include a sample of a ballot with improper markings. The Department will continue to include the instructions in every Sample Ballot and Absentee Ballot envelope in future elections. The instructions can currently be found on the Registrar of Voters' website at <http://ocvote.com/vote/avoid.htm>. It contains examples of the most common ways in which ballots will be voided. In addition, easy-to-understand graphics and instruction sheets are included on the website. Proper instructions are crucial to ensuring that every voter has a thorough understanding of the process.

The Registrar of Voters will launch a voter education and outreach plan regarding the 2008 Presidential election cycle. The plan includes information regarding absentee voting. The Registrar of Voters believes that providing additional voter education and outreach information to the public will be essential to successful elections in 2008 due to the growing absentee population. The importance of voters marking their ballot correctly is critical to ensure every vote counts.