

**THE 2008 PRESIDENTIAL ELECTION
A Look at Provisional Balloting**

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**A Report
by the
Los Angeles County
2008-2009 Civil Grand Jury**

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INTRODUCTION

The historic nature of the 2008 Presidential Election has been recognized widely by citizens of the United States, and even the world. Due to widespread interest, a large number of people were expected to vote. Because controversies had erupted both nationally in the 2000 and 2004 Presidential Elections, and, in Los Angeles, in the 2008 Presidential Primary (the “double bubble trouble”¹), the Los Angeles County Civil Grand Jury (CGJ) decided to keep a watchful eye on the presidential election in Los Angeles County.

Los Angeles is the most populous county in the United States and makes up the largest election jurisdiction in the country. It has more registered voters than 30 states with 4,394 voting precincts, employing over 25,000 pollworkers in each countywide election. Voting materials are produced in six languages in addition to English.

BACKGROUND

The Help America Vote Act of 2002 (HAVA), which was passed by Congress because of difficulties with the 2000 presidential election, was intended in part to correct some of the problems with voter registration rosters. When the new California computerized statewide voter registration database (VoteCal) was first used in January 2006, problems were noticed immediately. Many valid voter registrations were rejected for misspellings of names and addresses. There were large numbers of provisional ballots cast at the polls because voters were missing from the election roster. The CGJ was concerned that there were possible systemic problems with VoteCal that would adversely affect the 2008 presidential election. It was determined that the Election Committee of the CGJ should look into the status of the statewide database in Los Angeles and the handling of provisional ballots.

METHODOLOGY

This Election Committee of the CGJ visited the headquarters of the Los Angeles County Registrar-Recorder three times. The committee interviewed the staff concerning their policies and procedures for the process of voter registration, the conduct of elections and the counting of votes. A number of questions were asked of the staff and were answered to our satisfaction. Some of these are detailed below.

Rejection of voter registrations: The staff of the Los Angeles County Registrar-Recorder’s office stated that a more sophisticated system had been developed to verify

¹ The “double bubble trouble” arose because Decline to State voters were eligible to vote in the Democratic or American Independent primaries but in order to do so they had to fill in an extra bubble on the ballot to specify in which party primary they were voting. Many voters failed to do so. Eventually, the Registrar implemented a process to count most of these ballots.

voter eligibility. It now matches the last four digits of the voter's social security number or drivers' license number to the data provided on the voter registration application. This system has resulted in fewer voter registration rejections due to minor mismatches of data than when VoteCal was initially deployed in 2006.

Updating of VoteCal: When provisional ballots are checked against original registration records, any errors in VoteCal are noted. The original registrations and any corrections from the provisional ballots such as address changes are used to correct VoteCal.

Training of pollworkers: All pollworkers (clerks, inspectors and precinct coordinators) are asked to attend a class before Election Day and are paid extra for doing so. There is new web-based training with online assessments that is available to all pollworkers to augment the in-person training program. Inspectors and precinct coordinators are required to complete certain modules of the web-based training as a condition of their appointment. Our observations of precincts indicated that most pollworkers appeared to be well organized and knowledgeable.

Feedback from pollworkers to the Registrar of Voters: An interactive computer-based call center and trouble desk reporting system was in place for this election that enabled the Registrar's office to identify systemic problems in real time and to respond with quick fixes. The new reporting system also provides statistical data that can be easily accessed and used for assessment and process improvement purposes in future elections.

Audit of Provisional Ballots

Because the CGJ was concerned with the large number of provisional ballots in recent elections, we requested to perform an audit of such ballots from the presidential primary election in February 2008. These ballots came from precincts in which we have had experience as pollworkers. All the provisional ballot issues were resolved to our satisfaction.

Attached is a report entitled "Provisional Ballot Overview" that provides a discussion of provisional ballots and provisional ballot statistics for Los Angeles County in the 2008 Presidential Primary Election. There is also a statistical summary of provisional ballots for the years 1992 – 2008. These documents were provided to us by the Registrar of Voters.

The major categories of provisional ballots are:

- Applied to vote by mail, voted at polls
- Voted out of precinct
- Address changes
- Voted the wrong party – i.e., voter thought the party in the roster was wrong
- Voter not in roster but registration was OK
- Not registered, or incomplete registration

Of these categories, all ballots were counted, except those with no or incomplete registrations or those for people voting out of their own county. For people voting out of

their home precinct or in the wrong party, the votes counted only for issues or candidates for whom they were entitled to vote.

Survey of precincts on Presidential Election Day, 2008

During the week before the presidential election, some members of the CGJ expressed concern that there would be a shortage of ballots due to the expected large turnout of voters. Several members of the CGJ performed a small survey of precincts to see if the election appeared to be going smoothly, if there was an issue with numbers of ballots given to the precincts, or any other problems. In all, fourteen precincts were visited. Most of these appeared to be well run in spacious, well organized settings. Only a few appeared to have any problems. Most precincts said they had plenty of ballots. Lines were long in the morning rush hour but generally not unreasonably so. The longest reported wait to vote from our sample was about an hour. There were no reported issues with any voters being turned away from voting as a result of the ballot quantities provided by the Registrar-Recorder to the polls.

SUMMARY

Based on information that was provided to this CGJ by the staff of the Registrar of Voters it was decided that a full investigation was not warranted. We were favorably impressed with the changes that have been accomplished in the past year and the preparations for the 2008 presidential election. The CGJ would like to thank the Registrar-Recorder and his staff for providing us with the information that was requested from them.

FINDINGS AND RECOMMENDATIONS

Finding 1

This Department is utilizing an automated response system to assist pollworkers during elections. This system will track real time problems and lead to quicker response to Election Day issues.

Recommendation 1 – The Registrar of Voters

The Registrar should continue to use this system. Resulting information should be evaluated in order to be better prepared for upcoming elections.

Finding 2

The Registrar of Voters has implemented a website to check voter registration status (https://lavote.net/secured/voter_reg/). A frequent reason for provisional ballots being used during primary elections is voters' disagreement with the party affiliation given in the roster. Unfortunately, the website which verifies voter registration is difficult to find and does not show party affiliation.

Recommendation 2 – The Registrar of Voters

The Registrar of Voters should correct the website to verify voter registration with a link under the "Voter & Election Information" menu at the left of the front page, in addition to the icon near the top of the front page. The results of the voter registration status query should show party affiliation in addition to the validity of registration.

PROVISIONAL BALLOT OVERVIEW

This page and the information in the following two tables were provided to us by the Registrar of Voters.

According to California Election Code (secs. 14310, 14311) registered voters whose voter registration or Vote By Mail status cannot be determined may vote a provisional ballot on Election Day. Provisional voters are voters who typically move to a different residence address within the same county and fail to reregister to vote or who otherwise fail to notify the county elections official and who attempt to vote at a polling location. They may also be voters whose Vote By Mail status cannot be determined. Provisional voters may vote at polling locations, county election offices, or at designated central locations if they fill out and sign a provisional ballot envelope and provide proof of residency such as a driver's license or an item containing their name and current address. A government issued photo ID is not required.

Assigned precincts for registered voters are determined by a voter's residence as referenced on their voter registration form. All voters who choose to vote at the polls are encouraged to visit their assigned precinct polling place location. However, voters who choose to vote at a location other than their assigned precinct may vote a provisional ballot. All polling place staff are trained to notify voters of their voting options, including their eligibility to vote a provisional ballot. After a provisional ballot is voted a voter's registration status must be determined at Election Headquarters before the provisional ballot is counted and added to the overall election tally. If a voter's registration status cannot be determined his/her provisional ballot is not counted.

The Election Code was amended by the State Assembly in 2003. Prior to that time, most provisional ballot races were not counted- The current Election Code allows provisional voters whose registration status can be verified and who vote outside of their precinct location but within their assigned electoral jurisdictions (such as school board or state assembly districts) to have their vote counted. Votes for statewide or presidential candidates and ballot measures will also be counted if they are cast outside of a voter's electoral jurisdiction.

To facilitate this process, staff at the Registrar-Recorder/County Clerk's office segregate all provisional ballot envelopes to determine the registration status and precincts of provisional voters. Then, staff determines the eligible contests in those precincts and the contests marked on the ballot. If a contest or contests on a voted ballot do not represent those contests offered on the precinct ballot, the ballot is remade to include only those votes cast that correspond with those contests offered in the precinct. Then, eligible ballots are counted and added to the final tally. All provisional ballot envelopes are marked and entered into the system as "count".

PROVISIONAL BALLOTS

Year	Election	Voted at		Ballots		% Cast		% Counts		No		% No	
		Polls	Cast	Cast	Counts	Counts	Counts	Counts	Counts	Counts	Counts	Counts	
1992	Primary	1,612,673	16,811	1.0%	11,370	67.6%	5,441	32.4%					
	General	2,442,282	25,347	1.0%	15,355	60.6%	9,992	39.4%					
1993	Special Statewide	927,155	8,078	0.9%	5,212	64.5%	2,866	35.5%					
	Primary	1,128,308	7,347	0.7%	4,462	60.7%	2,885	39.3%					
1994	General	1,775,001	29,779	1.7%	18,097	60.8%	11,682	39.2%					
	Primary	1,346,358	18,271	1.4%	10,367	56.7%	7,904	43.3%					
1996	General	2,109,757	59,275	2.8%	34,059	57.5%	25,216	42.5%					
	Primary	1,450,126	18,214	1.3%	12,937	71.0%	5,277	29.0%					
1998	General	1,651,086	38,821	2.4%	25,080	64.6%	13,741	35.4%					
	Primary	1,519,271	55,809	3.7%	38,498	69.0%	17,313	31.0%					
2000	General	2,226,784	100,168	4.5%	61,521	61.4%	38,647	38.6%					
	Primary	1,070,651	21,006	2.0%	13,327	63.4%	7,679	36.6%					
2002	General	1,424,638	46,906	3.3%	32,441	69.2%	14,465	30.8%					
	Special Statewide	1,688,701	121,595	7.2%	106,085	87.2%	15,510	12.8%					
2003	Primary	1,379,747	44,112	3.2%	41,552	94.2%	2,500	5.7%					
	General	2,383,889	204,578	8.6%	166,894	81.6%	37,684	18.4%					
2004	Special Statewide	1,331,269	72,726	5.5%	64,337	88.5%	8,389	11.5%					
	Primary	735,252	39,308	5.3%	36,501	92.9%	2,807	7.1%					
2005	General	1,501,736	110,915	7.4%	98,259	88.6%	12,656	11.4%					
	February Primary	1,701,077	176,479	10.4%	153,675	87.1%	22,804	12.9%					
2006	June Primary	496,172	23,560	4.7%	22,015	93.4%	1,545	6.6%					
	General	2,557,835	271,074	10.6%	229,591	84.7%	41,483	15.3%					