

**THE ABSENTEE BALLOT PROCESS:
DOES YOUR VOTE COUNT?**

SUMMARY

This Country's founding fathers considered voting rights so important that four out of the 27 Amendments in the Constitution, almost 15 percent, are devoted to ensuring that it shall not be denied or abridged; but even they could never have imagined the changes that the next 218 years would bring. Today, voting has become far more complex. Elections are numerous (in Orange County there have been ten elections in the last 12 months) and ballots come with many pages (three in the last election) that are printed in five different languages. Additionally, the public discharges their duty in a myriad of ways that include the use of electronic machines in traditional polling places on Election Day, voting early at a limited number of designated locations, and by mailing their ballots.

According to the Orange County Registrar of Voters (ROV) staff, "Every vote matters; where he or she votes is the voter's choice." But the preferred method of voting is shifting and there is an increasing number of Registered Voters (RVs) who choose to vote by Absentee Ballot (AB). The trend is a six to ten percent growth in Permanent Absentee Voter (PAV) applications at each election, and all ROV preparation must take place within statutory deadlines. Preparing the paper ABs for counting must be done by hand, which is labor intensive and time consuming.

The ROV must register voters, supply Absentee Voter (AV) applications, verify the returned AV applications, supply mailed and other paper ABs, receive and verify returned ABs, tally the verified ABs, and sometimes recount the ABs when called upon to do so during a contested election. All of these duties are mandated by Federal and State Codes. All of this is done in addition to their other functions, and each county's ROV establishes their own procedures to carry out these operations. The Orange County ROV is on the cutting edge in this process, and they need to be, because of the complexity of the elections in Orange County and the large number of residents who vote. It is always necessary to review, update, and improve procedures, especially in light of the changing world and new technologies.

REASON FOR INVESTIGATION

Because an ever larger number of Orange County residents are requesting to vote by AB rather than in person, the 2006-2007 Orange County Grand Jury decided to review the procedures used by the ROV to ascertain what safeguards are in place to protect these votes and to ensure that they are handled correctly.

METHOD OF INVESTIGATION

The Grand Jury inspected and observed the entire process used by the ROV regarding ABs for the three months prior to and three months after the November 7, 2006 election. This included gathering AB information:

- on Federal and State Election Codes and Laws;
- from voter on-line services;
- on step-by-step operations, including oversight and system accountability, for Absentee Voter Ballot (AVB) processing by the ROV;

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- on the different types and numbers of ABs issued;
- as to how an AV receives an AB;
- on instructions given to AVs;
- from numerous interviews with the ROV; and
- from numerous observations of the sequence of steps followed to handle ABs, beginning in August of 2006, during the November 7th election night's process, and continuing into December of 2006.

BACKGROUND AND FACTS

Election on November 7, 2006

Voter Turnout

Total number of Registered Voters	1,497,397	
Total turnout	756,348	50.5%
Total number not voting	741,049	49.5%
Total Absentee Ballots issued	503,046	33.6%
Total absentee voters	361,128	24.1%*
Total voting at polls	391,625	26.2%
Total voting-Early Voting Method	3,595	0.2%

*A total of 71.8% of the ABs issued were voted on and returned.

Historical Absentee Ballot (AB) Use in California: 3.35% of the ballots cast in the 1966 General Election were mailed ABs. In the 2005 Special Statewide Election nearly 40 years later it was 39.95%. Before January 1, 2003, California was among the 21 states and the District of Columbia that required an excuse to vote by AB. On that date the law changed and California joined the current 29 states which allow "no excuse" AB application requests. The trend is increasing and the number of requests to the Orange County ROV to become a PAV rises 45,000 to 50,000 for each election.

In every election, in addition to the demands of preparing for regular onsite precinct polling, the 50 fulltime staff of the ROV must prepare and mail each PAV a unique ballot, specific to their precinct, language, etc.

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FROM THE VOTER'S POINT OF VIEW:

“The absentee ballot shall be available to any registered voter.”
California Election Code 3003.

A qualified person living in Orange County may register to vote at any time, but must be registered on or before the 15th day prior to an election. If the registration occurs between 15 to 29 days prior to the election, a sample ballot may be sent; otherwise, the voter will receive a postcard with his or her polling place location. There are some exceptions, e.g., for naturalized citizens and for those who establish residency in California after the 15th day prior to an election.

In order to register to vote in Orange County a resident must:

- be a United States citizen;
- be 18 years of age on or before the day of the election;
- not be in prison or on parole for the conviction of a felony; and
- not be judicially determined incompetent to vote.

The registering voter must provide a:

- full name;
- complete residential address;
- address where the registering voter receives mail;
- date of birth;
- California driver's license number, identification card number, or the last four digits of the registering voter's social security number;
- the location of the registering voter's birth;
- political party preference;
- language preference;
- address where last registered to vote; and
- signature and date.

Absentee Ballots (ABs):

“This division shall be liberally construed in favor of the absent voter.”
California Election Code 3000.

An AV is any voter who casts a ballot in any way other than at a polling place; an AB is a paper ballot with the same candidates and measures on it as would be at the polling place on Election Day.

Types of Absentee Voters (AVs): Any registered voter may apply to the ROV for an AB. There are several types of applications:

- One-Time: These requests are for a specific election.
- Permanent Absentee Voter (PAV): This is a request to receive a mailed ballot for every election.

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- Temporary Overseas, including Military Personnel: An applicant for these ABs may only vote in federal elections, must be a member of the armed forces of the United States or a spouse or dependent, temporarily residing outside the United States, and must mail or fax a Federal Post Card Application (FPCA) to the ROV office and then request an AB.
- Citizens Living Permanently Outside the United States: These voters may only vote in federal elections and must complete a FPCA to be received by the ROV office at least 7 days prior to the election. If the voter is overseas, he or she may receive his or her ballot via e-mail. He or she would then print it out; vote and fax or mail it back. All ballots must be in the ROV on Election Day by 8 p.m. to be counted.
- Emergency: These ABs may be requested up to six days prior to an election, cannot be issued by mail, and may be obtained by the voter or the voter's authorized representative, who must provide a written request for the ballot to the ROV office.
- Mail Ballot Precincts (MBPs): ABs are sent automatically to precincts that have fewer than 250 registered voters. A list of polling places adjacent to the voter's residence is included with this AB and the voter can drop off his or her ballot at any polling place in Orange County or the ROV office. In November of 2007, 11,542 ABs were mailed out to a total of 285 Orange County Mail Ballot Precincts.

Application to Receive an Absentee Voter Ballot (AVB): A registered voter must request an AB, in writing via mail or fax, for each election, unless he or she has requested to become a PAV. AVB Application request forms are available at the ROV office, on their website, and there is a form printed in the sample ballot pamphlet mailed prior to each election. The AVB Application, either by form or letter, must include:

- the registered voter's name;
- date of birth;
- residence address in Orange County;
- telephone number;
- mailing address for ballot (if different than residence);
- signature; and
- date.

The AVB Application contains this warning, "Perjury is punishable by imprisonment in state prison for two, three or four years." (Section 126 of the California Penal Code). There is also a box to check to become a PAV. If the box is checked, and a signature added, an AB will automatically be sent for future elections. Failure to vote in two consecutive statewide general elections will cancel the PAV status; however, failure to vote does not affect the registration status.

The AVB written request must be received by the ROV between 7 to 29 days before the election since no ABs are mailed out six days or less prior to an election. During these six days a voter may go to the ROV in-person and immediately receive an over-the-counter emergency AB, which may be voted on in, or dropped off at, the ROV office or any polling place. All regular applicants receive their ABs through the mail.

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Candidates and campaign committees collect RV applications, and may also collect AB applications. Any individual, organization, or group that wishes to distribute AVB requests to voters is required to complete a statement of distribution form to the ROV. Generally, the collected applications, along with their authorized distributor information, must be returned within 72 hours.

If the ROV determines that an application does not contain all of the information prescribed and is able to ascertain the voter's address, they mail the voter an AVB together with a notice to inform the voter that the voter's AVB shall not be counted unless the applicant provides the ROV with the missing information or corrects the defects prior to or at the time of receipt of the voter's executed AVB. The notice specifically informs the voter of the information that is required.

Receiving and Voting an Absentee Ballot (AB): Each AB that is mailed includes the correct ballot and inserts for the precinct in which the voter resides, instructions on how to mark it, and an Identification Envelope for its return. In order to ensure that the ballot remains secret, the voter's signature and address, which must match his or her original voter registration application form, is requested on the envelope only.

There have been two recounts in Orange County in the last two elections focusing an increased scrutiny on AVB intent. The Uniform Vote Counting Standards of the State of California, effective May of 2006, contains very specific language regarding marks of AVs, and states in part:

A ballot that is marked or signed by the voter in such a way that it can be identified from other ballots must be voided and none of its votes counted. Examples of such markings include, but are not limited to: voter signature, initials, voter name and address, voter identification number, social security number or driver's license number, messages or text, or unusual markings not related to indication of the vote choice for a contest. Generic text meant to clarify the voter's choice regarding a contest, such as the word "yes" or "no" next to a candidate's name, shall not be sufficient cause to void a ballot. If there are distinctly identifiable markings on one page of a multiple-page ballot, the entire ballot must be voided.

California Elections Code sections 13204, 14287, 15154, and 15208.

The ROV keeps a data entry record of each AVB sent to and received from a voter. The AB is mailed and must be received at the ROV by 8 p.m. on Election Day. It may also be returned in person to the ROV at any time or to any polling place up until 8 p.m. on Election Day. Under certain circumstances the voter may authorize a relative or other legally authorized person to return the ballot.

The top five reasons for ABs not to be counted are:

- no signature;
- an unauthorized return;
- the ballot arrives after 8 p.m. on Election Day (the most common);
- the ballot is returned to the ROV in a plain envelope; and

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- the voter writes a name or places initials on the ballot.

A voter may fill out a Second Ballot Declaration to certify, under penalty of perjury, that he or she has:

- not received an original ballot;
- lost his or her original ballot;
- damaged or destroyed his or her original ballot; or
- received two ballots.

If a voter does not receive an AB, or makes a mistake on his or her AB, he or she may fill out a form to request a Second Ballot or take the AB to the polling place on Election Day, turn it in, and vote a regular ballot. If a voter loses his or her AB, it can be replaced, or he or she may vote a provisional ballot at an early voting location or at the regular polling place on Election Day. If a voter who has received an AB and wishes to vote at his or her polling place, he or she must surrender his or her unvoted AB to the precinct board.

INSIDE THE ROV

The November 7, 2006 General Election followed the Federal and State Codes which mandate the timeline regarding when activities must occur in relation to Election Day.

Procedure	Actual Date	Number of Days to Election
Sheriff/Probation Packet	9/8-9/23	45-60
Hospital/Convalescent Home Packet	9/23-10/10	45-28
E-mail Ballots to Overseas/Military Ballots	9/23-10/10	45-28
Process Files from Election Information Management System to the ROV System	9/23-10/10	45-28
Mail Confidential Voter Ballots	9/23-10/23	45-15
Process Daily Mail from Candidate Applications and Sample Ballots	10/10-10/31	18-7
Research and Resolve Challenged Applications	10/10-10/23	28-15
Early Voting	10/20-10/29	18-9
Mail Letters to Absentee Applicants who failed to register by the 15 day close	10/31-11/3	7-4
Emergency Voting	10/31-11/7	7
Opening of Absentee Ballots by the Boards	10/31-10/11	7 to 3 days post
Research and Resolve	10/31-11/17	7 to 10 days post

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Challenged Ballots		
Duplicating of Ballots	10/31-12/5	7 to 28 days post
Counting of Absentee and Election Night Ballots	11/7-8 PM	Election Day

During an Election Cycle: Timing is the key to a smooth process. Maintaining the PAV File involves daily work consisting of various steps. First, a database is set up to input voter information so that an application can be mailed out, then the applications are processed when they are returned, and finally, any changes are noted. When an application is incorrect appropriate follow-ups are used to rectify each problem.

Opening and Sorting Absentee Applications: Incoming AB requests are opened and sorted according to their origination, e.g., sample ballot, candidate provided, letter applications, and special/federal voters. The applications are batched in lots of 50, documented in lots, and sent to data entry. Applications that arrive after the deadline follow the same process; however, voters are sent notification of late receipt and directions to their local polling place.

At this point each AV's individual information that has been scanned into the data entry system includes a copy of his or her:

- original voter registration affidavit;
- the AB request with signature;
- the AB requested address;
- language requests; and
- political affiliation, if any.

Special Packets: There are two types of special AV application packets which the ROV has available in an effort to insure that all of those who wish to vote are included.

- Sheriff/Probation AB Packets are mailed out to the Sheriff and Orange County jails 45 to 65 days prior an election. In the last election 15 of the jails responded. There have been three probation requests in five years. In Orange County only about 15 inmates voted.
- Hospital/Convalescent AB Packets are mailed 28 to 45 days prior to an election. Of the 150 packets mailed to hospitals, traditionally only about five respond.

E-mail Ballots to Overseas/Military: To facilitate the timely arrival of ABs from overseas, 1,500 to 5,000 vote using e-mail. This is used by the military and for other overseas voters.

Problem Absentee Ballot (AB) Requests: The signatures on the application for an AB are NOT verified (that is, compared with the original voter registration form) unless there is some discrepancy noted in the voter information, i.e., address, date of birth, etc. All rejected applications are separated by category, researched for a solution, and appropriate action is taken.

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The Ballot: In the November 7, 2006 election, the ballots that the ROV generated contained 335 candidate statements for 462 contests, 18 local measures (17 unique to cities and one countywide), and 13 state propositions. For every ballot style there is a sample ballot that is proofed, printed, translated, mailed out.

The ballots are printed in English and foreign languages when all the translations are completed and verified. In Orange County, all ABs are outsourced, first in a quantity sufficient to complete the mailing of all ABs on record as of that date, and then with any subsequent ballots printed on an as-needed basis. This will change as of July 1, 2007, when all printing will be done through Orange County Publishing Services. Every county has a contract with the State Department of Justice mandating which languages are required in addition to English. The cost of printing these additional languages was \$200,000 during the elections in June of 2006, when the numbers printed included:

Tagalog may be added in 2010.

Mailing Out the Absentee Ballots (ABs): The ABs are prepared and mailed, faxed, or e-mailed beginning 29 days prior to the election (E-29) with appropriate inserts. Previously, this was a manual operation; however, two high-speed mechanized systems are now employed. After the AB application is processed into the database, it is ready for its unique ballot selection, and is run through a program called Ballot Now Processing (BNP) in batches of 2,000. The computer matches each name with a serial number and gives it a bar code. The bar code is subsequently erased and reused.

The first machine readies the outgoing ballots. It scans the bar codes for accuracy at the beginning of the run, folds and stuffs the correct precinct ballot, instructions, and return envelope into the mailing envelope. Only perfect matches are processed and they emerge presorted by major zip codes. Bar codes must be read clearly, both front and back. Those rejected (1%, usually due to trouble with the envelopes) are manually reviewed and corrected. This machine can generate an average of 2,000 ABs in one hour and 15 minutes; however, stuffing the right ballot in the right envelope in a short amount of time only can occur if this piece of the sorting equipment stays operational.

The stuffed envelopes are then processed on a second machine that scans an image of the envelopes' front and further sorts them by zip code for delivery to the post office. The envelopes will be scanned through this machine two more times after they are returned by voters.

Issuing an over-the-counter Absentee Ballot (AB): An AV can turn in or mail his or her AB in the ROV office beginning 29 days prior to, and up until 8 p.m. on, the day of the election. When a voter comes into the ROV office:

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- the voter fills out an AB request application;
- the election clerk verifies that the name, address, and signature coincide with the voter's RV affidavit;
- the counter application is processed by a computer that generates that voter's AB which is immediately printed along with inserts; and
- all are given to the voter in an envelope.

Sometimes, and always within election code mandated regulations, the voter may fill out an RV form at the same time he or she requests an AB.

NUMBER AND TYPE OF ABSENTEE BALLOTS NOVEMBER 7, 2006 ORANGE COUNTY ELECTION

Type of AB	Total Number of ABs	Percent of Registered Voters	Percent of Total ABs
2 nd Counter*	660	.04	.13
Air Mailed	3	<.01	<.01
Issued Over- the-Counter	5,070	.34	1.70
Early	3,598	.24	.72
E-mailed	464	.03	.09
Faxed	2	<.01	<.01
Mailed	71,153	4.75	14.10
Mail Precinct	11,578	.77	2.30
Military/Overseas	3,444	.23	.68
PAV	407,072	27.20	81.00
TOTAL	503,046	33.60	-

* lost or misplaced

Returned Voted Absentee Ballots (ABs): The returned and voted ABs, still in their Identification Envelopes (external envelopes), are scanned and processed through the high-speed mechanized system. It reads and takes a photo scan of each envelope's signature and address, and sorts them into zip code batches. The system electronically sends the scans to data entry for verification. The operator visually compares (side-by-side on the computer screen) the returned ballot signature (from the envelope) and address with the signature and address which is already in the computer database. Once verified, the envelopes are returned, scanned a second time, opened (with the ABs left inside), and then held for tallying (counting) that by law can only begin ten days before the election (E-10).

Challenged (ballots that are identified as having a problem) are separated into different categories:

- "Address Issue" ballots, or those with a different address than the address on file, are directed to a Voter Registration Specialist for further processing. Ballots with non-

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matching residence addresses are processed to be counted but identified so that a new registration can be mailed out and the voter can update the residence address.

- “Signature Issue” ballots are reviewed by three experienced staff members. Ballots then declared to be good are prepared for opening. Ballots that remain challenged are kept separate with a copy of the original registration attached. Ballots with no signatures are challenged and kept separately.
- Ballots received after the Election Day are considered “Too Late.” They are scanned, verified, and then held. This group contains the largest number of challenged ballots.
- The ROV may receive ballot envelopes from voters without the ballot inside, two ballots inside, or a note with a Statement of Death, etc. These types of issues are considered “Other.”
- Ballots that cannot be scanned by the mechanized system are rejected as “Out of Scheme” and are then manually entered and verified by data entry.
- A list of voters who may have voted twice is compiled and researched. Records are sent to the District Attorney once copies are made of all suspicious documents.

Ballots faxed back from E-ballot Voters, those who are overseas and military, are kept in a secure area. After these ballots are verified, they are duplicated, scanned, and go through the same process as mailed ballots.

RETURNED AB VERIFICATIONS (November 7, 2006)

<u>Distribution</u>	<u>Challenged</u>	<u>Good</u>	<u>Skipped</u>	<u>Undeliverable</u>	<u>Void</u>	<u>TOTAL</u>	<u>% of total RVs</u>	<u>% of ABs</u>
2 nd Counter*	6	379	0	25	1	411	.03	.11
Air Mailed	0	1	0	0	0	1	<.01	<.01
Over-the - Counter	59	3,936	0	58	3	4,056	.27	1.10
Early	0	3,595	0	1	0	3,596	.24	.94
E-mailed	0	88	0	0	0	88	<.01	.02
Mailed	876	53,881	0	480	3	55,240	3.70	14.40
Mail Precinct	91	5,267	0	1,317	0	6,675	.45	1.7
Military/ Overseas	50	741	0	500	1	1,292	.09	.34
PAV	3,008	289,345	1	19,380	39	311,773	20.80	81.40
TOTAL	4,090	357,233	1	21,762	47	383,133	25.60	-

*lost or misplaced

Number of Days to Election:

E-15: Today is the last day to register.

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E-11: Today is the last day for Early Voting in this election because it is a weekend.

E-7: Today is the last day that individual ABs can be generated. At this time the ROV hires temporary personnel called "Absentee Boards" to open the returned and voted ABs. This is a labor-intensive process. The 84 members of the Absentee Boards begin work at 8 a.m. sitting at 20 tables. Each verified ballot is removed from its envelope by hand. They flip the envelope and pull or remove the ballot. To preserve the secrecy of the ballot, it is then separated from the envelope and the ballot becomes anonymous. They open the ballot, check for the correct number of pages and that they are in order (for the November 7, 2006 election there were one to three pages), check that the precinct number is identical on all of the pages, look for orphan ballots (those with missing pages), and check the AB for slitting and tears (then repair them with tape). Separate piles are set up for correct ballots, orphans, languages, and signed ballots (or those that cannot be counted).

There is a second check on all ballots. Correct ballots are put in piles and language separated. They are now ready to be tallied or run through four permanent scanners which take pictures of the ABs and translate the votes onto Mobile Ballot Box (MBB) cards. These small computer cards are then stored in a locked room until 8 p.m. on Election Day. This is a major information technology project. Previously, each ballot had a second serial number, but this was disallowed for privacy reasons. Now the scanner must recognize which of the many different ballots it is reading taking into account the variables of precinct, language, etc.

After the ballots are scanned they are placed in Voter Ballot Container (VBCs) that are boxes labeled with their batch, scan, and scanner machine numbers. These are palletized according to their scan, sealed, and held until the election is certified. The envelopes are rechecked to make sure that they are empty and are also stored on pallets for the same time periods. All documents and information are boxed and labeled with a destroy date of 22 months for Primary or General Elections and six months for Special Elections.

E-5: There are now 22 Absentee Board tables and four scanners. The tallied ABs are put in batches and each batch contains a report. English ABs are run first, then translated, and there is one database for all foreign languages.

E-1: More scanners are brought in for a total of eight scanners working around the clock. Under no circumstances are the AVB results tabulated until after the close of polls on Election Day.

E: The Absentee Boards stop counting the ABs at 4 p.m. when the ROV begins their election-day preparations for counting the precinct vote. Mailed ballots not counted by that time and all those received on election day, either through the mail or at the precincts, are tabulated during the official canvass of the vote that occurs after the close of polls on Election Day. Immediately upon the close of polls on Election Day, the ROV begins tallying the election results. There are four computers in the secured tally room that accept the MBB cards. A fifth computer collects the results of the other four. The ROV must complete the official canvass no later than the 29th day after the election and submit a certified statement of the results of the election to the Secretary of State by the 35th day. The results are finalized when the vote is certified.

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The Orange County ROV reports voting results quickly with updates posted every 30 minutes on their website. The first results reported on Election night at 8:05 p.m. are the AVBs tallied through Election Day, which in this election totaled 189,225 votes. The order in which the ROV reports the votes is:

1. AVBs and Early Votes tallied before Election Day;
2. Mail Ballot Precincts, which are the first precinct reports;
3. regular precincts;
4. ABs returned at the polls;
5. Provisional Ballots; and finally
6. ABs received before 8 p.m. on Election Day (but not opened).

Post Election Mop-Up

After the Election Day, there is a mop-up process that consists of taking care of all the last minute details to resolve any problems and challenges. In an effort to collect all mailed ABs prior to 8 p.m., there are two post office pick-ups on Election Day. These ABs are scanned, data entry verifies the envelope signature, returns are opened, and the ballots counted. When polls close, all ABs received at the polling places are turned in, stamped "Returned at the Polls," and go through the same procedure.

Blue Provisional Ballots are used by AVs who did not receive their ballot, spoiled it, or lost it. These are verified and counted if the voter is registered and did not turn in an AB. During the process of verifying signatures and processing provisional ballots, data entry will come across voters who may have attempted to vote twice: both an AB returned and a vote at the polls. A list is generated to compile information that a crime has been committed, each name is researched, and then turned into the District Attorney's Office.

Procedure Review: The total cost per Registered Voter in this election was \$5.14. Of this, the cost per poll site voter was \$8.83 and the cost per AV was \$2.62. Data is not yet available on the cost per early voter and it is compiled with the absentee figures, but previously this has been in the \$60 range. If so, the cost per AV is really much lower. The ROV constantly monitors the internal process of their procedures as to what works and what does not, identifies information technology improvements, and shifts staff resources as workload needs change. They also communicate with other ROVs and share "best practices" through summer institute workshops and elecnet, a website for election officials.

CONCLUSION

The question is, do the rules and practices set up to safeguard voting integrity and privacy stand up to the increasing demands of the magnitude of current and future PAV numbers, or does the system need to be revised? This is a real dichotomy; at a time when information technology allows most processes to move forward, becoming faster and easier, both the preparation for mailing and the preparation for the counting of paper ballots that are marked by hand, may be a step taken back in time. The two high-speed mechanized systems that prepare and mail out the ABs are marvels of efficiency, as are the scanners that read and tally them onto the MBB cards that translate them into votes, but in order to do this the ROV must go through the labor intensive process of hand preparing up to a half million complex

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paper ballots for counting. This number is increasing for each major election. It is a difficult and time consuming operation, from beginning to end, further complicated by statutory time limits.

There are always unanticipated consequences due to changes. In this case, some might include observations that:

- the ROV has less control over the traditional group dynamic of voting in a public arena as more voters are voting privately, pre-Election Day;
- the instructions that the AV follows are complicated and there is more room for voter error than at the polls;
- if a vote is close and the ABs factor into its outcome, the election results will take longer to finalize because all cannot be readied in advance of Election Day and it takes time to prepare paper ballots (both those mailed in before Election Day and those turned in at polling places) for tallying; and
- although ABs are among the first results reported, because of time constraints and their increasing number, these votes are being tallied and reported last.

It is a complex issue of which every citizen needs to be aware; but each should also know that in Orange County every AB is counted.

COMMENDATION

The Grand Jury thanks the Orange County Registrar of Voters and his excellent staff for their openness in allowing the Grand Jury to see first hand the complexity of the voting process through 17 interview and “all access” observation sessions, including Election Night on November 7, 2006. All statistical and general information requested was quickly and efficiently supplied. The Grand Jury is impressed with the ROV and the professional and hardworking staff, who performed with dedication before, during, and after the intensity of election night pressures.

FINDINGS

In accordance with California Penal Code sections 933 and 933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2006-2007 Orange County Grand Jury has arrived at the following findings:

F-1. There is an increasingly larger number of Registered Voters choosing to vote by Absentee Ballot.

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

F-3. Pre and post-election, the hand preparation of the Absentee Ballots to be tabulated is labor intensive and time consuming. Tallying paper ballot results takes longer and it is no longer possible to get the majority of Absentee Ballots ready for tabulation before Election Day.

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

F-5. Absentee Ballots are playing an increasingly important role in election recounts.

Responses to Findings F-1 through F-5 are requested from the Registrar of Voters.

A Response to Finding F-2 is required from the Board of Supervisors.

RECOMMENDATIONS

In accordance with California Penal Code sections 933 and 933.05, each recommendation will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. Based on the findings of this report, the 2006-2007 Orange County Grand Jury makes the following recommendations:

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

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

R-3. The Registrar of Voters should explore alternative Absentee Ballot tally preparation procedures.

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

Responses to Recommendations R-1 through R-4 are requested from the Registrar of Voters.

A Response to Recommendation R-2 is required from the Board of Supervisors.

REQUIRED RESPONSES:

The California Penal Code specifies the required permissible responses to the findings and recommendations contained in this report. The specific sections are quoted below:

§933.05(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.

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- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.