

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

956



FROM: Registrar of Voters

SUBMITTAL DATE:
March 23, 2009

SUBJECT: Implementation of Recommendations from the BB&K Election Report Review in the upcoming May 19th, 2009 Consolidated Statewide Special Election

RECOMMENDED MOTION: That the Board of Supervisors receive and file the attached report.

BACKGROUND: The BB&K Election Review ("Review") Report contained 36 recommendations ranging from improving the chain of custody of election materials to enhancing voter assistance and expanding public observation areas. While the Review recommends implementation by the November 2009 election, the May 19th, 2009 Consolidated Statewide Special Election provides an opportunity for the Registrar of Voters to implement 29 (over 80%) of the recommendations. The remaining 7 recommendations could not be fully implemented, however more than half are being partially implemented.

Departmental Concurrence

The State has not yet agreed to reimburse counties for this Special Election. Therefore, the Registrar of Voters is using existing inventory to exhaust supplies and making other adjustments, where practical, to reduce costs.

The Registrar of Voters will return with a full response to the Review within the 180 day timeframe directed by the Board on March 3, 2009 including any request for additional resources to accomplish the recommendations in the future.

Barbara Dunmore

Barbara Dunmore
Registrar of Voters

| | | | | |
|-----------------------|-------------------------------|--------|-------------------------|-----|
| FINANCIAL DATA | Current F.Y. Total Cost: | \$ N/A | In Current Year Budget: | N/A |
| | Current F.Y. Net County Cost: | \$ N/A | Budget Adjustment: | N/A |
| | Annual Net County Cost: | \$ N/A | For Fiscal Year: | N/A |

| | | |
|-------------------------|----------------------------------|--------------------------|
| SOURCE OF FUNDS: | Positions To Be Deleted Per A-30 | <input type="checkbox"/> |
| | Requires 4/5 Vote | <input type="checkbox"/> |

C.E.O. RECOMMENDATION:

APPROVE

BY: *Jennifer L. Sargent*
Jennifer L. Sargent

County Executive Office Signature

- Consent
- Policy
- Consent
- Policy

Dept's Recomm.:
Per Exec. Ofc.:

000000 SR 0011: 01

Prev. Agn. Ref.:

District: ALL

Agenda Number:

2.18

Background

On March 3, 2009, Mr. Grover Trask of Best Best & Krieger LLP (“BB&K”) Public Policy & Ethics Compliance Group presented to the Board of Supervisors an “Operational, Security and Accountability Review of the November 4, 2008 Riverside County Election and Ballot Process (“Review”). The Review was commissioned by the County Executive Office at the direction of the Board of Supervisors. The objective of the Review was to analyze the upcoming November 4, 2008 Consolidated General Election and prepare a report on the “process, including recommendations for improvement.”

The Review contains 36 recommendations—26 are categorized as “Priority 1” and 10 are categorized as “Priority 2.”

Table 1: Definitions of Priority Categories

| | |
|------------|---|
| Priority 1 | More serious in nature and are required for conformance with applicable laws and polices. They should be implemented <u>before</u> the next regularly scheduled election. |
| Priority 2 | Should be examined and/or implemented as soon as practicable. |

Statewide Special Election

Senate Bill 19 set a Statewide Special Election for May 19, 2009. Six statewide propositions will appear on the ballot in Riverside County with the addition of a local measure for voters in Desert Hot Springs. Four hundred eighty-four (484) polling places will be established for the election.

This election provides an opportunity for the Registrar of Voters to implement 29 (over 80%) of the recommendations in the Review—22 categorized as Priority 1 and 6 categorized as Priority 2. The remaining 8 recommendations (4 Priority 1 and 4 Priority 2) require more planning and/or additional resources.

Table 2: Implementation of All Review Recommendations in the Statewide Special Election on May 19th, 2009 by Priority Category

| Category | Total Recommendations | May 19 th Statewide Special Election | | |
|------------|-----------------------|---|---|-----------|
| | | Full Implementation | Positive Steps / Partial Implementation | No Action |
| Priority 1 | 26 | 23 | 3 | 0 |
| Priority 2 | 10 | 6 | 1 | 3 |

Preparation

The ROV's goal is to develop and implement an "iron-clad" chain of custody for all voted and unvoted ballots. This includes paper and electronic ballots. In response to current budget constraints (the State has not yet agreed to reimburse counties for this Special Election) and the short lead time to prepare for the May 19th election, the department is using, for the most part, existing inventory supplies. This approach will allow the ROV to exhaust existing inventory, thus freeing up warehouse space and saving taxpayer dollars.

The barcode scanning system is currently being evaluated for increased effectiveness. Manual logs will replace the barcode scanning in this election.

Pre-Election Chain of Custody

The Review presents 13 recommendations, 12 of which are Priority 1, to improve pre-election chain of custody. The ROV will implement 11 of the recommendations and has initiated positive steps/partial implementation of the 2 remaining recommendations.

Table 3: Implementation of Pre-Election Chain of Custody Recommendations by Priority Category

| Category | Total Recommendations | Full Implementation | Positive Steps/Partial Implementation |
|------------|-----------------------|---------------------|---------------------------------------|
| Priority 1 | 12 | 11 | 1 |
| Priority 2 | 1 | 1 | N/A |

Election Day: From Opening to Closing of the Polling Locations

The Review presents 11 recommendations— 4 are Priority 1 and 7 are Priority 2. The recommendations enhance voter assistance through election officer training and polling place efficiencies. The ROV will implement 6 of the recommendations and has initiated positive steps/partial implementation of 4 others.

Table 4: Implementation of Election Day Polling Location Recommendations by Priority Category

| Category | Total Recommendations | Full Implementation | Positive Steps/Partial Implementation |
|------------|-----------------------|---------------------|---------------------------------------|
| Priority 1 | 4 | 3 | 1 |
| Priority 2 | 7 | 3 | 1 |

Regional Collection Centers

The Review presents 3 recommendations, all Priority 1. The recommendations enhance transfer of custody documentation and accountability for broken seals. All recommendations will be implemented.

Table 5: Implementation of Regional Collection Center Recommendations by Priority Category

| Category | Total Recommendations | Full Implementation | Positive Steps/Partial Implementation |
|------------|-----------------------|---------------------|---------------------------------------|
| Priority 1 | 3 | 3 | N/A |

Delivery to ROV Office and Semi-Canvassing

The Review presents 7 recommendations, 5 of which are Priority 1. The recommendations include safety and security improvements, enhancing lines of authority, and accountability and special handling of items with broken seals. The ROV will implement 6 of the recommendations and has initiated positive steps/partial implementation of the remaining recommendation.

Table 6: Implementation of Delivery to ROV Office and Semi-Canvassing Recommendations by Priority Category

| Category | Total Recommendations | Full Implementation | Positive Steps/Partial Implementation |
|------------|-----------------------|---------------------|---------------------------------------|
| Priority 1 | 5 | 5 | N/A |
| Priority 2 | 2 | 2 | NA |

Observations of Post Election Canvassing

The Review presents 2 recommendations, both of which are Priority 1. The recommendations expand public observation areas and seeking reimbursement for post election auditing.

Table 7: Implementation of Post Election Canvassing Recommendations by Priority Category

| Category | Total Recommendations | Full Implementation | Positive Steps/Partial Implementation |
|------------|-----------------------|---------------------|---------------------------------------|
| Priority 1 | 2 | 2 | N/A |

Stated below are the Review's recommendations and the ROV's Implementation of the recommendation in the upcoming May 19, 2009 Consolidated Statewide Special Election. The column titled "Overall No." represents the order in which the recommendations are listed in the Review. [REDACTED] of the recommendation; **bolded font represents positive steps/partial implementation.**

| Overall No. | Priority Level | Review Recommendation | ROV Implementation |
|--------------------------------------|----------------|---|--|
| Pre Election Chain of Custody | | | |
| 1 | P2 | Oath of office be administered to facility managers/ owners of polling places in order to ensure that they understand the magnitude of their responsibilities. | The Oath of has been added to the Polling Place Confirmation Letter sent to owners/managers of selected facilities and to the Voting Equipment Delivery Receipt that is signed by the individual accepting the election equipment at the facility. The signed receipt is returned to the ROV. |
| 2 | P1 | ROV revise existing accountability logs or create new ones that identify serial numbers assigned to various electronic voting system components. | The ROV has adapted the Early Voting seal accountability log to record, verify, and track seal serial numbers assigned to electronic voting system components. |
| 3 | P1 | ROV develop a procedure or system to notify the recipients of voting system components prior to delivery by the transport company. The ROV transport company could assign exact times or a window of time in which recipients could expect delivery. A day before delivery, the ROV transport company could have an automated system contact recipients reminding them of their assigned delivery time or window and provide a phone number should recipients be unavailable to receive voting system components. | Transfer companies currently contact each facility to schedule a window of time for delivery. Transfer companies will be encouraged to re-confirm the delivery time with the facility no later than 48 hours prior to delivery. Redelivery fees will be granted upon verification that an attempt at re-confirmation of the delivery window was made. |

| Overall No. | Priority Level | Review Recommendation | ROV Implementation |
|-------------|----------------|--|---|
| 4 | P1 | <p>ROV develop a more secure method of transporting voting system components. While the Edge voting units are self-contained in a hard plastic portable case and secured with a yellow strap, the strap merely detects tampering but does not really prevent tampering. We were pleased with how the Orange County Registrar of Voters transported voting system components in steel cages containing combination locks. A similar system would further guard against unauthorized access to voting system components. This is especially crucial if voting system components are stored in secured locations in plain view.</p> | <p>The yellow strap will be secured by a new sturdier serialized seal that has not been used before. The new seal will be tracked and verified at critical transfer and chain of custody points in the process. Those handling the equipment (e.g. transfer companies, polling places, election officers, etc.) will be informed on the appropriate steps to take if tampering is suspected. Secondary control procedures exist for follow up on reports of suspected tampering.</p> <p>Facilities being used as polling places are being instructed to store the Edge voting unit out of plain sight and not accessible to the public.</p> <p>A securer method requires additional research and likely financial resources to implement. The shortened lead time for the May 19th election did not allow for thorough research of a solution comparable to Orange County's.</p> |
| 5 | P1 | <p>ROV increase its efforts to locate locked storage locations outside plain view for all voting system components. While many of the precinct locations are secured, storing voting system components in plain view increases the chances of unauthorized access.</p> | <p>Facilities being used as polling places are being instructed to store the Edge voting unit(s) out of plain sight and not accessible to the public. Locked storage of voting system components presents challenges during election eve set up and election morning if the "holder of the key" does arrive timely, does not report to work, or cannot be found.</p> |

| Overall No. | Priority Level | Review Recommendation | ROV Implementation |
|-------------|----------------|---|---|
| 6 | P1 | <p>ROV revise existing accountability logs or create new ones that identify specific serial numbers assigned to various voting system components. For example, the Orange County Registrar of Voters identifies eight different serial numbers on its JBC Chain of Custody Log and requires that an inspector and clerk initial all of the serial numbers identified are intact.</p> | <p>The shortened lead time for the May 19th election did not allow for development of a tamper-prevention solution. Such a solution requires additional research and will likely require financial resources.</p> <p>New ROV voting equipment security logs have been developed to track 10 serialized seals applied on the Edge voting unit from programming of the unit to election eve and to the close of polls.</p> |
| 7 | P1 | <p>Seal should bear some sequential numbering or barcodes so they cannot be used in subsequent elections. This would require the logging of the series of numbered seals used each election. For example, if in the year June, 200 election seal numbers 4000 to 9000 were either used or not returned to the ROV, then for the next election, seal numbers 9001 to a previously designated ending seal number would be issued.</p> | <p>A specific number range of sequentially serialized seals will be issued for the May 19th election. The seals will be logged and tracked and any replacement seals should bear a serial number within the assigned range. In an effort to exhaust our existing supply of seals, most seals used in May are the same color and type used in prior elections. In future elections the seal color and/or type of seal will be changed to distinguish from seals used in prior elections and make any carry over use immediately evident.</p> <ul style="list-style-type: none"> Facilities being used as polling places are being instructed to store the Edge voting unit(s) out of plain sight and not accessible to the public (see Overall No. 5 recommendation). Locked storage |
| 8 | P1 | <p>The following additional measures be added to improve existing tamper controls for polling locations:</p> <ul style="list-style-type: none"> When possible, utilizing locked storage | <p>Facilities being used as polling places are being instructed to store the Edge voting unit(s) out of plain sight and not accessible to the public (see Overall No. 5 recommendation). Locked storage</p> |

| Overall No. | Priority Level | Review Recommendation | ROV Implementation |
|-------------|----------------|---|--|
| | | <p>within polling locations:</p> <ul style="list-style-type: none"> Limiting and logging access to electronic voting system components to ROV staff, volunteers, and agents. | <p>of voting system components presents challenges during election eve set up and election morning if the "holder of the key" does arrive timely, does not report to work, or cannot be found.</p> <ul style="list-style-type: none"> New procedures limit and log access to electronic voting system components. |
| 9 | P1 | <p>The following additional measures be added to improve existing tamper controls for interim storage locations:</p> <ul style="list-style-type: none"> Use accountability log with signature verification of those who enter and exit storage rooms or some type of magnetic card reader program; When possible, utilizing alarm systems and interior and exterior surveillance. | <p>For the May 19th election, only one interim storage location will be used. A security review of the location is being performed by the ROV and the Facilities Management Department. Upon completion of the review, measures will be added, if needed, to improve existing tamper controls.</p> |
| 10 | P1 | <p>ROV develop a written policy requiring that ROV staff train inspectors on the need for immediate notification should a seal break prior to the opening of the polls, or if there exists evidence of tampering, or any suspicion of tampering, or any paper ballot box after the box has been sealed with the paper ballot inventory standard seal prior to the opening of the polls.</p> | <p>The ROV will implement a written policy and train precinct and range inspectors on the need for immediate notification and removal from use of any equipment or election materials exhibiting evidence of tampering. Secondary control procedures will check for evidence of tampering.</p> |
| 11 | P1 | <p>ROV develop a secondary control policy to address circumstances where the ballots arrive during the set up for the opening of the polls with a broken seal or where there has been</p> | <p>The ROV will implement a secondary control policy to address broken seals on paper ballot boxes or where there is evidence or a report of potential tampering or fraud.</p> |

| Overall No. | Priority Level | Review Recommendation | ROV Implementation |
|---|----------------|--|---|
| 12 | P1 | <p>evidence of or a report of some tampering, or some form of misconduct or fraud.</p> <p>ROV develop a written policy requiring that ROV staff train transport drivers on the need for immediate notification to the ROV should they detect evidence of tampering, or any suspicion of tampering, of any voting system component during any phase of delivery and transfer.</p> | <p>The ROV will develop a written policy requiring ROV staff train transport drivers to immediately notify the ROV if they detect any evidence of tampering or suspected tampering with any voting system component at any time. Secondary control procedures will check for evidence of tampering.</p> |
| 13 | P1 | <p>ROV should develop a Departmental Policy and Procedure which instructs ROV staff to take very specific actions upon knowledge of tampering or suspected tampering.</p> | <p>The ROV will develop a Departmental Policy and Procedure that instructs staff to take very specific actions upon knowledge of tampering or suspected tampering.</p> |
| Election Day: From Opening to the Closing of the Polling Locations | | | |
| 14 | P2 | <p>Election Officer training courses put more emphasis on providing voter assistance.</p> | <p>The provision of voter assistance in election officer training courses will be enhanced. In addition, election officers will be provided supplemental resources and tools to provide voter assistance. For example, multiple board precincts will have an additional election officer in the role of greeter/director, a CD mirroring the ROV web site's polling place look up will be provided to all polling places for use with an election officer provided laptop, etc.</p> |
| 15 | P2 | <p>ROV should continue to emphasize it public outreach and education efforts.</p> | <p>The ROV will continue its public outreach and education efforts. For May, the emphasis will be on ballot marking and methods of voting.</p> |
| 16 | P1 | <p>More interactive or hands-on training be incorporated into existing training efforts</p> | <p>ROV trainers will incorporate more interactive and hands-on training in training sessions.</p> |

| Overall No. | Priority Level | Review Recommendation | ROV Implementation |
|-------------|----------------|--|---|
| | | with an emphasis on reconciliation and voter assistance. | <p>Emphasis will be placed on new requirements and areas previously observed as challenging to election officers including reconciliation at closing of the poll.</p> <p>The above implementation achieves the recommendation at a minimum. However, much more can be done, but the shortened lead time for the May 19th election has not allowed for a full vetting of proposed training approaches.</p> <p>Tab will be printed on handbook pages to denote each section. Existing organization of the handbook is being examined.</p> <p>The training handbook incorporates changes applicable to each election. Additional resources may be required fully achieve this recommendation.</p> |
| 17 | P2 | ROV should make its training handbooks more users friendly. | |
| 18 | P1 | ROV should continue to take steps towards making the reconciliation process more simplified. | <p>The ROV continues to take steps to simplify completion of the Ballot Statement which reflects the reconciliation at the close of polls.</p> <p> Voter registration confirmation and vote-by-mail ballot receipt confirmation is being added to the ROV's automated phone response look up.</p> <p> Additionally, voter registration confirmation is being added to the ROV's website. Additional phone bank operators will be retained based on election needs</p> |
| 19 | P1 | ROV should provide more effective voter assistance through some type of automated services and/or retain additional phone bank operators to field incoming inquiries regarding voter information/registration. | |

| Overall No. | Priority Level | Review Recommendation | ROV Implementation |
|------------------------------------|----------------|---|---|
| 20 | P2 | <p>ROV should continue its diligent efforts to educate volunteer poll workers on the importance of prohibiting electioneering near or adjacent to polling locations.</p> <p>ROV should adopt a process for identifying poor performing performance level of poll workers.</p> | <p>Every polling place will be provided a 100 foot long string to confirm any electioneering is conducted 100 feet beyond the entrance to the polling place.</p> |
| 21 | P2 | <p>ROV should adopt a process for identifying poor performing performance level of poll workers.</p> | <p>A formal process of evaluating election officer performance needs to be developed. Additional resources may be required to achieve this recommendation.</p> |
| 22 | P2 | <p>ROV should adopt a system of tracking and monitoring voter complaints.</p> | <p>ROV staff is exploring utilization of the election management system to record and track voter complaints.</p> |
| 23 | P2 | <p>Incentive monies should be redirected to improving knowledge retention by the poll workers.</p> | <p>Limited incentive monies are paid to election officers. They are \$5 per precinct for use of personal cell phones on Election Day and \$25 for the provision of an internet accessible lap top to help voters locate their assigned polling place.</p> |
| 24 | P1 | <p>ROV should use different colored envelopes for spoiled provisional ballots and spoiled regular ballots or to identify another process to keep these ballots separate during the closing process.</p> | <p>The ROV will use envelopes for spoiled ballots that clearly indicate its contents as a "spoiled provisional ballot" or a "spoiled regular ballot."</p> |
| Regional Collection Centers | | | |
| 25 | P1 | <p>ROV utilize a form documenting the transfer of custody of paper ballots and results cartridges from polling locations to collection center volunteers. The ROV has previously used a signature verified form that documented this transfer which it should consider using again.</p> | <p>New ROV Collection Center Custody Log will document the transfer of all election materials from polling places to collection center volunteers.</p> |

| Overall No. | Priority Level | Review Recommendation | ROV Implementation |
|---|----------------|--|--|
| 26 | P1 | ROV develop an accountability log to document broken seals. | New ROV Collection Center Custody Log will document the condition of seals. A new Collection Center Reception Exception Log will record the reason for any broken seals. |
| 27 | P1 | ROV provide instructions for documenting and handling ballot boxes with broken seals. | Collection Center volunteers will use the new ROV Collection Center Reception Exception Log to document broken seals and will be instructed on how to handle broken seals. |
| Delivery to ROV Office and Semi-Canvassing | | | |
| 28 | P2 | The drop off and receipt of the elections material to the ROV Office be made more safe and efficient. Safety improvements could include improving the areas of (1) outside lighting, (2) the use of security personnel, (3) the use of a parking lot attendant to direct traffic, (4) the use of safety vests. | At a minimum, safety improvements 1-4 noted in this recommendation will be implemented. |
| 29 | P2 | ROV consider placing those working in a supervisory capacity in some type of special vest or identification to improve lines of authority during the massive effort to accept all the election materials. | All individuals working in a supervisory capacity will be identifiable. |
| 30 | P1 | ROV document the receipt of the red transport bags by scanning the barcodes as it does with the voted ballot boxes or some other effective process. | Receipt of red transport bags will be documented as they arrive at the ROV. |
| 31 | P1 | ROV keep track of those ballot boxes and red transport bags that arrive with a broken seal in an accountability log. | A log will track any red transport bag arriving with a broken seal. |

| Overall No. | Priority Level | Review Recommendation | ROV Implementation |
|---|----------------|--|---|
| 32 | P1 | Ballot boxes with broken seals receive a secondary control handling process after they are brought to the attention of the ROV staff. | Ballot boxes arriving with broken seals will be segregated and undergo a secondary handling process to determine if potential tampering or fraud occurred. |
| 33 | P1 | The bottom half of the tally room door should remain closed, access to the room should be limited, and all designated personnel with authorized access be required to display identification. | The bottom half of the ballot counting room door will remain closed. Access to the ballot counting room will be limited to authorized personnel whom will display an election specific personalized badge authorizing access. |
| 34 | P1 | ROV collaborate with appropriate County IT resources to develop a public viewing mechanism of the WinEDS server monitor while ensuring its security. To that end, ROV could position an additional display monitor or monitors in a manner that allows the observers to read the contents displayed on the vote tabulating computer or device while also observing the vote tabulating computer or device and any person or person operating the vote tabulating computer or device. | The ROV has initiated discussions with IT for a public viewing mechanism of the WinEDS server. An interim solution for May 19 th will be available. |
| Observations of Post Election Canvassing | | | |
| 35 | P1 | ROV should seek reimbursement from the vendor of the Sequoia voting system for the costs associated with post election auditing required as a condition of recertification. For example, the 100% Manual Tally of electronic ballots may be deemed a post-election audit imposed as a condition of certification. | The ROV sent Sequoia an invoice seeking reimbursement for the 100% manual tally conducted for the November 2008 Consolidated General Election. |

| Overall No. | Priority Level | Review Recommendation | ROV Implementation |
|-------------|----------------|---|--|
| 36 | P1 | With respect to observation areas, the ROV should permit the area to go around the perimeter of the room activity so that all tables can be viewed from a legible distance, provide such an area does not interfere with the ability of the workers to perform their tasks. | The ROV will enhance public observation areas. |