News Release

Raymond Lutz
Coordinator, Citizens' Oversight Projects (COPs)
http://www.CitizensOversight.org / 619-447-3246

FOR IMMEDIATE RELEASE

Nov. 20, 2008

Registrar Manual Tally Reports Indicate Substantial Problems with Diebold Scanners in 2008 Elections

Manual Tally Reports Insufficient to Detect Vote Substitution Errors

June Primary Report Not Submitted At All by San Diego Registrar Deborah Seiler

SAN DIEGO, CA (Nov 20, 2008) – Citizens' Oversight Projects (COPs) submitted a written request to the San Diego County Registrar of Voters on November 20, 2008, requesting

1. The Manual Tally report for the June 3 primary election, which is shown as not submitted on the Secretary of State's web site,
2. Explanation for the 10% defect rate discovered by the manual tally for the February 5th Presidential Primary,
3. Complete reports, including comparison of the exact vote between Diebold scanners and the manual tally results.

Raymond Lutz, coordinator of Citizens' Oversight Projects (COPs) submitted the request to the Registrar with copies sent to County CAO Walter Ekard, Supervisor Dianne Jacob, and Secretary of State Debra Bowen. He said, "The reports prepared by the San Diego County Registrar are nothing more than an embarrassment. The report included no detail as to the actual votes cast, including only discrepancies in the total number of ballots and the total number of votes. Vote substitution errors, such as replacing a NO vote for a YES vote are not reported at all. You realize the insufficiency of the report when you compare with the report prepared by LA County, comprising 1,300 pages and including an explanation for all discrepancies, including vote substitutions. The San Diego report was only two pages in length.

"In addition, the San Diego County Registrar did not even submit a report for the June 3 election," Lutz continued. "It is our hope that we can reconstruct an exhaustive report of the June 3 primary election as many races, such as the race for the Mayor of San Diego, were decided in that election." Lutz linked the concern of these discrepancies with the September 21, 2008 Washington Post article "Ohio Voting Machines Contained Programming Error That Dropped Votes" that asserted that Diebold admitted that the scanners contain "a critical programming error that can cause votes to be dropped while being electronically transferred from memory cards to a central tallying point," exactly the mode of operation used in San Diego.

"All results of elections conducted in San Diego County should be suspect," Lutz said. "This doesn't give the public much confidence that our Registrar is doing her job." Deborah Seiler, Registrar for San Diego County used to work for Diebold systems.

(The entire letter to the Registrar is attached below)

Raymond Lutz is a resident in an unincorporated area of the county and former candidate for the 77th State Assembly District.

The entire Washington Post article can be accessed here:
http://www.copswiki.org/twiki/bin/view/Common/M617

More information about this project are available at the Copswiki.org website at this link, including the letters sent to the San Diego County Registrar of Voters, the Secretary of State, County Sup. Dianne Jacob, and comments made at the recent Board of Supervisors meeting.
http://www.copswiki.org/twiki/bin/view/Common/ManualTallyIssues

# # #

**Citizens' Oversight
Projects (COPs)**

CitizensOversight.org

PO Box 252
El Cajon, CA 92022
619-820-5321

CITIZENS' OVERSIGHT PROJECTS
CitizensOversight.org

November 20, 2008

Deborah Seiler
San Diego County Registrar of Voters
P.O. Box 85656
San Diego, CA. 92186-5656
(858) 565-5800   REF: C00016

CC: CAO Walter Ekard, Sup. Dianne Jacob, Secretary Debra Bowen

Dear Ms. Seiler:

As you know, we have been attempting to perform our civic duties as citizens in our democracy by helping to monitor our elections process. We would appreciate your timely response to this letter. (Our last letter was delayed by nearly six weeks and required that I speak to the issue before the County Board of Supervisors. I hope that getting a reply this time from your office will not require that same level of effort.)

Under Elections Code section 15360(e), counties are required to report to the Secretary of State the results of the 1% manual tally conducted after each election. Elections Code section 15360(e) states:

> The official conducting the election shall include a report on the results of the 1% manual tally in the certification of the official canvass of the vote. This report shall identify any discrepancies between the machine count and the manual tally and a description of how each of these discrepancies was resolved. In resolving any discrepancy involving a vote recorded by means of a punchcard voting system or by electronic or electromechanical vote tabulating devices, the voter verified paper audit trail shall govern if there is a discrepancy between it and the electronic record.

With this in mind, please respond to the following points.

1. According to the Secretary of State website, there was no report submitted for the June 3, 2008 Statewide Direct Primary Election by San Diego County.[1] Perhaps this is an error on the Secretary of State's web site.
   a) Please provide, in reply to this letter, a copy of the 1% Manual Tally Report, as described by Elections Code 15360(e), as originally submitted to the Secretary of State.
   b) If this was not submitted to the Secretary of State in a timely manner, please explain why San Diego has been relieved of this requirement. Was it a mistake at the Secretary of State's web site, or was the report withheld by your office?
   c) Please make sure the Secretary of State's website correctly reflects the disposition of your report.

2. In review of the San Diego County Manual Tally Report submitted for the February 5th election[2], we note severe discrepancies with regard to eight ballots that were "lost" in the 1% sample. According to footnote

---

1   http://www.sos.ca.gov/elections/mcr_june08.htm does not list San Diego as having submitted that report.
2   http://www.sos.ca.gov/elections/county_manual_count_reports/san_diego/san_diego.pdf

#1, the report states:

> In original manual tally the team found 1 more ballot and 7 more votes cast than the system generated report. On 2/21/08 the ballots were re-run by Technical Services and the new report matched the manual tally of 365 ballots but the vote count was off by one. The precinct was reassigned to a new tally team and the new manual tally matched the system generated report of # (365) of ballots cast and # (2798) of votes cast.

And footnote #3 of the report states:

> In original manual tally the team found 7 fewer ballots and 57 fewer votes than the system generated report. On 2/21/08 the ballots were re-run by Technical Services and the new report matched the manual tally of 290 ballots cast but showed one more vote than we found in the manual tally. The precinct was reassigned to a new tally team and the new manual tally matched the system generated report of # (290) of ballots cast and # (2248) of votes cast.

Unfortunately, the procedure used to settle the discrepancies violates the intent of sampling procedures.[3] It is invalid to correct the sample and then assume that the corrected sample reflects the quality of the lot. This procedure would be akin to sampling 1% of the product on a production line, finding 10% of that sample defective, fixing those products, and then claiming that the entire production line is therefore fixed. Instead, the correct conclusion is that 10% of the entire population is likely defective, meaning that we would expect around 710 ballots and 6,400 votes to have been lost, and about 180 precincts to have errors.

The only action that should be allowed to rectify errors in the 1% Manual Tally Procedure is to redo the manual tally itself, to avoid errors in the inspection process, as sampling procedures require that the inspection process is error free. It is INVALID to run the ballots back through the automated counting equipment to settle the problem and then claim that there were no defects. Running the ballots back through the scanning equipment only substantiates the hypothesis of the existence a severe problem with that equipment and the associated procedure of scanning the ballots.

The appropriate action in that case, according to standard quality control practice, is to then inspect a larger sample to see if the error is consistent across the larger sample. In this case, given the fact that about 10% of the precincts had errors, the entire scanning process should have been redone. Of course, that would assume that you have determined and fixed the problem that caused the original defect in the count. In your report, you did not actually find the source of the error, except to validate the hypothesis that the scanning equipment and the associated procedure produced the error.

---> Please explain why is it proper to correct the defective sample in this case but in normal Quality Control sampling such correction is never allowed. In other words, you should report a discrepancy, not "no discrepancies."
---> Why were the "lost" ballots not counted by the scanning equipment? What was the source of the error?

3. The manual tally report you submitted for the February 5 election is insufficient to detect vote-substitution errors. Your report[4], which comprises a mere two pages, lists only the number of ballots cast and the number of votes cast. Such a report will not detect vote substitution errors, such as a vote changed from YES to NO on a ballot proposition. There is still one vote and one ballot, but the vote counted was incorrect.

We note that many other counties prepare a much more robust report detailing the actual vote count for each ballot measure and comparing that to the automated count. For example, in LA County, their report[5] is 1,300 pages in length.

3   Juran, *Quality Control Handbook*, Chapter 24, "Sampling by Attributes."
4   http://www.sos.ca.gov/elections/county_manual_count_reports/san_diego/san_diego.pdf

The report you are generating is in violation of the wording of the election code. It says "This report shall identify <u>any</u> discrepancies between the machine count and the manual tally and a description of how each of these discrepancies was resolved." The report you provide does not identify any discrepancies at all in differences in the vote itself, only in the number of ballots and the total number of votes.

It should go without saying that if there is some difference in the number of ballots and in the number of votes cast, that there should also be a difference in the specific votes on ballot measures, yet your report does not identify those differences. Since you do not report on those differences, you are not in compliance with the elections code in this regard.

---> Please provide a complete report for the Feb 5, June 3, and Nov 4, 2008, elections, including a comparison of each precinct and each ballot measure between the manual tally and the automated scanners, using a format similar to the LA county report. If you refuse to comply with the elections code to provide the required detail in your report, please provide the following, for each precinct selected for the 1% manual tally, such that we may generate the report:

    a) Hand tally sheets
    b) Computer reports
    c) Scanner Printout Reports

To reduce the use of paper products, we would be happy to accept the information as scanned documents in PDF, JPG or a similar format. Since there is no cost in the form of paper and toner to create these files, we anticipate that the cost will therefore be minimal. If you need any help in creating such scanned files, we would be happy to assist your staff so that the cost for compliance can be minimized, as we are well aware of the tight budget situation.

Please consider the above request for reports to be covered under the California Public Records Act, and comply within ten days. We understand that you are required to keep the election data for at least six months, so at least the June 3 election tally sheets and computer reports should be available, but we hope that the Feb 5 Manual Tally information has been preserved.

We would appreciate a prompt reply to this request to confirm your cooperation. The best way to respond is by email, perhaps with follow up by letter and conventional mail.

We trust that you will receive these requests with the community spirit that they are intended.

Sincerely,

Raymond Lutz
Coordinator, Citizens' Oversight Projects (COPs)

---

5   http://www.sos.ca.gov/elections/county_manual_count_reports/los_angeles/la_county_manual_pct.pdf