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November 25, 2008

Mr. Raymond Lutz, Coordinator
Citizens' Oversight Projects
P.O. Box 252
El Cajon, CA 92022

Re: November 20, 2008 Public Records Act Request

Dear Mr. Lutz:

We are in receipt of your November 20, 2008 Public Records Act request addressed to the Registrar of Voters. I will be assisting the Registrar of Voters in responding to your request. I have detailed the items you have requested and provide responses to those requests as explained below:

Requested Item No. 1(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.

Response to Item No. 1(a): Unless we receive notification otherwise, we will assume that you are requesting the 1% Manual Tally Report from the June 3, 2008, Statewide Direct Primary Election. The 1% Manual Tally Report from the June 3, 2008 election will be made available as requested.

Requested Item No. 1(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?

Response to Item No. 1(b): Item 1(b) is not a request for public records. Therefore, the Registrar of Voters is unable to produce records in response to this request.

Requested Item No. 1(c): Please make sure the Secretary of State's website correctly reflects the disposition of your report.

Response to Item No. 1(c): Item 1(c) is not a request for public records. Therefore, the Registrar of Voters is unable to produce records in response to this request.

Requested Item No. 2: Please explain why it is 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?

Response to Item No. 2: Item 2 is not a request for public records. Therefore, the Registrar of Voters is unable to produce records in response to this request.

Requested Item No. 3: 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; 3) Scanner Printout Reports

Response to Item No. 3: The Registrar does not produce or maintain any reports using a format similar to the LA County report in the normal course of business and the cost to produce such reports would be substantial. To the extent that reports with a comparison of each precinct and ballot measure exist, they will be made available for your review.

With respect to your request for production of the hand tally sheets, computer reports, and scanner printout reports we require additional information to be able to respond. What "computer reports" and "scanner printout reports" are you referring to? Can you be more specific? To the extent we are able to identify the documents that you are requesting and maintain such records/reports, we will make them available as requested.

Because the Registrar and her staff are currently involved in completing the canvass of the election results from the November 4, 2008, Presidential General Election, we will require additional time to locate the documents identified in your records request. There may also be a need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are referenced in your request.

As such, we will require a fourteen (14) day extension in which to respond to your request pursuant to Government Code 6253(c)(2). When applying the original ten (10) day responsive period to the additional time of fourteen (14) days, I have determined that the deadline for making the requested records available is December 14, 2008. Since the Registrar's office is closed on Saturdays, the records will be made available on December 16, 2008.

Finally, to the extent that the Registrar maintains electronic versions of the documents to be produced, we will produce them in electronic format as requested. To the extent that the Registrar does not maintain electronic versions of the documents requested we will make copies of such documents available for your review and copying. The documents will be made available for your review at a future date, which will be identified prior to December 16, 2008. Any records that you wish to have copied will result in charges to you pursuant to Government Code §6253(b). Payment of these charges will be required prior to or at the time the copies are released.

Very truly yours,

JOHN J. SANSONE, County Counsel

By 

TIMOTHY M. BARRY, Senior Deputy

Cc: Ms. Deborah Seiler
08-02058