

2008 California Presidential Primary

Doug Hunter Observer Report

General Observations

I have observed ROV Election Night activities for 4 or 5 elections, dating back to the 2004 General Election. Each of the last four elections has employed a different vote tabulation protocol, either by ROV choice or by SOS Edict. These repeated changes result in a need to retrain, to hire many unqualified temporary employees who must be monitored carefully, and in general the appearance of confusion and chaos on election night. **I suspect that more errors occur in vote counting because of the constant changes in the process than in any manipulation of the process.** Activities in the ROV office during the last two elections have seemed particularly chaotic. In the previous election, the logistical necessity of handling almost 10,000 TSx machines and reading their memories into the central tabulator created a need for many temporary employees. In this 08 Primary, the attempt at orderly processing of the returning ballots required the hiring and quick training of around 500 temporary employees, a large percentage recruited from local high schools.

I will summarize my overview of the current functioning of the ROV office in a few comments.

Deborah Seiler seems to perform the functions of a CEO, assuming primary responsibility for community relations and public relations. Michael Vu seems to act as COO, with primary responsibility for operations. This view was confirmed by activities on election night, Vu was clearly running the on-the-ground operations, even to the extent of unobtrusively separating an advocate of ROV policies from a heated conversation with an election integrity activist. Deborah, on the other hand, remained in more or less constant contact with observers, answering questions and explaining operations

Mikel Haas was unobtrusively observing operations, and I availed myself of the opportunity of his relaxed presence to discuss several issues with him. I learned first that he had hired Michael Vu under the assumption that VU would report to him. He then, after being informed of his promotion, had to inform Vu that the job offer was still open, but that he did not know to whom Vu would be reporting. Vu accepted the job. [I would like to mention that I have read the 83 page report of the Cuyahoga County Election Review Commission (CCERC – the commission was broadly representative of all interests, for example Dennis Kucinich was a member). This report essentially exonerated Michael Vu of responsibility for the fiasco of 2004, but did fault him for pushing his employees too hard and for not communicating effectively with their version of the Board of Supervisors (I think they are called County Commissioners). The report acknowledged that Vu had repeatedly requested permission to procure additional equipment but was turned down. The report also made it clear that the equipment had been procured under a

state authored and mandated blanket purchasing agreement which was grossly deficient in provisions for support and maintenance, matters which Vu had attempted to correct.]

Haas' commented that Vu is a very smart guy and is doing a great job. He also expressed his admiration for the job Seiler is doing. He admires the patience she has exhibited in working with election integrity activists, and admits he might have lost patience with the activists.

I asked Haas if he thought the TSx units would ever be brought back into service. I was surprised when he answered in the negative, indicating that he thought it more likely that we would see some new design, some new technology.

I also asked Haas why a consortium of ROV's could not lobby for a statistically significant sampling of election results to be employed to improve voter confidence in the election process. (See below for a brief note on the sampling I would recommend.) His answer was interesting. His view is that even if such changes were requested, elected officials are sometimes not responsive to the wishes of government employees, and such a request would probably not be honored unless mandated by legislation.

Haas' basic view on voting procedures is that the ROV should and will do whatever the law requires, and if citizens want something different, it is up to them to get the law changed or to elect officials who will mandate change.

This brings up another point: There was some discussion with ROV representatives of why the San Diego ROV is contesting SOS Debra Bowen's edict that races with less than a 0.5% margin be given a 10% "audit". (lower court has ruled against the ROV, but that ruling is being appealed). The ROV is contending: first that if they are required to do this the state must bear the cost, but the basic grounds for challenging the edict is the contention that only the legislature can impose such a requirement.

Vote Counting Process

The ROV stated that the process designed for the 2008 primary was necessary because the ROV did not have enough scanners to cover the 1650 precincts. (What happened to the scanners used in the 06 General?) It had the further advantage that it had already been used in a Northern Calif county (Alameda?), so that most of the plan, which must be approved by the SOS, did not need to be developed from scratch.

In this 2008 Primary, votes were cast by paper ballots, these paper ballots were carried from the polling place to consolidated pickup points and then transported to ROV facilities. After arriving at the ROV facility, the ballots were read by Diebold scanners and the results were stored on memory cards, which were then carried to the central tabulation room where the memories were read into the GEMS server for further processing. The GEMS processing involves validity checking (such as precinct not yet counted), sorting and consolidating by precinct, by jurisdiction, by race and by ballot item, as well as consolidating these counts with mail-in and provisional counts.

A total of 1801 precincts had been established for this election. Of the 1801 precincts, 151 have fewer than 200 registered voters, and so are not allocated a physical voting location; all voting in these precincts is by mail-in ballot. Of the remaining 1650 precincts, 350 are consolidated with other precincts as far as physical location is concerned, so that a total of 1300 physical locations are involved. The ballots from the 1300 locations, as previously mentioned, are then taken to a smaller number of centralized locations for pickup and transportation to the ROV facility.

The need for transportation of more than 10,000 TSx units to ROV Headquarters on election night creates a logistical nightmare, not to mention the problem of distributing these units in advance of the election, an issue which seems to be of paramount importance to the Voter Integrity activists. A similar problem arises when scanners are sent to the polling place, although the problem is not as severe since only one scanner is sent instead of 4 to 8 TSx's.

The procedure adopted – bringing the ballots to ROV facilities – although still presenting logistical challenges, is much simpler than either of the other procedures, but new problems arise.

First, a large number of scanner operators must be trained and supervised. I didn't get the exact number, but I would estimate 50 or 60. (An ROV representative said that there were around 500 temporary employees in the ROV facility that night)

Another problem: When ballots were scanned at the polling place, and the voter does something to the ballot that prevents scanning, the voter was given 3 tries to get it right. With centralized scanning, ballots that don't scan require special handling. Over-voting is the main problem, but tears and other mis-marking may also cause a problem. The ROV set up special stations to review these ballots and mark up a substitute ballot which reflects the voter's intent. If over-voting is the problem, no vote is cast for that race, since the voter's intent can not be known. It is my understanding that the substitute ballot is then shredded, and the original ballot is filed in the proper precinct box.

A new requirement was added for this election, I presume by SOS Edict. Previously, mail-in ballots were collected, around 400 to a box, into approximately 550 pseudo precinct boxes. The ROV is now required to consolidate mail-in and provisional ballots with polling place ballots. I can only guess that the motivation for this requirement is that it somehow increases the validity of the "audit" process. In any case, this is accomplished by coding on the ballot envelope, which, after the ballot is removed, is scanned by a Pitney Bowes Optical Scanner and which somehow effects a sorting of the ballots by precinct. Although I asked two or three times for a detailed description of just how this sorting was accomplished, I never received a satisfactory answer. The voter is also identified by the scanner, and the voter's signature is retrieved from file to be compared to the signature on the envelope as retrieved and displayed by the scanner. **I think we should follow up on this to assure ourselves that voter anonymity is maintained.**

All in all, I think the ROV did a fair job of implementing a new approach. My basic view of the voting process is that any system is susceptible to manipulation. I contend that if

we ever have a foolproof system, it will be possible only by use of the most advanced technologies. I do advocate that we eliminate private enterprise from the equation. Why not engage a select group of System and Hardware Engineers and Computer Scientists from the Academic Community to design a universal voting process?

Statistical Sampling

It is possible, using a simple formula, given number of votes in a contest and margin of difference in the contest, to calculate the sample size required to provide a given confidence level that the original count is correct. Calculating the sample size for extreme conditions, it can be determined that to obtain a 99% confidence level, a very close race with few ballots would require more than 50% of the ballots to be recounted, but a race with a large number of ballots and a wide margin would require less than 1% of the ballots to be recounted. Using calculations for various circumstances, it can be shown that for typical elections, the total number of ballots to be recounted is less than that required by the 1% “audit” policy.