

THE FUTURE OF VOTING IN CALIFORNIA

A HEARING CALLED BY
CA SECRETARY OF STATE
DEBRA BOWEN

February 8, 2010

Documents supporting testimony by
Mr. Tom Courbat

Founder – SAVE R VOTE
Riverside County, CA
www.savervote.com
tom68-69korea@thecourbats.com
951-536-6091

Riverside County was found to be out of compliance with 8 conditions of recertification

Source:

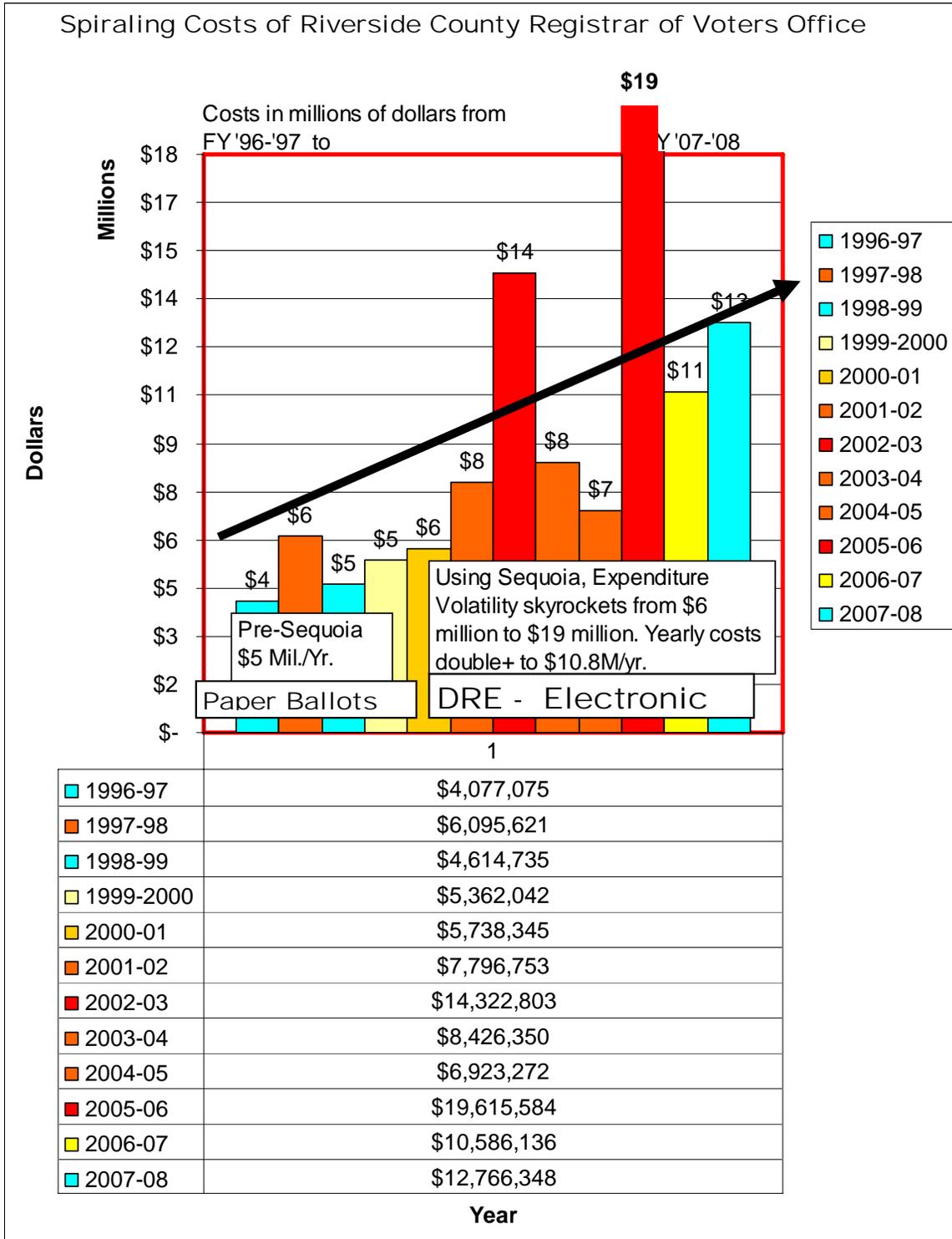
**\$315,000 “Independent
Review” Commissioned by the
Riverside County Board of
Supervisors**

http://www.clerkoftheboard.co.riverside.ca.us/agendas/2009/03_03_09/16.03.pdf

3-9-09

1. SECURITY VIOLATIONS INCLUDING lack of Chain of custody controls, secure storage, access controls, seal & serial numbers.
2. Public blocked from inspecting security seals.
3. Failure to post precinct results at polling place as required by law.
4. Failure to collect post election auditing costs from vendor as required by recertification.
5. Certified the election results without completing 100% manual tally of DRE paper trails.
6. Refusal to position monitors for public viewing of vote count as require by EC 15004.
7. No appropriate actions taken when chain of custody violations and tampering with seals were evident.
8. No appropriate action taken when voting machines experienced fatal error.

Experience in the "birthplace of electronic voting" shows
it is not cost effective.



Technology advances are generally so rapid that a new system or a major system upgrade can be anticipated every 5-7 years. New e-voting systems in Riverside County, CA have typically run close to \$15 million in gross costs (2000 and 2006). In the February 2008 Primary Election, electronic ballots totaled just under 22,000 out of 407,000 ballots cast (5%). Ballots cast in the November 2008 Presidential election totaled 657,000, of which 72,000 (11%) were electronic. The November '08 high mark was due to a push by the ROV to offer e-voting to all individuals on a system certified for use by the disabled population. It cost Riverside County \$409,000 to hand-tally the e-vote results in November, as required by the Conditions of Recertification by the Secretary of State's office. FMI contact Tom Courbat @ tom68-69korea@thecourbats.com.

SEQUOIA OWES RIVERSIDE COUNTY \$409,000 FOR
100% MANUAL TALLY OF E-VOTES CAST IN THE
NOVEMBER 2008 ELECTION - AND REFUSES TO PAY

COSTS LIKELY IN THE MILLIONS STATEWIDE

The Registrar of Voters is now asking the Board of Supervisors for an additional \$688,182 in general funds to finish out the fiscal year. See below the request/recommendation on tomorrow's Board Agenda (2-9-10).

Registrar of Voters (ROV)

Recommended Motion: That the Board of Supervisors approve and direct the Auditor-Controller to adjust appropriations as follows:

Increase appropriations:

10000-1700100000-523760	Postage	\$234,000
10000-1700100000-523800	Printing	191,000
10000-1700100000-525340	Temporary help	58,000
10000-1700100000-527380	Elections	118,482
10000-1700100000-529120	Transportation	<u>86,700</u>
	Total	\$688,182

Additional funds are owed by Sequoia for the February & June 2008 elections, as well as the May 2009 and November 2009 elections. THESE ADDITIONAL COSTS MAY WELL TOTAL \$280,000, ENOUGH TO COVER THE ENTIRE COST OVERRUN ANTICIPATED BY THE REGISTRAR OF VOTERS. BUT SEQUOIA HOLDS STRONG IN THEIR REFUSAL TO PAY, EVEN THOUGH THEY AGREED TO THIS CONDITION AS CITED BELOW.

AUTHORITY:

CONDITION 19 OF CONDITIONS OF RECERTIFICATION (10-25-07)

“ANY POST-ELECTION AUDITING REQUIREMENTS IMPOSED AS A CONDITION OF THIS CERTIFICATION SHALL BE PAID FOR BY THE VENDOR. ELECTIONS OFFICIALS ARE REQUIRED TO CONDUCT THE AUDITS AND THE VENDOR IS REQUIRED TO REIMBURSE THE JURISDICTION.”

SEQUOIA HAS REFUSED TO REIMBURSE ANY COUNTY AND THUS THIS PHENOMENON IS OCCURRING IN MANY COUNTIES IN CALIFORNIA DURING THE WORST FINANCIAL CRISIS SINCE THE GREAT DEPRESSION.

I am requesting that the Secretary of State investigate this refusal and initiate compliance action. – Tom Courbat 951-536-6091

Number of voters who voted in this precinct as follows:
 () that signed the Combined Roster and both A-L, M-Z, Curbside Roster
 () that signed the Curbside Roster only

side ballot

Number of voters whose signatures appear hereinbefore in the roster voted but
 after signing the roster, failed to vote or were challenged and denied

Name

A-L	
M-Z	

if voters who voted in this precinct at this election is
 voters, less those who did not vote as enumerated above,
 is election.
 er of official ballots received, voted, rejected, spoiled and
 the number accounted for is as indicated on the Ballot

ts List and Challenge List show a complete list of all

ing Student Polworkers must sign below.

Pct Officer X _____

Pct Officer X _____

Pct Officer X _____

ELECTRONIC/PAPER BALLOT STATEMENT
 (EC 14405)

**IMPORTANT NOTICE: YOU MUST COMPLETE THIS PAGE, AND COMPLETE AND SIGN THE PREVIOUS PAGE
 IN ORDER TO CONCLUDE YOUR DUTIES AS AN ELECTION OFFICER AND RECEIVE YOUR STIPEND.**

Voting Unit #	Place the Tamper-Evident Seal from each voting unit below	Qualified Voter	Provisional Voter	Total Votes
	Place Tamper-Evident Seal Here	38	0	38

ELECTRONIC ROSTER ACCOUNTING
 (EC 14405)

Electronic Signatures in Combined Roster and Index A-L (Include Inactive and Supplemental Voters)	+ 54 52'
Electronic Signatures in Combined Roster and Index M-Z (Include Inactive and Supplemental Voters)	+ 2 33'
Electronic Signatures in Curbside Voter Roster (M-Z pocket)	+ 0 ✓
Electronic Signatures in Authorized Voters Roster	+ 0
Total	= 82 85'

PAPER ROSTER ACCOUNTING
 (EC 14405)

	For Office Use Only
Total Number of Paper Ballots Received	
Number of ballots UNUSED	491
Number of ballots SPOILED	1
Number of VOTED ballots found in the ballot box (DO NOT include Provisional Ballots or Vote-by-Mail ballots)	
Total	=
Paper Signatures in Combined Roster and Index A-L (Include Inactive and Supplemental Voters)	+ 84 0
Paper Signatures in Combined Roster and Index M-Z (Include Inactive and Supplemental Voters)	+ 2 20'
Paper Signatures in Curbside Voter Roster (M-Z pocket)	+ 0 ✓
Paper Signatures in Authorized Voters Roster	+ 0
Total	= 85 55' 20'

PROVISIONAL BALLOT ACCOUNTING

Signatures in Paper Provisional Roster	124 10
Signatures in Electronic Provisional Roster	0

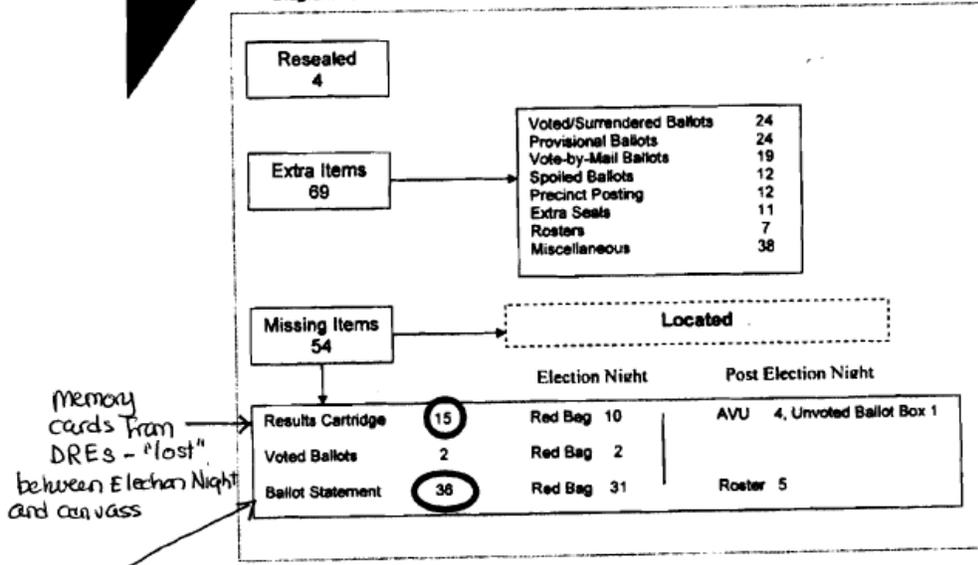
For instructions on completing this form refer to pages 80-90 in your Election Officer Handbook.

Place the "YELLOW" copy of this document in the Brown Voted Ballot Carton.

Payroll

The Public Right To Observe All Election Processes Spelled Out in Both the CA Government Code and the CA Elections Code

Diagram 11: Status of Voted Ballot Cartons Delivered to ROV on Election Night



memory cards from DREs - "lost" between Election Night and canvass

reconciliation by pollworkers of ballots used at polls.

Access to the ballot counting room is limited to authorized personnel. Authorized personnel are required to wear an election specific personalized badge authorizing access. Diagram 12 displays the badge worn by authorized personnel during the May 19th election.

Diagram 12: Authorized Tally Room Personnel Badge from May 19th Election



NOTE: There were approximately 488 precincts involved in the May 19, 2009 election. Of those, 15 Results Cartridges (12% of all the "problem" precincts and 3% of all the precincts) were "missing" on Election Night. Tampering could have occurred with any or all of the 15 Results Cartridges during their time missing. Further, 36 Ballot Statements (or 7% of the official reports from each precinct inspector/captain) were missing, making it impossible to balance/reconcile with computer reports of how many ballots of each type were cast, spoiled, returned unvoted, etc. Without Ballot Statements signed by Precinct Inspectors, the public must simply "trust" the reports generated by the ROV computer.

The Public Right To Observe All Election Processes Spelled Out in Both the CA Government Code and the CA Elections Code

- Historically RivCo ROV has violated Election Laws in every election observed by SAVE R VOTE with impunity and only complied after SAVE R VOTE brought it to the attention of the media and the BOS.
 - Example – failure to form an Election Observer Panel
 - Failure to post election results at the precincts upon closing of the polls
 - Multitude of violations of chain of custody, including processing ballots in back room making validation of announced election results impossible
 - Refusal to allow observers close enough access to processes to be “meaningful”
 - Refusal to release even the “Rule Book”, the Sequoia procedures by which the county is obligated to run the election, until the SOS released it as a public document
 - Refusal to release audit logs that reflect what actions were taken and when in the production of the election results report even though such logs are public docs
 - Refusal to release supporting spreadsheets in original format (Excel) to allow monitors ability to electronically verify results. In fact, ROV issues a retroactive policy in January 2009 “effective November 2008” claiming all documents will be in PDF format ONLY, even though State law requires they be released in the original format (Excel). They even claim it is County Policy when in fact the Clerk of the Board reported no such countywide policy existed.
- SAVE R VOTE report entitled “Missing Links” points out massive security and chain of custody violations in the June 2008 Election.
- Board of Supervisors (BOS) responds by hiring former 20-year County District Attorney Grover Trask (now with law firm of Best, Best & Krieger (aka BB&K)) to conduct a “Management Review” (NOT an audit) of the ROV operations before, during and after the November 2008 Election. Board appoints Tom Courbat from SAVE R VOTE to serve as an “Independent Reviewer” to accompany BB&K on some of their reviews and interviews.
- BB&K finds RivCo ROV in violation of 40% or 8 of 20 conditions of recertification over which the RivCo ROV has some or sole responsibility to comply with. Included was failure to bill Sequoia Voting Systems some \$400,000+ in costs associated with verifying every electronic vote in the November 2008 Election as required for recertification of the electronic voting system in Riverside County.
- Review reports that chain of custody remains weak and lacks back up plans (Plan B) to implement in events where ROV determines a potential violation of may have occurred. Controls are so weak, in fact, that “it is impossible to determine if fraudulent activities were occurring.” The reviewers did not take the extra step to investigate those instances where obvious breaks occurred. Thus they reported “no evidence of actual fraud was found”. How could evidence be found, when it was never investigated? Yet the county more than doubled the initial price of \$150,000 for the report and paid BB&K \$317,000.
- Review also concludes that “a forensic audit” would need to be conducted to determine if the results reported by the ROV were legitimate. The County CEO and thus the BOS “Scope of Work” did not include requirement to verify the legitimacy of the November 4, 2008 Presidential Election.
- Review also fails to look at the Central Tabulator processes, including the audit logs and security logs that would give insight to any tampering or other improprieties in the processing of Election data. BB&K rejects offer for outside review of such operations.
- In other words, in the two most important processes where evidence of fraud or incompetence would be exposed, the County chose not to include those processes in the “Scope of Work” for BB&K to look into.

The Public Right To Observe All Election Processes Spelled Out in Both the CA Government Code and the CA Elections Code

- A contract auditor with the BB&K team offered two additional steps necessary for the ROV to perform in order to allow citizens to verify the legitimacy of the results. These recommendations were omitted from the final BB&K report.
 - After numerous California Public Records Act (CPRA) requests, County has yet to provide the data to show how the officially certified election results were constructed. No one has been able to verify/validate the numbers, and the ROV continues to resist providing public documents that would show that the numbers reconcile or they don't.
-
- It is recommended that legislation be signed into law requiring all ROVs to "Show the Math" associated with the exact results reported to the Secretary of State (SOS). Right now, the SOS simply accepts the results reported by each County ROV without requiring ANY evidence to show how the numbers were constructed and validated. Just as students are required to show how they arrived at an answer to an algebra problem in lieu of simply saying the answer is 4,137, so also should those who administer our elections have to show how they arrived at the numbers they report to the SOS.
 - It is recommended that enforcement of all the requirements be mandated and that there be actual consequences such as fines and imprisonment as already provided for in GC 18000 et seq. Another consequence should be decertification of the entire electronic voting and counting system until such time as the County can demonstrate full compliance with all recertification conditions.
 - It is recommended that the role of Election Integrity monitors be recognized as a critical citizen-led effort to validate the entire election process as provided for under EC 15004. When citizen-led efforts cannot reconcile the announced results, a review board with full authority to immediately review every document associated with producing the reported election results should be established with equal representation of the ROV and the Election Integrity (EI) monitors. Withheld documents will be produced and explained by the ROV and the EI monitors will have sufficient time to review and prepare findings based upon the newly released evidence.
 - An Election law compliance division should be established in the SOS with the personnel and expertise to investigate transgressions as have been repeatedly exposed in Riverside County. If Riverside County is failing to comply with numerous laws and conditions of certification, it is not unreasonable to conclude that any number of others of the 58 counties may also be failing to comply. Without the efforts of the EI monitors, this evidence would never be brought to light. There must be a mechanism put in place to provide a review of the evidence and clear authority for the SOS to take swift action to ensure that only verifiable (and verified) results become a part of the official results for the State of California.