A Report of the 2002-2003 Civil Grand Jury
For the City and County of San Francisco

IMPROVING THE INFRASTRUCTURE OF DEMOCRACY

CIVIL GRAND JURY REPORT ON DEPARTMENT OF ELECTIONS AND THE CONDUCT OF THE NOVEMBER AND DECEMBER 2002 ELECTIONS

Released May 28, 2003

Reports of the Civil Grand Jury do not identify the individuals interviewed, pursuant to California Penal Code sec. 929. The California Legislature intended this provision to encourage full candor and cooperation by City and County personnel.

Parties identified in this report must respond to the Presiding Judge of the Superior Court within the number of days specified, with a copy sent to the Board of Supervisors. As to each finding of the Grand Jury, the response must either (1) agree with the finding, or (2) disagree with it, wholly or partially, and explain why. Further, as to each recommendation made by the Grand Jury, the responding party must report either (1) that the recommendation has been implemented, with a summary explanation of how it was implemented; (2) the recommendation has not been implemented, but will be implemented in the future, with a timeframe for implementation; (3) the recommendation requires further analysis, with an explanation of the scope of that analysis and a timeframe for the officer or agency head to be prepared to discuss it (not exceeding six months from the release of this Report); or (4) the recommendation will not be implemented because it is not warranted or reasonable, with an explanation of why that is. (Cal. Penal Code, secs. 933, 933.05.)

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Summary of Recommendations

1. Centralize the operations of the Department of Elections into one facility.
2. Improve poll worker training.
3. Ensure prompt delivery of generic ballots to precincts that are running out.
4. Correct the imbalance between staffing usage and budget.
5. Ensure the secrecy of votes on absentee ballots.

OVERVIEW

The San Francisco Department of Elections must:

> ". . . conduct all public federal, state, district and municipal elections in the City and County . . . . [This includes] voter registration; the nomination and filing process for candidates to City and County offices; the preparation and distribution of voter information materials; ballots, precinct operations and vote count; the prevention of fraud in such elections; and the recount of ballots in cases of challenge or fraud." (San Francisco Charter, sec. 13.104.)

After the most comprehensive Civil Grand Jury observation of a San Francisco election known, in terms of precincts visited and functions observed, the Grand Jury found that, overall, the Department of Elections (DOE) did a competent and effective job in the November and December 2002 elections. The widely noted previous difficulties with security and ordering far too many ballots had been addressed and the post-election processing of ballots and canvassing of votes was efficient and professionally handled. The Grand Jury concluded, nonetheless, that DOE operations should be modified in several respects in order to improve efficiency, enhance the transparency or visibility of the election process for observers, and ensure the guarantee of a secret ballot for every voter.[1]

[1] Several additional aspects of DOE's conduct of the November and December 2002 elections were of concern to the Grand Jury. Although no specific recommendations are made with respect to the following, the Grand Jury calls them to the attention of DOE.

- In the November 2002 election, the Eagle optical scanner frequently rejected the third of the four ballot cards when inserted face up, top first. Until alerted to reinsert the card in a different orientation, precinct workers spoiled the ballots and gave the voter a new set of ballot cards, a proper response, but unnecessary and time-consuming. As of December 2002, ES&S, the company that supplies the Eagle scanner, had no explanation for the problem.
- The ballot cards required by the Eagles scanner are large and cumbersome. One box of 200 ballot cards weighs 22 pounds. In November 2002, when the ballot consisted of four cards, one initial set of ballots for a precinct weighed 88 pounds. The weight was a problem for some poll workers and even

To achieve these goals, the Grand Jury recommends that DOE:

1. Centralize election processing at a single location.
2. Improve the training of poll workers.
3. Provide for prompt delivery of generic ballots to polling places for use when needed until precinct specific ballots can be delivered.
4. Create an organizational structure that will permit DOE to operate within budget from year to year and still meet the fluctuations in staff needs that increase significantly during election times and decrease between elections.
5. Ensure the secrecy of absentee ballots by use of blank inner envelopes.

BACKGROUND

Running an election in the City and County of San Francisco requires staffing of more than 600 voting places (611 in the November 5, 2002, election). Sites must be located, precinct workers recruited and trained for each precinct. Voter information pamphlets and sample ballots must be prepared and distributed. In advance of the election, voting machines must be tested, and deputy sheriffs must be assigned and coordinated to pick up voted ballots for transport to the holding facility after the polls close. Ballots and equipment must be transported to each site. Poll workers must arrive before 8:00 am. to set up the polling place, register voters as they arrive, supply voters with ballots, and assist as necessary. They must post and update hourly a list of voters registered in the precinct who have voted. Once the polls close at 8:00 p.m., poll workers must remove the memory pack from the Eagle scanner for pick up and transport to an up-link facility by a Parking and Traffic officer. Voted ballots must be removed from the Eagle scanners and readied for transport to a holding facility. Poll workers must also reconcile the number of unused ballots remaining with the number delivered to the precinct and the number used, after which they must take down the voting booths and ready the equipment for later pick up.

Provisional ballots[2] and those absentee ballots that have been dropped off at a polling place must be delivered to the DOE offices in City Hall. Workers at the DOE officers must tabulate ballots, adjudicate provisional and challenged ballots, validate, open and record votes in absentee ballots, and finally canvass and certify the election.

Between elections DOE must maintain voter rolls that are as current as possible.

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for the deputy sheriffs who sometimes had to use hand trucks to carry all of the voted ballots from the precincts after the polls closed. For this and other reasons, the CGJ suggests that DOE reconsider its use of the Eagle scanning equipment.

- Signage was inadequate at locations in which two precincts voted. Many voters stood in long lines at one poll workers' table waiting to receive a ballot, only to find that his or her precinct was served by a different table in the same room.

[2] As discussed in greater detail below, provisional ballots are used when a voter claims to be properly registered, but his or her "qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct[.]" (Cal. Elections Code, sec. 14310(a).)

INVESTIGATIVE SCOPE AND PROCESS

Members of the 2002-2003 Civil Grand Jury began their observation of the November 2002 election well before Election Day. They attended poll worker training sessions and familiarized themselves with operations in the City Hall offices of DOE and at Pier 29 to which voted ballots were taken for temporary storage after the close of polls.

On Election Day, November 5, 2002, members of the Grand Jury observed 100 precincts out of 611 (16.37%) in San Francisco, in 108 separate visits. On the night of November 5, 2002, members of the Grand Jury accompanied deputy sheriffs, observing procedures during voting and after the polls closed. They observed the closing of polling places, verification of the vote count, and the collection of ballots. They also observed the collection and handling of ballots all night at Pier 29. Members of the Grand Jury also observed operations in 26 of 128 (20.3%) of the precincts in which run off elections were conducted on December 10, 2002.

Following Election Day, members of the Grand Jury observed the transfer of voted ballots from Pier 29 to Brooks Hall and City Hall. For eleven consecutive days afterward, members of the Grand Jury observed ballot processing at City Hall, including adjudication of several thousand provisional votes, the remaking of damaged ballot cards, and the adjudication of attempted absentee ballots. Concurrently, members of the Grand Jury observed the canvassing operations at Brooks Hall.

Seven employees (officials and staff) of DOE were interviewed over the December 2002-January 2003 period. In addition, the Grand Jury reviewed the relevant sections of the California Elections Code and relevant portions of governing City laws, DOE's training materials, and a September 2002 report by Strategica, which had undertaken a comprehensive study of DOE for the Elections Commission.

FACTS, FINDINGS, AND RECOMMENDATIONS

1. CENTRALIZE DOE OPERATIONS

FACTS

- Currently, DOE operates in and from six different facilities during an election period:

  a. City Hall
     - Administration
     - Voter services, including maintenance of voter files
     - Campaign services
     - Phone bank
     - Recruiting of temporary employee poll workers
     - Procurement of polling places
     - Staging and handling of absentee ballots

b. Brooks Hall
   - Absentee voter packet assembly
   - Ballot canvassing
   - Temporary storage of voted ballots

c. Pier 29
   - Receipt of voted ballots, signed rosters, and all other materials after polls close
   - Storage of some supplies
   - Note: *DOE must vacate Pier 29 by Spring 2004*

d. Cor-o-Van Storage (a private storage facility in San Francisco)
   - Storage of Eagle voting machines, booths, tables, etc.
   - Logic and accuracy testing of Eagle machines[3]

e. 240 Van Ness Avenue
   - Pick up of ballots before Election Day by Inspectors
   - Assembly of rosters, ballots, and supplies to be picked up by inspectors
   - Storage of extra ballots[4]
   - Note: *This facility has been condemned by the City for unsafe wiring*

f. Simba (a private storage company in Alameda County)
   - Storage of voted, canceled, or spoiled ballots and certain other matters (22 months post election for any election that includes federal offices; six months for all others. California Election Code, secs. 17301-17302.)

- City law mandates that a deputy sheriff be present every time voted ballots are moved or handled until an election is certified. (San Francisco Charter, sec. 13.104.5.) Therefore, when ballots are moved from Pier 29 to Brooks Hall and City Hall, as necessarily happens the morning after Election Day, a deputy sheriff convoy must transfer them. This law was not complied with on all occasions on which ballots were moved during the November 2002 election process.[5]

[3] This testing occurs in aisles of the non-secured storage facility.
[4] The cost of bringing it up to code has been estimated in excess of $130,000.
[5] A typical journey of an absentee ballot arriving at City Hall might be as follows: (1) it arrives with hundreds of other ballots from the U.S. Postal Service; (2) it is taken into one room in the basement and sorted by precinct, counted, the envelope examined for compliance with the election law, the envelope opened, and the ballot extracted from the envelope; (3) it is taken into another room in the DOE offices for automated counting by employees of ES&S, the company that makes the Eagle optical scanners; (4) if rejected by the Eagle scanner due to improper or unreadable marks, the ballot is taken to Room 081 where it is remade, that is, a duplicate ballot is made by DOE employees so as to reflect the voter's original intent if that is discernible; (5) if remade, the new ballot is taken back to the automated counting room and scanned by the machine. Provisional ballots could make the same number of journeys within the basement of City Hall, each requiring a Sheriff escort and creating a period in which the process may not be visible to observers.

- When a worker in one location is needed at another, the worker is out of service while traveling, thus delaying the election process while the worker is in transit.

- Observers, some representing campaigns, others simply interested citizens, watch the election processes in San Francisco. They are unable to observe the entire election process because DOE operations are scattered throughout the City. Even within City Hall, DOE operations are scattered among several rooms and cannot be efficiently observed.

- Strategica, an outside consultant, conducted an audit of the operations and structure of DOE and made the following recommendations:
    - Close and/or vacate 240 Van Ness Avenue, Pier 29, Cor-o-Van Storage, and Brooks Hall.
    - Retain, but modify, DOE usage of City Hall (to limit the use to campaign and candidate service and early voting), and Simba Storage (until comparable space can be located in the City or on the Peninsula).
    - Open an Elections Operations Center, possibly at 945 Bryant Street, identified in the report as the most promising site located so far by the City's Real Estate Management office. This location would accommodate election administration, including voter services, recruiting and outreach, warehousing supplies and voting machines, processing and provide staging areas to handle ballots, supplies, and voting equipment.

  (Strategica, "Organizational and Facilities Review, City and County of San Francisco Department of Elections," September 30, 2002.)

FINDINGS

1. Spreading election operations over six main facilities is both undesirable and inefficient. Ballots are handled and moved more often than necessary.
2. Failure to centralize DOE election processing reduces the transparency of the processing by making it difficult or impossible for citizens to observe all aspects of the post-balloting procedure, which they have the right to do.
3. Consolidation of DOE operations into a single facility would reduce the costs of Sheriff-provided security, ballot transportation, facilities management, and the expense of temporary employees, would eliminate the need to renovate 240 Van Ness Avenue, and would largely satisfy the need created by the ejection from Pier 29.
4. The findings in the September 30, 2002 Strategica report are well founded.

RECOMMENDATION

1. The City should identify and secure a single site for consolidation of DOE operations.

REQUIRED RESPONSES

Department of Elections – 60 days
Elections Commission – 60 days
Office of the Mayor – 60 days
City Administrator – 60 days
Board of Supervisors – 90 days
Office of Real Estate Division – 60 days

2. IMPROVE TRAINING OF POLL WORKERS

FACTS

- Members of the Grand Jury observed a wide variance among procedures followed at the polling places visited on November 5, 2002. Three such procedures were the handling of provisional voters, the use of secrecy sleeves, and the handling of voted ballot cards.

- Many precincts were well run by efficient, knowledgeable, and courteous officials. In others, however, officials were unaware of basic procedures, among them:
  - Knowing when, and when not, to use a provisional ballot.
  - Obtaining the voter's identification for use of a provisional ballot.
  - Updating the voter index hourly
  - Closing procedures, including running tallies of the contest with the Eagle onboard computers, posting the tape at the polling place, proper use of seals and bags for return of supplies and ballots, and filling out the final tally form (Ballot Card Statement) supplied by DOE.

- In some precincts, officials – including some inspectors – were absent for as long as two hours.

- California Elections Code specifies that the voter is to hand his or her voted ballot to a poll worker who must then remove the numbered stubs from the cards and return the stubs to the voter, after which the worker is to deposit the ballot into the ballot box (or, presumably, the Eagle optical scanner) in the presence of the voter. (Cal. Elections Code, sec. 14293.) In a majority of precincts observed, the voter inserted the ballot cards into the Eagle scanner. In some a poll worker did so. In others, both procedures were observed.

- For the November 5, 2002, election, DOE offered 121 classes for five different categories of Election Day workers: new clerks, experienced clerks, new inspectors, experienced inspectors, and high school students. These classes were offered from October 3 through November 3, 2002, and were taught by 15 different trainers. Twelve classes were held on November 2, 2002, for both experienced and new field election deputies (FEDs).[6]

- Members of the Grand Jury attended two training sessions for functions to be performed on Election Day by workers with different levels of experience. The quality of training differed markedly. One trainer simply invited questions of the participants. The other appeared to follow a specific lesson plan.

[6] FEDs supervise polling places during Election Day until 5:00 p.m. They visit the polling places in their assigned areas to inspect them, resolve problems, and deliver additional supplies or ballots when needed.

- In the training sessions observed by members of the Grand Jury, poll workers were encouraged to "think pink" when in doubt as to how to handle a voter whose name did not appear on the precinct roster— that is, to permit the voter to cast a provisional ballot. Provisional ballots are placed in a pink envelope and require special handling by DOE after Election Day. The only clear message to the poll workers in one session was that it is better to permit a person to vote provisionally than to make the voter uncomfortable by advising him or her to try to get to the voter's proper polling place.[7]

- In the November 2002 election, 10,324 provisional ballots (4.6% of all 225,102 ballots) were cast. Provisional ballots are placed in a pink envelope that must be signed by the voter. In addition to use by voters who claim to be properly registered in the precinct but whose names do not appear on the index of voters for the precinct, provisional ballots may be used by "fail safe" voters, those who have moved within the same county, but who have not yet registered to vote at their new address. (Cal. Elections Code, sec. 14311(a).) In the latter circumstance, the voter may vote at the voter's new precinct upon showing proper current proof of address.

- Provisional ballots require individual adjudication in which a DOE employee compares the signature on the pink envelope to the voter's signature on file, uses a computer to attempt to identify the voter, determines whether and where the voter is registered, and determines which ballot type the voter should have used according to the voter's current residential address. The computer system then decides whether the ballot type used and that which the voter should have used are sufficiently similar to permit the ballot to be counted. If the ballot type is not sufficiently similar or included more contests than the voter's correct ballot type would have offered, the ballot is not counted. Provisional ballots also are not counted if the identity of the voter cannot be determined, if the pink envelope is not signed, if the envelope is not sealed, if no residential address is provided, or if correct identification was not offered when required.

- Of 10,324 provisional ballots cast in November 2002, 6,136 were eventually accepted, while 4,188 were challenged and were not counted. Of the rejected provisional ballots, the single largest cause for rejection was that the voter used the wrong ballot type (1,247 or 29.53%), with improper use of the "fail-sale" provision as the next largest cause of rejection (1,056 or 25.3%).

- DOE personnel recognize that improved training of poll workers is needed to speed the post-election processing of the canvass and certification process, minimize the use of improper provisional ballots, and reduce voter disenfranchisement.

[7] Forty-one different ballot types were used in San Francisco for the November 2002 election, owing to the various boundaries and intersections of Congressional district, county supervisorial districts, state assembly districts, and state senate districts. As explained elsewhere in this section, a vote cast provisionally using the wrong ballot type might not be counted.

- The need for improved training has been noted in Civil Grand Jury reports issued in 1998, 2001, and 2002.

- In developing the training to be offered to poll workers, DOE has not consulted all DOE divisions that are affected by poll worker mistakes. In particular, the divisions that do the most work in the days after an election have not been invited to contribute content that might streamline the post-election process.

- Voters may not show a marked ballot to anyone in such a way as to reveal its content, and election workers must take care not to disclose the content. (Cal. Elections Code, secs. 14277, 14291.)[8] To that end, blue "secrecy sleeves" were provided to each polling place to help voters maintain the secrecy of their voted ballots. In the majority of the precincts observed by members of the Grand Jury, secrecy sleeves were not being used and many voted ballot cards were reasonably visible to observers (owing in large measure to the size of the ballots and the heavy marks required). In some precincts, the secrecy sleeves had not been unpacked from the bag of supplies furnished for the precinct; in some the sleeves were unpacked, but were not given to voters unless requested; in some the sleeves were automatically given with the set of ballot cards.

- Poll workers were paid $87 for working on election days in 2002.[9] They were given an additional $25 to attend a two-hour training session. Only inspectors and new clerks may be required to attend training.

FINDINGS

1. The training given poll workers has a direct impact, positive or negative, on the processing, canvassing, and certification of an election during the several days after an election prior to certification.

2. One negative impact of inadequate training is in the default to use of provisional ballots rather than assisting voters in identifying their correct precinct and its location. The number of provisional ballots cast creates a logjam of thousands of unnecessary provisional ballots that must be individually adjudicated and heightens the possibility of accidental voter disenfranchisement.

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[8] Cal. Elections Code, section 14291: "After the ballot is marked, a voter *shall not* show it to any person in such a way as to reveal its contents." (Italics added.) Section 14277 provides that "the voter shall hand the . . . envelope containing that ballot to a precinct board members, who shall remove the ballot stub, hand it to the voter, and deposit the ballot in the ballot container [now presumably the Eagle optical scanner]." If the ballot is to be transferred from the envelope to the ballot container, *care shall be taken not to disclose the markings of the voter on the ballot*." (Italics added.)

[9] The $87 payment is compensation for a work day that, in many cases, exceeds 14 hours. Based only on 14 hours, this amounts to payment of roughly $6.21 per hour. The California minimum wage currently is $6.75 per hour. Inadequate compensation may be one reason DOE finds it difficult to recruit and retain competent poll workers.

3. The wide variety of poll worker conduct observed by members of the Grand Jury, as in the disparate treatment of secrecy sleeves and voted ballots prior to insertion into the Eagle scanner, and the use of provisional ballots, reflects inadequate training and a lack of understanding on the part of poll workers as to what the proper procedures are.

4. This lack of understanding leads to otherwise avoidable delay in certifying an election and causes extra work for DOE personnel in the days following the election.

5. Poll workers lack adequate incentive to attend training sessions. Workers who already have a promise of $87 may value the prospect of an additional $25 as less valuable and thus less enticing than a promise of $112 for the entire election.

RECOMMENDATIONS

2a. Training should be improved with the goal of minimizing the load on DOE personnel in processing provisional ballots and eliminating accidental disenfranchisement of voters.

2b. DOE should invite all divisions to participate in the design of training programs to ensure that training of poll workers will be adequate to minimize post-election inefficiencies and problems resulting from poll worker error.

2c. Prospective poll workers should be informed that their compensation, including training, will be $112, from which $25 will be deducted for missing the training session.

REQUIRED RESPONSES

Department of Elections – 60 days
Elections Commission – 60 days

3. ENSURE PROMPT DELIVERY OF GENERIC BALLOTS TO ANY PRECINCT AWATING ADDITIONAL BALLOTS

FACTS

- In the November 2002 election, some precincts ran out of ballots before closing time, and of those, one was not be resupplied before the polls closed. (That precinct reported being "low" on ballots, but never out of them.)

- In November 2002, 41 different ballot types were used in San Francisco.

- In addition to the ballots prepared for use in precinct polling places, generic ballots are ordered for use at City Hall and for emergency purposes. Generic ballots do not include the pre-printed precinct numbers, and are thus usable for any precinct using that same ballot type.

- Precinct workers are instructed to call into DOE on Election Day to report problems such as an imminent shortage of ballots.

- In November elections, after 5:00 p.m., FEDs are no longer available to resupply precincts with ballots.

- The greatest need for additional ballots arises in the final hours of an election, when the deputy sheriff responsible for picking up voted ballots from the precinct at the close of voting is available.[10]

FINDINGS

1. The possibility that a precinct might run out of ballots after 5:00 p.m. could be avoided if the responsible deputy sheriff carried a supply of extra ballots for prompt delivery to the precinct.
2. It would be impractical and expensive to provide each deputy with a supply of precinct-specific ballots for each precinct in his or her assigned area, therefore, each deputy could carry a supply of generic ballots for possible use at any precinct using that ballot type.

RECOMMENDATION

3. DOE should provide each deputy sheriff assigned to Election Day precinct closing duties with a supply of generic ballots for delivery to precincts in his or her assigned area after 5:00 p.m. pending receipt of precinct-specific ballots from DOE.

REQUIRED RESPONSES

Department of Elections – 60 days
Elections Commission – 60 days
Sheriff – 60 days

4. CORRECT IMBALANCE BETWEEN STAFFING USAGE AND BUDGET

FACTS

- As of early December 2002, DOE had only 11 full-time employee positions filled out of 24.75 budgeted (44%).

[10] The Grand Jury notes the high level of knowledge, professionalism, and efficiency of San Francisco deputy sheriffs and of the officers of the Department of Parking and Traffic in executing their duties at and after the closing of the polls. Deputy sheriffs, in particular were very helpful in some precincts at which the inspector did not know the procedure for counting and reconciling ballot totals. The deputies (who oversee the sealing of the ballots and collect the supplies) and the Parking and Traffic officers (who collect the Eagle computer memory packs and deliver them to uplink centers around the City) did an outstanding job in both the November 2002 general election and the December 2002 run-off election.

- In a March 2002 report, the Budget Analyst of the Board of Supervisors stated that DOE had spent 38 percent ($534,144) less on permanent positions than had been budgeted ($1,404,144), but had overspent on temporary salaries by 239 percent (estimated expenditure of $3,050, 278 in fiscal year 2001-2002, compared to the $900,000 originally budgeted).

- DOE staffing has been largely seasonal because elections are held in March, November, and, if necessary, in December. DOE hires approximately 125 temporary employees for several weeks prior to an election and for two to three weeks thereafter.

- Necessary work of DOE continues throughout the year. This work includes maintenance of voter rolls (identified as a problem in Civil Grand Jury Reports for 1997-1998, 2000-2001, and 2001-2002), preparation of Voter Information Pamphlets, campaign services, approval of voter registration drives, processing of petitions, voter outreach, and other duties.

FINDINGS

1. An efficient and cost-effective organization structure for DOE does not currently exist. Temporary staff is overused and performs duties that would be performed more efficiently by permanent employees.
2 DOE is understaffed in permanent positions for which there is an existing budget, which in turn causes over-expenditure for overtime and temporary positions.
3. Creating an optimal organizational structure and hiring to fill positions within it would increase efficiency in between-election work that DOE is mandated by law to perform.

RECOMMENDATION

4. DOE should identify the amount and types of work that should be performed by permanent employees, hire additional permanent employees to fill those positions, and eliminate the imbalance between understaffing for budgeted permanent positions and overspending for temporary employees.

REQUIRED RESPONSES

Department of Elections – 60 days
Elections Commission – 60 days
Department of Human Resources – 60 days
Controller – 60 days
City Administrator – 60 days
Mayor of San Francisco – 60 days
Board of Supervisors – 90 days

5. ENSURE SECRECY OF ABSENTEE BALLOTS

FACTS

- In the November 2002 election, 65,457 absentee ballots (29% of all ballots) were cast.

- The percentage of absentee ballots increases in each election.

- In San Francisco, an absentee ballot is placed directly into the return envelope, which the absentee voter must sign. The envelope also has a label with the voter's name and address printed on it.

- Upon receipt at DOE, the signature on the absentee ballot envelope is compared to the voter's signature on file (Cal. Elections Code, sec. 3019), and the voter is noted on the computerized database as having voted. Properly submitted ballots are then sorted by precinct.[11]

- Bins of sorted absentee ballots are then opened by a worker who slides the top of the envelope through a slicing machine and then extracts the ballot from the envelope and stacks them. The envelopes are retained and later counted as a double-check on the number received and counted. Ballots are eventually delivered to automated scanning machines in the DOE offices.

FINDINGS

1. The secrecy of an absentee vote is compromised when a DOE worker simultaneously handles both the envelope on which the voter's identity is revealed and the voter's plainly marked ballot.
2. This potential for violation of a voter's expectation of secrecy is heightened in San Francisco, where the size of the ballot cards makes the clear marking of the vote easily readable.[12]
3. The current San Francisco procedure for submission of absentee ballots does not ensure secrecy as mandated by the Elections Code.
4. Secrecy can be maintained by the use of a blank envelope within which a completed ballot can be placed before insertion into the signed, labeled mailing envelope. After inspection and approval of the signature on the mailing envelope, the inner envelope containing the ballot can be separated from the mailing envelope for further processing.

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[11] If a voter's absentee ballot is received more than approximately ten days prior to the election, the fact that the voter has already voted will be noted in the voter roster at the precinct polling place. If the voter has requested an absentee ballot, that fact also will be noted in the roster and the voter will have to surrender the absentee ballot before being allowed to vote, or will have to cast a provisional ballot.

[12] The Grand Jury has no reason to believe, and does not suggest, that any DOE worker has improperly attempted to discern a particular person's vote.

RECOMMENDATION

5. DOE should provide a blank inner envelope in the materials supplied to voters with an absentee ballot, with instructions to place the completed ballot in the blank envelope, which should then be inserted in the outer, signed envelope.

REQUIRED RESPONSES

Department of Elections – 60 days
Elections Commission – 60 days

The Members of the 2002-2003 Civil Grand Jury
For the City and County of San Francisco

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