Citizens' Oversight Projects (COPs)
771 Jamacha Rd #148
El Cajon, CA 92019
CitizensOversight.org
619-820-5321

March 20, 2017

Michael Vu
San Diego County Registrar of Voters
5600 Overland Ave
San Diego, CA 92123
Michael.Vu@sdcounty.ca.gov   REV2

Dear Mr. Vu:

The following questions are asked to you, as the Registrar of Voters, based on Election Code Section 2300 (9)A, B. Based on that section, you are obligated to answer our questions. This is not a Public Records Act request and we are not requesting existing records. In our sentences and description below, the pronoun "you" means either you personally, your staff, or anyone you direct as Registrar of Voters in San Diego County.

Our questions are (mostly) regarding the 2016 primary election, focusing on the Democratic contest for President.

BACKGROUND
We requested and you kindly provided the "snapshot data file" on a CD just prior to the random selection process for the 1% manual tally, designated as "2016-06-07_EN_unofficial Canvass.csv," (provided in related information to this request). This was the canvass result as of the end of election night, including the early VBM ballots and polls ballots, but excluding the later-VBM ballots and validated and accepted provisional ballots. We asked for this file so we would have the preliminary totals of all races that should correspond to the totals of the ballots scanned as of election night, and then used in the 1% manual tally process. For a while, this file was also on your website but it is no longer available. Since you are obligated by the election code to keep electronic records indefinitely, please repost the file to your website to document this election.

Regarding the early VBM ballots, your office chose 8 batches (AKA "decks") corresponding to 1% of the (about 723) batches processed as of election night. Then, instead of pulling sealed batches and manually tallying them (as indicated as one option of election code described in section 15360(a)(2)), you decided to switch to doing the early VBM ballots by precinct (AKA "consolidations") (the other option 15360(a)(1), but it envisions that the ballots are stored by precinct). We understand now after your testimony in our recent lawsuit, that you directed 40 workers to work for a week by rifling through the batch boxes to pull ballots out of batches and assemble the selected precincts based on a cross-referencing computer report. This is an exceptional amount of fiddling with the ballots which was never contemplated nor described by the 1% manual tally process in the election code, which should include no such fiddling, but instead should tally sealed boxes which undergo no processing at all. The election code does not describe the process of looking through the batch boxes to manually assemble

precincts, nor the use of a computer report to help you look for the ballots which comprise each precinct.

After completing the manual tally process, you reported variances in three of the 16 (early) VBM precincts in the main set selected. This is documented in your 1% manual tally report. The actual vote totals were not provided in the 1% manual tally report you provided for the 1% manual tally.

On March 16, 2017, our team photographed the top sheet of the actual tally sheets produced during the 1% manual tally. We copied the totals from those sheets for the Democratic Presidential Primary for Bernie Sanders and Hillary Clinton into a spreadsheet. We also transcribed the vote totals provided in the snapshot file for those precincts and "Mail" (VBM) ballots. That spreadsheet is provided as Exhibit 1.

DISCREPANCIES IN YOUR REPORT
According to what we know about the 1% Manual Tally, the number of ballots and the vote totals should match between the Snapshot file (semi-final canvass) and the totals tallied from actual ballots.

We found vote total differences in eight of the 16 precincts, but your 1% manual tally report disclosed variances in only three precincts. In the other five precincts where a variance did exist, you did not report that there was a variance. In all cases, there was a net loss of ballots processed. In the cases where you report on variances, you re-scanned the ballots to get a new report. This re-scanning of the ballots does not actually make the variance disappear, it only proves that the variance with the initial report does exist.

In addition, we noticed that there were two sets of tally sheets for precinct Seq 1431, which we denoted as (a) and (b) in our photographs. There was no mention of the two tally attempts in any of your reporting.

50% = VERY HIGH ERROR RATE, UNRELIABLE METHODS
From the 1% manual tally you conducted, you reported on 3 precincts which had errors (18.75% error rate) but the actual error rate was much higher: 50%. This is an extremely high error rate. We assume that the error rate may actually be higher because we only checked one partisan race, so the actual error may be even worse due to the fact that only about half the voters can vote in this race.

Furthermore, we are concerned that the entire 1% manual tally process for the early VBM ballots was unreliable because you (1) preselected the ballots from the 723 batches to make up the precincts you tallied, and (2) used a whiting-out process, which you admit you conduct as an undocumented procedure with no records kept (such as a log) for the changes made, and without two sets of eyes on the ballots being modified, and (3) we are worried that there was extensive tampering of the early VBM ballots due to the tally method switcheroo. This was the only set of ballots where Clinton won by a wide margin. In all other sets (Polls, Later VBM and Provisionals) Sanders won (except for later VBM ballots where it was approximately a tie).

OUR QUESTIONS
1. Please explain why you did not report on variances in the other five precincts and under what legal basis you are allowed to suppress this information.

2. Why did you conduct two tallies of precinct Seq 1431, and why did you not report that fact?

3. In the variances you reported, you claimed that the reason you lost several ballots in each case was due to "operator error." What "operator error" would create several additional ballots in the snapshot file and yet leave those out of the manual tallied ballots, and how did you determine this was the root cause of the error? What evidence do you have that supports this root cause determination?

4. After you completed the 1% manual tally process, what did you do with the ballots you selected for those precincts that you assembled for the 1% manual tally process? Did you:
      a) merge them back into the batches which you have stored,
      b) keep the ballots separated into the precincts,
      c) duplicate the ballots so the batches would remain unaltered so you could have two sets
      d) Or what??

5. Election Code 17305(b) states that you must keep ballots for any election including federal races (such as president) for 22 months, and that "all ballot cards shall be arranged by precincts." Please confirm that you actually store VBM ballots by batch and not by precinct, in both the 2016 Primary and 2016 General election. Please supply the legal rationale for this violation.

6. Please repost the "Semi-final canvass" (AKA the snapshot file) on your website. This is a very important file because it is what you used for the manual tally audit process

ADDITIONAL INFORMATION
We have assembled a web page with the various reference material attached which will be useful to fully understand and document our questions, as follows:
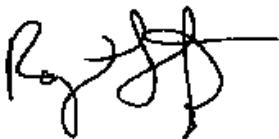   Web Page URL: http://www.copswiki.org/Common/M1735
      Attachments:
            1. This letter, including Exhibit 1.
            2. Your Manual Tally Report, both summary and detail.
            3. Snapshot data file, full version
            4. Snapshot data file, 1% precincts and presidential race (BS vs HRC) only.
            5. Images of the top sheet of the manual tally sheets.
            6. Link to the video of the random selection meeting when we obtained the snapshot data file on CD.

We would appreciate your prompt reply to our questions. We will note that our original CPRA request for the Manual Tally sheets took more than a month before we were provided access to that information, although state law requires that you provide access within ten days, even if you ask for clarification. We request that you do not destroy any information from these elections due to our ongoing inquiry and your delay.

Sincerely,

Raymond Lutz
National Coordinator, Citizens' Oversight Projects

EXHIBIT 1

Seq	Precinct	Manual Tally Total Ballots Cast	Manual Tally Sanders	Manual Tally Clinton	Manual Tally Sanders + Clinton	Snapshot Sanders	Snapshot Clinton	Snapshot Sanders + Clinton	Diff	Reported Variance	Reported Resolution
32	110150 - RHO PENASQUITOS	136	23	40	63	24	40	64	-1	(no report)	(no report)
363	237200 - OCEAN BEACH	182	40	58	98	40	60	100	-2	184 ballots scanned in unofficial canvass (as of Election Night); operator error.	Manual tally found 182 ballots, which matched system count of ballots after re-run.
368	240000 - MIDWAY OLD TOWN	238	66	85	151	66	86	152	-1	Variances in 18 contests were noted; requested re-run by Technical Services.	Re-run resulted in system count of votes matching manual count of votes in 17 of 18 contests. Remaining contest that showed variation was retallied by hand and found to match the re-run system count.
418	270510 - NORMAL HEIGHTS	193	68	76	144	70	76	146	-2	Variances in 16 contests were noted; operator error. Requested re-run by Technical Services.	Re-run report counts reconciled all variances with manual tally. One Dem ballot scanned twice, one Rep ballot not scanned.
597	376700 - PARADISE HILLS	137	25	46	71	28	46	74	-3	(no report)	(no report)
637	403500 - OCEANSIDE	133	23	33	56	23	33	56	0		
670	404230 - OCEANSIDE	126	16	35	51	16	35	51	0		
686	405400 - OCEANSIDE	173	51	45	96	51	45	96	0		
857	420520 - FALLBROOK	226	29	44	73	29	44	73	0		
887	423900 - VISTA	25	10	9	19	10	9	19	0		
991	442800 - IMPERIAL BEACH	200	39	44	83	39	46	85	-2	(no report)	(no report)
1229	487000 - LA MESA	204	51	71	122	52	72	124	-2	(no report)	(no report)
1332	528200 - CHULA VISTA	160	28	51	79	28	51	79	0		
1418	538500 - CHULA VISTA	227	44	110	154	44	110	154	0		
1431	546600 - RAMONA	162	19	23	42	20	23	43	-1	(no report)	(no report)
1454	549280 - LAKESIDE	143	16	33	49	16	33	49	0		
		2665	548	803	1351	556	809	1365	-14		