

Lawsuit Filed to Allow Ballot Review

Federal Law Requires Ballots Kept for 22 Months but Registrar Michael Vu Denies Public Record Access

Goal is to conduct investigatory review of Suspicious VBM ballots in San Diego 2016 Primary

Also will announce the Easy Voting project to thwart Trump's voter suppression commission

MEDIA ADVISORY

WHEN: 11AM Friday, July 28
WHAT: Press Conference / Election Integrity Rally
WHERE: County of San Diego Registrar of Voters,
5600 Overland Avenue, San Diego, California 92123
WHO: Ray Lutz and Attorney Alan Geraci will speak.
PUBLIC: Please attend! Please no partisan signs, however.
RSVP: <https://www.facebook.com/events/1235440876565742>
INFO: <http://www.copswiki.org/Common/M1781> This Event
PROJECT: <http://www.CopsWiki.org/Common/BallotAccessLawsuit>

SAN DIEGO (July 26, 2017) -- Ray Lutz, election integrity activist who recently prevailed in California Superior Court in the case of "Lutz vs. Vu", (San Diego County Registrar Michael Vu, et al.) is now moving forward with an investigatory review of selected ballots in the June, 2016 Primary.

Lutz, Citizens Oversight founder, explained, "Our recent court case proved that San Diego County Registrar of Voters Michael Vu engaged in what we define as 'Election Audit Fraud' by improperly conducting the audit, both in the June primary and repeated in the general election. Although we largely prevailed, the court declined our request to compel Vu to redo the tainted audits in the 2016 primary. So we are moving ahead with a project to look at the ballots ourselves. Since Vu declined our public records request, we have now filed a lawsuit to determine if we can review he ballots, as there is no voter-identifying information on the ballots and thus zero risk of invasion of privacy."

The lawsuit filed this week is strictly about a balancing act between the right of the public to review the ballots versus the right of election officials to "seal" the ballots so they cannot be reviewed. Federal law mandates that all ballots be maintained for 22 months. They are public documents and reveal no private

information. It seems almost impossible for the Registrar to prevail. But, it makes you wonder: What are they worried about?

There is no dispute that ballots are public records. Under Cal Code 6250 and the state constitution, there is acknowledgment that the public “owns” the government and has a right to all public documents, except those that reveal personal information. Since ballots by definition do not reveal personal information of any voter, they must be available to the public for review in our view.

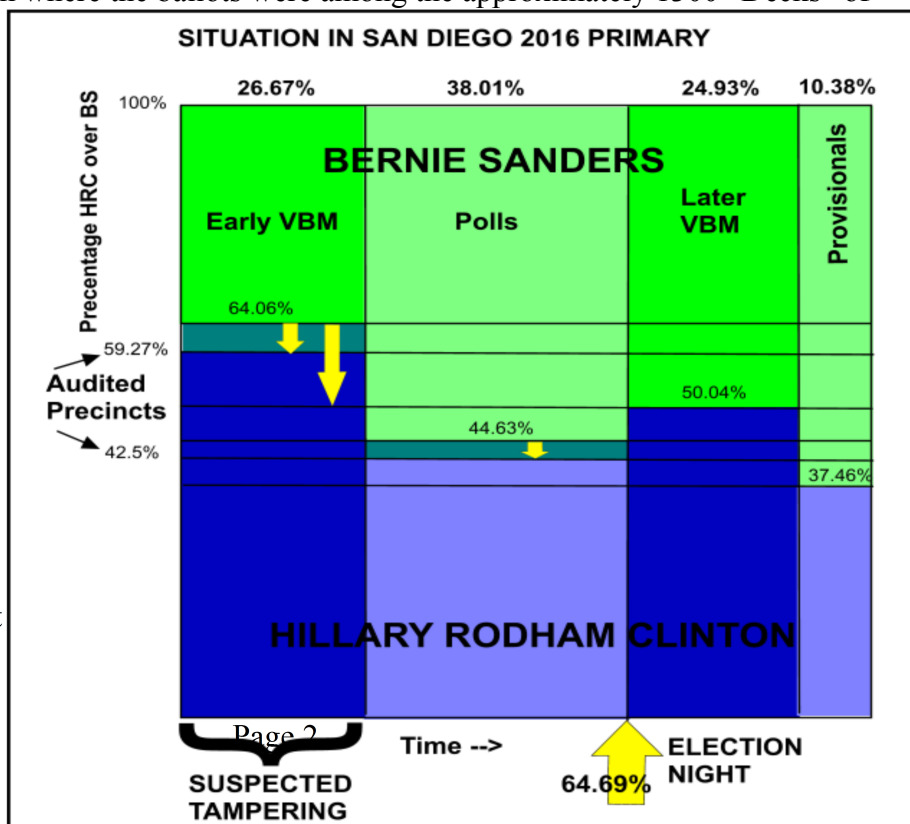
After the 2004 election between George W Bush and John Kerry in Ohio, Richard Hayes Phillips and his associates photographed thousands of ballots in that election, resulting in the book “Witness to a Crime.” Thus, there is a general recognition that ballots should be reviewable by the public, and requests to review them have been granted in the past.

Lutz had filed a timely petition to CONTEST the primary election but did not pursue it at that time because the Democratic convention occurred very quickly after the primary election and thus there was no time to conduct any further review so as to stop the highly questionable primary results in their tracks. But the petition to CONTEST is still pending and logically should provide additional rights regarding review of this election.

In the course of the Election Audit trial, Vu admitted that he preselected and prescanned the ballots from the early Vote-by-Mail (VBM) set of ballots, comprising approximately 192,000 ballots, in preparation for the 1% manual tally. This process took 40 people a week to complete and was hardly a valid way to conduct an audit. We have evidence that they prepared a new computer report to reflect the totals in the prestacked ballots rather than use the original computer report.

In the Random Selection Meeting which occurred two days after the election, they selected 8 batches of early VBM ballots of approximately 720 batches of 400 ballots each for the 1% manual tally audit.

After the Election Audit lawsuit was served, Vu switched gears and did not manually tally the 8 (mixed precinct) batches selected. Instead, they decided to tally the VBM ballots by PRECINCT, according to the precincts already selected for the polling-place ballots. To do this, they had to produce a lengthy computer report to inform them where the ballots were among the approximately 1300 “Decks” of approximately 400 ballots each. They hired 40 people who worked for a week rifling through the decks to pull out and prestack ballots to produce precincts for the 1% manual tally audit. We have evidence that they then rescanned those precincts to produce new computer reports. The total number of ballots did not match the original computer report reflecting the totals as of election night. All this handling of the ballots gives us no confidence that the audit was anything but theater.



Referring to the adjacent infographic, there were four groups of ballots processed. The first group, the “Early VBM” ballots were processed starting 10 days before the election. 26.67% of the ballots were processed in that group and the final overall results have HRC over BS 64.06% to 35.94% (these percentages are only the HRC vs. BS split and ignore any other candidates). This is the group where we suspect tampering may have occurred due to the 40 people hired for a week to rifle through the batches to compose the precincts for tallying.

In that group, in the precincts that were audited, the margin of victory decreased by nearly 5%.

The second group is the Polls ballots which were the ballots cast at the polls except for provisional ballots, which are processed last. In this group, Sanders won 55.47% to Clinton's 44.63%, but this margin again increased in Sander's favor in audited precincts by about 3%. We have more confidence that these ballots were correctly counted because Vu did not have them in his possession for very long.

The “Later VBM” group are VBM ballots processed after election night. This group was split about 50/50 between the two candidates, and comprised about 25% of the ballots cast in this race. It is instructional to compare early VBM and later VBM ballots, which differed by 14% (but requires that there is a move of 28% to “flip” the race). Our team was fully positioned and engaged in oversight during the processing of the later VBMs and we witnessed extensive whiting-out of ballots and enhancing of ballots with no written procedure, only one set of eyes on the process, and no logging reporting of these white-outs. This alteration of ballots should be banned and we believe it violates basic operating principles. Such alteration was performed during Early VBM processing as well. They claim that by using white-out tape, those ballots can be reviewed but there is no third-party review.

The final margin of victory by HRC was a razor-thin 3.75% -- only 16,000 votes between Clinton and Sanders in the primary. The Early VBM ballots are far different from every other set and we believe may have been tampered with.

Normally, a petition to CONTEST the election is about minor changes that might occur if borderline cases, such as provisionals and over-voting (voting for more than the number of candidate allowed in a single race). In California, there is no automatic recounting done, no matter how close the race might be. We rely on the candidates and the public to CONTEST the election and thereby review the votes and possibly flip it the other way rather than the election officials being confident of the outcome. If the party filing the CONTEST is able to flip the election, then they do not have to pay for the work done by the County to review the race.

In this case, we intend to review the ballots looking not to flip the race but to find potential election fraud. The difference in the various sets of ballots is HIGHLY UNUSUAL. The very first results publicized to the media are the Early VBM totals, which come out at 8pm on election night. The media generally assumes these will be a good indicator of the rest of the election. Here we see that assumption is very very wrong, and it makes you wonder if that initial set was tampered with.

If we do detect such tampering then we would turn over our evidence to the State Attorney General for prosecution. It may lead to a full unraveling of the entire tainted election process, and a restart of our elections starting with the primaries. Such an unraveling is only speculation at this point and would require many other moving parts. At this time, we have no evidence that Russia hacking was behind the apparent tampering in the primary.

ALSO TO BE ANNOUNCED: Is the formation of a new project dubbed “EASY VOTING PROJECT”

to thwart Trump's voter suppression commission. The primary focus of this project will be SAME-DAY REGISTRATION which will be implemented in the next election in California, and we will be pushing to have similar laws adopted in other states. New web page is EasyVoting.org

If we prevail and are allowed access to the ballots, then we need to perform a limited recount. This may be expensive because the county will charge us for the job. We are assessing the full cost of the this work but we are budgeting \$15K as our goal to cover the recounting process even though a full recount may cost as much as about \$60K.

PLEASE HELP! We believe this attempt is worth the cost. Frankly, something has to be done.

**Volunteers can sign up at: <http://CitizensOversight.org/signup>
Donations are accepted at <http://CitizensOversight.org/donate>**

Citizens Oversight is a 501(c)3 Delaware corporation with primary offices in California and is a nonpartisan organization.

All documents and information related to this action will be available here:
<http://copswiki.org/Common/BallotAccessLawsuit>

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