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## District Attorney Investigating Possible Voter Fraud in County

By Sora O'Doherty



County Clerk-Recorder and Registrar of Voters Joe Canciamilla. Photo S. O'Doherty

issue.

"Our office has no investigative authority so it is our responsibility to turn these issues over to the appropriate parties for further review," Canciamilla said.

Could 113 votes have made a difference to any race? As it happens, Contra Costa County Democratic Committee Chair and Lamorinda resident Jeff Koertzen won his seat by only 25 votes, so yes, potentially those 113 votes could have made a difference.

### Complaints About Election

After America tuned into the Republican and Democratic conventions, it makes sense that elections are on many minds. And making elections run smoothly and fairly is proving to be a hot-button topic this election season.

On July 12, the Contra Costa County Board of Supervisors heard complaints from a dozen citizens about how the primary election was conducted. The complaints ranged from voter registration reflecting wrong party affiliation, voters not appearing on the roll requiring the use of a provisional ballot, and insufficiently trained poll workers. The speakers included residents, a poll worker and a poll observer.

Another complaint was that when problems at the polls arose on June 7, it was difficult, if not impossible, to reach the elections office by telephone.

The extraordinary number of provisional ballots cast in the June presidential primary election delayed the vote count, leaving such people as the Orinda roads bond supporters anxiously awaiting the final count of Measure L. But the delay was just the tip of the iceberg of problems at Contra Costa County's Elections Division.

"We would have liked to have (the results) sooner, but we are satisfied to be able to get them within the time allowed," said Orinda City Manager Janet Keeter.

While delays in counting so-called provisional ballots was a problem, there were greater issues of possible election fraud in the county.

Throughout the county, 113 voters have been referred to the Contra Costa County district attorney for voting twice in an election. County Clerk-Recorder and Registrar of Voters Joe Canciamilla asked the district attorney to follow up on the duplicate ballots following a request from the California Secretary of State to deal with the

Lamorinda, with an affluent and educated population, always has an excellent turnout and probably experienced fewer problems with the June election than other areas, Canciamilla said. However, the election on June 7 did create widespread confusion and there have been claims that the some county results were skewed by corruption, voter suppression and fraud.

One of the issues was the large number of provisional ballots, allowing for possible fraud. According to the secretary of state, a provisional ballot is a regular ballot that is placed in a special envelope prior to being put in the ballot box. Provisional ballots are cast by voters who believe they are registered but whose names are not on the official voter registration list at the polling place, or voters who vote by mail but did not receive their ballot or do not have their ballot with them, and instead want to vote at a polling place. Provisional ballots are counted after elections officials have confirmed that the voter is registered to vote in that county and did not already vote in that election.

The reissuance of ballots may have led to the duplicate voting, according to Koertzen, who has concerns with some of the practices at the elections department. He pointed out that California Elections Code requires that a new ballot may only be issued when the voter submits a written declaration, signed under penalty of perjury, that his or her ballot was never received or was lost or destroyed.

Koertzen says that the county did not follow this requirement strictly, which may have led to some voters, having already voted with one ballot, showing up at a precinct and exchanging an additional mail-in ballot for one that could be voted at the polling place. Unlike mail-in or drop-off ballots, those ballots were not required to be in signed envelopes. Ballots received by elections up to the Saturday prior to the election were counted.

According to Koertzen, elections staff told him that they had been instructed to say that it was okay to submit more than one ballot, because for vote-by-mail they can track the ballots and make sure the person did not vote more than once. They would only count the first one they received.

Koertzen noted that Canciamilla, first appointed as registrar in early 2012 and then elected to the post in 2014, has only handled a couple of major elections. While he believes that Canciamilla is doing his best to make sure that elections are fair and conducted in a way that is fair to all participants, Koertzen thinks that improvements are required, and will be made as the registrar gains more experience.

Anne Mobley, President of Lamorinda Republican Women Federated, said that she doesn't think it was a problem for Republicans, who did not allow crossover ballots.

### Primaries Are Unique

Primary elections and cross-over ballots fall into a peculiar class of their own. Back in 2010, California voters approved Proposition 14, the Top Two Candidates Open Primary Act. This was the first presidential primary election since then, and not everyone was aware that "top two" did not apply to candidates for president of the United States.

Political parties have the right to determine if they will allow voters registered with no party preference (NPP) to vote in the primary election to select the party's candidate. For the June 7 primary, the Democratic, Libertarian and the American Independent Parties agreed to do so, while the Republican, Peace & Freedom, and Green Parties would not allow NPP voters to weigh in on who should be the candidate.

The process was not simple, however. NPP voters did not automatically receive a presidential candidate ballot; if they wished to vote for the Democratic, Libertarian or American Independent party's candidate, they had to specifically ask for a ballot. This information was contained in the sample ballot sent out by the Contra Costa County Elections Division, and also as an insert with NPP ballots. Other counties chose different ways, such as sending out postcards, to alert voters to the need to request presidential ballots. Unfortunately, many voters didn't consult the documents until

late in the game, and some were too late to receive a presidential ballot.

In an interview, Canciamilla pointed out that presidential primary elections are not sponsored by the government, but are party elections, and the parties establish the rules. The voters don't actually vote for the candidates but for the delegates to the political conventions that will select the parties' candidates. He acknowledged that the situation with the NPP ballots caused more confusion than anything else. A lot of people were shocked to discover that they did not receive a presidential ballot.

### Provisional Ballots a Factor

There are many misconceptions about what provisional ballots are, with some people believing that provisional ballots are not counted at all, to others believing that provisional ballots are counted only in the event of a close election.

"We don't feed them to gerbils," Canciamilla said, and he emphasized that all ballots, including provisional ballots, are counted and subject to meeting the requirements. Each of the 19,008 provisional ballots from the June election - many more than normal - had to be processed individually by hand, as did the 33,000 ballots dropped off on election day.

In all, 278,127 ballots were counted by the Elections Division. This is the order in which votes were counted: Vote by mail ballots received in the mail through Saturday, June 4; votes cast at polling places on election day; everything else, which included ballots dropped off at early voting stations and vote-by-mail ballots received after June 4 and up to and including ballots received through June 10; provisional ballots; then ballots that had to be remade by hand by election workers because they were damaged.

Of the total of 19,008 provisional ballots, 16,797 were counted. Twelve percent of provisional ballots were not counted because the voter was ineligible, not registered or for some other reason. The fate of all the ballots cast in the county is recorded in a statistical table by the department. Ballots are kept for 22 months after the election.

The 1,408 ballots cast that were not counted included ballots that were received too late, including 62 military/overseas ballots; ballots returned in unsigned envelopes; ballots where signatures did not match the voter record and ballots signed by someone other than the voter. Forty people managed to send in their envelopes without a ballot, four people submitted their ballots without an envelope, while 28 envelopes contained multiple ballots, which is not permitted. Six hundred and thirty-two people submitted two ballots, and three people voted in the wrong election. Fifty-nine voters were no longer eligible to vote.

Further, about 7,500 ballots were returned as undeliverable by the Post Office, with 164 of those being for military/overseas voters.

### Other Potential Fraud

#### Issues

In response to claims regarding the use of hackable computerized election machines, Canciamilla stated that Contra Costa does not use electronic voting machines, but does use machines to count ballots. He described these machines as old technology that are so low-tech they cannot be hacked. The machines are not connected to anything, and only have a small chip in them. Every machine was tested before being used in this election. The county used a total of seven counting machines, one of which was rented.

Canciamilla also says he doesn't suspect corrupt employees. "We don't care enough, we're not partisans."

Canciamilla also explained that the voter rolls come from the state of California, not the county. He

acknowledged that there are some errors, but that there is sufficient time for voters to contact elections and have any errors fixed before the election. There would never be a purge of voters right before an election, he added.

What about claims that some voters did not receive a ballot in the mail? Ballots are sent out from the printer and can be tracked. Missing ballots can be reissued, and sometimes ballots are reissued multiple times.

As for accusations that the secretary of state position is partisan - Alex Padilla is an avowed supporter of Hillary Clinton - Canciamilla noted that when he was a member of the California Assembly (2000-2006) he twice introduced legislation to make the secretary of state a non-partisan office, like superintendent of public instruction, because he felt strongly that the chief election official should not be a partisan position. Neither bill got anywhere, he said.

It's clear the county, like so many candidates who will appear on the ballots, has a lot of work to do before the November general election.

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