

RESPONSE TO GRAND JURY REPORT
CITY OF BANNING: ELECTION NON-COMPLIANCE

On May 20, 2025, the Riverside County Grand Jury issued a report to the City Council of the City of Banning, entitled “City of Banning: Election Non-Compliance” (“Report”). The Report was triggered by a complaint filed by a candidate for the Banning City Council in connection with the 2024 municipal election. The Report made the finding that in processing candidate statements, the City failed to fully comply with the requirements of Elections Code section 13313(a), and that the City’s election ordinances had not been updated to align with current state elections requirements. The Grand Jury found that these shortcomings may have undermined citizen confidence in the elections process and exposed the City to litigation. After conducting an appropriate investigation and evaluation of the issues set forth in the Report, the City of Banning responds as follows to the Grand Jury’s findings and recommendations.

FINDINGS

The Grand Jury made four Findings, to which the City responds as follows:

F-1: The City of Banning violated California Election Code section 13313 by failing to ensure that its employees were prepared to provide voters with candidate statements on the first day of the 10-day examination period.

The City agrees with the Finding, as to this particular election, with reservations.

There may have been a technical violation of provisions of Elections Code section 13313(a), as to this particular election, because copies of candidate statements may have been difficult to locate on the first day of the 10-day examination period. This was due to the unusual circumstance in which this particular deadline fell on a date on which the Administrative City Clerk was unavailable, as this was her regularly scheduled day off.

Although the materials were present in the City Clerk’s office, they were apparently not in a place known to office staff on the day the complainant attempted to view the statements. There is no finding by the Grand Jury to the contrary. The Grand Jury properly concluded that “no malice or ill will was intended, and the violation occurred partially due to the employee’s work schedule.”

The available evidence also confirms that the elections materials were filed and transferred by the City to the Riverside County Registrar of Voters (“County”), and were believed to have been available to the public at the County, consistent with all requirements for consolidated elections. There is no conduct alleged or found that would have been grounds for invalidating the City’s 2024 municipal election.

F-2: The City of Banning processed candidate documents inconsistently.

The City agrees in part, and disagrees in part, with this Finding.

There was one set of otherwise timely filed candidate documents that may have been marked by City staff in a manner not normally expected, but this does not mean election-related documents were not processed consistently or in accordance with Elections Code requirements. To the contrary, all election-related documents submitted to the City were processed appropriately using the same following procedure:

1. The City of Banning consolidates its general municipal elections with statewide general elections conducted by the County.¹ All candidate forms are provided to the Administrative City Clerk by the County. During the Nomination Period, a four week period that precedes every election, candidates obtain the County-generated forms from the Administrative City Clerk, to be completed and filed in order to qualify for the ballot.
2. Each candidate must then submit the completed forms to the Administrative City Clerk. The Administrative City Clerk then reviews the submitted forms for completeness, including all required information and signatures provided. If these requirement have not been met, the Administrative City Clerk notifies the candidate of any deficiency. The candidate must then correct any deficiency before further action is taken.
3. If the Administrative City Clerk finds that the required standards have been met, the candidate's forms are transmitted electronically to the County. This is done by scanning and emailing each form to the County, with each email transmission creating a digital record of the time and contents of the material transmitted.
4. The County then processes the forms. This process is not under the control or management of the City. When the processing is complete, the County sends a confirming email to the Administrative City Clerk. Each email includes the County's determination of candidate qualification for the ballot.
5. The Administrative City Clerk then relays this determination to the candidate. If the candidate's submission was initially deemed incomplete, the forms may be resubmitted to correct deficiencies until the end of the nomination period in order to qualify.

This process was followed with respect to all candidates in the October 2024 election, so there was no inconsistency in compliance with governing standards. Because it is the County that must ultimately approve a candidate's placement on the ballot, upon timely submission of complete and compliant forms, the Administrative City Clerk ordinarily would not date or time stamp them. Date and time-stamped emails showing the date/time each candidate submission was issued by the Administrative City Clerk to the County, and the date/time of the County's emails in response, were previously provided to the Grand Jury in response to its inquiry. Thus, the City does not agree that it inconsistently processed candidate documents. Under the circumstances, date stamps inserted appended by City staff

¹ See, Banning Municipal Code, Title 1 (General Provisions), Chapter 1.12 (Elections).
https://library.municode.com/ca/banning/codes/code_of_ordinances?nodeId=TIT1GEPR_CH1.12EL

would not be dispositive of the timing or validity of candidate submissions, particularly where the date stamps do not indicate a violation of any statutory filing or completeness deadlines.

F-3 The City of Banning “date-stamped” candidate documents inconsistently.

The City agrees with the Finding, but with important reservations.

As discussed above, the City agrees that one set of candidate documents appears to have been date/time stamped in error by City staff (other than the Administrative City Clerk, on the Clerk’s regular day off) who were unfamiliar with the City’s processes for handling candidate documents. Given the governing processes described above followed for each candidate, it is the City’s view that this singular and isolated anomaly did not cause harm or a negative impact on the election process.

F-4 The City of Banning has not updated its election ordinances to align with current California election laws.

The City disagrees with the Finding, to the extent it implies any obligation to act.

This finding is based on an incorrect assumption that the City must reject. The City’s Municipal Code does not and should not duplicate or restate state elections laws, where, as in this instance state law governs and controls most aspects of municipal elections conducted by general law cities.² With this in mind, Chapter 1.12 of the Banning Municipal Code appropriately sets forth and is limited to addressing the City’s decision to call its general municipal elections for the same day as statewide general elections, and consolidate its elections with statewide general elections conducted by the County, as provided in Elections Code section 10407.

Further, Elections Code section 13313 explicitly addresses state law with respect to public examination of elections materials, with reference to Section 13307 regarding timing and content requirements for submission of nomination papers and candidate statements filed in connection with municipal elections. Sections 13313 and 13307 do not require or even suggest that the City restate or adopt their provisions, and the City disagrees that it has an obligation to do so, or that it would be a best or appropriate practice to do so.

RECOMMENDATIONS

The Grand Jury made four Recommendations, to which the City responds as follows:

² See, e.g., Cal. Const. art. XI, §7; *Pipoly v. Benson* (1942) 20 Cal.2d 366, 370-71 [superseded by statute on other grounds]; *A & B Cattle Co. v. City of Escondido* (1987) 192 Cal.App.3d 1032, 1038 [“A local legislative enactment will be invalidated when it duplicates, contradicts, or infringes upon an area completely occupied by general law, either expressly or by legislative implication.”].

R-1: The Riverside County Civil Grand Jury recommends that the City of Banning establish and implement a policy that mandates compliance with all provisions of California Election Code §13313 no later than December 1, 2025.

Response: Will not be implemented.

For the reasons noted in response to Finding F-4, the City believes that the City and its Municipal Code already incorporate and is bound by the provisions of Elections Code section 13313. As the City's existing Municipal Code meets all legal obligations, and properly incorporates and applies state law, no further modifications to the Municipal Code would be warranted.

R-2 The Riverside County Civil Grand Jury recommends that the City of Banning train additional city employees to manage the Administrative City Clerk's election duties when the Administrative City Clerk is unavailable to assist the public no later than December 1, 2025.

Response Will be evaluated given staffing and operational considerations.

Cross-training and additional training can allow City staff to meet needs in the absence of a City employee normally performing a particular function. When possible, the City agrees that cross-training and supplemental training should be supported. There are, however, practical limitations on this concept, including the availability of staff to serve in such roles, with additional limitations arising based on job descriptions and/or collective bargaining agreements that can limit the scope of such opportunities. The City will further investigate available staffing and training opportunities in support of the Administrative City Clerk.

R-3 The Riverside County Civil Grand Jury recommends that the City of Banning establish and implement a policy requiring city personnel to process candidate documents consistently and date-stamp all candidate documents no later than December 1, 2025.

Response: Will not be implemented as phrased.

The City's existing processes comply with all provisions of the California Elections Code and the Municipal Code. The date/time stamping of documents by the City is not required under any law or ordinance, nor does it affect the integrity of the election process.

R-4 The Riverside County Civil Grand Jury recommends that the City of Banning review and revise all election ordinances to conform to current California election laws no later than June 30, 2026.

Response: Will not be implemented.

For the reasons set forth in response to Finding F-4, and Recommendation R-1, the City believes that modifications to its elections ordinances and Municipal Code are not required and, to the extent changes would restate or duplicate state law, would be inappropriate as a conflict of jurisdiction.