

# EL DORADO COUNTY 2021–2022 GRAND JURY

## ELECTION OVERSIGHT OF GUBERNATORIAL RECALL ELECTION

Case #21-04 – June 13, 2022

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### SPECIAL NOTICE

*This is not a traditional Grand Jury report based on an investigation. It is an informative report based on observations made by the El Dorado County Grand Jury during the Gubernatorial Recall Election of Governor Gavin Newsom on September 14, 2021. This report does not conform to the traditional investigative report paradigm. It does not have findings or recommendations. It presents conclusions reached by the El Dorado County Grand Jury.*

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### BACKGROUND

As of November 14, 2021, there were 137,856 registered voters in El Dorado County (County).

California Senate Bill (SB) 450, the “California Voter’s Choice Act,” became law in 2016. It allows voters more options to cast a vote. All registered voters are automatically mailed a ballot 28 days before the election. Voters can either return their ballot by mail, deposit their ballot at a Drop Box at specified locations, or cast their vote in person at any County Vote Center. Vote Centers also function as problem resolution hubs for voters who have questions or issues with their ballots. In April 2019, the El Dorado County Board of Supervisors approved the implementation of SB 450 reforms to begin with the 2020 elections.

Californians who prefer access to or continue to need in-person voting – including individuals with disabilities, individuals who speak languages other than English, homeless individuals and others – will still be able to access in-person voting at Vote Centers.

During the Gubernatorial Recall Election, there were three County Vote Centers that were open 11 days before Election Day (September 14, 2021) with an additional three Vote Centers open 4 days before Election Day.

Since 2020, every registered voter in El Dorado County receives a ballot in the mail and has three options to cast their ballot as follows:

- Use the provided postage-paid return envelope to mail their ballot to the County Elections Department (County Elections).
- Drop the ballot into a secure Drop Box. No postage is required.
- Vote in person with an accessible voting machine any time the Vote Centers are open. Residents can register and vote the same day. They can also get assistance and voting materials in several languages.

## **METHODOLOGY**

### **Observations and Interviews:**

- On August 10, 2021, members of the El Dorado County Civil Grand Jury (Grand Jury) toured County Elections.
- On September 14, 2021, Grand Jury members observed County Elections processes of the Gubernatorial Recall Election at Vote Centers, various Drop Box locations, and County Elections.
- Grand Jury members interviewed County Elections staff and Vote Center workers.

### **Documents and Websites Reviewed:**

- California SB 450, Chapter 832, September 29, 2016, "Elections: vote by mail voting and mail ballot elections;"
- County Elections Website (<https://www.edcgov.us/Government/Elections>);
- California Secretary of State's (SOS) Office, Elections and Voter Information (<https://www.sos.ca.gov/elections>); and
- Processes, procedures, and training documents provided by County Elections.

## **DISCUSSION**

### **PROCESSING VOTE-BY-MAIL AND DROP BOX BALLOTS**

Grand Jury members were given an informative tour of County Elections by staff on August 10, 2021. Members observed the entire election process from receiving vote-by-mail ballots, batching ballots, verifying signatures, and adjudicating ballots, as well as preparing counted ballots for storage during the requisite retention period (22 months). It was noted that staff always work in pairs to ensure process integrity.

Vote-by-mail ballots are delivered directly to the secure County Elections warehouse. Drop Box ballots are picked up on a regular basis by County Elections staff and delivered to the secure warehouse. The County Elections warehouse has an alarm, locking doors, camera monitoring, and is located inside another building. Ballots are securely stored in this warehouse.

Initially, ballots received in Elections are separated by vote-by-mail ballots and Drop Box ballots. Additionally, Drop Box ballots are separated by Drop Box to track how many ballots were picked up from that specific Drop Box, and the ballots are separated by the day the ballots were picked up and received by County Elections.

Unopened ballots are then run through the Agilis System (not a part of the Dominion System) which captures an image of the envelope (specifically, the ballot ID from the barcode), and it captures an image of the signature on the return envelope for signature verification. A file with all voter signatures is loaded onto the Agilis System. Signature verification is conducted electronically, comparing the ballot signature with the voter registration database.

All returned vote-by-mail ballots are required by Election Code to be signature checked against the signature on file in the voters' registration record. When a signature cannot be verified or there is no signature, human review is the next step. County Elections staff, trained in signature verification, will review the ballot envelope signature against the voter's signature in the voter registration record and either accept or challenge the signature. Accepted ballots are batched into groups of 100 and assigned unique batch numbers that remain with the batch throughout processing.

Signature-challenged ballots or ballots with no signature are set aside to go through follow-up processing by staff. A colored postcard is sent informing the voter to contact County Elections to fix the signature problem so that their ballot can be counted.

Accepted ballots are then opened. Once opened, each ballot is electronically reviewed and if flagged by the system, two reviewers check for irregularities and determine

voter's intent. Marks from a damaged ballot are transferred to a new ballot, so it can be read by the tabulating machine. Every change made to a ballot is initialed by two reviewers.

Throughout Election Day, ballots in each batch are fed into tabulating machines when there are enough verified batches and staff available. The unique batch number is entered into the tabulating machine before counting starts.

Ballot batches are then retained onsite in the secure warehouse, in the event an official canvass of votes is required after the election. This information is also transferred to a secure portable drive retained by the Registrar.

While County Elections staff tabulate votes from vote-by-mail ballots as they are processed, no vote totals are accessed or released to anyone, including County Elections officials, until after the polls close at 8:00 p.m. on election night.

Additionally, the Grand Jury was able to examine and test a Drop Box which only allows enough room for one vote-by-mail ballot to be deposited at a time.

## **THE ELECTION MANAGEMENT SYSTEM**

The prior County Election Management System (Diebold) was purchased and installed in 2005. That system used Windows 2000 which is no longer supported by Microsoft, and replacement parts were not readily available. The SOS issued a directive that voting systems purchased before 2014 needed to be upgraded for certification by August 2019, in preparation for the 2020 general election. County Elections prepared a Request for Proposal to purchase a new Elections Management System.

A County committee comprised of various members of the local community selected the Dominion Democracy Suite Election Management System (Dominion Voting System) to replace their aging Diebold system. The Dominion Voting System, ImageCast Central System, was chosen for its modern, secure design, complying with the newest Federal Election Administration Committee guidelines, as well as California's more rigorous standards. The Dominion Voting System was fully tested and certified by the SOS Office.

Access to the County Dominion Voting System is limited, both physically and electronically. The Dominion Voting System is secured in the Ballot Tabulation Room, which has 24-hour cameras monitoring the area and limited card key access, as well as no outside network connectivity. The only way to access the system is to be physically in the same room as the server. Only the Registrar, Assistant Registrar and two permanent Elections staff have access to the Ballot Tabulation Room and system

passwords. The system features high speed scanners located in a secure room, where vote-by-mail, Drop Box and in-person ballots are counted. Ballots are adjudicated (voter intent determined) using a system that allows on-screen review of every ballot, allowing increased transparency in the voting process.

Additionally, according to the State Elections website, California Counties are required to abide by a stringent set of rules and regulations regarding implementation and use of a voting system. A few notable rules and regulations include:

- performance of logic and accuracy testing on voting systems prior to each election.
- ensuring specific procedures for programming, deployment, and use of voting equipment during elections are met.
- a full 1% post-election manual audit to ensure all voting system tallies match the hand counted tallies.

In El Dorado County, all votes are cast on a paper ballot, ensuring 100% auditability.

County Elections also conducts a risk limiting audit (RLA) of contests contained within the County, and a manual 1% hand tally on the remaining contests. The RLA is a procedure that provides strong statistical evidence that the election outcome is correct or has a high probability of correcting an outcome that would match a full hand count of the ballots. The audit itself requires people to examine and verify more ballots in close contests and fewer ballots in contests with wider margins. No RLA was required for the 2021 Gubernatorial Recall Election since this was not a local contest.

Ballots at Vote Centers are produced with a Ballot-on-Demand system, eliminating wasted, unused ballots at the end of every election. Voters at Vote Centers have the option of using Dominion's ImageCast X Ballot Marking Device, which prints a marked vote (paper) record that can be counted just like any other ballot.

Voters desiring to vote from home with the same options as the ImageCast X can use the County's Remote Accessible Vote by Mail System (RAVBM), which presents the voting process in a screen-ready friendly format and allows the voter to make their voting choices independently and privately using a device with which they are already comfortable. Registered voters are required to pre-register with County Elections by completing a RAVBM Application and having an email address and access to a printer to use the RAVBM process.

Voters using the RAVBM mark their choices on their computer screen by clicking on the candidates' names and/or local measures they wish to select, and then printing the ballot. They complete the Voter's Declaration/Oath of Voter, seal the ballot in an

envelope and place both in another envelope that can be mailed to County Elections or dropped at a Vote Center or a Drop Box.

The vote counts are electronically sent to the California SOS Office independent of the Dominion System.

## **OBSERVATIONS**

### **Vote Centers**

Vote Centers had three Check-In Stations and one Ballot Station to print provisional ballots for voters who have lost their ballots, who want to change their vote, or who register to vote that day. Stations were staffed by high school students who earn school credits for assisting and volunteers who receive a stipend. Vote Centers have a County Elections Inspector who oversees the operations and answers questions that volunteers are unable to provide.

Three automated voting machines were set up at each of the Vote Centers to give voters the option of using Dominion's ImageCast X Ballot Marking Device, which prints a marked vote record that can be counted just like any other ballot. Long tables were set up for paper voting with cardboard shields to offer privacy, and the ballots were dropped in a box on-site. There was an additional box at the Vote Center for voters to deposit their vote-by-mail ballots.

### **County Elections on Elections Day**

Grand Jury observers had to sign the entry log to enter the County Elections area. They saw several batches of ballots scanned in the Tabulations Room and watched two staff members adjudicate ballots for irregular marks and attempt to determine voter intent. They were able to see and discuss the process used by staff in determining the intent of the voter.

Grand Jury observers also saw staff drop off over 800 ballots from the Drop Box located outside County Elections which was collected every two hours by two clerks.

## **CONCLUSIONS**

The Grand Jury developed a much greater appreciation for County Elections staff and the procedures they must perform to make our election processes function efficiently and accurately.

Members of the Grand Jury were confident with the integrity of the signature verification process (machine checked and human eye review) and the Dominion Voting System and all the options it provides to the voters and County Elections staff. The system provides an important level of security with checks and balances to uphold the integrity of the voting process.

County Elections staff are knowledgeable of the software and hardware of the Dominion Voting System. Overall, the Grand Jury is extremely impressed with the integrity of protocols and procedures developed and implemented by County Elections for mail-in ballots, as well as in-person voting.