

MONTEREY COUNTY ELECTIONS – TODAY AND TOMORROW

SUMMARY

Elections form the backbone of our individual participation in the representative democracy that we all enjoy as American citizens. It is the way we communicate our preferences for candidates and initiatives. Our confidence in this process plays a key part in our confidence in our government. Recent national news stories alleging outside influence in the U.S. elections process have heightened the attention paid to elections.

Technology changes are revolutionizing the means by which data and information are collected and distributed across all aspects of modern life. These changes have already added to the ways in which voters are educated about candidates and issues, votes are cast and tabulated, and outcomes are announced. Implementation of technology changes impacts the security around the election process, the timeliness of communicating results, and the cost of the election process.

In this environment, the Monterey County Civil Grand Jury launched an investigation into the elections process in Monterey County. Two main areas were at the center of the investigation:

1) NOVEMBER 2018 ELECTION

Were there noteworthy issues, either in process or outcome, with Monterey County's 2018 election process? Were there any problems with the execution of the election that would generate recommendations for improvements in future elections? Were sufficient resources available to conduct the election?

2) FUTURE ELECTIONS

Can new technology and procedures improve the efficiency and reduce the relative cost of future elections? What resources are available to the Elections Department to support new technology? How prepared is Monterey County for the eventual replacement of its existing voting and vote tabulation equipment? What can be done today to prepare both the county and voters for the changes to come?

Our investigation found that the current process for conducting elections is secure. It was also cost-effective relative to other counties. The Elections Department staff is very conscious of its role in supporting county voters and makes every effort to ensure a smooth voting process given available resources. The current election process, with its dependence on older equipment and volunteer-supported polling places, ran smoothly in the November 2018 election but is vulnerable to shortages and breakdowns in future elections.

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We also found that the planning and budgeting processes for acquiring equipment in the future are lacking. They fail to take full advantage of the central Information Technology (IT) resources of the county in preparation for election process changes. This is consistent with other county departments that maintain their own separate mini-IT departments.

As today's younger, more tech-savvy voters become a larger share of the county electorate, they will expect more convenient, mobile voting processes that are more flexible, faster, and rely less on large numbers of volunteer-staffed polling places.

Our recommendations call on the county to start preparing now for the transition to more technology-enabled, less labor-intensive elections. Current mobile voting systems used by military personnel stationed outside the US provide a useful starting place that can be expanded in future elections.

Changes to the county-wide budgeting process that set aside funds for future equipment investments would allow for the anticipation of needed replacements and plans for migration to new technology.

Finally, integrating the resources of the IT Department across all county departments would improve not only Elections Department operations, but county operations overall.

BACKGROUND

Much of the Monterey County election process is regulated at the state level by the Office of the Secretary of State¹. Ballots and educational materials are mailed to all registered voters a month before an election. Voters have the option of returning their completed ballots by mail or going to a polling place in their community to submit their ballots. Voters use paper ballots to make selections, which are then delivered to the Elections Department in Salinas. The votes are tabulated using machines that scan the marks on the ballot. The results of the election are certified by the Secretary of State after all ballots are counted and any recounts take place.

The cost of elections is dictated by the voting process. Costs include the printing and distribution of ballots, the staffing of polling places, and the capital and maintenance costs of acquiring and maintaining tabulating equipment. These expenses are borne by the county.

¹ <https://www.sos.ca.gov/elections/voting-systems/laws-and-standards/>

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There are many positive aspects to the existing process. It has created elections with results that have been determined in a relatively timely manner and have the general confidence of the voters. A secure paper trail is created which documents each individual vote in case there is any question as to the accuracy of the vote count.

Given the age of existing voting and tabulation equipment and the continuing development of innovations in technology and communications, changes of one kind or another in the future are inevitable. The decisions that are made in the coming years will have an impact on our method of choosing officials and approving initiatives for decades to come.

There are other approaches to the election process and vote tabulation. If one were to design a new voting system with today's technology, computing power, and Internet connectivity, one would have to consider the use of new processes in the design of elections. There are risks – both real and perceived – to transitioning into the execution of elections using new approaches. Regardless of the choices made, there are real costs associated with maintaining existing systems as well as implementing a next generation of election equipment.

Monterey County needs to confront those choices today, while we have time to have an informed discussion and evaluation. What can Monterey County learn from new approaches? What can we do to prepare for future elections in which our citizens increasingly expect more convenient voting processes and faster results, with no loss of security or confidence?

APPROACH

The Civil Grand Jury interviewed senior officials from the Elections Department, as well as county management, to understand the current state of the elections process and plans for future elections.

Several jury members observed the November 2018 election at polling places throughout the county. We also toured the Elections Department facility at 1441 Schilling Place in Salinas.

We conducted literature searches of reports of external influence on the 2018 elections, new approaches to voting, including technologies, in other jurisdictions, and changes to California law as it pertains to future elections.

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DISCUSSION

The facts listed below are the result of interviews conducted as a part of the grand jury investigation process, unless noted otherwise by footnotes.

GENERAL INFORMATION

- 1) Elections are legally mandated activities. Therefore, the costs of elections are not considered to be discretionary spending for Monterey County. Any costs associated with testing or purchasing new equipment would be considered discretionary.
- 2) There are 12 full-time employees of the Monterey County Elections Department and a few part-time employees. During an election year, the Elections Department adds temporary employees and about 900 poll workers.
- 3) Monterey County elections use paper ballots. Since 1968, ballots have been printed in both Spanish and English. This is mandated in Section 203 of the Voting Rights Act of 1965 by the federal government².
- 4) There were 84 polling places in the county for the November 2018 election.
- 5) There are three Information Technology (IT) specialists within the Elections Department that provide IT support for the elections process.
- 6) The involvement of the county IT Department personnel with the Elections Department operations is limited to providing network support and security assessments. They are not involved in the support of the election ballot collection or tabulation process. This is consistent with the county's decentralized approach to IT.

ELECTION COSTS

- 1) The annual budget for the Election Department ranges from \$4.5 to \$5.5 million (depending on whether there is a general election that year). Budgets are submitted for review and final approval by the Board of Supervisors under the auspices of the Chief Administrative Office (CAO). The budget is allocated as follows: printing ballots and voter guides (38%), salaries and benefits (43%), IT (11%), and overhead and administrative costs (8%).
- 2) Using data from a California Association of Clerks and Election Officials (CACEO) study of the 2012 presidential election, Monterey County election costs

² <https://elections.cdn.sos.ca.gov/ccrov/pdf/2016/december/16333ji.pdf>

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were compared to four other comparable counties (Santa Barbara, Solano, Sonoma and Santa Cruz). Monterey County elections were the least expensive on a cost per registered voter basis. Sonoma County costs were 50% higher, Santa Barbara and Solano Counties were 100% higher, and Santa Cruz County was 200% higher. Out of the 27 California counties whose data were included in the study, only Sutter, El Dorado and Yuba counties spent less per registered voter in 2012 than Monterey County.³

- 3) The Elections Department has consistently managed its costs to come in under budget during recent years. The Elections Department is not viewed as a current problem by county IT or CAO management. Relative to the size of the overall county government budget, the Elections Department budget is small.
- 4) In November 2018, 30.8% of Monterey County votes were cast at polling places. The remaining votes were mailed in.
- 5) In 2020, California counties can choose to have “vote-by-mail only” elections⁴.
- 6) The current conduct of elections is highly dependent on the availability of volunteers to staff polling places and vote processing and tabulation. The Elections Department had a difficult time finding enough volunteers for the November 2018 election.
- 7) The purchase or lease of new equipment and related capital costs are not included in the Elections Department operating budget. Any capital requests for equipment must be submitted to the Resource Management Agency and compete with other county equipment requests from other departments for approval.
- 8) Paid return postage will be included with the ballot return envelope in 2020. This new election expense is expected to be reimbursed by the state⁵.

³ <http://results.caceoelectioncosts.org>

⁴ Cal. Elec. Code §3017, 4005-4008

⁵ Cal. Elec. Code §3010

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ELECTION REGULATIONS

- 1) The National Voter Registration Act of 1993 (NVRA)⁶ requires states to designate state government agencies and offices that provide public assistance or services to people with disabilities at voter registration agencies.
- 2) The California Secretary of State and Department of Motor Vehicles (DMV) established the Motor Voter Program⁷ to increase the opportunities for voter registration to those who qualify by enabling voter registration during the driver's license application process.

VOTER REGISTRATION AND VALIDATION

- 1) A California voter must be a U.S. citizen; a resident of California; not in prison or on parole for the conviction of a felony; at least 18 years of age on the date of the election; and cannot have been determined to be mentally incompetent by a court. Citizens who are 16 and 17 years old may pre-register to vote.⁸
- 2) Voters assert their right to register by signing their driver's license applications under penalty of perjury that their eligibility information is true and correct.
- 3) Newly registered local voter information is sent to the Statewide Voter Registration Database⁹ and compared to records from the DMV. It is checked and compared against databases and validated to ensure the registration is legal.
- 4) People who are incarcerated or on parole cannot vote, but once they have completed their sentence, they are entitled to vote again.
- 5) Any Monterey County citizen who can provide a mailing address (either general delivery at a post office, a post office box or a street address) and is otherwise legally qualified to vote may register to vote. The U.S. Postal Service provides general delivery service free of charge.

ELECTION SECURITY

- 1) All Election Department staff must take a certification course and training in security.

⁶ <https://www.justice.gov/crt/national-voter-registration-act-1993-nvra>

⁷ <https://www.sos.ca.gov/elections/california-motor-voter/>

⁸ <https://www.sos.ca.gov/elections/pre-register-16-vote-18/>

⁹ <https://www.sos.ca.gov/administration/regulations/current-regulations/elections/statewide-voter-registration-database>

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- 2) Tabulation equipment is air-gapped (not connected to any outside network, including the Internet) to prevent outside access.
- 3) There are external security cameras in the Elections Department building, along with security guards available 24 hours a day, 7 days a week. A second line of defense includes interior cameras and an alarm system. Records are kept of all who enter the facility (including employees).
- 4) The only Internet-enabled voting currently permitted in Monterey County is the system for military personnel stationed overseas¹⁰. They use an Internet web site with a link to a service that creates a hard copy of a ballot that is then faxed to the Elections Department. The expanded use of this system by disabled and handicapped voters has been discussed for the 2020 elections.

ELECTION EQUIPMENT

- 1) The Elections Department uses eight small tabulator machines that are provided by Dominion Voting Systems. These tabulators are in the second year of a six-year lease.
- 2) The Elections Department uses an automated mail opener and sorter for use with mail-in ballots. It has a laser beam that cuts open a window and compares the signature with the one on file. Ballots are extracted from the envelope manually, and then taken to the tabulators for scanning and counting the votes.
- 3) Direct Recording Electronic (DRE) equipment, located at each polling place, is used by handicapped voters. This equipment has reached the end of its useful life. In some cases, replacement parts are no longer available. The DRE equipment needs to be replaced. Replacement before the 2020 election depends on the availability of \$1.1 million in matching fund reimbursement for previous equipment purchases.
- 4) All voting equipment must be certified by the Secretary of State's office before it can be considered for use in any California county election.

ELECTION TABULATION PROCESS

- 1) Mail-in ballots begin to be tabulated 10 days before an election.
- 2) An unregistered voter may conditionally register at the Elections Department on Election Day and cast a provisional ballot for inclusion in that election. About 600 provisional ballots were cast in the November 2018 election. The provisional

¹⁰ www.fvap.gov

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ballots were counted after elections officials confirmed the validity of the voter's registration.

- 3) November 2018 election results were certified on November 27, 2018, which was earlier than planned. There are 187,286 voters currently registered in Monterey County and 62.81% of registered voters cast ballots. The number of persons who voted at their polling place was 28,284 and 89,347 cast vote-by-mail ballots. There were no reports of unusually long waits (over 10-15 minutes).
- 4) The first November 2018 election partial vote totals were released within 15 minutes of polls closing. Regardless of what may be reported on county web sites, on television or in newspaper reports, election results are not final until they have been certified. Certification generally takes place several weeks after the election. Declarations of a winner, or concessions by a loser, have no legal impact on final election results.
- 5) The ballots for the November 2018 election were scheduled to be sent out a month before the election. The ballots for the voters in the city of Gonzales were delivered a week late. This problem was the result of issues with an outside agency that handles ballot printing and distribution. It was not discovered until voters inquired why they had not received ballots.

OTHER FUNCTIONS

- 6) The county IT department manages the delivery and storage of sensitive information on its computers and networks while maintaining data security and integrity.
- 7) The Elections Department makes its own recommendations for the acquisition of new technology equipment. The county IT Department only reviews new technology purchases for security. IT is not involved in the budget process or in determining what equipment is selected or when equipment needs to be replaced.
- 8) The county Resource Management Agency sets priorities for capital spending and determines what Elections Department equipment purchases are placed into the annual operating budget. Monterey County does not accrue reserves for future capital expenditures by using depreciation expensing in its accounting. It operates on a cash budget basis. Recently, the county has begun capitalizing and expensing depreciation costs associated with buildings.

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FINDINGS

- F1) Elections in Monterey County are generally conducted in a cost-effective, efficient manner, considering the small staff size and labor-intensive election process used.
- F2) Costs for elections are in line with, or less than election costs at similar sized counties in the state. There are no obvious places for cost reduction given the existing tabulation process.
- F3) The Elections Department staff is genuinely interested in conducting a reliable election process and make reasonable efforts to reach out to voters to support their ability to vote.
- F4) Funds are not reserved for the replacement of equipment that has reached the end of its useful life, or for the acquisition of new equipment needed to support future elections.
- F5) There is no process for capitalizing and depreciating capital equipment in the Elections Department.
- F6) The CAO's office has begun the process of depreciating the cost of buildings and accruing funds for future replacement needs in their accounting processes.
- F7) With existing resources, efforts to register new voters are reasonable and effective.
- F8) Volunteers to support County election activity are becoming more difficult to find, which makes capital-labor substitution (automation) more important going forward.
- F9) The biggest immediate concern to the current election process involves the management of outside agencies that provide support services for the Elections Department. This includes all firms involved with the printing, distribution, and delivery of ballots and voter information, including the U.S. Postal Service (USPS).
- F10) The addition of prepaid postage to be processed by the USPS for return ballot envelopes creates a new set of concerns starting in 2020. The USPS will be responsible for the timely delivery, billing, and collection of postage for these returned ballots.

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- F11) Vote-by-mail is cost-effective relative to traditional voting at local polling stations. However, even with vote-by-mail elections, in-person voting stations must be provided to provide access to the voting process for some voters.
- F12) There was no evidence of any significant level of voter fraud or external influence in the outcome of the November 2018 elections.
- F13) The county IT Department currently manages and stores sensitive data for other county agencies. Internet voting ballots could be stored electronically with equal security and lower cost compared to the current system of storing paper ballots after an election.
- F14) As access to the Internet is not universally available throughout the county, alternative voting methods (like mail-in or voting station options) would have to augment any Internet-enabled voting system in the foreseeable future.
- F15) Internet-enabled voting would allow voters to vote using computers or smart phones in future elections. This would require the use of virtual private secure networks to communicate between voters and the Elections Department.
- F16) A transition to Internet-enabled voting would require infrastructure that is not present in the current Elections Department.
- F17) The Grand Jury did not find any evidence of a risk assessment of Internet-enabled voting relative to current voting processes.
- F18) The resources of the IT Department are not fully utilized by the Elections Department because of the decentralized approach to IT throughout the county. Currently, each department maintains its own IT resources.

RECOMMENDATIONS

- R1) The Elections Department should implement a process of closer supervision and tracking of all levels of activity of outside agencies for the 2020 elections. This will minimize the reoccurrence of problems such as the one that occurred last November in Gonzales and any future problems related to the new prepaid postage mailing ballot system.
- R2) The Elections Department should evaluate and test new means to accommodate more voters in an efficient and cost-effective manner that is less dependent on volunteers starting in 2022.
- R3) The Elections Department should expand the Internet-enabled voting program now used by overseas military residents to the general voting public on a gradual

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basis starting in 2022. Testing this process on a limited basis will be necessary for the information and planning needed to support a potential broader rollout of Internet-enabled voting in the future. Planning must begin for changes to vote tabulation processes in anticipation of needed equipment necessary to process larger volumes of Internet-enabled votes.

- R4) During the next budget cycle, the Chief Administrative Office should work with the Board of Supervisors to expand the practice of depreciating and expensing capital equipment to include the equipment needed by the Elections Department. This would create a process for the replacement of aging existing equipment and the evaluation of new equipment needed to support future election processes. This could serve as a model for broader implementation of sound financial planning in other departments throughout the county.
- R5) The Elections Department should immediately start taking a leadership role in working with the Secretary of State to evaluate and recommend new voting systems. Through its direct involvement, the Elections Department can better prepare Monterey County voters with access to tools for future elections.
- R6) The Elections Department should immediately increase the level of coordination and involvement with the IT Department in the evaluation and planning for future elections. The county's current decentralized approach to managing technology transformation does not exploit the expertise of the IT Department to evaluate and deploy new technologies. With closer coordination between the IT Department and the Elections Department, we believe that a new, more effective model for managing and implementing technology in Monterey County can be achieved.
- R7) By 2022, the Elections Department should start taking steps to modernize the election process by upgrading equipment used in vote tabulation to accommodate Internet-enabled voting.

INVITED RESPONSES

- Monterey County Registrar of Voters: F1-F18 and R1-R7
- Chief Administrative Officer: F1-F18 and R1-R7

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- Director of the Information Technology Department:
F13-F18; R3, R4, R6, R7

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Civil Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury