

**El Dorado County Board of Supervisors
Response to the
2023-24 El Dorado County Grand Jury Report
(Case 24-09 – Election Integrity: Separating Fact from Fiction)**

Case 24-09 – Election Integrity: Separating Fact from Fiction

The Grand Jury has requested responses from the Board of Supervisors and Registrar of Voters on all Findings and Recommendations.

Consistent with previous practice and pursuant to Board Policy A-11, the Chief Administrative Office is responsible for coordinating the County's response to the Grand Jury. Responses to the Grand Jury Report are directed by Board Policy A-11 and Penal Code 933.05. Accordingly, the Chief Administrative Office has reviewed and compiled the responses from all non-elected department heads into this Initial Draft Response for the Board's consideration.

FINDINGS

- F1. The new election headquarters is a well-designed and efficient operation for managing high-volume elections while providing transparency to the public. The Registrar of Voters and staff are to be commended for the design of the headquarters, integration of the systems and the oversight capability provided.

The Board of Supervisors agrees with the finding.

- F2. The Grand Jury did not find that any election results in the recent past have been materially altered or rigged through the voter eligibility procedures or vote tabulation systems.

The Board of Supervisors agrees with the finding. There is no history of such interference in El Dorado County elections, recent or otherwise.

- F3. The Registrar of Voters and the Elections Department are sincere in their desire for free and transparent elections but are required to utilize California certified voting equipment and procedures that may introduce vulnerabilities and a lack of transparency into the election process.

The Board of Supervisors disagrees partially with the finding. All technology has vulnerabilities, which is why processes and procedures are implemented around the voting system to mitigate such potential vulnerabilities. The implication that "California certified" voting equipment is more vulnerable or less transparent is not supported.

- F4. The Registrar of Voters and the Elections Department can do more to alleviate public concerns around election integrity through more frequent public communications (emails, newsletters, blogs, etc.), as they may have attempted in the past.

The Board of Supervisors disagrees partially with this finding. The Elections Department does extensive public outreach. In addition to holding public town hall meetings several

times per year, the Department hosts tours during all open hours (including more than 200 tours in the November 2020 Presidential Election), participates at every county fair, sends at least 2 post cards per election, sends email updates and communication regularly, has a Voting Accessibility Advisory Committee and Language Accessibility Advisory Committee that meet quarterly, posts videos on the website demonstrating all processes, uses social media frequently, and hosts an Election Integrity webpage addressing concerns. That being said, in any endeavor there is always more that can be done.

- F5. Due to the complexity of the Dominion vote tabulation systems, it is impossible to be completely assured of having removed all vulnerabilities. In addition, they are not physically shielded from wireless communications, which is apparently possible, causing additional concerns.

The Board of Supervisors disagrees partially with the finding. The voting system is certified through the California Secretary of State's office which includes a line-by-line source code review and disabling of any wireless or Bluetooth capability at the Basic Input/Output system (BIOS) level. The Election and County Information Technology Departments conduct a wireless check every election to further ensure the system is not broadcasting or receiving wireless signals. The software version used in each election is the exact version that was source code reviewed and certified and is provided to the Elections Department by hand from the California Secretary of State's Office. The Department does prefer there is no wireless devices included in the hardware, as certified by the State, but mitigating steps taken can provide assurance they are not accessible.

- F6. The video surveillance in use at ballot drop boxes is a spot check and does not cover all drop-boxes. Complete surveillance is likely impossible, but there may be additional ways to enhance coverage that should be considered.

The Board of Supervisors agrees with the finding. Changes are being for the November 2024 election. Of the 15 ballot drop boxes, there are currently 3 ballot drop boxes not covered by cameras or within direct view of people. The three ballot drop boxes not currently covered by humans or cameras are being addressed and will potentially be covered by portable camera systems to ensure full video coverage for the November 2024 election.

- F7. The Elections Department is complying with all state statutes, although additional safety checks and procedures may be available in vote-by-mail procedures that should be considered.

The Board of Supervisors disagrees partially with this finding. The Board agrees that the Elections Department is complying with all state statutes, but without more information

about what the referenced "additional safety checks and procedures" are, it is difficult to address that portion of the finding."

RECOMMENDATIONS

- R1. By the November 2024 election, the Dominion vote tabulation systems should be electronically isolated (e.g., a Faraday cage surrounding the tabulation system) to improve security and remove the possibility of any cellular or internet communication. Fiscal impact: \$25,000-\$50,000 (See Appendix 1).

The recommendation will not be implemented because it is not warranted and is not reasonable. The system is being used in accordance with the Secretary of State's certified use procedures. This is a costly solution which will not provide additional security outside of the mitigating procedures currently approved by election security experts and the Secretary of State's Office.

- R2. By the November 2024 election, the Elections Department should look into the feasibility of streaming drop box video surveillance cameras online for ad hoc public monitoring. In addition, all drop boxes should have signs that indicate they are under surveillance and illegal tampering will be prosecuted, which should be a further deterrent.

The first part of the recommendation will not be implemented because it is unreasonable. The second part of the recommendation will be fully implemented by the 2024 General Election.

As the Grand Jury mentioned in its report, the controversial movie "2000 Mules" has created an environment of hostility toward the use of ballot drop boxes and could create a vigilante response from the public if an untrained livestream viewer believes there is a violation of law. Additionally, providing a livestream of such camera feeds could potentially run afoul of Constitutional guarantees of privacy concerning voting. (See Cal. Const., Art. II, § 7 ["Voting shall be secret"]; see also Elections Code § 18541(a)(3) [prohibiting one from photographing or recording a voter entering or exiting a polling place].) As such, it would be unreasonable for the Elections Department to livestream the ballot drop box camera feeds.

The Elections Department already places signage on the ballot drop boxes specifying the Federal criminal statutes for tampering with a drop box. In accordance with the Grand Jury's recommendation, the Elections Department will add signage denoting that drop boxes are under 24-hour video surveillance.

- R3. By the November 2024 election, the Elections Department should evaluate the feasibility of receiving non-citizen responses to jury summons from the Superior Court of El Dorado County or Federal district court records to cross-check County voter rolls and continue such periodic checks annually thereafter.

The recommendation has been implemented. This has always been the process in the Elections Department and will continue.

- R4. By January 1, 2025, the Elections Department should change security procedures to require a minimum of two people present when accessing the vote tabulation rooms and systems.

The recommendation will not be implemented because it is not warranted and is not reasonable. Election Staff are trusted employees and perform their work with high integrity as noted by the Grand Jury above. The three staff members with access to the tabulation room are the Registrar, Assistant Registrar, and the Department Systems Analyst. Requiring two people at all times would limit their ability to perform their work in a room already monitored by cameras, which are livestreamed during the election.

- R5. By November 2024, the Registrar of Voters should begin publishing a periodic newsletter (e.g., online blog or social media) designed to acknowledge and address public concerns. Questions should be solicited and screened to avoid the social media free-for-alls of the past.

The recommendation will be implemented. The Elections Department has a Voter Integrity page which addresses public concerns regarding the mis/dis information. The Department will add a quarterly newsletter in 2025.

- R6. The Elections Department should conduct a public poll of election integrity concerns by the end of 2024 and 2025 to measure any improvements in public perception and the success of the public outreach.

The recommendation will be implemented, in part. The Elections Department will poll the voters after the 2024 General Election; however, the next poll will not occur until after the next major election cycle in 2026.

- R7. By January 1, 2025, the Registrar of Voters should establish a volunteer public advisory board to help monitor election processes, make improvements, and coordinate public outreach/communication.

The recommendation requires further analysis. The Elections Department tried to establish a Voter Advisory Committee in 2022 and reached out to the Republican and Democratic Central Committees as well as members of the public. None of the groups or the public responded with any interest. In accordance with the Grand Jury's recommendation, the Elections Department will try again to establish a Voter Advisory Committee by December 31, 2025.