A Top to Bottom Review of Monterey County Elections Department

Summary:

An investigation was conducted due to numerous nationwide articles and news reports alleging either "hacking" or "rigging" of the recent Presidential election. The main concerns were: 1) possible fraudulent voter registration, 2) "rigging" of ballots onsite at the polling locations, or 3) "hacking" of the electronic voting machines via tampering of the balloting software. Furthermore, there was a general concern, nationwide, of potential manipulation by a foreign entity of the Presidential election this last November. Although there were no credible allegations of voter fraud in Monterey County. The Monterey County Civil Grand Jury (MCCGJ) chose to review, step-by-step, the county's election/voting process. Our areas of interest, in chronological order:

1) We began with an inquiry into voter registration; how are the voter registration records updated, and by whom and how? Can dead people vote, and can voters be registered in more than one state?

2) We followed this up with a thorough investigation of the precinct polling procedures; who is in charge of the polling places; and what procedures are in place to insure the security of the ballots. What ballots go into which ballot box and why? How are they delivered to be counted and who transports them?

3) How does the Monterey County Elections Department (MCED) count, secure and store both the ballots and electronic voting machines (DREs[1])? Who programs the DREs and are these machines susceptible to "hacking" both from domestic and international sources.

Background:

Monterey County has a population of 428,826 (2013) of these 185,786 are registered voters. During the past November election 73.80% of the registered voters cast a ballot, either by Vote by Mail or at their polling place. For the first time the MCED employed a two-step paper ballot collection process. The first wave of ballots cast at a polling place between 7AM until 1PM was picked up, transported and delivered in a sealed ballot box to the MCED for early tabulating. The second wave occurred after the close of the polling places at 8 PM. Each time, the ballots were transported by two clerks from each respective polling place to the MCED. This method insured the security of the voted ballots.

Investigative Methodology:

- Reviewed the state of California's voter registration database, VoteCal[2]

- Interviewed individual staff members of the Monterey County Elections Department

- Visited the MCED office to see the machinery used to vote, and the machines used to count the ballots

[1] Data Recording Electronic
[2] http://www.sos.ca.gov/elections/

- Attended both polling place inspector and clerk training classes

- Interviewed polling place inspectors and clerks

- MCCGJ committee members worked the polling locations or observed the voting process on November 8, 2016

- After the election, conducted interviews of additional staff members from MCED

- Researched and reviewed other California counties' methods for voting and counting ballots

- Searched the internet to have a better understanding of the various electronic voting machines on the market and the software used to run the machines

Facts:

1. VoteCal was implemented to provide a single, uniform, centralized voter registration database that meets applicable Help America Vote Act (HAVA)[3] of 2002 requirements. VoteCal's many functions improve service to the voters of California by:

   a) Connecting all 58 counties through VoteCal helps elections officials throughout the state accurately and efficiently maintain voter rolls

   b) Providing a publicly available website which will allow voters to register online

   c) Providing a single, official statewide database of voter registration information[4]

   d) Providing a building block that would allow more Californians to vote by mail. [5]

2. MCED purchased 430 Sequoia brand DRE's in 1998.

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[3] Help America Vote Act Pub.L. 107-252 signed by President Bush in 2002
[4] https://voterstatus.sos.ca.gov/
[5] LA Times, September 26, 2016

3. Polling place workers' training consists of a mandatory three-hour training class for all clerks and inspectors. Inspectors are required to attend an additional three hours of training. This rule applies annually to all clerks and inspectors, regardless of prior polling place experience.

4. Supplies received and signed for by polling place inspectors, include uncast ballots, inspector procedure manuals and three copies of voter rosters. One roster is the voter signature roster used to verify signatures, and the other two are non-signature rosters which may be used by non-polling place workers for reference throughout the election day. Additional election day supplies are delivered to each individual polling place by sworn election workers. These supplies include privacy voting booths, signage and electronic voting machines (DRE).

    Polling place inspectors have the option of setting up the privacy voting booths the evening prior or on the morning of the election. No other items, including the DREs, are allowed to be set-up prior to election day. All tamper-proof seals on the DREs must be inspected by the polling place inspector and one clerk prior to setting up the DRE. These seals must be inspected five more times during the polling hours and again at closing, to ensure that they have not been tampered.

5. On election day ballots may be cast in a number of ways:

    a. Voters arrive at the polling location to vote. They state their name to a clerk, who maintains the registered voter roster specific to that polling place. After the voters' name and address have been verified, they sign the roster and are issued a ballot. The voters take their ballots to a voting booth; mark their ballots, then return their marked ballot to another polling clerk, who, while witnessed by the

voters, and with the help of a privacy sleeve, drops the ballot into the regular ballot box.

b. Voters arrive at the polling location to drop of their "Mail in Ballot" in a sealed envelope. These ballots have been marked by the voters prior to arriving at the polling location. The ballots are placed in an envelope. The envelope includes an area that must be signed by the voter. The ballots are placed in a separate ballot box for further verification by MCED. Once verified, the ballot will be counted.

c. When Voters arrive at the polling location and they are not on the precincts' roster, which happens frequently, those Voters are never denied the right to vote, rather they are given a "provisional" ballot. This ballot will require scrutiny by MCED, thus it is dropped in a "separate" ballot box.

d. When Voters arrive at the polling location to vote and they are on the precinct roster, however, the roster stipulates that they have a "Mail in Ballot", these voters may also vote "provisionally". MCED will determine if the "Mail in Ballot" has already been received and counted.

6. All ballots are counted at the MCED by staff. The MCED uses a "Rule of Two" to make sure that no one person is left alone to tamper with any ballot. The ballots are delivered by two   staffers and they are counted by two or more staffers.

7. The Sequoia DRE's have a computer cartridge that holds the voting data. At the appropriate time, this cartridge is removed from the DRE, transported to election headquarters and inserted into the tabulation machine. The Sequoia DRE and tabulation machines have been in use for 19 years. At no time are any DREs and ballot tabulation machines ever connected to the Internet or any phone line.

8. Some polling places host more than one precinct. MCCGJ noticed in one instance that some voters experienced longer lines than others in the same polling location. In one instance, the one precinct had as many as 15 people waiting to vote and the other precinct had no one in line to vote.

Findings:

F 1. The VoteCal voter registration database is a helpful tool to aid each county elections department. It is impossible to have up-to-date information if the other 49 states do not share vital information regarding changes of address, death's, etc. The state of California could lead the charge to ask for increased collaboration between the states.

F 2. The Monterey County Civil Grand Jury found no evidence of "rigging" or "hacking" during the 2016 election process. Security measures by the MCED preclude the possibility of such a manipulation of the election results. Given the information determined during the investigation, the MCCGJ finds any assertions that "rigging" or "hacking" could or has occurred, to be unsupported by the facts and, therefore, false.

F 3. The MCCGJ did learn that the DREs, purchased in 1998, are very outdated and expensive to maintain. Replacement parts are almost impossible to locate or non-existent.

F 4. MCED does an excellent job in handling the ballots, securing the equipment and effectively tabulating the ballots. However, voter experiences at polling locations differ. Some have short waits, others much longer. The number of staffers in some

locations is adequate and those staff members are well trained and welcoming. In other locations, the wait to vote is much longer.

F 5.   MCED is in need of modern electronic voting machines, with up-to-date and secure software, and state of the art ballot tabulation modules.

F 6.   The MCED election-day process would benefit from polling place feedback from the voters, clerks, and inspectors. Feedback would improve the voting experience by illuminating issues such as long lines, any inadequately trained polling place staff, parking and accessibility issues.

F 7.   The MCCGJ found all the interviewed employees of the Monterey County Elections Department to be transparent with their answers and very knowledgeable concerning their duties and responsibilities.

F 8.   The MCCGJ recognizes the outstanding job performed by the MCED and the valuable service they provide to the voters of our county.

Recommendations:

R 1.   MCED to acquire new voting and tabulating machines.

R 2.   MCED staff initiate polling place surveys or online portal for voters, clerks and inspectors to provide feedback.

Request for Responses:

Pursuant to Penal Code section 933.05, the Monterey County Civil Grand Jury requests a response to all Findings and all Recommendations from the Monterey County Board of Supervisors.