

REBUTTAL TO COUNTY STAFF'S MARCH 17, 2022 REPORT

March 20, 2022

Regarding each point addressed by the county Staff Report, the Commissioners should also consider the following:

1. Demand and instruction on correcting current voter registration list to be accurate and up-to-date:
 - a. The intent of this item is to ensure the Registrar is verifying application information before entering it into the database. However, the Registrar's website states they enter information into the database first and then verify it. This is one of many reasons why our rolls continue to be fraudulent.
 - b. Legal Analysis and staff are incorrect. NRS and NAC provide for the verification of all registration requirements. Provisional ballots are to only be counted if the requirement of citizenship was satisfied by the date of the election (NAC 293.270, item 3). The Registrar stated at the April 13, 2021 BCC meeting that citizenship is not being verified.
 - c. The County should request that the DMV obtain a little more information in voter registration than they currently do in regards to vetting citizenship.
 - d. Maintaining voter rolls partly involves knowing who has opted-out of receiving a mailed ballot (not to be confused with a sample ballot, which is a separate out-opt program). The county would do well to articulate cut-off dates for opting-out and to provide voter outreach in anticipation of the cut-off dates. Call it the Save The Trees Voter in-person polling program. (County touts electronic ballots as good for the environment, so why not in-person voting?)
 - e. USCIS SAVE program:
 - i. The county states: "for individuals not going through the immigration process status would not be included in the system".
 1. Implies county is enabling registration of non-citizens.
 - ii. The county states: "information required does not match what USCIS SAVE uses".
 1. County and the DMV do not apply equal verification methods between voter registrations and issuance of IDs. In fact, DMV denies any responsibility in the registration of voters, but people do register through the DMV nonetheless.
 2. The system in place for a presidential race allows for a non-citizen to come into Nevada and register to vote and vote on the same day with no ID and only a utility bill or paycheck to verify their eligibility. This is ripe for fraud. Clark County had over 24K new same-day registrations in the 2020 general. Washoe had over 4K.
 3. The system in place for non-presidential races (2022) is not beholden to the out-of-state, no ID voter in a presidential race. Hence, there is no restriction on county to take advantage of the SAVE program that is designed to identify people of foreign origin and their legal status.
 4. Other states use SAVE. (Arizona, Colorado, Florida, Georgia, N. Carolina, Virginia) And in fact, Nevada and Washoe County use it too, just not for voter verification. See SAVE NEVADA list of agencies.
 5. ERIC is not reliable. SAVE is a benefit but is only one part of the equation. Vital Records is the most accurate source of dates of birth and death.
 - f. Assessor's office:
 - i. County states: "individuals can reside where their business is housed".
 1. Exactly the point and the Assessor would know best, or how else can anyone weed out a bogus registration in a far-away precinct, or even one in Reno? There are twenty-six persons registered to vote at the Sasquatch Tavern & Grill in Verdi.
2. Use of Washoe County residents as poll workers:
 - a. For the 2020 primary and general, county hired 886 personnel (EAV Survey). Temporary staffing was used:
 - b. Primary workers were 328, to which 95% was county-sourced, equaling 16 temporary staffers;
 - c. General workers were 558, to which 98% was county-sourced, equaling 11 temporary staffers
 - d. The ROV and County have recently approved \$644K to hire temporary staffers, tapping firms out of Las Vegas and West Palm Beach, Florida;
 - e. If these numbers are correct, the cost per temporary staffer is incorrect; and/or
 - f. Is indicative of the fact that many Washoe citizens who've applied to work the election and were not hired with no explanation.

- g. County has stated that long shifts in the 2020 elections hampered local hiring and was a source of turnover, leading to the need to hire temporary staffing. Solution is to a) allow for shorter shifts, requiring more hires, and b) give election workers a pay raise up to \$15/hr, or as much as county can afford.
 - h. County assertions that shifts will double costs is not accurate because it is the same cost split between two workers.
 - i. Shifts are required for unabated counting of ballots after polls close.
 - j. Analysis of labor requirements shows a minimum 972 workers needed for 2022. Costs at current pay rates is roughly \$1.51 million. Going to \$15/hr for most workers raises the cost to \$2.23 million, gross estimate. An increase of \$724,000.
 - k. County will recoup some costs through sales tax revenue when these local hires buy groceries or gas with their election pay, or gamble at the casino.
3. Equitable and fair opportunities for observation:
- a. The county is not in compliance with NRS 293.363 as counting began 15 days before election day and stopped daily. The election also was not conducted in front of any meaningful public observation.
 - b. R098-21A oddly does not mention “board rooms” such as an adjudication board that is sequestered or an Accuracy Certification Board, as another example. There are many boards and so “boards” should be adopted by County in the conduct of our election with respect to any restrictions on public viewing.
 - c. There is a distinction to be made between John Q. Public from off the street and one that is a known, background-checked, bona fide party rep that is best referred to as a credentialed observer. A higher level of trust and respect should be provided these individuals. And since they are not the average public, R098-21A does not apply.
 - d. R098-21A rests partly upon other recently enacted laws that favor vote centers over precinct polling. U.S. Supreme Court has ruled out-of-precinct polling is discriminatory. (<https://www.westernjournal.com/supreme-court-rules-favor-election-integrity-upholds-az-election-laws/>)
 - e. R098 forces an unconstitutional restriction on observance because vote centers dissuade the public from outside precincts from attendance which is just as discriminatory as having to vote in an out-of-precinct vote center. The solution is not more mailed ballots, either.
 - f. Washoe County needs more in-person polling locations, at least double, and with emphasis on elderly and disabled clusters of voters. That would be most compliant with federal laws relating to disabled and seniors and veterans.
4. No objection to Washoe County limiting private grants and/or donations or matching grants and the like to \$2,500 per entity per year. However, that number is arbitrary and best practice is to deny any outside influence, even if it's only \$2,500.
5. This item is too vague to have any meaning.
6. Quarterly reporting of “measures and improvements thereto, used to ensure accuracy, reporting, purity of elections”, is not something that has to be updated so frequently. Rather, the public has a right to know of inaccuracies and things that shed light on the purity of elections such as numbers of non-delivered ballots, or numbers of voter registration challenges as two examples. The issue goes to a concerted lack of transparency on behalf of county.
7. Point 7 is a hybrid of ballots and a reduction of number of voting machines:
- a. Regarding ballots, the design will have a carbon copy attached, which is not unique in the nation, embedded fibers and various other features that cannot be disclosed for security reasons. You understand. Discounting the new ballot proposal based on a mismatch of terms is not a valid argument to deny passage. You're basically saying you don't want the most secure, you want okay secure.
 - b. Timeliness of a change in ballot stock is an issue that could interfere with the primary, however, there is still time to put such changes in place for the general and for future elections.
 - c. Reduction of number of voting machines to an ADA-minimum compliance is good policy:
 - i. The law says: “voting must occur by printed ballot or by any other system approved by the SOS or authorized by law”. Paper ballots are primary.
 - ii. Everyone already has access to polls and a mailed ballot and voter assistance, too. They can register online. They can vote by email or through NVease.gov, and so the question really is, how much money is the county wasting on designing auditory ballots and use of the Auditory Tactile Interface (ATI) or designing a hands-free ballot using the Sip ‘n Puff?
 - iii. ATI was used three times in 20-years according to one county staffer. County needs to disclose numbers as to how many times the ATI or Sip ‘n Puff or voter assistance was used in the 2020 primary and general and where, and then we will know better how money is being wasted putting equipment where it doesn't well serve the community. Really, how many blind people

are traveling to a vote center? They can get a braille ballot if they want. There are services to help them. Can you see how discriminatory electronic voting is?

- iv. Maintaining voting solutions for disabled persons at county offices is a practical one that was done successfully in the 2020 primary. Unfortunately, the solution is an elaborate electronic one, without consideration for simpler, more affordable ones such as voter assistance. (2-person, not-same-party verification minimum. A family member or guardian present if disabled.)
 - v. Taxpayers have already spent money providing voters with a paper ballot. It is irresponsible to spend more resources on unnecessary and redundant electronic ballots.
 - vi. Cost savings are immense though indeterminate without more information from the county. Eliminated will be over 1,100 ICX machines, Audio Studio, all but one Election Event Designer, and much more.
 - vii. County knows well where the sick and elderly live. NRS 293.2735 provides for a polling location per 100-elderly in a community such as Del Webb in Somerset. This law can be expanded upon to include more locations for the elderly and also for the disabled but with a lower threshold of say, 5 blind people, as a ballpark figure. Greater analysis of demographics is required to better serve the needs of the elderly or disabled persons, particularly the vulnerable voters.
 - viii. Best practice to enable greater voter turnout is to have more polling locations and fewer vote centers. And since the U.S. Supreme Court has ruled vote centers discriminatory because they require a poor or minority voter to vote out-of-precinct, the resolution would do well to address the issue of the need for more polling locations, particularly in light of the raise in precinct populations from 3,000 to 5,000 voters and long wait times on election day. (71 voters/hr per location in the general)
8. Failure to ensure the most secure voting ballots:
- a. Some documents are best sent via certified mail and ballots are one of them.
 - b. Agreed that law indicates a non-delivered mailed ballot must be destroyed. It's a terrible policy, total waste when the ballot could be forwarded. Maybe the recipient does get their forwarded ballot. That's a good thing, and their address is now made current. That's worth the extra cost, and it keeps waste and pollution to a minimum. Do it for the planet if nothing else.
 - c. What's the state going to do if the county chooses to save money and track down movers at the same time?
 - d. The policies leading to ballot destruction have caused immense waste, which is exacerbated by the automatic mailing of ballots. We never had such problems when in-person voting was the norm and mailed ballots were opt-in.
 - e. In Staff's fiscal impact, the cost of mailing one certified letter is without regard to bargain pricing as a government entity. The per junk mail price quote of \$0.26/piece is a good place to begin discussions of how to avoid wasteful spending. USPS posted price for a "mailed receipt" is \$3.05 (\$1.85 email receipt) for a maximum total cost of an anticipated 320,000 mailed ballots of \$976,000. This increase in the cost of mailed ballots is offset by current budgeted amounts and savings down the road by helping to clean and properly maintain voter rolls, so the county doesn't have to send out so many ballots to bogus registrations, fake addresses, dead people, and the like.
 - f. If nothing is to be changed ballot-wise in the 2022 primary, at least allow the mailed ballots to be used as in-person ballots. If a legal voter arrives to vote in person, let them use the mailed ballot as an in-person ballot. The stealth ballot can be used later if there is no time to implement in the primaries, by using the mailed ballot, there would be no spoiled ballot to dispose of, they would simply use the same ballot they were mailed, but in person. The savings in cost and time would be immense.
9. Ballot envelopes scanned as "received" at intake stations connected to in real-time to voter database:
- a. A mailed ballot received has its sealed envelope optically scanned and then stored until time to be opened and counted. Upon intake, the mailed ballot-in-envelope is to also have a serial number printed on the envelope to further secure the chain-of-custody as that mailed ballot is scanned, stored, opened, etc. The resolution could better reflect this concept.
 - b. Whether casting a ballot electronically or by paper ballot, voters need to be "checked in" at vote centers the same way. Voter records need to be updated in "real-time" that their ballot has been received at that location, on that date, at that time. This was not done during the 2020 elections. Ballot envelopes were scanned at the drop boxes but the information was not being sent to update the voter records from the dropbox locations. Ballots were not entered as received until hours later. This allows multiple ballots to be

- cast for one voter without any way of determining which one was cast by the actual voter or providing ample notice to the voter of the issue in order to get it resolved.
- c. The County already connects to a central signature verification database. The resolution forsakes signature verification in lieu of government-issued IDs, and that's a great thing! A Signature should merely denote that a voter has cast a ballot.
10. Only Washoe citizens should work the elections and if that is adhered to then checking the marital status with other county agencies is a no-brainer:
 - a. Legal counsel has attempted to manipulate the intent of ensuring married couples are not scheduled together. It is very obvious the intent is not to discriminate against married poll workers. It is to address a scheduling issue only. Much like medical forms will ask for the name of a spouse, the poll worker applications can include a line for the name of spouses for scheduling purposes. Spouses can work in the same polling location, they just can't be on the same managing team, intake team, ballot pickup team, signature verification team, etc.
 - b. The county is incorrect in its assurance of compliance. Married couples were employed as a team for 50% of the ballot collection teams and co-managing at least 4 polling locations. Video footage will also show there were no teams in the ballot counting area. There were single individuals in every processing area.
 - c. As a side note, the Legislative Commission approved "reasonable effort" to keep teams bipartisan or better, with Democrats overriding Republicans' demands for a mandated solution. A "reasonable effort" is just a way out of enforcing bipartisan teams.
 11. Personnel recommendations by a Central Committee should be given preference in the hiring of election workers. This is a fair and balanced approach to keeping the playing field level.
 - a. The election worker application can provide a checkbox for the applicant to mark which party they have been vetted through. This improvement can be easily added to the paperwork already in place.
 12. Two shifts of polling workers were required until recently. At least two shifts are required for counting and such. The bulk of labor is expended in the counting rooms. Good that you were able to answer your own proposal. No objection to this item or the fiscal impact.
 - a. Shifts are required for unabated counting of ballots after polls close.
 - b. Adding shifts will solve labor shortages and turnover during elections.
 13. Require a Sheriff Deputy's presence at polling locations:
 - a. County is mandated to provide safe and secure elections.
 - b. County is empowered to place a deputy or police officer at any polling location and/or offer private security, too.
 - c. The sheriff is empowered to deputize persons for the conduct of elections.
 - d. A sheriff or county designee is mandated to gather ballots at remote locations and deliver them to the ROV. Should be "sheriff and county designee". This is a chain-of-custody issue.
 - e. A guard should be present at all locations during all hours of operation and should not be dismissed or sent home early by anyone other than the Registrar. If for whatever reason, a guard is dismissed or sent home early, Registrar should immediately disclose that information to the public and commissioners.
 - f. A guard that witnesses any sort of infraction, be it from an observer, or from an election worker who happens to find missing ballots at the last minute, as one example of worker misconduct, is required to file a report of the incident and to deliver it to the Registrar who should immediately disclose that information to the public and commissioners. A report form shall be designed and made available.
 - g. Along with the above reporting requirement, guards should be instructed on what to look for, how to respond, when to eject someone, and so on.
 - h. Regarding fiscal impact, there are many retired cops, veterans, and others who are held in public trust, who would be of great help should they be hired (unarmed) to deliver a safe and fair election on behalf of their community, and at better rates than an overworked armed deputy on the force. This will take significant pressure off the strained Sheriff's Office so it can focus on fighting crime. 68 guards are required, estimated to cost \$146,000. (This does not cover monitoring between close and open of early polls.) If we use volunteers, active or retired ex-military, law enforcement, etc, this cost would be \$0.
 - i. Funding for security is available from the state based on the presumption that security is to monitor and control observers and keep them from interfering in the conduct of elections. Monitoring of election workers is a bonus.
 14. Though counting is public and continues without adjournment, the public's right to meaningfully observe is being restricted and suspicious breaks in the counting occurred in 2020.
 15. Hand-counting of ballots:

- a. County states: "There is no statutory procedural process that is approved to ensure a fair and balanced counting of ballots".
 - i. County has basically said it can't or won't ensure a fair election.
 - ii. Not clear what "balanced" means.
 - iii. The law says that recounts require ballots be recounted using the same method as originally counted, which can be a mix of batch scanning and hand-counting, and machine-assisted adjudication and non-machine adjudication. Regardless of the method, it's all based on a verifiable paper trail. Or why else would we have 1,129 ICX voting machines with the VVPAT in the 2020 general? Paper ballots are the surest form of protecting chain-of-custody. And hand-counting of those ballots is the surest form of tallying votes.
 - iv. Nye County on Monday, March 15, voted to only vote by paper ballot and count ballots by hand. So, it can be done.
 - b. LCB states that hand-counting of ballots "may be in violation of the Voter's Bill of Rights". The insinuation by LCB that hand-counting of ballots, which has been done since our country's first election, is now illegal is insidious and goes to the blatant power grab by the state over local governance that is occurring during the interim session of the legislature and without voter approval.
 - c. The statewide standard was and is paper ballots.
 - d. Contrary to that, the state has fractured the standard between in-person voting, automatically mailed ballots, remote electronic voting, and soon-to-be self-printed ballots.
 - e. Any suggested violation of the Nevada Voters Bill of Rights in regards to "uniform, statewide standard for counting" needs to address the differing processes for counting ballots and, in particular, provisional ballots for which Washoe County was the only one to incorrectly process those electronically. Moving Washoe County to all paper ballots counted by hand is aligning the counting to a more uniform standard, as well as aligning with the standard in other counties (Nye, Lander, and Lyon) and states (New Hampshire, Arizona, Colorado, Missouri, Washington, and West Virginia (<https://apnews.com/article/2022-midterm-elections-new-hampshire-nevada-donald-trump-elections-3f6785364fd52655cbd034f0708c6f0f>)).
 - f. Provisional ballots have always been paper ballots. The intent of this item was to ensure Washoe County returns to the proper form of a provisional ballot. Provisional ballots must not be cast electronically according to the Secretary of State. Provisional ballots are to be kept separate from other ballots and not counted until the Saturday after election day (NRS 293.3085).
 - g. Hand-counting of ballots will create shovel-ready jobs, mitigate the fiscal impact of hiring more workers, and help keep fraud to a minimum, which is priceless.
 - h. The power of government stems from the people and we are given options to chart our future that are protected under the Constitution. The solution is tried-and-true: a return to a single statewide standard of hand-counting of paper ballots.
16. R099-21A says certain ballot envelopes are printed with color and handled separately from other ballots. Glad you could quantify the results which you failed to do with regard to AB 121 and AB 321 and R099.
 - a. Fiscal Impact from the DA's Office is grossly overstated in that there are not 65 in-person polling locations. A drop box is not in-person voting.
 - b. There is currently a print-on-demand solution that the county uses. Print-on-demand is strictly an in-person voting service and has nothing to do with envelopes. The argument posed by the DA's Office is apples and oranges.
 - c. True fiscal Impact to be determined.
 17. The DA Office's interpretation is incorrect because the county does have the authority to not consign with ERIC. County can send ERIC data, but it doesn't have to rely on ERIC's corrupt database because the county maintains its own data.
 - a. ERIC needs county more than county needs ERIC. ERIC is bad for Washoe County and Nevada and represents more of the state's power grab. Louisiana dropped Eric earlier this year. Other states have been successfully sued over ERIC because it fails to adequately keep voter rolls clean and up-to-date and that's because ERIC relies on SSA, which admits its records are not accurate, and other weak sources. (ERIC is behind a huge scandal in Wisconsin if you watch the news.) The County can do better and for which this resolution is a solid path forward. Tell state and ERIC to pound sand.
 18. We want timely cleansing of rolls, which the county seems agreeable to on a monthly basis. How the cleansing is done is up for discussion and as this rebuttal explains and further proposes. Do not approve.
 - a. The system and method of challenges to voter registrations are cumbersome at best and with a small 5-day window of opportunity to file challenges. Considering people are constantly dying, moving,

- changing names (Mr. Lucey), etc., it behooves the county to allow for challenges at any time right up to the day of the election.
- b. A policy should be adopted whereby, based on *prima facie* evidence such as a county GIS map, verified by the Assessor, that shows no address, empty lots, open prairie, and the like.
 - c. In conjunction with mapping solutions, the county should adopt a batch challenge policy because there is a lot of dead, moved away, fake addresses, and so on. Is the county prepared to receive thousands of paper challenges in one day? Be prepared or find a better solution as is proposed herein.
19. The ROV is mandated to query voters in February to ensure their address is valid. This is how the ROV knows who is active and who is inactive so they know to whom they may send a ballot. There is no common sense to querying a voter based on a presumption that they may become inactive if they don't vote. The logic county is using is elusive. Do not approve.
- a. Suggest querying at 6-month intervals.
20. LCB states: "it is likely that Washoe County could require the preservation of such materials for 10 years". However, the DA's Office states: "Simply using a blanket approach of 10 years would conflict with these state law rules. It would also amount to an unapproved retention schedule which would also violate the requirement that the county uses the default schedule or first get the approval of a specific schedule from the state. For these reasons, the county's power to adopt its own blanket retention schedule for election records is doubtful and therefore presumed not to exist."
- a. The DA Office's interpretation is flawed. In fact, their analysis did not find conflict in law, merely a presumption based on records scheduling and a policy of destruction after 22 months. The 22-month rule is meant as a minimum requirement, not as a ceiling. Storage and retention costs are small and so there is no impediment to keeping certain records longer so they can be studied later for whatever reason.
 - b. DA's Office appears to recommend county get state approval of a revised records schedule. That's not earth-shattering and is perfectly within their purview.
21. Addendum Item: Include as an addendum to the resolution a policy on "ideal" populations currently being used by the state for district reapportionment:
- a. County must demand that state recognize local governance and the need to have citizen committees in the setting of ideal populations and the drawing of district boundaries based on ideal population figures.
 - b. County must demand that the state explain how they arrived at ideal population figures that, for example, grant Vaughn Hartung an extra 5,361 persons, most of whom vote.
 - c. County should engage the public in a discussion about the concept of ideal populations and the convening of a citizen committee for the reapportionment of districts.

The fiscal impact per this rebuttal does not recognize savings that offset costs, nor state grant funding. The fiscal impact per this rebuttal is estimated to be:

	Additional Costs
Item #2	\$724,000
Item #8	\$976,000
Item #13	\$146,000

Note:

Item 2 and item 13 could be \$0 impact if we use volunteers

Item 8 could be significantly cheaper if rates are negotiated, these rates are based on what's available to the public.

The offset of costs from removing most of the machines alone would save the taxpayers millions of dollars.

Additionally, there are 6 or 7 items on the resolution, argued by Mr. Edwards that are "Not in the purview" of the BCC, most are due to the "matter of local concern" issue. The only issue on the "matter of local concern" is that it may have a "significant effect or impact" and there is no good definition of "significant" and It's not defined as to whether it's a

positive or negative impact. We additionally ask he defines significant and how they can decide that "It almost certainly is not" which is extremely ambiguous.

Thank you for the opportunity to rebut the county's reply to the Election Reform Resolution.

Sincerely,

Robert Beadles

P.S. To address the gratuitous analysis of Dillon's Rule by the unelected Asst. District Attorney Nathan Edwards, I provide the following comments:

The Will of the People is the basis of all government.

The People have a Constitutional right to pose grievances and have them adequately answered or resolved pursuant to law.

The legal reply to Asst. D.A. Edwards' from the law firm of Jennings & Fulton is thus:

RE: Dillon's Rule Memorandum

Assistant District Attorney Nathan Edwards provided a Memorandum regarding various items, regarding Item 7, it is clear that there is a misunderstanding of the request. The District Attorney's office merely relies on the authority of whether or not Washoe County can implement stealth ballots, it can. The District Attorney's office relies on "Dillon's Rule" and states that, "if there is "fair or reasonable doubt" about the existence of the power, it is presumed not to exist."

NRS 268.0035(1), Nevada's modified version of Dillon's Rule, limits an incorporated city's powers to those expressly granted to it, those necessarily implied from an express grant of power, or those "necessary or proper to address matters of local concern." *Endo Health Sols., Inc. v. Second Jud. Dist. Ct. in & for Cty. of Washoe*, 137 Nev. Adv. Op. 39, 492 P.3d 565, 567 (2021). Surely, ensuring voting integrity are matters of local concern. Voters of Washoe County have addressed complaints during the 2020 General Election, specifically, ballots used. Moreover, Nevada has since adopted its Voters' Bill of Rights, NRS 293.2546. Specifically, under NRS 293.2546, the legislature hereby declares that each voter has the right:

1. To receive and cast a ballot that:
 - a. Is written in a format that allows the clear identification of candidates; and
 - b. **Accurately records the voter's preference in the selection of candidates.**
5. To return a spoiled ballot and is entitled to receive another ballot in its place.
9. To have non-discriminatory equal access to the election system, including, without limitation, a voter who is elderly, disabled, a member of a minority group, employed by the military or a citizen who is overseas.
10. To have a uniform, statewide standard for counting and recounting all votes accurately.
11. To have complaints about elections and election contests resolved fairly, accurately, and efficiently.

Item 7 specifically addresses complaints about the 2020 General Election to ensure the 2022 Primary Election is conducted fairly, accurately, and efficiently. Moreover, voters of Washoe County as specifically entitled to, a “uniform, statewide standard for counting and recounting all votes accurately.” Carbon copies are uniform and will ensure fairness, accuracy, and efficiency.

This is not simply a matter of confusing terms regarding stealth ballots or carbon copies, which is surely what the District Attorney’s office sought. It is about transparency. Item 7 is clear and unambiguous, and will surely ensure fairness and accuracy during the 2022 Primary Election.

God Bless America