

IN THE SUPREME COURT OF THE STATE OF NEVADA

AMERICAN CIVIL LIBERTIES
UNION OF NEVADA, a domestic
nonprofit corporation;

Petitioners,

vs.

THE COUNTY OF NYE, a
governmental entity; and MARK
KAMPF, in his official capacity as
interim County Clerk,

Respondents.

Case No.:

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**EMERGENCY PETITION FOR WRIT OF MANDAMUS
PURSUANT TO NRAP 21(a)(6)**

IMMEDIATE ACTION REQUESTED BY NOVEMBER 14, 2022

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NRAP 26.1 DISCLOSURE

In accordance with NRAP 26.1, the undersigned counsel of record for Plaintiff ACLU of Nevada certifies that there are no known interested parties other than the named Plaintiffs, and that there are no remaining undisclosed parties or individuals that must be disclosed pursuant the NRAP 26.1.

AMERICAN CIVIL LIBERTIES UNION OF NEVADA

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INTRODUCTION

Petitioners seek a writ of mandamus enjoining Respondents Nye County and interim County Clerk Mark Kampf from pursuing an unlawful hand count of ballots cast in the November 8, 2022 General Election.

Nye County has counted all ballots via machine and has now begun to count all the ballots again in an unprecedented, last-minute “parallel” hand count process. Nevada law permits no such process. Moreover, because Nye County has begun tabulating votes via machine, either its hand count is an impermissible revision of its existing plan or it is effectively a “recount” or “audit.” Neither would comply with Nevada law.

To the extent Nye County attempts to frame its “parallel” counting effort as part of a pre-approved process, such a drastic, belated change flouts the law’s requirements and threatens voters’ express rights under the state Constitution to security and accuracy. *First*, the hand count plan was not submitted by the deadline imposed by Nevada statute and approved by the Secretary of State as required by law to ensure the integrity and security of the State’s elections. *Second*,

Respondents have moved all ballots and have begun counting them at a location not approved as a central counting place pursuant to a plan submitted to the Secretary of State prior to the April 15, 2022, as required by Nevada law. This last-minute move with no identified transport security plan will further undermine security and integrity.

Nye County's “parallel” counting plan, moreover, cannot be, and would not meet the statutory requirements for, a “recount,” “audit,” or “contest”--the only instances in which Nevada law provides for a second count of ballots after the close of polls on Election Day. Unless enjoined by this Court, this hand count will set a dangerous precedent for future elections by encouraging local officials to make up and implement their own vote counting processes that violate voters’ constitutional right to an accurate election “as provided by law.”

In sum, these legal violations create an unprecedented departure from safe, accurate, and transparent democratic voting processes used by communities across Nevada and put the integrity of the General Election in peril, causing irreparable harm to Nye County voters and Nevada voters more broadly. Judicial relief is warranted to preserve Petitioners’ constitutional rights to a “uniform, statewide standard for counting and

recounting all votes accurately as provided by law.”¹ and “[t]o have complaints about elections and election contests resolved fairly, accurately and efficiently as provided by law.”²

The urgency of this situation, the lack of any other emergency remedy available, and the statewide importance of these issues warrant this Court’s immediate attention. This Court should put an end to Nye County’s repeated attempts to experiment with voters’ ballots during this election outside the bounds of Nevada law and grant this petition.

ROUTING STATEMENT

This case is presumptively retained by the Supreme Court as it presents issues involving ballot or election questions. *See* NRAP 17(a)(2). Additionally, it raises questions of statewide public importance regarding the administration of this year’s General Election.

A writ of mandamus may be issued by the Court “to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station; or to compel the admission of a party to

¹ Nev. Const. art. 2 § 1A(11) (emphasis added).

² Nev. Const. art. 2 § 1A(11).

the use and enjoyment of a right or office to which the party is entitled and from which the party is unlawfully precluded by such inferior tribunal, corporation, board or person,” when there is no plain, speedy, and adequate remedy in the ordinary course.³ The Court will generally exercise its discretion to consider an extraordinary writ where an important legal issue that needs clarification is raised or to promote judicial economy and administration.⁴ This Court has the authority to grant the writ relief requested herein pursuant to Article 6, Section 4 of the Constitution of the State of Nevada and NRS 34.330.

STATEMENT OF THE ISSUES

1. Does Nye County have authority to violate the Nevada Constitution by performing a “parallel” hand count process that counts all Nye County votes a second time, after the machine tabulation is complete, without establishing that such a process is either a valid

³ NRS 34.160; NRS 34.170.

⁴ *State Office of the Attorney General v. Justice Court of Las Vegas Township*, 133 Nev. 78, 80, 392 P.3d 170, 172 (2017).

“recount” pursuant to NRS 293.403 or an “audit” pursuant to NRS 293.394 or NRS 293.247?

2. Pursuant to NRS 293B.354, does Nye County’s relocation of all ballots to a location that has not been designated as a central counting place violate Nevada law?
3. Pursuant to NRS 293.247 and NAC 293B.040, does Nye County’s parallel hand count process violate voters rights to security and accuracy?

STATEMENT OF FACTS

In February 2022, the Office of the Nye County Clerk issued its ballot county plan for 2022 elections.⁵ Nye County planned to use ImageCast brand voting machines and scanners, and “software and firmware certified by the Secretary of State for use in Nevada,” to tabulate votes at the Tonopah Clerk’s Office and Pahrump satellite office as it had in prior elections.⁶

⁵ Office of the Nye County Clerk, Plan for Security of Ballots, Result USBs and VVPATS for the 2022 General Election, Petr’s App., Vol. 1 at 1–3.

⁶ *Id.*.

The Nye County Commission took a different view, however. That spring, the Commission voted to recommend hand-counting ballots, relying on witnesses who alleged that the certified voting machines could be subject to hacking and outside influence and disregarding County Clerk Sam Merlino’s detailed account of the security measures already in place to prevent and detect such tampering.⁷ Facing pressure to conduct an unprecedented, unnecessary and ill-conceived hand count, Ms. Merlino resigned.⁸

On September 6, 2022, the Nye County Clerk’s office—now helmed by interim Nye County Clerk Mark Kampf—officially announced its intention to hand count all ballots during the 2022 General Election.⁹ The announcement indicated that Nye County will “conduct a parallel electronic tabulation of the voted paper ballots along with a hand count of those ballots.”¹⁰ The

⁷ See Sam Metz, *Election conspiracies grip Nevada community, sowing distrust*, Associated Press (Jul. 29, 2022), Petr’s App., Vol. 1 at 6–12.

⁸ *Id.*

⁹ “Clerk’s Office Announces Paper Ballot and Hand-Count Procedures for General Election”, Nye County Press Release, Petr’s App., Vol. 1 at 27.

¹⁰ *Id.*

announcement also stated that the hand count process will be performed by “citizen volunteers who are registered voters,” and that the hand count will be conducted Monday through Friday from October 25, 2022 and continuing through November 10, 2022.¹¹

On September 20, 2022, Mr. Kampf delivered to the Nye County Board of Commissioners a “[p]resentation regarding the paper ballot and hand-count process to be implemented for the Nye County General Election in November 2022.”¹²

The ACLU of Nevada and an individual voter sought, and this Court issued, a writ of mandamus barring, among other things, Mr. Kampf from conducting a hand count involving oral announcements

¹¹ *Id.*

¹² Nye County has not posted a transcript or minutes from the Board of County Commissioners meeting on September 20, 2020. The only public record to which Petitioners may cite, therefore, is a video recording that is available on the Nye County website. However, Petitioners have provided notations of the times in the video at which statements are made that are supportive of Petitioners’ allegations, so that the Court or staff may skip ahead to these moments in the video. Nye County Streaming Media Archive, *Board of County Commissioners Regular Meeting* (Sept. 20, 2022), http://nyecounty.granicus.com/ViewPublisher.php?view_id=4 (Presentation begins 1:48:10 and ends at 2:08:50); *see also* Petr’s App., Vol. 1 at 28–39.

of each vote before the close of the polls on November 8.”¹³ Mr. Kampf proceeded to begin counting early votes on October 26 and 27.¹⁴ After further motion practice, this Court clarified its order that “observers may not be positioned so as to become privy to the ballot selections and room tallies,”¹⁵ and the Secretary of State ordered Mr. Kampf to stop the count.¹⁶

¹³ *ACLU of Nev v. County of Nye*, No. 85507, 2022 WL 14285458, at *4 (Nev. Oct. 21, 2022).

¹⁴ See Gabe Stern, *Nevada officials begin unprecedented hand count of ballots*, Associated Press (Oct. 28, 2022), <https://apnews.com/article/2022-midterm-elections-nevada-voting-las-vegas-617fc7a37e9cd8d1a512e4fb7be77574>; see also Petr’s App., Vol. 1 at 40–45.

¹⁵ *ACLU of Nev v. County of Nye.*, No. 85507, 2022 WL 14285458, at *2 (Nev. Oct. 21, 2022).

¹⁶ Ken Ritter, *Hand vote count stops, but Nevada county vows to try again*, Associated Press (Oct. 28, 2022), <https://apnews.com/article/2022-midterm-elections-nevada-voting-las-vegas-11d01766ce66e17474f001dcf19ed6d7>; see also Petr’s App., Vol. 1 at 46–51. Because Mr. Kampf began counting ballots using his previously announced procedure before all votes were cast, this Court is afforded a window into what that dangerously flawed process will look like. Each of the two groups of ballot counters was able to work through approximately fifty ballots in the course of three hours. The counters repeatedly found that their tallies did not match one another, and spent substantial time conducting recounts. See Gabe Stern, *Nevada officials begin unprecedented hand count of ballots*, Associated Press (Oct. 28, 2022), <https://apnews.com/article/2022-midterm-elections-nevada->

On November 4, the Secretary of State wrote to Nye County rejecting its proposal to begin the hand count citing concerns relating to the integrity of the election. In response, Mr. Kampf’s office promulgated a further-updated proposed set of “Precinct Hand Count Procedures.”¹⁷ These updated procedures do not substantially differ from prior sets of procedures the Secretary of State found insufficient to protect the security of the election.¹⁸

Ballots from the general election in Nye County have largely been tabulated via the standard machine process.¹⁹ However, on November 9, 2022, Nye County announced it would again re-engage in a hand count starting on November 10, 2022, this time at the Valley Electric

voting-las-vegas-617fc7a37e9cd8d1a512e4fb7be77574; *see also* Petr’s App., Vol. 1 at 40–45.

¹⁷ Precinct Hand Count Procedures, Updated 11/4/2022, Petr’s App., Vol. 1 at 71–85.

¹⁸ Precinct Hand Count Procedures, Updated 11/2/2022, Petr’s App. Vol. 1 at 52–65.

¹⁹ “Hand-count to restart Thursday; Election Day and Early Voting results released,” Nye County Press Release, Petr’s App., Vol. 1 at 92.

Conference Center rather than at the approved counting locations.²⁰ Kampf indicated that he intended to have election workers hand counting ballots through the weekend, and according to the process they intend to follow, they will count all ballots a second time.²¹

REASONS WHY THE WRIT SHOULD ISSUE

I. Mandamus Standard

A writ of mandamus may issue to compel an official to perform a legally required act.²² The writ may issue “in all cases where there is not a plain, speedy and adequate remedy in the ordinary course of law.”²³ However, even when a legal remedy is available, this Court may exercise its discretion to consider a petition for a writ of mandamus when the petition presents a legal issue of statewide importance that needs

²⁰ *Id.* (“Other than dropbox and mail ballots received on Election Day, all Early Vote and Election Day ballots were tabulated by 11:59 PM on November 8th”).

²¹ *Id.*

²² NRS 34.160; *see also* *ACLU of Nevada v. County of Nye*, No. 85507, 2022 WL 14285458, at *2 (Nev. Oct. 21, 2022); *Sw. Gas Corp. v. Pub. Serv. Comm’n of Nev.*, 92 Nev. 48, 52, 546 P.2d 219, 222 (1976).

²³ NRS 34.170; *ACLU of Nev.*, 2022 WL 14285458, at *2.

clarification, and when principles of judicial economy and public policy weigh in favor of considering the petition.

A writ of mandamus is an extraordinary remedy that falls within this Court’s sound discretion.²⁴ The Court has previously exercised its discretion and granted a petition for a writ of mandamus to prevent unlawful hand counting procedures, given (1) voters’ “compelling interest in the way elections are run”²⁵; (2) their constitutional right to “have complaints about elections and election contests resolved fairly, accurately and efficiently as provided by law”²⁶; and (3) the effects that unlawful election procedures at the county-level have on statewide election contests and ballot matters, which can “threaten the validity of that election process, thus impacting the citizens of this state in general.”²⁷

²⁴ *ACLU of Nev.*, 2022 WL 14285458, at *2; *Segovia v. Eighth Judicial Dist. Court*, 133 Nev. 910, 911, 407 P.3d 783, 785 (2017).

²⁵ *ACLU of Nev.*, 2022 WL 14285458, at *2.

²⁶ Nev. Const. art. 2 § 1A(11).

²⁷ *ACLU of Nev.*, 2022 WL 14285458, at *2.

A writ of mandamus is equally appropriate here. Respondents have implemented their own unprecedented, “parallel” hand count of general election ballots, despite lacking any authority to do so under Nevada law, and in direct contravention of several express statutory and regulatory requirements designed to protect the election’s security and accuracy. Respondents are conducting their hand count at an off-site location, with no assurances of ballot security, with no protections against ballot alteration, and without using the transparent, bipartisan process required by state law. If allowed to proceed, Respondents’ hand count procedure will engender public confusion and present a serious threat to the security of voters’ paper ballots and the integrity of Nevada’s general election. Petitioners seek to vindicate voters’ right to a “uniform, statewide standard for counting and *recounting* all votes accurately as provided by law” and “[t]o have complaints about elections and election contests resolved fairly, accurately and efficiently as provided by law.”²⁸

²⁸ Nev. Const. art. 2 § 1A(10)-(11)

II.A “parallel process” for counting all ballots does not exist under Nevada law, which provides the specific parameters for when a ballot may be counted more than once.

Under Nevada law, there are three circumstances under which a ballot that has already been counted may be counted again. The first is when a county conducts an audit of the election. The second is when a candidate defeated in any election demands a recount of the vote for the office for which he or she is a candidate. The third is a contest brought under NRS 293.407-.435.

Nye County maintained that the hand count of all ballots a second time was a “parallel process,” and never framed it as an audit, recount, or contest. However, to the extent that Respondents now suggest that their “parallel” hand count is an audit, recount, or contest, Respondents are mistaken. Nevada law sets express requirements for when such processes can be invoked and the procedures that must be followed when conducting audits or recounts. None of these processes authorizes a county clerk to conduct a hand count of *all* ballots on their own initiative. As such, any plan by a county clerk to conduct a hand count of *all* ballots after the polls close exceeds the authority of the county clerk and is not permitted by Nevada law.

A. A hand count of all ballots that have already been counted by an electronic tabulator falls outside the definition of an audit, and violates the procedures prescribed for conducting audits under Nevada law and the Nevada Administrative Code.

Under Nevada law, two types of audits exist: a risk limiting audit of election results and a post-election certification audit. Neither audit permits a full hand count of all ballots that have already been counted by a mechanical tabulator. Nye County, by conducting a count of all ballots already counted, is circumventing the auditing processes in place and attempts to invent new audit procedures not prescribed by Nevada law or the Nevada Administrative Code.

NRS 293.247(3)(g) requires the Secretary of State to adopt regulations prescribing procedures to be used for “the testing, use and auditing of a mechanical voting system which directly records the votes electronically and which creates a paper record when a voter casts a ballot on the system.” Additionally, NRS 293.394 requires the Secretary of State to adopt regulations for conducting a risk-limiting audit of an election, and these regulations must describe the procedures and the audit’s scope as well as the criteria for elections that must be audited.

The statutory provision does not authorize a county clerk to develop their own auditing standards.

In accordance with NRS 293.394, the Nevada Secretary of State adopted Regulation R110-21.²⁹ This regulation requires each county clerk to conduct an audit of the 2022 General Election and outlines the process that each clerk must follow, as well as limitations placed on county clerks when conducting a risk limiting audit. Specifically, the regulation limits the audit to the results of one race for statewide office and one race for countywide office.³⁰ Only the Secretary of State is authorized to randomly select a statewide race for performance of a risk-limiting audit. NRS 293.394 and NAC R110-21 also require “use of statistical principles and methods,” “require the use of risk-limiting

²⁹ Adopted Regulation of the Secretary of State, LCB File No. R081-21, at 1, available on p. 136 at <https://www.nvsos.gov/sos/home/showpublisheddocument/10232/637823518790600000>.

³⁰ Adopted Regulation of the Secretary of State, LCB File No. R081-21, at 2, available on p. 137 at <https://www.nvsos.gov/sos/home/showpublisheddocument/10232/637823518790600000>.

software with the risk limit set at 5 percent,” and mandate use of a method where “individual paper ballots are randomly selected . . .”

Nye County’s hand count process involves counting *all* ballots that have already been counted by a mechanical recording device or electronic tabulator for *every* race on the ballot.³¹ Such a process is not permitted when conducting a risk limiting audit and thus would not fall within its scope.

Nye County’s “parallel” hand count process is also not a post-election certification audit as it includes mail ballots and exceeds the limited sample size permitted by NAC 293.255. NAC 293.255 mandates that county clerks, including Mark Kampf as the interim county clerk of Nye County, conduct a postelection certification audit of *randomly* selected voter verifiable paper audit trail printers (VVPATs) to ensure that the paper record produced by a VVPAT accurately records all votes cast by voters on a mechanical recording device.

The regulation describes the sample based on population size of the county. A county clerk of a county “whose population is less than 100,000

³¹ See Precinct Hand Count Procedures, Updated 11/4/22, Petr’s App., Vol. 1 at 72.

must randomly select a number of mechanical recording devices *equal to 3 percent* of the number of mechanical recording devices with attached VVPATs used in the election, or not less than four mechanical recording devices, whichever is greater, for the postelection certification audit.”³² NRS 293B.032 defines a mechanical recording device as a device which mechanically or electronically compiles a total of the number of votes cast for each candidate and for or against each measure voted on. NRS 293B.033 on the other hand, defines the process of “marking a paper ballot which is subsequently counted on an electronic tabulator” as a “mechanical voting system.” By counting *all* ballots a second time, Nye County is inventing a process unauthorized by law in two separate ways. First, for the ballots that were cast on a mechanical recording device, Nye County is exceeding the limited sample size by counting all the ballots a second time. Second, the counting of all ballots for the second time, **including hand-marked paper ballots scanned through an electronic tabulator**, cannot be considered a post-election certification audit as the audit is only limited to VVPATs on “mechanical recording devices.”

³² NAC 293.255(4) (emphasis added).

B. A hand count of all ballots that have already been counted by a mechanical tabulator cannot constitute a recount or a contest as no candidate defeated in the election demanded a recount per NRS 293.403, and no candidate or registered voter contested the election per NRS 293.407.

The only other instances where a county clerk can count ballots more than once is through a recount pursuant to NRS 293.403 and a recount after an election is contested under NRS 293.407. However, a recount pursuant to NRS 293.403 can only be conducted if a defeated candidate in the election demands a recount, and the count is limited to a recount of the votes of the candidate's race. Additionally, a recount pursuant to NRS 293.407 can only be conducted if a candidate at any election or a registered voter of the appropriate political subdivision contest the election of any candidate. Again, because Nye County is recounting *all* ballots, without the triggering demand of a candidate or registered voter, the hand count plan runs afoul of this process, and it cannot proceed.

Because Nye County's unprecedented plan ignores Nevada's well-established procedures for audits, recounts, or contests, any effort to belatedly label its plan as an audit, recount, or contest plainly fails.

III. Respondents’ Process, Submitted Days Before Its Implementation, Violates Legal Requirements to Ensure Ballot Security and Voting Accuracy.

Respondents’ hand count cannot proceed because it fails to comply with the Secretary of State’s regulations implementing NRS 293.3677 that promote the right to accurate elections.

NAC 293B.040 requires the county clerk to submit “a plan to ensure the accuracy and security of voting in the county,” which must include “procedures to be used to ensure the security of the ballots.”³³ The county clerk must submit the plan to the Secretary of State at least 90 days before the general election, and the Secretary of State will approve or disapprove of the plan within 15 days.³⁴ Respondents’ hand count does not comply with these requirements.

The Secretary of State rejected Respondents’ previous plan to proceed with their proposed hand count procedure. On November 4, Respondents promulgated a new plan for conducting a hand count—just five days before the election. Respondents did not submit a timely plan for the hand count of ballots 90 days in advance, nor was such a plan

³³ NAC 293B.040(2)(a); *see also* NRS 293.247(3)(e).

³⁴ NAC 293B.040.

approved by the Secretary of State within 15 days of the prescribed deadline, as required by NAC 293B.040. Nye County's February 22 Plan included procedures for counting ballots electronically, not by hand. To change its tabulation process to a hand count, the Nye County Clerk would have had to submit a plan detailing procedures for ensuring the security of hand-counted ballots by August 10, 2022.

To the extent that Respondents purport to have received approval from the Secretary of the State after promulgating their November 4 plan, such approval from the Secretary of State would not comply with the Secretary's own regulations. Nor would it comply with NRS 293.3677, which provides that the Secretary of State "[s]hall adopt regulations establishing uniform, statewide standards for counting a vote cast by each method of voting used in this State" other than a mechanical voting system that is used to mark paper ballots.³⁵

This Court has emphasized "framers' intent to maintain consistency for general elections," ³⁶ and Nevada law requires the

³⁵ NRS 293.3677(3)(b).

³⁶ *Halverson v. Sec'y of State*, 124 Nev. 484, 490 (2008).

Secretary of State to obtain and maintain consistency in the application, operation and interpretation of election laws.”³⁷ Permitting Nye County to continue an unprecedented “parallel” count effort not permitted by Nevada law would generate confusion about the 2022 election results and invite future officials to invent their own risky processes outside the procedures established by Nevada law.

IV. Respondents are counting all ballots a second time via hand at a location that was not approved as a central counting place in violation of Nevada election law.

Respondents’ unprecedented hand counting process involves unlawfully transporting voters’ ballots from previously approved polling places, receiving centers, and a central counting place in Nye County to a different location unapproved by the Secretary of State prior to April 15, 2022. As such, it violates additional provisions critical to Nevadans’ constitutional right to accurate election results.

NRS 293B.354 requires county clerks to submit a written plan to the Secretary of State for approval no later than April 15 of each year a

³⁷ *Heller v. Legislature of State of Nev.*, 120 Nev. 456, 461 (2004).

general election is held detailing (among other things) the location of each central counting place, polling place, and receiving center to be used for the counting and processing of ballots.³⁸ An approved plan is required to identify precisely where counting will occur after voting ends. At the end of a voting day, county election officials must deliver ballots and other election materials to an approved receiving center or central counting place for counting and processing—not to some other location chosen ad hoc by the county clerk.³⁹ This is in part to ensure transparency in the administration of elections at the county level by allowing members of the public to “observe the delivery, counting, handling and processing of the ballots at a polling place, receiving center or central counting place.”⁴⁰ These processes ensure a proper chain of custody and protect against practices where ballots are shuttled different places, thus opening the door to potential tampering.

As required, the then Nye County Clerk, Sandra Merlino, submitted a plan pursuant to NRS 293B. 354 to the Secretary of State on

³⁸ NRS 293B.354.

³⁹ NRS 293B.330(1)(b); NRS 293B.335.

⁴⁰ NRS 293B.354(1),(2).

April 12, 2022 naming two locations as central counting places: 1) the Clerk's Office at the Nye County Courthouse located at 101 Radar Road, Tonopah, and 2) the Clerk's Office at the Ian Deutch Justice Complex located at 1520 East Basin Avenue, Pahrump.⁴¹

While Mr. Kampf began the hand counting process at the approved central counting place listed in Ms. Merlino's letter, he has since made a last minute decision to move all ballots to the Valley Electric Conference Center—a location never identified as a place where the counting of ballots will occur—to conduct the hand count. Respondents' relocation of ballots and the hand count process to an unauthorized location thus violates NRS 293B.354, and this is a serious breach of the lawful procedures that are designed to preserve the security of ballots, transparency in ballot counting and processing, and the public's confidence in the integrity of Nevada's elections.

⁴¹ Office of Nye County Clerk, Plan to Accommodate Public to Observe Certain Election Procedures, Petr's App., Vol. 1, 4–5.

V. There Is No Plain, Speedy, and Adequate Remedy in the Ordinary Course of Law for Petitioner in This Matter.

The Court should exercise its discretion to consider a petition for a writ of mandamus because the petition presents a legal issue of statewide importance that requires immediate clarification, and because the principles of judicial economy and public policy weigh in favor of deciding the petition.

The Court has previously exercised its discretion and granted a petition for a writ of mandamus to prevent unlawful hand counting procedures, given (1) voters’ “compelling interest in the way elections are run;”⁴² (2) their constitutional right to “have complaints about elections and election contests resolved fairly, accurately and efficiently as provided by law;”⁴³ and (3) the effects of unlawful election procedures at the county-level have on statewide election contests and ballot matters, which can “threaten the validity of that election process, thus impacting the citizens of this state in general.”⁴⁴

⁴² *ACLU of Nev.*, 2022 WL 14285458, at *2.

⁴³ Nev. Const. art. 2 § 1A(11).

⁴⁴ *ACLU of Nev.*, 2022 WL 14285458, at *2.

A writ of mandamus is similarly appropriate here. Respondents have begun the “parallel” hand count on Thursday, November 10, 2022⁴⁵ in direct contravention of several express statutory and regulatory requirements that are critical to a fair and accurate count. If allowed to proceed, Respondents’ conduct will result in irreparable harm.

Nye County’s process lacks basic procedures for ensuring security, including no publicly available (1) security protocols that would protect the ballots against corruption given the significant numbers of additional people and the supplementary space needed to perform the hand count; (2) procedures to ensure the accuracy of the vote given the well-documented added risk of error from hand counts;⁴⁵ (3) identification of those responsible for transporting ballots; and (4) description of how security of the ballots will be ensured in transit to protect the chain of custody. Without the proper security assurances required by Nevada law,

⁴⁵ McFarland, K., [@KelseyMarie_TV]. (2022, November 10) *Hand-counting of ballots is well underway in Pahrump. Volunteers are wearing gloves to avoid tampering (like using graphite under fingernails) and purple pens so they can’t make an additional mark on ballots.* Twitter. https://twitter.com/KelseyMarie_TV/status/1590762951996493824

Respondents' plan will present a serious threat to the security of voters' paper ballots.

The Secretary of State already raised "concerns relating to the integrity of the election" in connection with the hand count.⁴⁶ Those concerns persist. Respondents' efforts to enact two separate and parallel ballot counting processes will generate significant public confusion, particularly if the public perceives any inconsistencies between the parallel counts. Finally, sanctioning this plan in the midst of political pressure and unfounded allegations casting doubt on Nevada's election will further undermine confidence in the election process and the integrity of Nevada's general election.

CONCLUSION

Respondents' "parallel hand count procedure" for all ballots is unlawful under Nevada state law. The proposed procedure threatens voters' rights to accurate elections by compromising the security of their ballots in Nye County and undermining the integrity of a closely watched general election. Given Respondents' have begun using this unlawful procedure, Petitioner lacks any plain, speedy, and adequate remedy in

the ordinary course, and there is compelling reason to grant a writ of mandamus in this case.

Accordingly, the Court should issue a writ of mandamus finding that: 1) Respondents' plan to count all ballots a second time via hand after machine tabulation exceeds specific legal parameters by which a ballot may be dually reviewed and counted under Nevada law in order to protect accurate elections; 2) Respondents' plan to count all ballots a second time via hand after machine tabulation violates procedures outlined for audits under NRS 293.247(3)(g), NRS 293.394, NAC 293.295, and Regulation R110-21; 3) Respondents' plan to count all ballots a second time via hand after machine tabulation violates procedures outlined for a recount under NRS 293. 403; 4) Respondents' plan to count all ballots a second time via hand after machine tabulation outside of a location approved as a central counting place violates NRS 293B.354; and 5) Nye County must cease the parallel hand count of all ballots immediately.

///

///

DATED this 10th day of November, 2022.

Respectfully submitted:

**AMERICAN CIVIL
LIBERTIES UNION OF
NEVADA**

/s/ Sadmira Ramic

Sadmira Ramic, Esq.

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VERIFICATION

I, Sadmira Ramic, declare as follows:

1. I am counsel for Petitioner ACLU of Nevada.
2. I verify that I have read the foregoing Emergency Petition and that the same is true of my own knowledge, except for matters stated on information and belief, and as to those matters. I believe them true.
3. I declare under penalty of perjury under the law of Nevada that the foregoing is true and correct.

Executed this 10th day of November, 2022, in Las Vegas, Nevada.

/s/ Sadmira Ramic
Sadmira Ramic, Esq.
Nevada Bar No.: 15984

CERTIFICATION OF COMPLIANCE

I hereby certify that I have read this petition, and to the best of my knowledge, information, and belief it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, including the requirement of NRAP 28(e), which requires that every assertion in the brief regarding matters in the record be supported by a reference to the page and volume number, if any, of the appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

I further certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because the brief has been prepared in a proportionally spaced typeface using Microsoft Word for Office 365 in 14 point Cambria.

The remainder of this page is intentionally left blank.

Finally, I hereby certify that this brief complies with the type-volume limitations of NRAP 21(d) and 32(c)(2) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionally spaced, has a typeface of 14 points or more, and contains 5124 words.

DATED this 10th day of November, 2022.

/s/ Sadmira Ramic
Sadmira Ramic, Esq.
Nevada Bar No.: 15984

NRAP 27(e) CERTIFICATE

I, [Christopher Peterson], declare as follows:

1. I am counsel for Petitioner ACLU of Nevada.
2. The telephone numbers and addresses of the attorneys for the

parties are as follows:

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3. Emergency relief is proper because voting was completed in

Nye County on November 8, 2022, and Mr. Kampf will begin conducting an unlawful hand count of ballots for the November 8 general election on November 10, 2022. The hand count violates the Nevada Constitution and Nevada election law. If allowed to proceed, the hand count will result in immediate and irreparable harm to the voters of Nye County and the uniform implementation of statewide election processes.

4. Prior to filing this brief, I attempted to contact attorneys Harry L. Arnold and Brian R. Hardy on November 9, 2022 via phone and email. Mr. Arnold confirmed receipt of email on November 9, 2022. I sent Mr. Arnold and Mr. Hardy, via email, a digital copy of the foregoing Emergency Petition and Petitioner's Appendix, Volume 1, on November 10, 2022, before they were filed.

5. I also contacted the Office of the Clerk of the Supreme Court of Nevada to notify it that Petitioner would be filing this Emergency Petition, in accordance with NRAP 27(e)(1).

Executed this 10th day of November, 2022, in Las Vegas, Nevada.

/s/ Christopher Peterson
Christopher M. Peterson, Esq.
Nevada Bar No.: 13932

CERTIFICATE OF SERVICE

I hereby certify that on November 10, 2022, I electronically filed the foregoing Emergency Petition for Writ of Mandamus Pursuant to NRAP 21(a)(6) with the Nevada Supreme Court by using the appellate electronic filing system.

I further certify that I served a copy of this document by mailing a true and correct copy thereof, post-prepaid to:

Harry L. Arnold
Marquis Aurbach
10001 Park Run Drive
Las Vegas, NV 89145

I further certify that a true and correct copy of this document was served by email to:

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harnold@maclaw.com

Brian R. Hardy
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/s/ Christopher Peterson
Christopher M. Peterson, Esq.
Nevada Bar No.: 13932

**IN THE SUPREME COURT OF THE STATE OF
NEVADA**

Case No.

Electronically Filed
Nov 14 2022 09:02 AM
Elizabeth A. Brown
Clerk of Supreme Court

AMERICAN CIVIL LIBERTIES UNION OF NEVADA,
Petitioner,

v.

THE COUNTY OF NYE, a governmental entity; and
MARK KAMPF, in his official capacity as interim County Clerk,
Respondents.

**EMERGENCY PETITION FOR WRIT OF MANDAMUS
PURSUANT TO NRAP 21(a)(6)**

PETITIONER'S APPENDIX, VOL. 1

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Respectfully submitted,

/s/ Christopher Peterson
Christopher Peterson, Esq.
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on November 10, 2022, I electronically filed the foregoing Appendix with the Nevada Supreme Court by using the appellate electronic filing system.

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

Harry L. Arnold
Marquis Aurbach
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Respectfully submitted,

/s/ Christopher Peterson
Christopher Peterson, Esq.
Counsel for Petitioner

**OFFICE OF THE NYE COUNTY CLERK
SANDRA L. MERLINO**

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Pahrump Office

Government Complex
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Pahrump, Nevada 89060
Phone (775) 751-7040
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February 22, 2022

**PLAN FOR SECURITY OF BALLOTS, RESULTS USBs AND VVPATS
2022 Elections
Nye County, Nevada**

Pursuant to NAC 293B.040 the following procedure is hereby established to ensure the security of voting materials and voting machines:

OVERVIEW

Nye County utilizes stand-alone, direct record electronic voting machines for early voting and election day voting and optical scan paper ballots. The ImageCast X (ICX) voting machines are stored in the Clerk's Election warehouse in a secured manner that prevents any unauthorized individual from gaining access to the machines. The ImageCast ICC – M160 Scanners are stored in the Tonopah Clerk's Office. The ICX results USBs and the optical scan ballots are secured within the Clerk's election room with limited key access for Clerk's Office personnel only. In the Pahrump satellite office, ICX results USBs are stored in the Clerk's vault with access by Clerk's Office personnel after early voting and election night tabulation and then they are transported to the main office in Tonopah and stored in the vault.

TABULATION

Votes are tabulated within the Clerk's Offices in both Tonopah and Pahrump. Election system hardware and software are password protected with access limited to Clerk's Office personnel.

The ICX voting machine USBs and mail optical scan ballots are stored in the Tonopah Clerk's Office vault after they have been tabulated. Only Clerk's Office personnel have access to the vault combination.

All tabulation workstations are connected to a secure network separate from the regular County network. All software and firmware installed on the Tabulation workstations and servers are certified by the Secretary of State.

ELECTION PREPARATION

At the beginning of each federal election cycle, the software and firmware that has been certified by the Secretary of State for use in Nevada is installed on the tabulation servers and each ImageCast X (ICX) voting machine that will be used in the election cycle.

During election preparation, once the election ballot styles per precinct/polling place have been proofed and the machines assigned to each, USBs are generated for each ICX voting machine. Each voting machine has a unique serial number and corresponding USB. The USBs are loaded with the election and installed into each voting machine that will be used in the election cycle. Clerk's Office personnel and polling place Chairmen track all USBs from the time they leave the vault until the time they are returned.

After the USBs are inserted into the ICX voting machines, the machines are taken through the various tests of the pre-election logic and accuracy (pre-LAT) mode. Each voting machine is checked to confirm the correct ballot is loaded on the USB and that all screens and candidate positions display correctly. All candidate positions are tested to ensure that they are recording votes accurately. Once the pre-LAT testing is successfully completed, the USB is sealed into the machine with a uniquely numbered and recorded plastic seal that remains intact (to detect any attempted intrusion) until the polls are officially closed and the USB is removed and taken to the Clerk's Office for tabulation.

Pre-election logic and accuracy testing is also conducted for mail ballots. A pre-marked test deck is tabulated in (pre-LAT) mode and all candidate positions are tested to ensure that they are recording votes accurately.

ELECTION DAY VOTING AND TABULATION

The ICX voting machines record each voter's ballot as it is cast. The cast ballots and summary candidate totals are stored in the memory of the voting machine and on a sealed results USB. When voting is completed and the polls are closed, the seals are broken and the results USBs are removed. All results USBs for a given polling place are placed inside a transfer bag which is sealed and remains in possession of the polling place Chairman and Deputy Clerk until turned over to the Clerk's Office for tabulation. Upon the closing of the polls, the election results are also printed by each machine on the VVPAT tape. The printed results tapes remain secured within the sealed VVPAT container and are transported to the Tonopah Clerk's Office election room by Sheriff's Deputies, except for Pahrump where those VVPAT containers are locked in the transport UHAUL in the Sheriff's Office sally port until returned to Tonopah the next day. The ICX voting machines in Round Mountain, Tonopah, Beatty and Amargosa are stored and locked in the polling facilities until picked up the next day by Buildings and Grounds personnel and transported back to the Tonopah election storage warehouse. After the close of polls on Election Day, the ICX voting machines in Pahrump are loaded up and locked in the transport UHAUL in the Sheriff's Office sally port until returned to the Tonopah election warehouse the next day.

At the County Clerk's Offices in both Tonopah and Pahrump, the results USBs are read for accumulation into a countywide election summary results report format. The processed USBs in Tonopah are immediately stored inside the Clerk's vault. The processed USBs in Pahrump are placed back into the sealed transport bag and stored in the Clerk's vault until transported back to the vault in the Tonopah Clerk's Office the next day. Election results and ballot images are backed up and copied onto USBs, which, along with the machine tapes of election results, are stored as part of the official election records for the required retention period.

MAIL BALLOTS

Extra counter optical scan ballots are placed in the Clerk's election room with limited key access as soon as they are received from the printer. Every ballot is numbered, tracked and accounted for until the election is canvassed and the ballots are placed into storage for the required 22-month period. Voted mail ballots, along with any emergency ballots, are opened, checked, and prepared for tabulation inside the Clerk's Office election room by the Mail Ballot Central Counting Board. The voted ballots are stored in the Clerk's Office vault except when the Board is not processing or tabulating the ballots.

The optical scan ballots are read by ImageCast ICC – M-160 Scanners that tally the results at the precinct level. The optical scan results are then imported into the Democracy Suite tabulation system, where their vote totals are combined with those cast electronically. As soon as the optical scan ballots have been tabulated in the Nye County Clerk's Office, they are immediately returned to the Clerk's vault where they are stored for the required retention period unless a recount is required, or the election is contested.

Sincerely,


Sandra L. Merlino
Nye County Clerk

**OFFICE OF THE NYE COUNTY CLERK
SANDRA L. MERLINO**

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Phone (775) 751-7040
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April 12, 2022

**PLAN TO ACCOMMODATE PUBLIC TO OBSERVE CERTAIN
ELECTION PROCEDURES
2022 Elections
Nye County, Nevada**

Pursuant to NRS 293B.354, the following plan is submitted for the accommodation of members of the general public who observe the delivery and handling of voting machines and the counting and processing of votes at a polling place, receiving center or central counting place:

The central counting place and all polling places shall set up a reasonable barrier around the area used for closing out the voting machines and counting votes. This barrier shall be of a distance to allow the election workers to conduct their work without being crowded but still allow the public to observe the conduct of the election. The public may observe any process while restricting their distance to outside the barrier.

The general public who observe these activities are not to disrupt or try to communicate with the election workers while at work. Any questions the public may have should be directed to the County Clerk, her designee or the Election Board Chairman.

Location of central counting places:

Nye County Courthouse, Clerk's Office 101 Radar Road, Tonopah
Ian Deutch Justice Complex, Clerk's Office 1520 East Basin Avenue, Pahrump

Location of Polling Places:


Amargosa Valley	Amargosa Complex
Beatty	Community Building
Pahrump	Bob Ruud Community Center
Round Mountain	Donald L. Simpson Community Center
Tonopah	Tonopah Convention Center

Early Voting Polling Places:

Nye County Clerk's Office	Nye County Courthouse, Tonopah
Pahrump	Bob Ruud Community Center
Duckwater	Duckwater Gym

A member of the general public shall ask permission from the County Clerk, her designee, or the Election Board Chairman, in advance, for any use of photograph equipment, audiotape or any other means of sound or video reproduction. If permission is granted by the County Clerk, a member of the general public must also obtain permission from each person he wishes to photograph or otherwise record before doing so. This must be accomplished without disrupting the voting process.

Sincerely,


Sandra L. Merlino
Nye County Clerk



ke House;
o early to call



Election conspiracies grip Nevada community, sowing distrust

By SAM METZ July 29, 2022





TONOPAHA, Nev. (AP) — The Nye County Commission is used to dealing with all sorts of hot-button controversies.

Water rights, livestock rules and marijuana licenses are among the many local dramas that consume the time of the five commissioners in this vast swath of rural and deeply Republican Nevada. Last spring, it was something new: voting machines.

For months, conspiracy theories fueled on social media by those [repeating lies](#) about former President Donald Trump's loss in 2020 inflamed public suspicions about whether election results could be trusted. In response, the commission put a remarkable item on its agenda: Ditch the county's voting machines and instead count every vote on every ballot — more than 20,000 in a typical general election — entirely by hand.

Commissioners called a parade of witnesses, including three from out of state who insisted voting machines could be hacked and votes flipped without leaving a trace. They said no county could be certain their machines weren't accessible via the internet and open to tampering by nefarious actors.

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It was all just too much for Sam Merlino, a Republican who has spent more than two decades administering elections as the county's clerk. She simply felt outgunned.

Top headlines

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- **Facebook parent Meta cuts 11,000 jobs, 13% of workforce**

"It just made me feel helpless," she said in a recent interview from her office in Tonopah, an old silver mining town surrounded by hills of rock and sagebrush about halfway between Las Vegas and Reno.

She defended the system's checks and balances that ensure an accurate vote tally, but was bombarded with technical jargon and theories unlike any she'd ever heard. "I couldn't do anything but just sit and listen," she said.

When the county commission [voted unanimously to recommend hand-counting ballots](#) — even though there was no evidence of any tampering — she decided she'd had enough and submitted her resignation. Merlino will step down next week and leave the administration of elections in a county about twice the size of New Hampshire to a new clerk; the most likely candidate to succeed her is someone who has promoted voting machine conspiracy theories and [falsely contends that Trump actually won](#) the 2020 election.

Merlino's departure and Nye County's plans to scrap voting machines and hand-count every ballot open a window into the real-world consequences of [unfounded conspiracy theories](#) that have spread across the country since Trump's defeat. The moves also raise questions about how local elections will be run when overseen by people who are skeptical of the process.

A network of people peddling conspiracy theories about the security of voting machines has hop-scotched the country for more than a year, spinning elaborate yarns involving Venezuelan software, the Chinese Communist Party and offshore servers. They have [tried to persuade](#) state and local officials to do just what Nye County is attempting.

While no state has taken the same step, their efforts find fertile ground in conservative parts of the U.S. such as Nye County, where suspicions of government run deep. Already this year, some rural county boards [have threatened to refuse to certify](#) the results of their primary elections, even without evidence of problems.

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Nye County, the country's third largest by area, stretches from the strip malls on the outer margins of Las Vegas through desolate rangelands where cattle graze and the military trains pilots and practices missile-firing and bomb drops.

Conspiracy theories have long found an audience in the county. It's home to part of Area 51, the [once-secret U.S. Air Force base](#) that [draws alien enthusiasts and UFO hunters](#). During public comment at county commission meetings, residents reference [Infowars' Alex Jones](#), who has peddled fake conspiracy theories about the Newtown, Connecticut, school massacre. In Pahrump, the county's most populous town, a plaque on a park bench honors the late [radio host and conspiracy theorist Art Bell](#), who lived here until his death in 2018.

Its voters are unrelentingly Republican. In 2018, they [chose a Republican brothel owner](#) over a Democrat in a statehouse race — even though the brothel owner had died weeks earlier.

Trump won Nye County by more than 40 percentage points among the 25,427 ballots cast in November 2020. That margin, however, has done nothing to stifle the spread of conspiracy theories about voter fraud and ballot tampering.

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At a recent Republican Party event and county commission meeting, many brought up stories they had heard involving QR codes, half-inserted USB drives and foreign hackers infiltrating

machines manufactured by Dominion Voting Systems.

No evidence has surfaced to prove any of the theories, yet they continue to spread in Nye County Facebook groups.

Merlino recalled when an error on a sample ballot ballooned on social media into a full-blown corruption conspiracy theory about the printing company's financial ties: "Just like anything, once a rumor starts or once something is out there, people feed on it," she said.

County commissioners say they are obligated to take action as a way to re-establish trust in elections, a concern that fed into their vote to recommend hand-counting ballots in the upcoming November election rather than use tabulating machines.

Election experts are skeptical that hand-counting is doable anywhere except in the tiniest counties; Nye County has about 31,500 registered voters. They say the potential for human error is far greater than running ballots through a tabulator and auditing the results afterward to ensure accuracy.

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"It's a very bad idea, and everyone from the most conservative election officials to the most liberal will testify to that," said David Becker, the executive director of the Center for Election Innovation & Research, a nonprofit that works on election procedures.

A lengthy hand-counting process could spark a political crisis in the state, a perennial presidential battleground and one of six states where Trump disputed his 2020 loss. It's not clear what would happen if just one of Nevada's 17 counties fails to finish counting votes within the seven-day timeframe required under state law, or declines to certify the results.

The secretary of state's office has said hand-counting could conflict with state law and has scheduled hearings in August to discuss regulations for any county planning to attempt it.

Supporters of the move are undaunted. At a dimly lit Mexican restaurant in Pahrump, an hour's drive from Las Vegas, activists attending a recent Nye County "GOP Unity" event attributed support for hand-counting to what they claimed were unexplained irregularities and suspicions about election tampering.

"You just don't know 100%," said Leo Blundo, a Nye County commissioner who voted against

certifying the results from the June primary after he lost his reelection bid.

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Pahrump Republican Tina Trenner said cutting voting off from electrical sources could help ease skepticism about election results.

“They could be hacked. Something as simple as a phone with a hotspot in it, sitting up on the counter, can suddenly make those machines available on the internet,” she said.

The push to hand-count ballots also has won support from at least one prominent Nevada Republican — [Jim Marchant, the GOP nominee for secretary of state](#), the office that oversees elections. He has participated in rallies and other events around the country promoting the falsehood that Trump actually won the 2020 election.

“If we get out en masse and vote, we’ll overwhelm the system so that any mechanisms they have in place to manipulate the system will be negated,” he told applauding Republicans in Pahrump, without specifying who he feared would manipulate the election.

Marchant repeated a promise he made to the Nye County Commission months earlier, when the clerk said hand-counting ballots would require a substantial number of people. Marchant told The Associated Press he could provide as many members of his “election integrity” movement from Nevada and elsewhere as necessary to help with the process.

In a stump speech, Marchant said he was eager to work with Mark Kampf, the winner of the Republican Party primary in the Nye County clerk’s race. Kampf’s platform included replacing voting machines with hand-counting.

In one debate, Kampf, an accountant and corporate auditor, insisted Trump won the 2020 election. He told voters he was concerned that an interstate voter roll maintenance system could be a ploy from billionaire investor and philanthropist George Soros. He warned about the misuse of ballot drop boxes, citing the film “2000 Mules.” [Experts say](#) it uses flawed analysis of cellphone data and drop box surveillance footage to cast doubt on the results of the 2020 election.

Kampf, who is expected to be appointed to replace Merlino in August, declined to comment for this story. He told the commission at its July meeting that he planned to emphasize voter education to restore trust in elections.

That may prove a tall task in a community that remains spellbound by Trump’s ongoing insistence that he was the true winner.

The degree to which distrust has entrenched itself worries Merlino, whose own efforts to educate have done little to sway her neighbors.

After a mostly quiet tenure, the self-described “personal responsibility Republican” said she has been sickened to witness fictions and falsehoods taking root in her county and politicizing the work of her fellow election workers in Nevada.

Merlino’s office has been inundated with public records requests from people looking for evidence of fraud or tampering. County residents who deny the results of the 2020 presidential election [without evidence](#) yell at her and her staff while in line to vote. Myths of stolen elections have even estranged her from members of her own family, including one to whom she hasn’t spoken in over six months.

On top of all that, the commission’s move toward hand-counting convinced her it was time to step down.

“I don’t think it can be done,” she said. “If they want to give it a go, that’s why I’m giving them the opportunity to do it.”

This story has been corrected to reflect that Nye County is about twice the size of New Hampshire, not the size of New Hampshire.

Associated Press writer Christina A. Cassidy in Atlanta contributed.



**2nd REVISED TEMPORARY REGULATION OF
THE SECRETARY OF STATE**

August 24, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§ 1, 2, and 4-7, NRS 293.124 and 293.3677; §§ 3 and 10, NRS 293.124, 293.247, 293.3677 and 293.404; §§ 8, 9 and 11-13, NRS 293.124 and 293C.369.

A REGULATION relating to elections; establishing requirements for conducting a hand count of ballots; and providing other matters properly relating thereto.

Digest:

Existing law requires the Secretary of State to adopt regulations establishing uniform, statewide standards for counting a vote cast using certain methods of voting and authorizes the Secretary of State to adopt regulations for counting votes cast using certain types of mechanical voting systems. (NRS 293.3677, 293C.369) This regulation sets forth various requirements for a hand count of the ballots.

Section 7 of this regulation defines the term “hand count.”

Sections 2 and 9 this regulation authorize a county or city clerk, in consultation with the governing body of the county or city, to conduct a hand count of the ballots voted in an election.

Sections 3 and 10 of this regulation require a county or city clerk who is going to conduct a hand count to submit to the Secretary of State 30 days before the date of the election a plan for the hand count, which must include certain procedures for conducting the hand count, plans for the location and necessary equipment and personnel for the hand count, plans ensuring the security of the hand count and contingency plans to meet certain deadlines.

Sections 4 and 11 of this regulation require a county or city clerk conducting a hand count to establish a sufficient number of hand count tally teams, which must consist of at least four election board officers, who must not all be of the same political party.

Sections 5 and 12 of this regulation set forth the procedures required to tally the votes during the hand count.

Sections 6 and 13 of this regulation: (1) set forth certain requirements for the writing devices used by the hand count tally team; and (2) prohibit the hand count tally team members from bringing their own writing devices into the physical location where the ballots will be hand counted.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. 1. *Each county clerk may, in consultation with the board of county commissioners, conduct a hand count of the ballots voted in an election for:*

- (a) All contests on the ballot;*
- (b) A specified number of contests on the ballot, as determined by the county clerk; or*
- (c) A specified sample of the precincts in the county, as determined by the county clerk.*

2. *If a county clerk decides to conduct a hand count pursuant to subsection 1, the hand count must:*

(a) Be conducted in accordance with the requirements of sections 2 to 6, inclusive, of this regulation;

(b) Be completed on or before the seventh day following the election; and

(c) Use the forms prescribed by the Secretary of State for tallying the results of the hand count.

3. *A county clerk may use an electronic tabulator to validate the results of the hand count.*

4. *The Secretary of State will make the forms for tallying the results of the hand count available not less than 30 days before the date of the election.*

Sec. 3. *If a county clerk is going to conduct a hand count, the county clerk shall submit to the Secretary of State not later than 30 days before the date of the election a plan for conducting the hand count. The plan must include, without limitation:*

- 1. A detailed description of how the hand count will be conducted in order to meet the applicable deadlines set forth in this chapter and title 24 of NRS for counting ballots.*
- 2. The total number of election board officers and hand count tally teams that will be required to complete the hand count.*
- 3. The work schedule for the hand count, which must not be more than 16 hours in a 24-hour period. There must not be more than two separate 8-hour shifts.*
- 4. The physical location where the ballots will be hand counted and a scale diagram depicting the planned setup of the location.*
- 5. An estimated list of any items necessary to conduct the hand count, which must include, without limitation:*
 - (a) Whether all such items are currently in the possession of the county and, if not, the date by which any necessary items will be obtained by the county; and*
 - (b) The estimated cost to the county to obtain the necessary items.*
- 6. Any amendment to the plans for the observation of the hand count by the members of the public in accordance with section 1 of LCB File No. R108-21 and NRS 293B.353 and the plan submitted pursuant to NRS 293B.354.*
- 7. The plans for ensuring the security of:*
 - (a) The ballots consistent with the plan submitted pursuant to NAC 293B.040, as amended by section 8 of LCB File No. R091-21; and*
 - (b) The election board officers who conduct the hand count.*
- 8. A list of any outside vendors hired or who may be hired to consult or assist in the preparation or operation of the hand count.*

9. A contingency plan for:

- (a) Completing the counting of the ballots in the event the hand count will not be completed by the date required for the canvass of returns pursuant to NRS 293.387;*
- (b) Conducting any recount in accordance with NRS 293.404; and*
- (c) Completing any recount by the deadline set forth in NRS 293.405.*

Sec. 4. 1. The county clerk shall establish a sufficient number of hand count tally teams to conduct the hand count. Each hand count tally team must consist of at least four election board officers, who must not be of the same political party, as follows:

- (a) One election board officer known as the reading clerk to read the ballots;*
- (b) One election board officer known as the verification clerk to watch that the ballots are read correctly; and*
- (c) Two election board officers known as the tally clerks to separately record the votes on the appropriate tally form.*

2. In addition to the election board officers appointed to a hand count tally team pursuant to subsection 1, the county clerk may appoint to a hand count tally team:

- (a) One election board officer to supervise the overall conduct of the hand count, including, without limitation, tracking the progress of the hand count, ensuring compliance with the requirements of sections 2 to 6, inclusive, of this regulation and reporting any issues or concerns to the county clerk; and*
- (b) One election board officer to supervise and ensure compliance with the public observation of the hand count, including, without limitation, ensuring that the public is able to*

observe the hand count and ensuring the public does not distract or interfere with the hand count tally team.

3. An election board officer assigned to work on a hand count tally team:

(a) May not work more than 8 hours in a 24-hour period; and

(b) Must wear medical style exam gloves at all times while working his or her shift.

4. Each hand count tally team must be positioned around a single table, with not less than 10 feet from the center of the table to the center of any other table containing a hand count tally team to reduce the risk of overhearing the other hand count tally team counting the ballots.

Sec. 5. *1. Before conducting a hand count of the ballots voted in an election, the election board officers must prepare to count the ballots in accordance with the requirements of NRS 293.363.*

2. After the ballots are prepared for counting, the election board may use the electronic tabulator to calculate the results of the tally of the votes cast in a contest on the ballot.

3. A hand count of the ballots must be tallied not less than two times by the hand count tally team for each contest on the ballot that will be hand counted. The results of each tally of the ballots for each contest must match exactly. If the results do not match, the hand count must be conducted again until the results match one of the previous tallies.

4. In addition to the requirements of NRS 293.367 to 293.370, inclusive, each hand count tally team shall process the ballots in the following manner:

(a) For a primary election, the ballots must be sorted by political party and nonpartisan ballots to be tallied separately, with a Republican tally form, Democrat tally form and nonpartisan tally form.

(b) The ballots must be divided into separate stacks containing not more than 50 ballots per stack. Each stack must be read and tallied separately.

(c) The reading clerk shall read from the ballot the choice of the voter as indicated by writing in the designated space on the ballot indicating the voter's intent, including, without limitation, a cross or check.

(d) After reading each ballot, the reading clerk shall lay the ballot face down on the table to distinguish the counted ballot from the uncounted ballots. After each stack of ballots are counted, the ballots must be tied with a string or bound with a paper clip or binder clip in a stack of not more than 50 ballots.

(e) The tally clerks shall:

(1) Tally the votes on the appropriate tally form, depending on whether the ballot has been cast in a primary or general election. If the election is a primary election, the tallied votes should be noted on the tally form for the applicable political party or the nonpartisan tally form.

(2) On the tally form, place a short perpendicular hash mark opposite the name of the candidate or ballot question voted for the first through fourth vote for the same candidate or ballot question.

(3) For every fifth vote for the same candidate or ballot question, place a horizontal hash mark through the previous four perpendicular hash marks. One of the tally clerks shall then clearly announce:

(I) The fifth vote throughout the course of the tally; and

(II) The total number of hash marks for each candidate or ballot question.

(f) If the tally clerks agree on the total number of hash marks for each candidate or ballot question after the total has been announced pursuant to paragraph (e), the tally clerks shall make a mark above the five hash marks to indicate that the count of both tally clerks matched.

(g) If the count of the tally clerks:

(1) Matches, the tallying must continue.

(2) Does not match, the reason for the discrepancy must be identified and corrected before the hand count tally team may continue tallying.

5. The Office of the Secretary of State may supervise or assist in a hand count of the ballots voted if requested by a county clerk, but the county clerk is the party responsible for the hand count.

Sec. 6. *1. The county clerk shall provide all writing devices to a hand count tally team conducting a hand count. No member of a hand count tally team may use or bring his or her own writing device to the physical location where the ballots will be hand counted.*

2. The writing devices provided by the county clerk pursuant to subsection 1:

(a) Must be uniform in color and style;

(b) Must not write in blue or black ink; and

(c) Must not be pencils.

Sec. 7. NAC 293.010 is hereby amended to read as follows:

293.010 As used in this chapter, unless the context otherwise requires:

1. “Ballot stock” means:

(a) The paper upon which a ballot is printed on which a voter directly indicates his or her vote; and

(b) The materials included with a mail ballot, including, without limitation, the mail ballot, return envelope, envelope or sleeve into which the mail ballot is inserted to ensure its secrecy and voter instructions.

2. “Department” means the Department of Motor Vehicles.

3. *“Hand count” means the process of determining the election results where the primary method of counting the votes cast for each candidate or ballot question does not involve the use of a mechanical voting system.*

4. “Mail ballot” has the meaning ascribed to it in NRS 293.0653.

~~{4.}~~ 5. “Results cartridge” means the cartridge of a mechanical recording device which contains the electronically recorded ballots cast during the election and from which the ballots are tabulated.

~~{5.}~~ 6. “Signature stamp” has the meaning ascribed to it in NRS 427A.755.

~~{6.}~~ 7. “Statewide voter registration list” has the meaning ascribed to it in NRS 293.111.

~~{7.}~~ 8. “Voter verifiable paper audit trail printer” or “VVPAT” means the device attached to a mechanical recording device and the paper it prints to record all votes cast by a voter for any and all candidates and for or against any and all measures, enabling that voter to visually verify that the mechanical voting system has accurately recorded the votes of the voter.

~~[8.]~~ **9.** “Voting booth” means any place or compartment used to screen a voter from the observation of others.

~~[9.]~~ **10.** “Vote center” means a polling place established by the county or city clerk, as applicable, pursuant to the provisions of NRS 293.3072 to 293.3075, inclusive, or 293C.3032 to 293C.3035, inclusive, as applicable, where any person entitled to vote by personal appearance in the county or city, as applicable, may do so on the day of the election.

Sec. 8. Chapter 293C of NAC is hereby amended by adding thereto the provisions set forth as sections 9 to 13, inclusive, of this regulation.

Sec. 9. ***1. Each city clerk may, in consultation with the governing body of the city, conduct a hand count of the ballots voted in a city election for:***

- (a) All contests on the ballot;***
- (b) A specified number of contests on the ballot, as determined by the city clerk; or***
- (c) A specified sample of the precincts in the city, as determined by the city clerk.***

2. If a city clerk decides to conduct a hand count pursuant to subsection 1, the hand count must:

(a) Be conducted in accordance with the requirements of sections 9 to 13, inclusive, of this regulation;

(b) Be completed on or before the seventh day following the city election; and

(c) Use the forms prescribed by the Secretary of State for tallying the results of the hand count.

3. A city clerk may use an electronic tabulator to validate the results of the hand count.

4. The Secretary of State will make the forms for tallying the results of the head count available not less than 30 days before the date of the city election.

Sec. 10. If a city clerk is going to conduct a hand count, the city clerk shall submit to the Secretary of State not later than 30 days before the date of the city election a plan for conducting the hand count. The plan must include, without limitation:

1. A detailed description of how the hand count will be conducted in order to meet the applicable deadlines set forth in this chapter, chapter 293 of NAC and title 24 of NRS for counting ballots.

2. The total number of election board officers and hand count tally teams that will be required to complete the hand count.

3. The work schedule for the hand count, which must not be more than 16 hours in a 24-hour period. There must not be more than two separate 8-hour shifts.

4. The physical location where the ballots will be hand counted and a scale diagram depicting the planned setup of the location.

5. An estimated list of any items necessary to conduct the hand count, which must include, without limitation:

(a) Whether all such items are currently in the possession of the city and, if not, the date by which any necessary items will be obtained by the city; and

(b) The estimated cost to the city to obtain the necessary items.

6. Any amendment to the plans for the observation of the hand count by the members of the public in accordance with section 1 of LCB File No. R108-21 and NRS 293B.353 and the plan submitted pursuant to NRS 293B.354.

7. The plans for ensuring the security of:

(a) The ballots consistent with the plan submitted pursuant to NAC 293B.040, as amended by section 8 of LCB File No. R091-21; and

(b) The election board officers who conduct the hand count.

8. A list of any outside vendors hired or who may be hired to consult or assist in the preparation or operation of the hand count.

9. A contingency plan for:

(a) Completing the counting of the ballots in the event the hand count is not completed by the date required for the canvass of returns pursuant to NRS 293C.387;

(b) Conducting any recount in accordance with NRS 293.404; and

(c) Completing any recount by the deadline set forth in NRS 293.405.

Sec. 11. *1. The city clerk shall establish a sufficient number of hand count tally teams to conduct the hand count. Each hand count tally team must consist of at least four election board officers, who must not be of the same political party, as follows:*

(a) One election board officer known as the reading clerk to read the ballots;

(b) One election board officer known as the verification clerk to watch that the ballots are read correctly; and

(c) Two election board officers known as the tally clerks to separately record the votes on the appropriate tally form.

2. In addition to the election board officers appointed to a hand count tally team pursuant to subsection 1, the city clerk may appoint to a hand count tally team:

(a) One election board officer to supervise the overall conduct of the hand count, including, without limitation, tracking the progress of the hand count, ensuring compliance with the requirements of sections 9 to 13, inclusive, of this regulation and reporting any issues or concerns to the city clerk; and

(b) One election board officer to supervise and ensure compliance with the public observation of the hand count, including, without limitation, ensuring that the public is able to observe the hand count and ensuring the public does not distract or interfere with the hand count tally team.

3. An election board officer assigned to work on a hand count tally team:

(a) May not work more than 8 hours in a 24-hour period; and

(b) Must wear medical style exam gloves at all times while working his or her shift.

4. Each hand count tally team must be positioned around a single table, with not less than 10 feet from the center of the table to the center of any other table containing a hand count tally team to reduce the risk of overhearing the other hand count tally team counting the ballots.

Sec. 12. *1. Before conducting a hand count of the ballots voted in a city election, the election board officers must prepare to count the ballots in accordance with the requirements of NRS 293C.362.*

2. After the ballots are prepared for counting, the election board may use the electronic tabulator to calculate the results of the tally of the votes cast in a contest on the ballot.

3. A hand count of the ballots must be tallied not less than two times by the hand count tally team for each contest on the ballot that will be hand counted. The results of each tally of

the ballots for each contest must match exactly. If the results do not match, the hand count must be conducted again until the results match one of the previous tallies.

4. In addition to the requirements of NRS 293C.367 to 293C.372, inclusive, each hand count tally team shall process the ballots in the following manner:

(a) The ballots must be divided into separate stacks containing not more than 50 ballots per stack. Each stack must be read and tallied separately.

(b) The reading clerk shall read from the ballot the choice of the voter as indicated by writing in the designated space on the ballot indicating the voter's intent, including, without limitation, a cross or check.

(c) After reading each ballot, the reading clerk shall lay the ballot face down on the table to distinguish the counted ballot from the uncounted ballots. After each stack of ballots are counted, the ballots must be tied with a string or bound with a paper clip or binder clip in a stack of not more than 50 ballots.

(d) The tally clerks shall:

(1) Tally the votes on the tally form.

(2) On the tally form, place a short perpendicular hash mark opposite the name of the candidate or ballot question voted for the first through fourth vote for the same candidate or ballot question.

(3) For every fifth vote for the same candidate or ballot question place a horizontal hash mark through the previous four perpendicular hash marks. One of the tally clerks shall then clearly announce:

(I) The fifth vote throughout the course of the tally; and

(II) The total number of hash marks for each candidate or ballot question.

(e) If the tally clerks agree on the total number of hash marks for each candidate or ballot question after the total has been announced pursuant to paragraph (d), the tally clerks shall make a mark above the five hash marks to indicate that the count of both tally clerks matched.

(f) If the count of the tally clerks:

(1) Matches, the tallying must continue.

(2) Does not match, the reason for the discrepancy must be identified and corrected before the hand count tally team may continue tallying.

5. The Office of the Secretary of State may supervise or assist in a hand count of the ballots voted if requested by a city clerk, but the city clerk is the party responsible for the hand count.

Sec. 13. *1. The city clerk shall provide all writing devices to a hand count tally team conducting a hand count. No member of a hand count tally team may use or bring his or her own writing device to the physical location where the ballots will be hand counted.*

2. The writing devices provided by the city clerk pursuant to subsection 1:

(a) Must be uniform in color and style;

(b) Must not write in blue or black ink; and

(c) Must not be a pencil.

Posted on: September 6, 2022

CLERK'S OFFICE ANNOUNCES PAPER BALLOT AND HAND-COUNT PROCEDURES FOR GENERAL ELECTION

NYE COUNTY, NV - September 6, 2022

Nye County Clerk Mark F. Kampf will administer the 2022 General Election using only paper ballots for both mail-in and at the polls, with provisions for ADA compliance.

The Clerk's Office will conduct a parallel electronic tabulation of the voted paper ballots along with a hand count of those ballots. While the tabulation is used to count the mail-in ballots currently, the electronic counting will be extended to the paper ballots voted at the polls. A hand count will also be performed on all the paper ballots (both mail-in and at the polls) as requested by the Nye County Board of Commissioners. All registration and verification processes both at the polls and for mail-in ballots will remain essentially the same.

On March 15th, the County Commission voted 5-0 to request the Nye County Clerk to consider administering the 2022 Primary and General elections using only paper ballots and hand-counting the paper ballots submitted by Nye County voters to ensure accuracy and transparency of the democratic voting process.

Since the hand count process will be performed by citizen volunteers who are registered voters, the Clerk is seeking help from registered voters from all political parties and non-partisan voters to participate in the process.

The hand count will be conducted weekdays during the period starting on October 25th to November 10th. Please go to the Nye County Clerk's [Elections website](#) here to obtain an application to volunteer to be part of the [hand-count team at this link](#).

Media: Please contact County Clerk Mark F. Kampf for all comments and interview requests.

mkampf@nyecountynv.gov or call 775-482-8134

NYE COUNTY AGENDA INFORMATION FORM

1

☐ Action
 ☒ Presentation
 ☐ Presentation & Action

Department: Nye County Clerk		Agenda Date:	
Category: Regular Agenda Item		September 20, 2022	
Contact: Mark F Kampf		Phone: 482-8127	Continued from meeting of:
Return to: Kelly L. Sidman	Location: Tonopah Clerk's Office		Phone: 482-8134
Action requested: (Include what, with whom, when, where, why, how much (\$) and terms)			
Presentation regarding the paper ballot and hand-count process to be implemented for the Nye County General Election in November 2022.			
Complete description of requested action: (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures)			
This will be a 10-15 minute presentation to brief the commission on the process being developed and to inform the public in attendance. Time will depend on questions from the board.			
Any information provided after the agenda is published or during the meeting of the Commissioners will require you to provide 20 copies: one for each Commissioner, one for the Clerk, one for the District Attorney, one for the Public and two for the County Manager. Contracts or documents requiring signature must be submitted with three original copies.			
Expenditure Impact by FY(s): (Provide detail on Financial Form)			
<input type="checkbox"/> No financial impact			

Routing & Approval (Sign & Date)

1. Dept	Date	6.	Date
2.	Date	7. HR	Date
3.	Date	8. Legal	Date
4.	Date	9. Comptroller	Date
5.	Date	10. County Manager	Date

☒ Place on Agenda

Item#: 35

APP000028

Nye County – 2022 General Election Process

March 15, 2022, BOCC Meeting Agenda Item:

- “Nye County Clerk to consider administering the 2022 Primary and General elections using only paper ballots and hand-counting the paper ballots submitted by Nye County voters to ensure accuracy and transparency of the democratic voting process”
- Voted 5-0 to support this request
- Will be implemented with the 2022 General Election

Nye County – 2022 General Election Process

Implementation Plan Overview

- Use paper ballots at polls instead of touch screens
- One ADA touch screen at each poll for special needs
- Tabulators (vote counters) used for all ballots
- Parallel Hand Count process
- Transparency
- Strengthen check-in, signature and ballot controls

Nye County – 2022 General Election Process

Paper Ballots

- Mail-in ballots same as previously
- Identical paper ballot completed by the voter at the polls
- Voters will drop ballot in the secure box at polls
- Registration process like prior method
- Voter will sign a signature card and the signature screen.

Nye County – 2022 General Election Process

ADA Compliance

- Touch screens with ADA compliant accessibility
- Limited to those with special needs
- Stop gap measure while researching alternative solutions

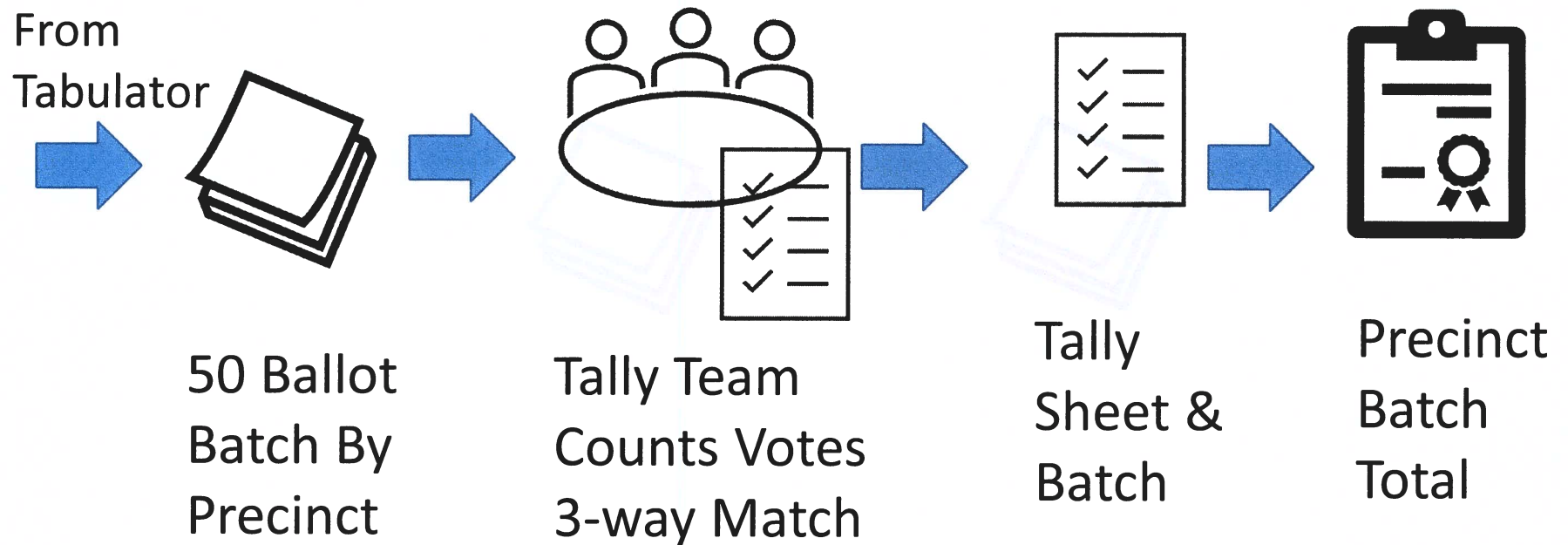
Nye County – 2022 General Election Process

Tabulation

- Same tabulation process for in-person paper ballots as currently for the mail-in ballots
- In-person ballots sent to Tabulation daily
- 50 ballot batch control log starts with the poll box and the mail receipt
- Stop gap measure while researching alternative solutions

Nye County – 2022 General Election Process

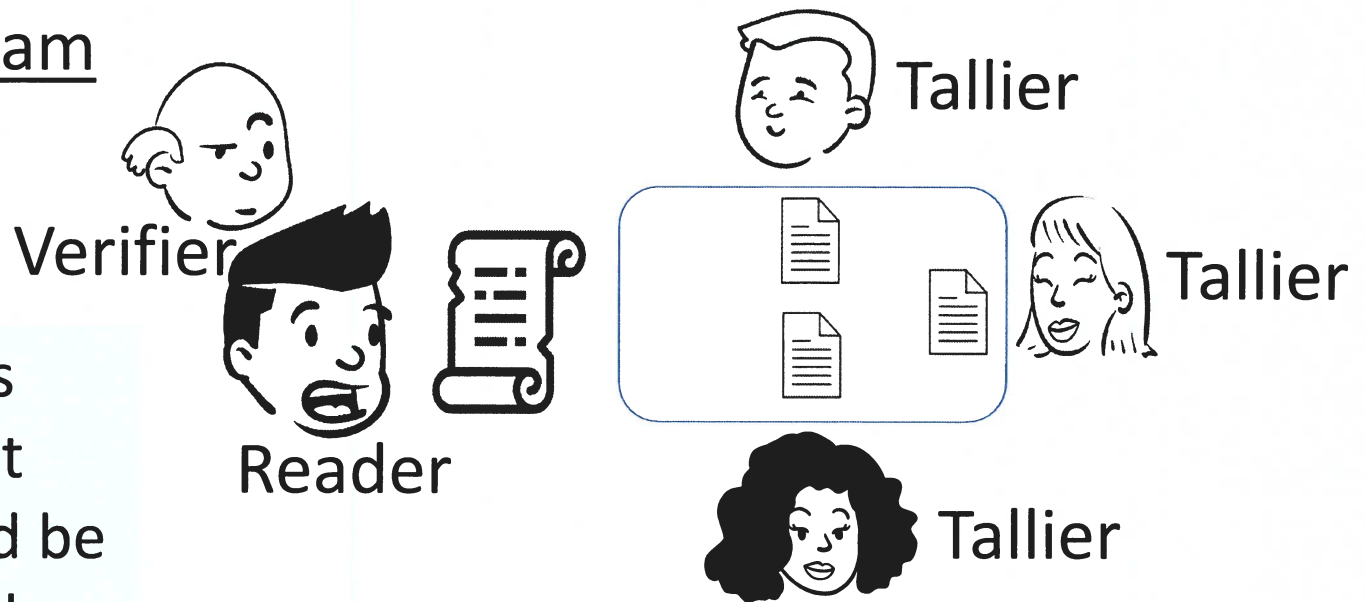
Hand Count Overview



Nye County – 2022 General Election Process

Hand Count Team

All three Talliers
votes by contest
must match and be
verified by Reader
and Verifier



Nye County – 2022 General Election Process

The Math

- 32,855 Active Voters
- 26,000 at 80% Voter Turnout (74.84% in 2020 General)
- 520 Batches at 50 Ballots per Batch
- Approximately 40 Batches Per Day (worse case scenario)
- Minimum 8 Teams at 5 Batches per Day Per Team
- Test counts indicate significantly more throughput
- Finish November 10th - remainder November 14th

Nye County – 2022 General Election Process

Transparency

- Video camera live streaming Hand Count
- Citizens become poll watchers at home

Nye County – 2022 General Election Process

Strengthening Controls

- Stringent signature verification
- No prompting of voter verification information
- Require identification if signature or verification fail
- All ballot handoffs to include ballot control documents with signatures required
- Adjudication to be consistent with State standards and between tabulation and hand-count

Nye County – 2022 General Election Process

Questions





Nevada officials begin unprecedented hand count of ballots

By GABE STERN October 28, 2022

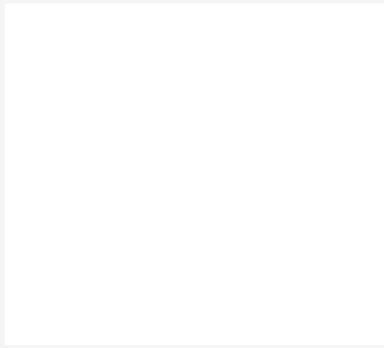


APP000040



PAHRUMP, Nev. (AP) — Volunteers in a rural Nevada county where [voting machine conspiracy theories](#) led to an unprecedented hand-count of mail-in ballots came face-to-face with one messy reality of their plan Wednesday: It's more time-consuming than anticipated.





After a full day in the Nye County office building in Pahrump, 60 miles (96 kilometers) west of Las Vegas, some 60 volunteers had counted about 900 of the 1,950 mail-in ballots that the county has received so far.

It was the first day that counting could start under a state Supreme Court ruling that said officials must prevent the public release of early results. The court also blocked a plan to livestream the vote-counting, saying video could be released only after polls close on Nov. 8.

The American Civil Liberties Union of Nevada unsuccessfully sought to block the counting on the grounds that it could allow election results to be made public before many voters had even weighed in.

The ACLU was preparing to ask the state high court to intervene again, spokesperson West Juhl said Wednesday night. The ACLU contends the county failed to comply with Friday's order.

"It's an embarrassing day for our democracy. A historic disaster is brewing in Nye County," ACLU Nevada executive director Athar Haseebullah said in a statement after watching the first several hours of ballot counting.

Juhl said an armed volunteer removed an ACLU observer from one room and attempted to take her notes.

Nye County, an old silver mining region between Las Vegas and Reno, is home to about 50,000 residents, including 33,000 registered voters. It's best known as the home of the nation's former nuclear weapons test site.

Nevada has one of the most closely watched U.S. Senate races in the country, as well as high-stakes contests for governor and the office that oversees elections.

Two groups of five that The Associated Press observed Wednesday spent about three hours

each counting 50 ballots. Mismatched tallies led to recounts, and occasionally more recounts. Several noted how arduous the process was, with one volunteer lamenting: “I can’t believe it’s two hours to get through 25” ballots.

Nye County interim clerk Mark Kampf emphasized throughout the day to “take it nice and slow.” In an interview, he declared the first day a success and said, “It was a process of learning here.”

As one person announced candidate names aloud, a verifier looked over her shoulder and three talliers marked sheets of paper. A print-out instruction sheet on a wall across from a video camera above their table urged them to “FOCUS, FOCUS” on each name that was read.

One group observed by AP found mismatched tallies for eight candidates during a verification period that lasted 30 minutes. A recount took nearly 40 minutes, and two of the recounts still had different outcomes.

“That’s going to be my new name. Mismatch,” said one of the talliers.

“It’s our first day, don’t feel bad,” the verifier replied. “As long as we catch ’em.”

“It will get better,” Kampf later told the group.

The secretary of state’s office said Nye County had to split teams into separate rooms so anyone observing the count of early in-person and mailed ballots would not know the “totality of returns.” Participants were not identified for the media.

In a letter sent Tuesday to Nevada secretary of state election officials, though, the ACLU warned that the reading of candidate names aloud within earshot of public observers constituted “a release of election results in violation of Nevada law.”

Nye County spokesman Arnold Knightly said officials could not respond to questions about the letter because the case was before the state Supreme Court.

Jennifer Russell, spokeswoman for Republican Secretary of State Barbara Cegavske, also did not have a response to the ACLU letter.

Observers were required to sign a form saying they won’t release results they overhear. Anyone who does could be charged with a gross misdemeanor.

The AP was not not allowed to photograph the proceedings.

The concern over safeguarding the tallies is because the process is so unusual. Ballots cast early, either in-person or by mail, are typically counted by machine on Election Day, with results released only after polls close. In most places, hand counts are used after an election on

a limited basis to ensure machine tallies are accurate.

Nye County commissioners voted to run a hand count of all its ballots after being bombarded with complaints by residents who have been subjected to nearly [two years of conspiracy theories](#) related to [voting machines](#) and false claims that [the 2020 presidential election](#) was stolen from former President Donald Trump.

Trump won 69% of the vote in Nye County even as President Joe Biden won Nevada by about 33,500 votes.

Nye County wanted to start counting its early ballots before Election Day rather than risk missing the state's Nov. 17 certification deadline.

Nye is the most prominent county in the U.S. to change its vote-counting process in reaction to the conspiracy theories — even though there has been [no evidence of widespread fraud or manipulation of machines](#) in the 2020 election, including in Nevada. The decision prompted the long-time county clerk to resign.

Kampf has described the county's Dominion tabulator machines as a “stop-gap” measure while it decides how to handle tallies for future elections. But the machines will remain the primary recording mechanism for this election, despite the hand counting.

“If it's successful, and we can show that we can be effective and we learn by it, we can go to a full hand-count process,” Kampf told reporters.

The Republican's nominee for secretary of state, Jim Marchant, said he wants to spread hand-counting to every county. In March, he said he would try to have the state's 15 rural counties adopt hand-counting, then “force Clark and Washoe” — home to Las Vegas and Reno — to do so.

Marchant has repeated unsubstantiated election claims and [told audiences that elections are corrupt](#).

Nevada's least populous county, Esmeralda, [used hand-counting](#) to certify its primary results in June, when officials spent more than seven hours counting 317 ballots. The most populous county in the continental U.S. to rely exclusively on hand-counting is Owyhee County, Idaho, which has one-fifth of the registered voters as Nye County.

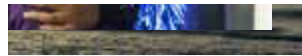
This story was first published on October 26, 2022. It was updated on October 28, 2022 to correct the stage at which the tally team found eight mismatches. They found the mismatches during the 30-minute verification period, not in their first 30 minutes.

Associated Press writer Ken Ritter in Las Vegas contributed to this report.

Stern is a corps member for the Associated Press/Report for America Statehouse News Initiative. Report for America is a nonprofit national service program that places journalists in local newsrooms to report on undercovered issues. Follow Stern on Twitter: [@gabestern326](https://twitter.com/gabestern326)

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Check out <https://apnews.com/hub/explaining-the-elections> to learn more about the issues and factors at play in the 2022 midterm elections.



Hand vote count stops, but Nevada county vows to try again

By KEN RITTER October 28, 2022



APP000046



LAS VEGAS (AP) — A rural Nevada county roiled by voting machine conspiracy theories stopped its unprecedented effort Friday to hand count ballots cast in advance of Election Day.

But Nye County officials vowed to reshape their plan and seek another go-ahead from the Nevada Supreme Court, after justices ruled late Thursday that counting methods used this week violated rules they set to prevent the county from allowing early disclosure of election results.

“Yesterday’s Supreme Court order requires us to make some changes to our hand count process,” Nye County officials said in a statement issued Friday that promised to “resume as soon as our plan is in compliance with the court’s order and approved by the secretary of state.”

No counting had been scheduled Saturday or Sunday, county spokesman Arnold Knightly said.

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Lawyers for the American Civil Liberties Union of Nevada said Friday they stood ready to challenge any effort to restart the hand tallies next week. They don't believe there's any hand-counting scenario that would pass legal muster.

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"Our position has always been that a general election is not an appropriate avenue for conducting experiments with election processes and it has become increasingly clear that there is no path forward for this hand counting process under the law," said Sadmira Ramic, ACLU of Nevada's voting rights attorney

Explaining the elections

- **[Explaining the 2022 midterms: Find your information here](#)**
- **[EXPLAINER: How can the AP call races right as polls close?](#)**
- **[EXPLAINER: How the AP counts the vote on election night](#)**
- **[EXPLAINER: Why are secretary of state races higher profile?](#)**

Volunteers spent hours Wednesday and Thursday hand counting hundreds of mail ballots before the court issued a unanimous three-page opinion siding with objections raised by the ACLU.

The civil rights advocacy group accused Nye County officials of failing to prevent public release of early results before polls close to in-person voting Nov. 8. It argued that reading candidates' names aloud from ballots within hearing distance of public observers violated the court rule.

[On Wednesday](#), The Associated Press and other observers, including some from the ACLU, watched as volunteers were sworn in and split into groups in six different rooms at a Nye County office building in Pahrump, 60 miles (96 kilometers) west of Las Vegas.

Some teams the AP observed spent about three hours each counting 50 ballots. Mismatches, where all three talliers didn't have the same number of votes for a candidate, led to recounts.

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Immediately following the court's Thursday decision, Republican Secretary of State Barbara Cegavske and Mark Wlaschin, the state's top election officials, ordered the count to stop until after polls close on Nov. 8.

"No alternative hand-counting process may proceed," Cegavske said a letter to interim Nye County Clerk Mark Kampf, until the counting method complies with the [Supreme Court's Oct. 21 order](#).

Cegavske has been a GOP critic of voter-fraud conspiracy theories that fueled hand tallying of ballots in the state. She defended results of the 2020 election as reliable and accurate, was [censured by her party](#) for her stance, and is not seeking reelection.

The sprawling county between Las Vegas and Reno, is home to about 50,000 residents, including about 33,000 registered voters. The county reported receiving nearly 4,700 ballots as of Wednesday.

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Ballots cast early — in-person or by mail — are typically counted by machine on Election Day, with results released after polls close. In most places, hand counts are used after an election on a limited basis to ensure machine tallies are accurate.

Nye County commissioners voted to hand-count all ballots after complaints by residents echoing nearly two years of [conspiracy theories](#) related to [voting machines](#) and false claims that the 2020 presidential election was [stolen from](#) former President Donald Trump.

Trump won 69% of the vote in Nye County, but Democratic President Joe Biden won Nevada by about 2.4%.

Kampf plans to use Dominion voting machines as the primary vote tabulators for this election, but has floated the idea of scrapping the machines in future elections. The effort to begin the hand count of mail ballots is a nod to the time the process takes and a bid to meet a state certification deadline on Nov. 17.

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Nye is the most prominent county in the U.S. to change its vote-counting process in reaction to the conspiracy theories — even though there has been [no evidence of widespread fraud](#) or manipulation of machines in the 2020 election, including in Nevada. The decision prompted the long-time county clerk to resign. Kampf was appointed to replace her.

Nevada has one of the most closely watched U.S. Senate races in the country, as well as high-stakes contests for governor and the office that oversees elections.

The Republican nominee for secretary of state, Jim Marchant, [has repeated unsubstantiated election claims](#) and said he wants to spread hand-counting to every Nevada county.

Athar Haseebullah, executive director of the ACLU of Nevada, vowed to continue to challenge any hand-counting attempt in Nye County or elsewhere.

“While Nye County’s actions might be a sign of things to come, our response to their actions is also a sign of things to come,” Haseebullah said. “We will combat all efforts to destroy our democracy up and down Nevada. We welcome the fight.”

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Associated Press writers Scott Sonner and Gabe Stern in Reno, Nevada, contributed to this report. Stern is a corps member for the Associated Press/Report for America Statehouse News Initiative. Report for America is a nonprofit national service program that places journalists in local newsrooms to report on undercovered issues. Follow Stern on Twitter: [@gabestern326](#)

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Check out <https://apnews.com/hub/explaining-the-elections> to learn more about the issues

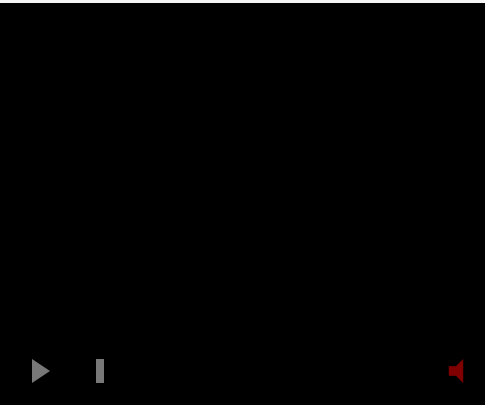
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and factors at play in the 2022 midterm elections.



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Purpose

The purpose of this guide is to provide a framework and guidelines for Nye County to conduct a hand count of paper ballots in their elections that will follow a machine count of the paper ballots using existing tabulators and election management software. Paper ballots will replace the Dominion ImageCastX tablets supported by paper roll verification printout. One Dominion ImageCastX tablet with ATI will be provided at each polling location for voters who need such machine. Voter check-in and signature verification of mail-in ballots will follow existing procedures. Verification of in-person voters will continue to use the VoteSafe kiosks for voter check-in and to verify the signatures in the electronic database.

Physical Set Up

The Central Ballot Tally Center location set up for tallying of ballot batches consists of several separate processes and stations:

Ballot Control - Controls receipt of all sealed ballot boxes, distribution of ballot batches for tallying to the Tally Tables, comparison of Batch Tally Sheets in the ballot batch, verification of Tallier totals on Batch Tally Sheets, if necessary, and distribution of completed batches and verified Batch Tally Sheets to the Precinct Tally for summarization.

Tallying Tables – Tables where three talliers work to record vote counts on Batch Tally Sheets or Recount Tally Sheets in silence to complete the count. This will be in a controlled, open area facility containing all tally operations, conducive to meaningful observation.

Adjudication – Talliers will make independent adjudication decisions on their individual tally sheet. Ballot batch number and ballot sequence number of the ballot requiring adjudication will be noted on the individual batch tally sheet to ensure all three talliers uniformly identify the ballot and race to be adjudicated and the vote included in the tally. Ballot Control Supervisor and an additional Ballot Control Quality Control (QC) staff will review any adjudication decisions. Should any discrepancy occur among the three talliers on the adjudication decision, the contest or ballot issue will be sent for recount.

Electronic Tabulation Area (Tonopah) – Prior to any hand count, all voted ballots will be tabulated using approved Dominion ImageCast tabulators and election management servers and software. This process is the same as the process currently in place and will be run in parallel to the hand count process. Tabulated batch totals will be tracked and compared to hand count batches.

Precinct Tally – The place where completed Batch Tally Sheets from the Tally Tables are recorded to produce a Precinct Total Sheet. The completed Precinct Total Sheet will be updated for each Batch Tally Sheet until all ballots for the election are completed. Spreadsheets will be printed for manual verification and approval of the totals entered at the batch level.

Voter Data Consolidation and Reporting – The Clerk’s office where daily processing and final vote total summary information by precinct is developed and reported to the public, the Nye County Board of Commissioners, and the Nevada Secretary of State.

Final Custody Area – The Clerk’s office where ballot batches, Batch Tally Sheets, Batch Tracking Documents and Batch Tracking Logs are inspected for completeness of documentation, and ballots and associated documentation are placed in secure, sealed storage.

NOTE: Templates include Batch Tracking Log, Ballot Box Transfer Control, Batch Tracking Document, Batch Tally Sheets, Recount Tally Sheets, and Precinct Total Sheets.

Surveillance (Central Ballot Tally Center and Tonopah Clerk’s Office)

Vote tallying from paper ballots and batch summarization are conducted in full view of the public providing for meaningful observation. Observers will be positioned to avoid a clear view of votes on ballots.

Process

Overview

Ballots begin the tallying process in a sealed Ballot Transfer Box at Ballot Control who verifies the ballot batches received against the control log. Ballot Control runners deliver ballot batches along with the appropriate tally sheets to the

individual Tally Table(s) in the Central Ballot Tally Center. The Batch Tracking Document is used for chain of custody control.

When the Tally Table completes a batch, Ballot Control will pick up the tallied batch and verify the vote totals match among the three Batch Tally Sheets or the Recount Tally Sheet.

Summarization of the completed batches by precinct by candidate or ballot issue will also be done in silence along with independent verification of the data entry into the spreadsheet. The data will be printed in hard copy and both the batch entry, and the totals verified by separate Deputy Clerks and sign as evidence of this review.

Ballot Control

1. The Ballot Control Supervisor receives all Ballot Transfer Boxes entering the Central Ballot Tally Center and signs the Ballot Transfer Box Control document for receipt and places the Ballot Transfer Box in the central temporary storage location under observer view.
2. The Ballot Control QC and the Ballot Intake Supervisor opens Ballot Transfer Box and signs the Batch Tracking Log as evidence of receipt of the ballot batches. The Ballot Control Supervisor and a Ballot Control QC will each have separate keys to open the two Ballot Transfer Box locks (the other two separate backup keys are retained in the Tonopah and Pahrump Clerk's office).
3. Ballot Control QC prepares the Batch Tracking Document (batch number, ballot sequence numbers, date, time, and number of ballots) and the header of the Batch Tally Sheets and places the batch in the to be tallied outbox.
4. A batch runner delivers the batches containing ballots, Batch Tally Sheets (or Recount Tally Sheets) and Batch Tracking Document to the Tally Table. Batch runners should ensure there is a batch waiting to be tallied at the Tally Table at all times. Should the Tally Table inbox be empty a tallier raises a flag requesting a new batch for tally (or Ballot Control Supervisor support). The Ballot Control runner enters the Tally Table number on the Batch Tracking Document upon delivery.
5. A batch runner picks up tallied batches from the Tally Table outbox and delivers to Batch Control. Batch Control QC checks in the batch on the Batch Tracking Document.

6. Ballot Control QC will check to ensure the totals of all contests or ballot issues agree on all three Batch Tally Sheets. Should there be a discrepancy, Ballot Control QC will verify the totals of the individual hash marks to first eliminate the possibility of a math error on the totals for each candidate and ballot issue on all three tally sheets where there is a discrepancy.
7. If there is still a tally discrepancy or “mismatch”, a recount of the contest or ballot issue in error will be performed by a different tally team. If more than two recounts are required, the batch will be sent for a total recount.
8. If a “mismatch”, QC will place an “X” in the “Recount if Checked” box on the Batch Tally Sheet contest or ballot issue requiring recount.
9. QC will then place a corresponding “X” in the “Recount if Checked” box on the Recount Tally Sheet for the contest or ballot issue to be recounted and attach the Recount Tally Sheet to the batch and send (to a different table) for reprocessing. Note: Batch Tally Sheets and Recount Tally Sheets always stay with the batch of ballots and Batch Control Document (chain of custody control).
10. The completed batch will be returned by the runner to the Ballot Control QC team inbox who will control receipt of the batch, confirm that the tally sheets match and ensure the documentation is complete.
11. When all three Batch and/or Recount Tally Sheets agree on candidates or ballot issues, Control will have two independent verifiers (QC) sign the batch control log and each Batch (Recount) Tally Sheet as evidence of the correct total.
12. Completed and verified batches and all control documents are sent to Precinct Tally.
13. When all batches from the Ballot Transfer Box are delivered to the tally tables the Ballot Control Supervisor and Ballot Control QC staff will confirm that the box is empty, replace the locks, sign the Ballot Transfer Box Control and deliver the empty box to Fleet for return to the Clerk’s office in Tonopah for use in delivering additional tabulated batches.
14. At the end of the day the Precinct QC Staff will meet with the Ballot Control Supervisor to ensure all batches sent are either in the completed ballot, in the yet to be tallied, or the Precinct Tally yet to be summarized Ballot Transfer Box(es). The in-process and completed Ballot Transfer Boxes are locked and sealed at the end of the day and returned by the Sheriff and Clerk or Deputy Clerk to the Pahrump Clerk’s office vault for storage. The Ballot Control QC and the Sheriff’s Deputy will sign the Ballot Transfer Box Control documents.

15. Completed ballot batches will be sent via the Pahrump Clerk's office to the Tonopah Clerk's office awaiting final verification and summarization prior to final custody storage. In process boxes will be returned by the Pahrump Clerk's office to the Central Ballot Tally Center daily intact and unopened.

Tally Tables

1. Tally teams will consist of three talliers who will work in silence. There will be no ballot reader or verifier.
2. If a batch to be tallied has not been delivered to the Tally Table by a Ballot Control runner, a tallier will raise a flag requesting a new batch for tally.
3. Tallier One will select the first ballot from the top of the batch and begin to read the votes in silence from the ballot and record the votes on the Batch Tally Sheet.
4. Each of the three talliers reads side one of each ballot individually and enters the voted candidate on the Batch or Recount Tally Sheet. The tallier will then turn over the ballot and the Batch Tally Sheet and complete the tally for side two of the ballot.
5. When the ballot is completely tallied, the tallier passes the ballot to the next tallier's inbox (designed so that the ballots stay in sequence). The ballots progress through a linear process whereby each of the three talliers enter votes from both sides of the ballot from their inbox until the batch is complete.
6. After the last ballot in the batch is recorded, the talliers will total their hash marks, sign their individual Batch or Recount Tally Sheets and then all three tally sheets will be assembled by Tallier Three with the ballot batch and Batch Control Document then placed in the outbox for pickup by the Ballot Control runner.
7. **ADJUDICATION – Should the Tallier encounter a vote for a contest or ballot issue where there is an overvote or voter correction of an overvote is in question the tallier will record the ballot batch/sequence number, contest and voted candidate(s) on in the designated place on the tally sheet as documentation of the ballot where and adjudication was made and the tallier choice. Agreement of the tally totals are evidence of the agreement on the adjudication. Ballot Control QC will confirm the adjudication choices or send for Recount.**

8. This process will repeat until all ballot batches are completed or the scheduled shifts for the day are ended.

Precinct Tally

1. As the completed batches of ballots containing the Batch Tracking Document, Batch Tally Sheets (and Recount Tally Sheets) are received from the Control, the Precinct QC staff will sign the Batch Tracking Document to indicate evidence of delivery, receipt, and complete documentation.
2. The Precinct QC will enter the Batch Tally Sheet votes by batch number to the Precinct Total Sheet Excel spreadsheet. The votes for each candidate or issue will be entered on the Precinct Total Sheet by precinct by Batch Number until all batches are completed.
3. Once the batch vote totals have been entered on the Precinct Total Sheet, the batch will be put in a Ballot Transfer Box and the batch will be entered on the Ballot Control Log.
4. At the end of the day the Precinct QC will meet with the Ballot Control Supervisor to ensure all batches sent are either in the Ballot Transfer Box(es) or in the Ballot Intake area. The Ballot Transfer Boxes containing the yet-to-be-tallied batches and the day's completed tallied batches are locked and sealed at the end of the day and returned by the Sheriff and Clerk or Deputy Clerk to the Pahrump Clerk's office vault for storage. The Precinct QC and the Sheriff's Deputy will sign the Ballot Transfer Box Control document.
5. Once all Batch Tally Sheets for all ballot batches have been counted and all Precinct Total Sheets are completed for the election, the Precinct Total Sheets retained by the Pahrump Clerk's office will be delivered to the Election Board Official responsible for Voter Data Consolidation and Reporting.

Voter Data Consolidation and Reporting

1. A Deputy Clerk will compare the totals for each batch tally to the manual printout of the Precinct Total Sheet to ensure an accurate vote summary for each race, candidate, ballot issue and ballot issue choice.
2. A separate Deputy Clerk will identify the cause of any errors in Batch Tally Sheet values recorded on the Precinct Tally Sheets or Total Precinct Sheets.

3. Once all Precinct Tally Sheets have been manually verified and approved in writing, the precinct level votes will be consolidated. The County Clerk and an independent Deputy Clerk will verify the totals on the manual output to the verified manual Precinct Total Sheets.
4. Vote totals will be compared to the ICX Tabulator totals and differences investigated.

Final Ballot Custody Area

1. Ballot Custodian (Deputy Clerk) receives the completed batches of ballots containing the Batch Tracking Document, Batch Tally Sheets (and Recount Tally Sheets) and Precinct Tally Sheets and signs the Batch Tracking Log as evidence of receipt and complete documentation.
2. Completed batches will be put into a completed Precinct Storage Container. Batch numbers contained in the Precinct Storage Container must be indicated on the outside of the container. When all batches for a Precinct have been counted and tabulated the Precinct Storage Container(s) is(are) sealed with a “final” seal and delivered to the Clerk for secure storage for the period required by law.

Job Descriptions

Ballot Control Supervisor

1. Monitors all ballot batch activity in the Central Ballot Tally Center.
2. Receives all Ballot Transfer Boxes entering the Central Ballot Tally Center and signs the Ballot Transfer Box Control document for receipt and places the Ballot Transfer Box in the central temporary storage location under observer view. The Ballot Control Supervisor will use one of two separate keys to open one of the two Ballot Transfer Box locks (the other two separate backup keys are retained in the Tonopah and Pahrump Clerk's office).
3. Opens of Ballot Transfer Box and signs the Batch Tracking Log (batch number, ballot sequence numbers, date, time, and number of ballots) as evidence of receipt of the ballot batch.
4. When all batches are removed from the Ballot Transfer Box and delivered to the tally tables the Ballot Control Supervisor (and Ballot Control QC staff) will confirm that the box is empty, replace the locks, sign the Ballot Transfer Box Control and deliver the empty box to Fleet for return to the Clerk's office in Tonopah for use in delivering additional tabulated batches.
5. At the end of the day the Precinct QC Staff will meet with the Ballot Control Supervisor to ensure all batches sent are either in the completed ballot, in the yet to be tallied, or the Precinct Tally yet to be summarized or Ballot Transfer Box(es). The Ballot Control Supervisor will ensure that the in process and completed Ballot Transfer Boxes are locked and sealed at the end of the day and returned by the Sheriff and Clerk or Deputy Clerk to the Pahrump Clerk's office vault for storage. The Ballot Control QC and the Sheriff's Deputy will sign the Ballot Transfer Box Control documents.
6. Ensures completed ballot batches will be sent via the Pahrump Clerk's office to the Tonopah Clerk's office awaiting final verification and summarization prior to final custody storage. Checks in the in process boxes will be returned by the Pahrump Clerk's office to the Central Ballot Tally Center daily intact and unopened per 2 above.

Ballot Control QC

1. Ballot Control QC receives all Ballot Transfer Boxes entering the Central Ballot Tally Center and signs the Ballot Transfer Box Control document for receipt and place the Ballot Transfer Box in the central temporary storage location under observer view. QC uses a separate key to open one of the two Ballot Transfer Box locks (the other two separate backup keys are retained in the Tonopah and Pahrump Clerk's office).
2. The Ballot Control QC prepares Batch Tracking Document (batch number, ballot sequence numbers, date, time, and number of ballots) signs Batch Tracking Log as evidence of receipt. Completes the header of the Batch or Recount Tally Sheets, attaches them to the batch along with the Batch Tracking Document and places the batch in the to be tallied outbox.
3. Batch Control QC checks in the tallied batch delivered by the runner on the Batch Tracking Document.
4. Ballot Control QC ensures the totals of all contests or ballot issues agree on all three Batch Tally Sheets. Should there be a discrepancy, Ballot Control QC will verify the totals of the individual hash marks to first eliminate the possibility of a math error on the totals for each candidate and ballot issue on all three tally sheets where there is a discrepancy.
5. If there is still a tally discrepancy or "mismatch", a QC will ensure a count of the contest or ballot issue in error will be performed by a different tally team. If more than two recounts are required, the QC will send the batch for a total recount.
6. If a "mismatch", QC will place an "X" in the "Recount if Checked" box on the Batch Tally Sheet contest or ballot issue requiring recount.
7. QC will then place a corresponding "X" in the "Recount if Checked" box on the Recount Tally Sheet for the contest or ballot issue to be recounted and attach the Recount Tally Sheet to the batch and send (to a different table) for reprocessing. Note: Batch Tally Sheets and Recount Tally Sheets always stay with the batch of ballots and Batch Control Document (chain of custody control).
8. Ballot Control QC will control receipt of the completed batch, confirm that the tally sheets match and ensure the documentation is complete.
9. When all three Batch and/or Recount Tally Sheets agree on candidates or ballot issues, Ballot Control will have two independent verifiers (QC) sign the

batch control log and each Batch (Recount) Tally Sheet as evidence of the correct total.

10. QC sends completed and verified batches and all control documents to Precinct Tally.
11. When all batches are removed from the Ballot Transfer Box and delivered to the Tally Tables, the Ballot Control Supervisor and Ballot Control QC staff will confirm that the box is empty, replace the locks, sign the Ballot Transfer Box Control and deliver the empty box to Fleet for return to the Clerk's office in Tonopah for use in delivering additional tabulated batches.
12. At the end of the day the Precinct Tally QC staff will meet with the Ballot Control Supervisor to ensure all batches sent are either in the completed ballot, in the yet to be tallied, or the Precinct Tally yet to be summarized or Ballot Transfer Box(es). The in process and completed Ballot Transfer Boxes are locked and sealed at the end of the day and returned by the Sheriff and Clerk or Deputy Clerk to the Pahrump Clerk's office vault for storage. The Precinct Tally QC and the Sheriff's Deputy will sign the Ballot Transfer Box Control documents.

Vote Tallier

1. Vote Talliers will work in silence.
2. If a batch to be tallied has not been delivered to the Tally Table by a Ballot Control runner, a Tallier will raise a flag requesting a new batch for tally.
3. Tallier One will select the first ballot from the top of the batch and begin to read the votes in silence from the ballot and record the votes on the Batch Tally Sheet.
4. Vote Tallier reads side one of each ballot individually and enters the voted candidate on the Batch or Recount Tally Sheet. The tallier will then turn over the ballot and the Batch Tally Sheet and complete the tally for side two of the ballot.
5. When the ballot is completely tallied, the Vote Tallier passes the ballot to the next tallier's inbox (designed so that the ballots stay in sequence). The ballots progress through a linear process whereby each of the three talliers enter votes from both sides of the ballot from their inbox until the batch is complete.

6. After the last ballot in the batch is recorded, the Vote Talliers will total their hash marks, sign their individual tally sheet and then a Vote Tallier Three will assemble all three tally sheets with the ballot batch and Batch Control Document then place in the outbox.
7. **ADJUDICATION – Should the Tallier encounter a vote for a contest or ballot issue where there is an overvote or voter correction of an overvote is in question the Vote Tallier will record the ballot batch/sequence number, contest and voted candidate(s) on in the designated place on the tally sheet as documentation of the ballot where and adjudication was made and the tallier choice.**

Precinct QC

1. As the completed batches of ballots containing the Batch Tracking Document, Batch Tally Sheets (and Recount Tally Sheets) are received from the Ballot Control, the Precinct QC staff will sign the Batch Tracking Document to indicate evidence of delivery, receipt, and complete documentation.
2. The Precinct QC will enter the Batch Tally Sheet (or Recount) votes by batch number to the Precinct Total Sheet Excel spreadsheet. The votes for each candidate or issue will be entered on the Precinct Total Sheet by precinct by Batch Number until all batches are completed.
3. Precinct QC will place the batch in a Ballot Transfer Box and enter the information on the Ballot Control Log.
4. At the end of the day the Precinct Tally QC will meet with the Ballot Control Supervisor to ensure all batches sent are either in the Ballot Transfer Box(es) or in the Ballot Intake area. The Ballot Transfer Boxes containing the yet-to-be-tallied batches and the day's completed tallied batches are locked and sealed at the end of the day and returned by the Sheriff and Clerk or Deputy Clerk to the Pahrump Clerk's office vault for storage. The Precinct Tally QC and the Sheriff's Deputy will sign the Ballot Transfer Box Control document.

Deputy Clerk

1. A Deputy Clerk will compare the totals for each batch tally to the manual printout of the Precinct Total Sheet to ensure an accurate vote summary for each race, candidate, ballot issue and ballot issue choice.
2. A separate Deputy Clerk will identify the cause of any errors in Batch Tally Sheet values recorded on the Precinct Tally Sheets or Total Precinct Sheets.
3. Once all Precinct Tally Sheets have been manually verified and approved in writing, the precinct level votes will be consolidated. The County Clerk and an independent Deputy Clerk will verify the totals on the manual output to the verified manual Precinct Total Sheets.
4. Vote totals will be compared by the Deputy Clerk to the ICX Tabulator totals and differences investigated.

Ballot Custodian (Tonopah Deputy Clerk)

1. Receives the completed batches of ballots containing the Ballot Tracking Document, Batch Tally Sheets (and Recount Tally Sheets) and initials the Batch Tracking Log as evidence of receipt.
2. Locks and seals the ballots for storage.

Forms and Templates - Definitions

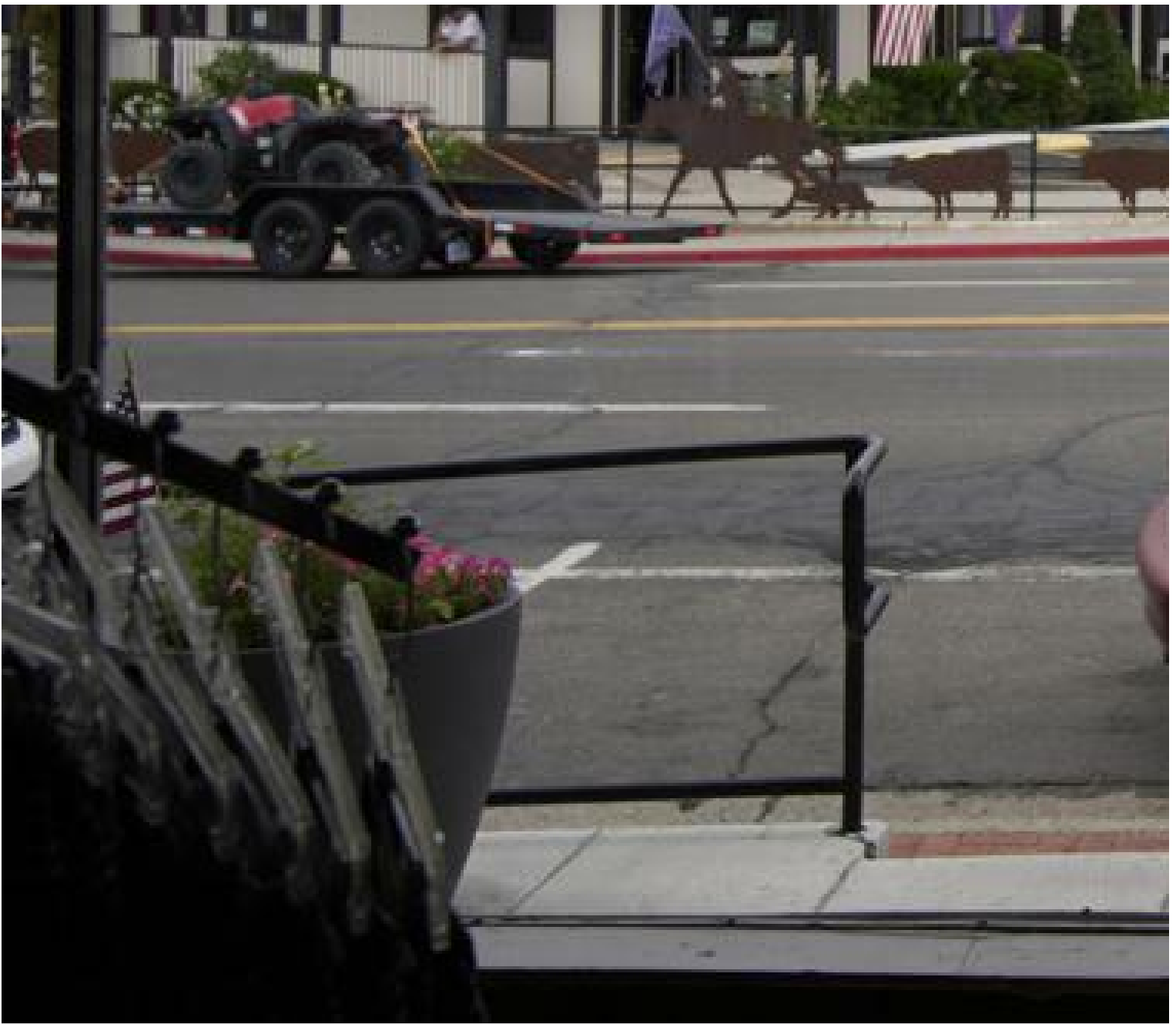
- | | |
|---|-----------|
| 1. Batch Tracking Log | Exhibit A |
| Used to ensure all batches that were tabulated in Tonopah and sent to the Central Ballot Tally Center are returned to the Tonopah Clerks Office and are included in the Hand Count totals. | |
| 2. Ballot Transfer Box Control | Exhibit B |
| Used for chain of custody control over all movements of Ballot Transfer Boxes among the Clerk's offices and the Central Hand Count Location. | |
| 3. Batch Tracking Document | Exhibit C |
| Used for chain of custody of individual ballot batches from initial Tabulation through the Hand Count process to the Ballot Custodian. | |
| 4. Batch Tally Sheet | Exhibit D |
| Used to record individual votes for candidates and ballot issues and total votes by candidate and ballot issue for each ballot batch. | |
| 5. Recount Tally Sheets | Exhibit E |
| Used to record individual votes for candidates and ballot issues and total votes by candidate and ballot issue for each ballot batch where a mismatch occurred on the original Batch Tally Sheet. | |
| 6. Precinct Total Sheet | Exhibit F |
| Used to record vote totals from the Batch Tally Sheets by batch. | |

Nevada ACLU requests probe into alleged partisan hand-count

By GABE STERN November 3, 2022



APP000066



RENO, Nev. (AP) — The American Civil Liberties Union of Nevada asked the state’s secretary of state Wednesday to investigate what it called a “coordinated partisan election administration effort” during [rural Nye County’s hand-count of mail-in ballots](#) that was shut down last week until after [polls close](#).

The ACLU said a hand-count volunteer openly carrying a firearm removed an ACLU observer from a hand-count tally room, which the organization said it recently discovered was Nye County GOP Central Committee Vice Chair Laura Larsen.

The ACLU said the situation “poses questions” surrounding Nye County interim clerk Mark Kampf’s delegation of authority to partisan officials to remove observers from hand-count rooms, particularly during a hand-count process that deals with tabulation of ballots.

“A partisan official from the Nye County GOP Central Committee given free range to roam the halls and remove those engaging in observation violates the core principles underlying free and safe elections and makes an even greater mockery of our democracy,” ACLU of Nevada’s executive director Athar Haseebullah said in a statement.

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It’s the latest development in a conflict between the rural county’s election administration and the ACLU that has spawned lawsuits, infighting and [a Nevada Supreme Court ruling late on Oct. 27](#) that prompted Secretary of State Barbara Cegavske, a Republican, to shut down the hand-counting until after polls close on Election Day.

2022 Midterm elections

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Several ACLU members showed up on the first day of hand-counting Wednesday in Pahrump, an hour outside Las Vegas.

Kampf said last week that the ACLU observer at issue was suspected of tallying votes, something that is prohibited when observing the hand-count. Volunteers locked the door to the entry room that led to the hand-counting rooms due to the incident with the ACLU, several volunteers said at the time. A volunteer was in charge of opening the door for all observers or volunteers that walked in.

A spokesperson for Nye County did not immediately respond to an emailed request for comment on Wednesday evening. Neither did Larsen nor Nye County GOP’s central committee chair.

Nye County [stopped their hand-count](#) process on Friday due to orders from the secretary of state’s office over the early release of results after two days of hand-counting. It came in response to a new opinion from the Nevada Supreme Court in favor of the ACLU’s Nevada Chapter, which argued, among other things, that the reading out of ballots risked the release of

early election counts.

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Despite the delay, Kampf said at a Nye County board of commissioners meeting on Tuesday that he submitted a new hand-count plan to the secretary of state's office that he hoped to get approved this week. The Supreme Court ruling that took issue with the reading of the ballots out loud said it was up to the secretary of state and the county to ensure the legality of the hand-count.

Larsen was present both days of the hand-count, acting in what appeared to be an assistant role to Kampf, who had vowed months ago to bring hand-counting to the rural county at the request of the county commission.

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She would often go into different hand-counting rooms to make sure the hand-count teams — composed of a reader, a verifier and three talliers — had materials and were counting correctly.

On the first day, when one reader was struggling with the pace at which to announce the candidates, Larsen walked in the hand-count room, sat in the reader chair and read the names herself to demonstrate the correct pace to announce names.

The reader apologized, and Larsen said “It's better to get it right than not get it right at all. Don't say you're sorry.”

In an interview after the first day of hand-counting, Larsen said her role was “making sure things are going the way Mark (Kampf) has set everything up. So, just looking out for the election integrity.”

Kampf has described the county's Dominion tabulator machines as a potential temporary measure while it decides how to handle tallies for future elections. But the machines will remain the primary recording mechanism for this election, despite the hand counting.

Nye County, home to about 50,000 residents, including about 33,000 registered voters, is the most prominent county in the U.S. to change its vote-counting process in reaction to the conspiracy theories — even though there has been no evidence of widespread fraud or manipulation of machines in the 2020 election.

Nye County commissioners voted to hand-count all ballots after complaints by residents echoing nearly two years of conspiracy theories related to voting machines and false claims that the 2020 presidential election was stolen from former President Donald Trump. That came as the Republican nominee for secretary of state, Jim Marchant, had repeated unsubstantiated election claims to commissioners which convinced them to request hand-counting.

The most populous county in the continental U.S. to rely exclusively on hand-counting is Owyhee County, Idaho, which has one-fifth of the registered voters as Nye County.

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Learn more about the issues and factors at play in the midterms at <https://apnews.com/hub/explaining-the-elections>. And follow the AP's election coverage of the 2022 elections at <https://apnews.com/hub/2022-midterm-elections>.

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Purpose

The purpose of this guide is to provide a framework and guidelines for Nye County to conduct a hand count of paper ballots in their elections that will follow a machine count of the paper ballots using existing tabulators and election management software. Paper ballots will replace the Dominion ImageCastX tablets supported by paper roll verification printout. One Dominion ImageCastX tablet with ATI will be provided at each polling location for voters who need such machine. Voter check-in and signature verification of mail-in ballots will follow existing procedures. Verification of in-person voters will continue to use the VoteSafe kiosks for voter check-in and to verify the signatures in the electronic database.

Physical Set Up

The Central Ballot Tally Center location set up for tallying of ballot batches consists of several separate processes and stations:

Ballot Control - Controls receipt of all sealed ballot boxes, distribution of ballot batches for tallying to the Tally Tables, comparison of Batch Tally Sheets in the ballot batch, verification of Tallier totals on Batch Tally Sheets, if necessary, and distribution of completed batches and verified Batch Tally Sheets to the Precinct Tally for summarization. All Ballot Control staff will wear gloves provided when performing processes that involve handling of physical ballots. Only purple fine tip felt pens will be used in the processing the various control documents established by this procedure.

Tallying Tables – Tables where three talliers work to record vote counts on Batch Tally Sheets or Recount Tally Sheets in silence to complete the count. This will be in a controlled, open area facility containing all tally operations, conducive to meaningful observation. Anyone handling a ballot will utilize gloves to avoid the possibility of any post ICC tabulator scan markings on the ballot. Talliers will use a purple fine tip marking pen to record vote tallies. This will avoid any stray marks that are not distinguishable from the original ballot.

Adjudication – Talliers will make independent adjudication decisions on their individual tally sheet. Ballot batch number and ballot sequence number of the

ballot requiring adjudication will be noted on the individual batch tally sheet to ensure all three talliers uniformly identify the ballot and race to be adjudicated and the vote included in the tally. Ballot Control Supervisor and an additional Ballot Control Quality Control (QC) staff will review any adjudication decisions. Should any discrepancy occur among the three talliers on the adjudication decision, the contest or ballot issue will be sent for recount.

Although the Dominion ICC Tabulation process will be used to determine vote totals for each candidate and ballot issue response, any differences between the hand count totals and the tabulation totals will be isolated to the batch total and, if necessary, the individual ballot. If necessary, the physical ballot will be compared to the image stored in the Dominion EMS server to ensure there were no modifications to the physical ballot resulting in any difference. If the results differ due to different adjudication decision in the hand count, we will determine if there is any impact on the vote totals and the correct adjudication decision. Any identified modifications to the physical ballot will be researched and appropriate action taken.

Electronic Tabulation Area (Tonopah) – Prior to any hand count, all voted ballots will be tabulated using approved Dominion ImageCast tabulators and election management servers and software. This process is the same as the process currently in place and will be run in parallel to the hand count process. Tabulated batch totals will be tracked and compared to hand count batches.

Precinct Tally – The place where completed Batch Tally Sheets from the Tally Tables are recorded to produce a Precinct Total Sheet. The completed Precinct Total Sheet will be updated for each Batch Tally Sheet until all ballots for the election are completed. Spreadsheets will be printed for manual verification and approval of the totals entered at the batch level.

Voter Data Consolidation and Reporting – The Clerk's office where daily processing and final vote total summary information by precinct is developed and reported to the public, the Nye County Board of Commissioners, and the Nevada Secretary of State.

Final Custody Area – The Clerk's office where ballot batches, Batch Tally Sheets, Batch Tracking Documents and Batch Tracking Logs are inspected for completeness of documentation, and ballots and associated documentation are placed in secure, sealed storage.

NOTE: Templates include Batch Tracking Log, Ballot Box Transfer Control, Batch Tracking Document, Batch Tally Sheets, Recount Tally Sheets, and Precinct Total Sheets.

Surveillance (Central Ballot Tally Center and Tonopah Clerk's Office)

Vote tallying from paper ballots and batch summarization are conducted in full view of the public providing for meaningful observation. Observers will be positioned to avoid a clear view of votes on ballots.

Process

Overview

Ballots begin the tallying process in a sealed Ballot Transfer Box at Ballot Control who verifies the ballot batches received against the control log. Ballot Control runners deliver ballot batches along with the appropriate tally sheets to the individual Tally Table(s) in the Central Ballot Tally Center. The Batch Tracking Document is used for chain of custody control.

When the Tally Table completes a batch, Ballot Control will pick up the tallied batch and verify the vote totals match among the three Batch Tally Sheets or the Recount Tally Sheet.

Summarization of the completed batches by precinct by candidate or ballot issue will also be done in silence along with independent verification of the data entry into the spreadsheet. The data will be printed in hard copy and both the batch entry, and the totals verified by separate Deputy Clerks and sign as evidence of this review.

Ballot Control

1. All Ballot Control staff will wear gloves provided when performing processes that involve handling of physical ballots. Only purple fine tip felt pens will be used in the processing the various control documents established by this procedure.
2. The Ballot Control Supervisor receives all Ballot Transfer Boxes entering the Central Ballot Tally Center and signs the Ballot Transfer Box Control document

- for receipt and places the Ballot Transfer Box in the central temporary storage location under observer view.
3. The Ballot Control QC and the Ballot Intake Supervisor opens Ballot Transfer Box and signs the Batch Tracking Log as evidence of receipt of the ballot batches. The Ballot Control Supervisor and a Ballot Control QC will each have separate keys to open the two Ballot Transfer Box locks (the other two separate backup keys are retained in the Tonopah and Pahrump Clerk's office).
 4. Ballot Control QC prepares the Batch Tracking Document (batch number, ballot sequence numbers, date, time, and number of ballots) and the header of the Batch Tally Sheets and places the batch in the to be tallied outbox.
 5. A batch runner delivers the batches containing ballots, Batch Tally Sheets (or Recount Tally Sheets) and Batch Tracking Document to the Tally Table. Batch runners should ensure there is a batch waiting to be tallied at the Tally Table at all times. Should the Tally Table inbox be empty a tallier raises a flag requesting a new batch for tally (or Ballot Control Supervisor support). The Ballot Control runner enters the Tally Table number on the Batch Tracking Document upon delivery.
 6. A batch runner picks up tallied batches from the Tally Table outbox and delivers to Batch Control. Batch Control QC checks in the batch on the Batch Tracking Document.
 7. Ballot Control QC will check to ensure the totals of all contests or ballot issues agree on all three Batch Tally Sheets. Should there be a discrepancy, Ballot Control QC will verify the totals of the individual hash marks to first eliminate the possibility of a math error on the totals for each candidate and ballot issue on all three tally sheets where there is a discrepancy.
 8. If there is still a tally discrepancy or "mismatch", a recount of the contest or ballot issue in error will be performed by a different tally team. If more than two recounts are required, the batch will be sent for a total recount.
 9. If a "mismatch", QC will place an "X" in the "Recount if Checked" box on the Batch Tally Sheet contest or ballot issue requiring recount.
 10. QC will then place a corresponding "X" in the "Recount if Checked" box on the Recount Tally Sheet for the contest or ballot issue to be recounted and attach the Recount Tally Sheet to the batch and send (to a different table) for reprocessing. Note: Batch Tally Sheets and Recount Tally Sheets always stay

with the batch of ballots and Batch Control Document (chain of custody control).

11. The completed batch will be returned by the runner to the Ballot Control QC team inbox who will control receipt of the batch, confirm that the tally sheets match and ensure the documentation is complete.
12. When all three Batch and/or Recount Tally Sheets agree on candidates or ballot issues, Control will have two independent verifiers (QC) sign the batch control log and each Batch (Recount) Tally Sheet as evidence of the correct total.
13. Completed and verified batches and all control documents are sent to Precinct Tally.
14. When all batches from the Ballot Transfer Box are delivered to the tally tables the Ballot Control Supervisor and Ballot Control QC staff will confirm that the box is empty, replace the locks, sign the Ballot Transfer Box Control and deliver the empty box to Fleet for return to the Clerk's office in Tonopah for use in delivering additional tabulated batches.
15. At the end of the day the Precinct QC Staff will meet with the Ballot Control Supervisor to ensure all batches sent are either in the completed ballot, in the yet to be tallied, or the Precinct Tally yet to be summarized Ballot Transfer Box(es). The in-process and completed Ballot Transfer Boxes are locked and sealed at the end of the day and returned by the Sheriff and Clerk or Deputy Clerk to the Pahrump Clerk's office vault for storage. The Ballot Control QC and the Sheriff's Deputy will sign the Ballot Transfer Box Control documents.
16. Completed ballot batches will be sent via the Pahrump Clerk's office to the Tonopah Clerk's office awaiting final verification and summarization prior to final custody storage. In process boxes will be returned by the Pahrump Clerk's office to the Central Ballot Tally Center daily intact and unopened.

Tally Tables

1. All Vote Talliers staff will wear gloves provided when performing processes that involve handling of physical ballots. Only purple fine tip felt pens will be used in recording the tally on the Batch Tally Sheet.
2. Tally teams will consist of three talliers who will work in silence. There will be no ballot reader or verifier.

3. If a batch to be tallied has not been delivered to the Tally Table by a Ballot Control runner, a tallier will raise a flag requesting a new batch for tally.
4. Tallier One will select the first ballot from the top of the batch and begin to read the votes in silence from the ballot and record the votes on the Batch Tally Sheet.
5. Each of the three talliers reads side one of each ballot individually and enters the voted candidate on the Batch or Recount Tally Sheet. The tallier will then turn over the ballot and the Batch Tally Sheet and complete the tally for side two of the ballot.
6. When the ballot is completely tallied, the tallier passes the ballot to the next tallier's inbox (designed so that the ballots stay in sequence). The ballots progress through a linear process whereby each of the three talliers enter votes from both sides of the ballot from their inbox until the batch is complete.
7. After the last ballot in the batch is recorded, the talliers will total their hash marks, sign their individual Batch or Recount Tally Sheets and then all three tally sheets will be assembled by Tallier Three with the ballot batch and Batch Control Document then placed in the outbox for pickup by the Ballot Control runner.
8. **ADJUDICATION – Should the Tallier encounter a vote for a contest or ballot issue where there is an overvote or voter correction of an overvote is in question the tallier will record the ballot batch/sequence number, contest and voted candidate(s) on in the designated place on the tally sheet as documentation of the ballot where and adjudication was made and the tallier choice. Agreement of the tally totals are evidence of the agreement on the adjudication. Ballot Control QC will confirm the adjudication choices or send for Recount.**
9. This process will repeat until all ballot batches are completed or the scheduled shifts for the day are ended.

Precinct Tally

1. As the completed batches of ballots containing the Batch Tracking Document, Batch Tally Sheets (and Recount Tally Sheets) are received from the Control, the Precinct QC staff will sign the Batch Tracking Document to indicate evidence of delivery, receipt, and complete documentation.

2. The Precinct QC will enter the Batch Tally Sheet votes by batch number to the Precinct Total Sheet Excel spreadsheet. The votes for each candidate or issue will be entered on the Precinct Total Sheet by precinct by Batch Number until all batches are completed.
3. Once the batch vote totals have been entered on the Precinct Total Sheet, the batch will be put in a Ballot Transfer Box and the batch will be entered on the Ballot Control Log.
4. At the end of the day the Precinct QC will meet with the Ballot Control Supervisor to ensure all batches sent are either in the Ballot Transfer Box(es) or in the Ballot Intake area. The Ballot Transfer Boxes containing the yet-to-be-tallied batches and the day's completed tallied batches are locked and sealed at the end of the day and returned by the Sheriff and Clerk or Deputy Clerk to the Pahrump Clerk's office vault for storage. The Precinct QC and the Sheriff's Deputy will sign the Ballot Transfer Box Control document.
5. Once all Batch Tally Sheets for all ballot batches have been counted and all Precinct Total Sheets are completed for the election, the Precinct Total Sheets retained by the Pahrump Clerk's office will be delivered to the Election Board Official responsible for Voter Data Consolidation and Reporting.

Voter Data Consolidation and Reporting

1. A Deputy Clerk will compare the totals for each batch tally to the manual printout of the Precinct Total Sheet to ensure an accurate vote summary for each race, candidate, ballot issue and ballot issue choice.
2. A separate Deputy Clerk will identify the cause of any errors in Batch Tally Sheet values recorded on the Precinct Tally Sheets or Total Precinct Sheets.
3. Once all Precinct Tally Sheets have been manually verified and approved in writing, the precinct level votes will be consolidated. The County Clerk and an independent Deputy Clerk will verify the totals on the manual output to the verified manual Precinct Total Sheets.
4. Although the Dominion ICC Tabulation process will be used to determine vote totals for each candidate and ballot issue response, any differences between the hand count totals and the tabulation totals will be isolated to the batch total and, if necessary, the individual ballot. If necessary, the physical ballot will be compared to the image stored in the Dominion EMS server to ensure there were no modifications to the physical ballot resulting in any difference. If the results differ due to different adjudication decision in the hand count, we

will determine if there is any impact on the vote totals and the correct adjudication decision. Any identified modifications to the physical ballot will be researched and appropriate action taken.

Final Ballot Custody Area

1. Ballot Custodian (Deputy Clerk) receives the completed batches of ballots containing the Batch Tracking Document, Batch Tally Sheets (and Recount Tally Sheets) and Precinct Tally Sheets and signs the Batch Tracking Log as evidence of receipt and complete documentation.
2. Completed batches will be put into a completed Precinct Storage Container. Batch numbers contained in the Precinct Storage Container must be indicated on the outside of the container. When all batches for a Precinct have been counted and tabulated the Precinct Storage Container(s) is(are) sealed with a “final” seal and delivered to the Clerk for secure storage for the period required by law.

Job Descriptions

Ballot Control Supervisor

1. Monitors all ballot batch activity in the Central Ballot Tally Center.
2. Receives all Ballot Transfer Boxes entering the Central Ballot Tally Center and signs the Ballot Transfer Box Control document for receipt and places the Ballot Transfer Box in the central temporary storage location under observer view. The Ballot Control Supervisor will use one of two separate keys to open one of the two Ballot Transfer Box locks (the other two separate backup keys are retained in the Tonopah and Pahrump Clerk's office).
3. Opens of Ballot Transfer Box and signs the Batch Tracking Log (batch number, ballot sequence numbers, date, time, and number of ballots) as evidence of receipt of the ballot batch.
4. When all batches are removed from the Ballot Transfer Box and delivered to the tally tables the Ballot Control Supervisor (and Ballot Control QC staff) will confirm that the box is empty, replace the locks, sign the Ballot Transfer Box Control and deliver the empty box to Fleet for return to the Clerk's office in Tonopah for use in delivering additional tabulated batches.
5. At the end of the day the Precinct QC Staff will meet with the Ballot Control Supervisor to ensure all batches sent are either in the completed ballot, in the yet to be tallied, or the Precinct Tally yet to be summarized or Ballot Transfer Box(es). The Ballot Control Supervisor will ensure that the in process and completed Ballot Transfer Boxes are locked and sealed at the end of the day and returned by the Sheriff and Clerk or Deputy Clerk to the Pahrump Clerk's office vault for storage. The Ballot Control QC and the Sheriff's Deputy will sign the Ballot Transfer Box Control documents.
6. Ensures completed ballot batches will be sent via the Pahrump Clerk's office to the Tonopah Clerk's office awaiting final verification and summarization prior to final custody storage. Checks in the in process boxes will be returned by the Pahrump Clerk's office to the Central Ballot Tally Center daily intact and unopened per 2 above.

Ballot Control QC

1. Ballot Control QC receives all Ballot Transfer Boxes entering the Central Ballot Tally Center and signs the Ballot Transfer Box Control document for receipt and place the Ballot Transfer Box in the central temporary storage location under observer view. QC uses a separate key to open one of the two Ballot Transfer Box locks (the other two separate backup keys are retained in the Tonopah and Pahrump Clerk's office).
2. The Ballot Control QC prepares Batch Tracking Document (batch number, ballot sequence numbers, date, time, and number of ballots) signs Batch Tracking Log as evidence of receipt. Completes the header of the Batch or Recount Tally Sheets, attaches them to the batch along with the Batch Tracking Document and places the batch in the to be tallied outbox.
3. Batch Control QC checks in the tallied batch delivered by the runner on the Batch Tracking Document.
4. Ballot Control QC ensures the totals of all contests or ballot issues agree on all three Batch Tally Sheets. Should there be a discrepancy, Ballot Control QC will verify the totals of the individual hash marks to first eliminate the possibility of a math error on the totals for each candidate and ballot issue on all three tally sheets where there is a discrepancy.
5. If there is still a tally discrepancy or "mismatch", a QC will ensure a count of the contest or ballot issue in error will be performed by a different tally team. If more than two recounts are required, the QC will send the batch for a total recount.
6. If a "mismatch", QC will place an "X" in the "Recount if Checked" box on the Batch Tally Sheet contest or ballot issue requiring recount.
7. QC will then place a corresponding "X" in the "Recount if Checked" box on the Recount Tally Sheet for the contest or ballot issue to be recounted and attach the Recount Tally Sheet to the batch and send (to a different table) for reprocessing. Note: Batch Tally Sheets and Recount Tally Sheets always stay with the batch of ballots and Batch Control Document (chain of custody control).
8. Ballot Control QC will control receipt of the completed batch, confirm that the tally sheets match and ensure the documentation is complete.
9. When all three Batch and/or Recount Tally Sheets agree on candidates or ballot issues, Ballot Control will have two independent verifiers (QC) sign the

batch control log and each Batch (Recount) Tally Sheet as evidence of the correct total.

10. QC sends completed and verified batches and all control documents to Precinct Tally.
11. When all batches are removed from the Ballot Transfer Box and delivered to the Tally Tables, the Ballot Control Supervisor and Ballot Control QC staff will confirm that the box is empty, replace the locks, sign the Ballot Transfer Box Control and deliver the empty box to Fleet for return to the Clerk's office in Tonopah for use in delivering additional tabulated batches.
12. At the end of the day the Precinct Tally QC staff will meet with the Ballot Control Supervisor to ensure all batches sent are either in the completed ballot, in the yet to be tallied, or the Precinct Tally yet to be summarized or Ballot Transfer Box(es). The in process and completed Ballot Transfer Boxes are locked and sealed at the end of the day and returned by the Sheriff and Clerk or Deputy Clerk to the Pahrump Clerk's office vault for storage. The Precinct Tally QC and the Sheriff's Deputy will sign the Ballot Transfer Box Control documents.

Vote Tallier

1. Vote Talliers will work in silence.
2. If a batch to be tallied has not been delivered to the Tally Table by a Ballot Control runner, a Tallier will raise a flag requesting a new batch for tally.
3. Tallier One will select the first ballot from the top of the batch and begin to read the votes in silence from the ballot and record the votes on the Batch Tally Sheet.
4. Vote Tallier reads side one of each ballot individually and enters the voted candidate on the Batch or Recount Tally Sheet. The tallier will then turn over the ballot and the Batch Tally Sheet and complete the tally for side two of the ballot.
5. When the ballot is completely tallied, the Vote Tallier passes the ballot to the next tallier's inbox (designed so that the ballots stay in sequence). The ballots progress through a linear process whereby each of the three talliers enter votes from both sides of the ballot from their inbox until the batch is complete.

6. After the last ballot in the batch is recorded, the Vote Talliers will total their hash marks, sign their individual tally sheet and then a Vote Tallier Three will assemble all three tally sheets with the ballot batch and Batch Control Document then place in the outbox.
7. **ADJUDICATION – Should the Tallier encounter a vote for a contest or ballot issue where there is an overvote or voter correction of an overvote is in question the Vote Tallier will record the ballot batch/sequence number, contest and voted candidate(s) on in the designated place on the tally sheet as documentation of the ballot where and adjudication was made and the tallier choice.**

Precinct QC

1. As the completed batches of ballots containing the Batch Tracking Document, Batch Tally Sheets (and Recount Tally Sheets) are received from the Ballot Control, the Precinct QC staff will sign the Batch Tracking Document to indicate evidence of delivery, receipt, and complete documentation.
2. The Precinct QC will enter the Batch Tally Sheet (or Recount) votes by batch number to the Precinct Total Sheet Excel spreadsheet. The votes for each candidate or issue will be entered on the Precinct Total Sheet by precinct by Batch Number until all batches are completed.
3. Precinct QC will place the batch in a Ballot Transfer Box and enter the information on the Ballot Control Log.
4. At the end of the day the Precinct Tally QC will meet with the Ballot Control Supervisor to ensure all batches sent are either in the Ballot Transfer Box(es) or in the Ballot Intake area. The Ballot Transfer Boxes containing the yet-to-be-tallied batches and the day's completed tallied batches are locked and sealed at the end of the day and returned by the Sheriff and Clerk or Deputy Clerk to the Pahrump Clerk's office vault for storage. The Precinct Tally QC and the Sheriff's Deputy will sign the Ballot Transfer Box Control document.

Deputy Clerk

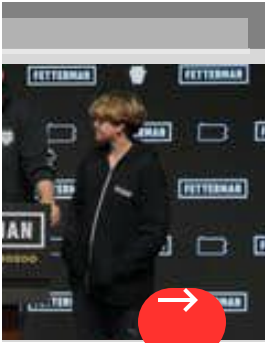
1. A Deputy Clerk will compare the totals for each batch tally to the manual printout of the Precinct Total Sheet to ensure an accurate vote summary for each race, candidate, ballot issue and ballot issue choice.
2. A separate Deputy Clerk will identify the cause of any errors in Batch Tally Sheet values recorded on the Precinct Tally Sheets or Total Precinct Sheets.
3. Once all Precinct Tally Sheets have been manually verified and approved in writing, the precinct level votes will be consolidated. The County Clerk and an independent Deputy Clerk will verify the totals on the manual output to the verified manual Precinct Total Sheets.
4. Vote totals will be compared by the Deputy Clerk to the ICX Tabulator totals and differences investigated.

Ballot Custodian (Tonopah Deputy Clerk)

1. Receives the completed batches of ballots containing the Ballot Tracking Document, Batch Tally Sheets (and Recount Tally Sheets) and initials the Batch Tracking Log as evidence of receipt.
2. Locks and seals the ballots for storage.

Forms and Templates - Definitions

- | | |
|---|-----------|
| 1. Batch Tracking Log | Exhibit A |
| Used to ensure all batches that were tabulated in Tonopah and sent to the Central Ballot Tally Center are returned to the Tonopah Clerks Office and are included in the Hand Count totals. | |
| 2. Ballot Transfer Box Control | Exhibit B |
| Used for chain of custody control over all movements of Ballot Transfer Boxes among the Clerk's offices and the Central Hand Count Location. | |
| 3. Batch Tracking Document | Exhibit C |
| Used for chain of custody of individual ballot batches from initial Tabulation through the Hand Count process to the Ballot Custodian. | |
| 4. Batch Tally Sheet | Exhibit D |
| Used to record individual votes for candidates and ballot issues and total votes by candidate and ballot issue for each ballot batch. | |
| 5. Recount Tally Sheets | Exhibit E |
| Used to record individual votes for candidates and ballot issues and total votes by candidate and ballot issue for each ballot batch where a mismatch occurred on the original Batch Tally Sheet. | |
| 6. Precinct Total Sheet | Exhibit F |
| Used to record vote totals from the Batch Tally Sheets by batch. | |



Nevada secretary of state declines to lift hand-count ban

By GABE STERN November 5, 2022



APP000086



RENO, Nev. (AP) — Nevada’s secretary of state declined Friday to lift a ban on a rural county’s controversial early hand-count of mail-in ballots, saying a modified procedure the county clerk proposed still raises “concerns relating to the integrity of the election.”

Republican Secretary of State Barbara Cegavske [ordered Nye County last week](#) to halt its hand-counting of ballots until after polls close on Nov. 8. Her order came after the Nevada Supreme Court issued an opinion siding with the American Civil Liberties Union’s objections to the reading of individual votes out loud.

In a letter to the county Friday, Cegavske invited county officials to update or better explain their proposal for a silent hand-count with more details.

But the move makes it increasingly difficult for Nye County to revise, submit, get approval and

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carry out plans for the hand-count of mail-in ballots before polls close on Election Day.

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Meanwhile, the ACLU and the sprawling, heavily GOP county halfway between Reno and Las Vegas continued to argue over the circumstances that led to an election official, who was openly carrying a gun, removing an ACLU observer from the hand-count that lasted two days before Cegavske suspended it last Thursday night.

Nevada

- **Nevada GOP Rep. Mark Amodei easily reelected to 7th term**
- **Too early to call Nevada governor for Sisolak or Lombardo**
- **Race for Nevada's US Senate candidates too early to call**
- **Voters to decide Nevada version of Equal Rights Amendment**

Lawyers for Nye County said in a new letter to Cegavske Friday that the chairman of the Nye County GOP Central Committee who was legally armed was acting as a hand-count volunteer trained by county Interim Clerk Mark Kampf when she confronted the ACLU observer she believed was tallying the vote count in violation of the recount rules.

The ACLU quickly responded and the dispute could last past Election Day. But the rejection of the county's late-hatched proposal to resume the hand-count in silence puts the early count of mail-in ballots almost out of reach by the time polls close.

Kampf proposed three talliers and a control team with two independent verifiers who mostly worked separately, so there would be no reader who called out each ballot or verifier, who looked over the reader's shoulder.

Cegavske listed a number of concerns in explaining why she would need more details before she allowed the count to resume.

She noted the silent hand-count will require the "complete focused attention" on each ballot by talliers that will prevent them from noticing when other talliers make wrongful marks or mistakes.

“Additionally, there are no provisions in your plan describing the required use of medical-style gloves to further mitigate the risk of cheating or accidental marking, nor a prescribed and standardized device for tallying to ensure any new mark could be quickly identified,” she said.

Nye County is one of the first jurisdictions nationwide to act on election conspiracies related to mistrust in voting machines, though other counties across Nevada have considered using hand-counts in the future.

Earlier Friday, lawyers for the county rejected the ACLU’s [recent accusations of a “coordinated partisan election administration effort”](#) in a letter to Cegavske’s office asking for an investigation into the hand-count. Hours later the ACLU responded, doubling down on its concerns.

The ACLU’s complaint about the removal of its observer by Nye County GOP Central Committee Vice Chair Laura Larsen raised concerns about Kampf’s delegation of authority to partisan officials to remove observers from hand-count rooms, particularly during a hand-count process dealing with ballot tabulation.

Along with noting Nevada is an open-carry state, Nye County’s lawyers said the county understood Larsen, a trained volunteer, had never threatened to use the firearm. The county also argued that taking notes jeopardized releasing early voting results and said there was no partisan conspiracy as part of its hand-count plan.

Larsen’s position as the vice chair of Nye County’s GOP central committee “does not limit or invalidate her ability to participate as a poll worker/volunteer,” the response added.

But the ACLU said in a letter to the secretary of state’s office that the county’s response “further emphasizes that Larsen is, in fact, not serving in a neutral capacity” and remains active in partisan leadership.

In an interview with The Associated Press after the first day of hand-counting, Larsen said her role was “making sure things are going the way Mark (Kampf) has set everything up. So, just looking out for the election integrity.” She did not respond to an email requesting comment on Friday.

Of Nye County’s 97 hand-count volunteers, 70 were registered Republicans, 16 were Democrats, 10 were Non-Partisan or had no political party and one was from the Independent American Party, according to data The AP received through a public records request. The county later declined to give the party breakdown for each of the individual hand-count rooms, which had five people each: a reader, a verifier and three talliers.

The county also declined to provide the party breakdown for an updated number of volunteers, which was at 102 on the first day of hand-counting. Former President Donald Trump won about 69% of Nye County in the 2020 election, though he lost Nevada by about 2.4%.

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Nye County has just over 33,000 registered voters and planned on using a hand-count as the secondary tabulation method to Dominion tabulators. Kampf has floated the possibility of moving away from tabulators in the 2024 cycle for a sole hand-count.

Two hand-count groups that The AP [observed on day one](#) took about three hours each to count a batch of 50 ballots.

NYE COUNTY BALLOT HAND COUNT VOLUNTEER APPLICATION

DOWNLOAD BEFORE emailing or mailing this application to the

Nye County Clerk at P.O. Box 1031, Tonopah, NV 89049.

You may also email a copy to mkampf@nyecountynv.gov

1. I would like to volunteer become part of the ballot count team in Nye County.

First Name:	Middle Name:	Last Name:
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2. Home Address and Mailing Address if different from home address.

Physical Address:	City:	State:
Mailing Address:	City:	State:

3. Contact Information.

Home Phone Number:	Cell Phone Number:	Email Address:
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4. I am registered to vote in Nye County. ☐ Yes ☐ No

5. Do you have prior experience as an election worker? ☐ Yes ☐ No

If so, what were your duties? _____

6. Do you have prior experience as supervisor of a team? ☐ Yes ☐ No

If so, what were your duties? _____

7. I can volunteer the full 14 workdays from October 24th to November 10th for up to 8-hour shifts to participate in the hand count. ☐ Yes ☐ No

Indicate the number 8-hour shifts (8am to 5 pm) you would be willing to volunteer _____.

What dates could you be available? _____.

Would you prefer to perform your shift in the evening? ☐ Yes ☐ No

(Lunch will be provided for all hand-count volunteers.)

I hereby certify that:

- I am **NOT** a candidate or related to a candidate for nomination or election.
- I have a professional demeanor, demonstrate good judgment, have communication and people skills.
- I work well as a team member and will learn, understand and follow instructions.
- I possess an ability to pay attention to detail and to concentrate on an assigned task.
- I will protect ballots and ensure proper control over ballots.
- I understand that I am required to attend a training class prior to the election.
- I can perform all duties for the position I am assigned.

NOTE: I understand by typing my name I am electronically signing this document.

Signature _____

Posted on: November 9, 2022

HAND-COUNT TO RESTART THURSDAY; ELECTION DAY AND EARLY VOTING RESULTS RELEASED

Statements from County Clerk Mark Kampf on restarting Hand-Count Process

On Saturday, November 5th, the Nevada Secretary of State provided approval to move forward with our revised hand count process. This is a call for volunteers to join us on Wednesday, November 9th, at the Valley Electric Conference Center for a volunteer debrief. We will have information sessions and volunteer signup at 1 pm, 3 pm, and 6 pm. If you cannot make one of these sessions, please show up on Thursday morning at VEA, and we will brief you on the process and put you to work. We are under pressure to complete this process by November 17th, which leaves us little time.

I would appreciate any Nevada Registered Voter to step up and help us achieve our goal. We may need to work on the weekend and extra time beyond the standard four hours to tally all the batches. I look forward to seeing all volunteers on Wednesday and starting the count again on Thursday. Please bring a friend or two to join us in the process, and we have a lot more room for more volunteers who can work whatever hours they can. Let's show the world that Nye County can do the job.

Nye County Clerk Mark Kampf statement on the General Election night

"Over the last two and a half weeks, our team of dedicated Deputy Clerks, Poll Workers, and Election Board Officials successfully implemented a paper ballot process for Nye County. Other than dropbox and mail ballots received on Election Day, all Early Vote and Election Day ballots were tabulated by 11:59 pm on November 8th.

This demonstrates that an all-paper ballot process can be implemented successfully in a tightly controlled process. I couldn't be prouder of the team that made this happen. They should all be congratulated for their hard work and attention to detail that made this such a success. I also want to thank the Nye County Sheriff Sharon Wehrly and her team for coordinating the secure and monitored delivery of ballots in difficult weather conditions that helped make this happen."

NOTE: Updated results will be released as they become available and posted at on the [Clerk's Election page](#).



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Offices closed Friday for Veterans Day; Operation
Green Light observed through weekend

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Notice of Vacancy: CSBG Tripartite Board