

# Missoula County Election Integrity Project

## A Synthesis of Missoula County Election Practices

### **Topic Panel**

Quentin Rhoades, Rhoades, Siefert & Erickson PLLC

Brad Tschida, HD 97

Lyn Hellegaard, former Ward 4 City Councilperson

Ryan Hellegaard

## Contents

- 1 Summary
- 2 Preface
- 3 Legal Findings
- 4 Mailed Ballot Findings
- 5 Rejection Rate Findings
- 6 Undeliverable Ballot Findings
- 7 Elector Eligibility Findings
- 8 Residency Findings
- 9 Ballot Printing Findings
- 10 Adjudicated Ballot Findings
- 11 Election and Resolution Committee Findings
- 12 CTCL Funds Findings
- 13 Conclusions

## SUMMARY

Facts matter. The Missoula County Election Integrity Project (“THE INTEGRITY PROJECT”) has from a careful study of relevant data—discovered a pattern of troubling irregularities in the facts arising from the November 3, 2020, general election. Similarly disturbing issues were found in a study of the Montana voter registration database. In addition, the Missoula County Elections Office (“THE ELECTIONS OFFICE”) proved to be evasive and hostile to requests for public records generated in the 2020 election. To block access to public records, THE ELECTIONS OFFICE employed sharp tactics from arguing implausible interpretations of MCA statute, demands for unreasonably large sums of money to defray elementary search requests, feigned ignorance, purposefully unresponsive correspondence, unwarranted delay and frivolous demands for THE INTEGRITY PROJECT file lawsuits and court orders.

Several methods were used in identifying election practice irregularities:

- Physical count of affirmation envelopes
- Analysis of voter registration and history databases provided by the Montana Secretary of State’s office.
- Review of public records, such as local media, national media, Montana Code Annotated, and interviews with various sources experienced in election analysis.

Voter registration and history databases were obtained from the Montana Secretary of State (SOS) for a \$1,000.00 fee. Investigators created a sequential database with the ability to create a variety of spreadsheets when queried about specific information contained in database fields. The simplest and most important of these spreadsheets had every registration from Missoula County merged with their voter history. State archivists had arranged the file with the voter history source in a haphazard and non-standard way, causing difficulty in standardizing the database and its output. The barrier was overcome with software custom designed to sort the data in a coherent way. The data in the “master sheet” included a history of the ballot status of every current voter in Missoula County going back to the 1984 Federal General election, including their current mailing address, residence address, voter eligibility, and other fields provided by the SOS’s original data.

The information contained in this report is incomplete in some areas, as THE ELECTIONS OFFICE has failed in complying with INTEGRITY PROJECT public information requests. **See Exhibit A.**

## FINDINGS

THE INTEGRITY PROJECT found, for the 2020 General election, Missoula County reported the following as of December 2020 according to the SOS purchased database:

- 90,746 Registered voters
  - 79,617 Active voters
  - 10,994 Inactive voters (12.12%)
  - 135 “Provisional”
- Of Active Voters
  - 72,533 Processed/Accepted (91.67% of Active)
  - 103 Processed/Rejected (0.14% of Active)
  - 4594 Sent and Unreturned (5.92% of Active)
  - 2,264 Undeliverable (2.87% of Active)
  - 141 Active voters showing no ballot record for FG2020 (many have eligibility dates after the 11/3/2020 election, but not all)

## LEGAL CONCLUSIONS

THE INTEGRITY PROJECT findings raise serious legal issues with at least seven potential violations of Montana Elections Laws, Public Records Laws and Equal Protection under the 14<sup>th</sup> Amendment of the U.S. Constitution. If this conclusion is born out, many Montana voters have been disenfranchised and their votes diluted.

1.) THE ELECTIONS OFFICE erased the video recording of the November 3, 2020, ballot counts, in violation of Missoula County retention policy. On December 22, 2020, Rep. Tschida requested a copy of the vote counting video from THE ELECTIONS OFFICE, which is well within the 60-day window during which THE ELECTIONS OFFICE must by written County policy retain records.

On January 4, 2021, Election Office Administrator Bradley Seaman told THE INTEGRITY PROJECT’S Lyn Hellegaard THE ELECTION OFFICE had available video capture of the ballot counts. On January 12, 2021, however, THE ELECTIONS OFFICE disclosed its agents had despoiled the video as the Tschida request had come “past the retention schedule.” **See Exhibit B.**

2.) An INTEGRITY PROJECT team of 20 people, led by Hellegaard, a former assistant vice president at a major regional bank, conducted a hand count of signature envelopes on January 4, 2020. At the time of the hand count, Seaman and ELECTION OFFICE personnel instructed, assisted with, and observed the entire hand count operation without a remark of criticism for

either INTEGRITY PROJECT methods or results. Seaman stated that every vote in Missoula County for the 2020 general election has a corresponding envelope as all were treated as mail-in. THE INTEGRITY PROJECT found 4,592 fewer envelopes than the 72,533 ballots that were reported as ballots cast on THE ELECTIONS OFFICE 11/09/2020 Summary Report, which comes to 6.33% discrepancy. A ballot missing an officially printed envelope complete with registration information, a elector's signature, and/or a postmark indicating whether it was cast on time. Without a filled-out envelope, election officials cannot verify that a ballot is legitimate. It is against the law to count such votes. THE INTEGRITY PROJECT discovered at least 482 envelopes that are not complete. When including no envelope, no date, and no proof of signature verification there were a possible 7% or 5,074 ballots counted, which should not have been.

3.) THE ELECTIONS OFFICE purposely sealed all the Resolution Board logs of the 2,610 resolution ballots in with physical ballots and refuses to release this public information without a court order. THE ELECTIONS OFFICE is incorrectly citing MCA 13-15-108. **Rejected ballots -- handling provided by rule** as justification for their actions. Thus, making them inaccessible to the public for review in violation of Montana's legal Right to Know.

4.) THE ELECTIONS OFFICE appears to have violated the stay against mail-in voting as regards the 2020 Federal General election by sending 1,091 ballots between 9/18/2020-10/08/2020 and accepting 168 prior to 10/2/2020; the first day of early voting.

5.) In apparent violation of Montana's Nondiscrimination Laws, THE ELECTIONS OFFICE allowed MontPIRG and Forward MT, known Democrat affiliated groups, access to voter information which they are denying to Representative Tschida, a GOP affiliated elected official. It can be further argued THE ELECTIONS OFFICE engages in preferential treatment of Democrats based on the composition of the Missoula Election Advisory Committee and Election Judge selections and assignments. Seaman's speaking at Democrat Party planning meetings. **See Exhibit C.**

6.) THE ELECTIONS OFFICE issued instructions to electors with spoiled ballots that were in apparent violation of replacement ballot strictures of Mont. Code Ann. § 13-13-204 by erroneously informing electors that they could change any mis-voted ballots by means of interlineation.

7.) THE ELECTIONS OFFICE mailed ballots to inactive and therefore ineligible voters. This would appear to violate Mont. Code Ann. § 13-19-207(2)(b) (2020), which provided ballots could not be mailed to "inactive" voters "after the elector reactivates the elector's registration". Thousands of ballots were mailed to ineligible voters in sufficient numbers to have affected the outcome of several elections.

## MAILED BALLOT FINDINGS

KPAX reported that approximately 78,000 ballots were mailed on 10/9/2020. Voter records show approximately 70,000 ballots were mailed on 10/9/2020, a discrepancy of 7,000-8,000 ballots. **See Exhibit D.**

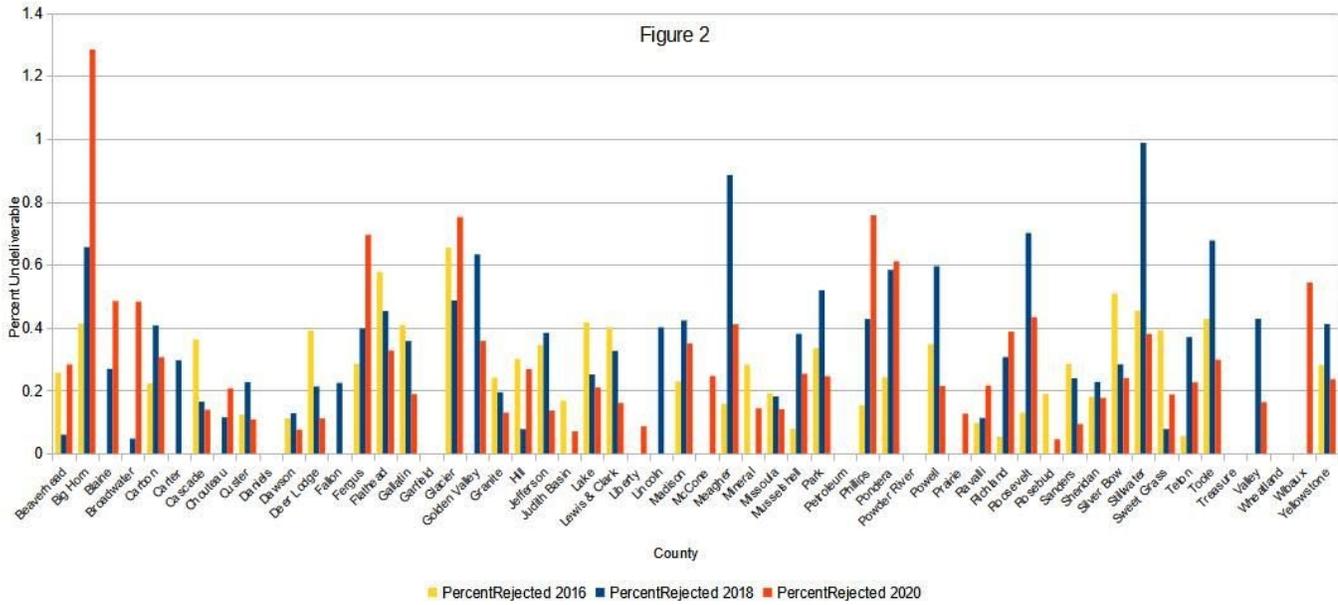
Early voting began at 7AM on 10/2/2020. 347 ballots were sent before this date. 168 ballots were accepted by THE ELECTIONS OFFICE prior to 10/2/2020. There is no way to know which, if any, ballots between 10/2/2020 and 10/9/2020 were voted in-person as every ballot is coded "mail-in."

All voter records for Missoula County for Federal General 2020 are coded as "mail-in." There is no way to know which voters cast their ballots in-person, military on-line, or walk-in. For example, 2,300 ballots were mailed and returned with zero-day return rate (3.2% of accepted ballots). 1,196 voters show records of their ballots "sent" on 11/3/2020 and "received" on 11/3/2020. The ELECTIONS OFFICE refuses to provide information that would verify this quantity as anything other than mailed via the USPS and miraculously returned later the same day.

28 voters were sent a ballot on 10/9/2020 that the Secretary of State database shows an eligibility date after the election (11/3/2020).

## REJECTION RATE

THE ELECTIONS OFFICE has an extremely low rate of rejection. In the 2016 General election the average statewide rate was approximately 0.28%; 2018 – 0.36%; 2020 0.30%. For these three elections THE ELECTIONS OFFICE has a rejection rate below 0.19%. We understand THE ELECTIONS OFFICE uses a 3-item checklist with very general terms to determine if a voter signed their envelope. According to ELECTIONS OFFICE 11/09/2020 Summary Report 72,533 votes were cast and accepted. The 4 staff personnel, listed on the County website, THE ELECTIONS OFFICE has would have to process 13 signature verifications every second for 24 hours straight with no breaks to accomplish this task. The INTEGRITY PROJECT believes this is a ridiculous assertion, and more ridiculous is the ELECTIONS OFFICE expecting the public to accept this occurred and is a legitimate process to ensure the named elector voted their ballot. Finally, 231 voters with ballots rejected in their last election were mailed ballots again, only 3 were again rejected in the 2020 General Election.



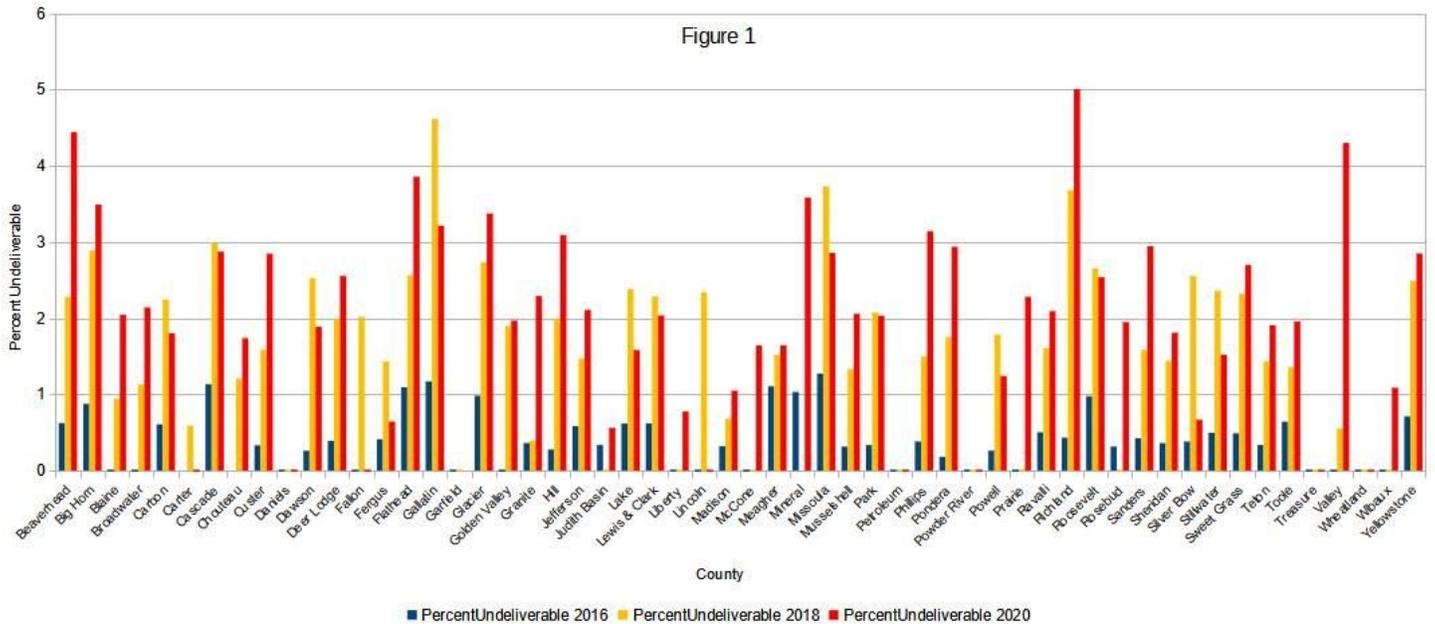
## UNDELIVERABLE FINDINGS

There seems to be no standard for what constitutes a lawful residence on how those were verified or when.

A sample of 61 voters with undeliverable or unreturned ballots show only 3 names match to Missoula County's GIS records.

5,998 ballots were mailed to voters that were marked as undeliverable the last time a ballot was sent in a previous election.

The 2.87% undeliverable rate is better than it was in 2018, but in 2016 it was less than 1%.



The Election Advisory Committee July 14, 2020, meeting minutes attributed Liz Albers of MontPIRG, with “She wanted to highlight the problem of undeliverable ballots, mentioning 73% undeliverable rate in HD89 where the bulk of university students are registered and contrasted this to a 63% undeliverable rate in Bozeman, which has a comparable student population.”

These same minutes state: “Bradley mentioned that students were not receiving mail on campus, and he agreed that there were very high rates of undeliverable and that the actual figure was 75.9% and not 73% and that he is working with the Secretary of State’s office to improve those numbers and that he appreciated hearing this feedback. Liz mentioned that the University had told her that student mail would be forwarded, possibly leading students to believe that their ballot would be forwarded.”

The minutes also state: “Bradley discussed the canvass in some depth and the rate of undeliverable ballots and mentioned that he has been working with MontPIRG and Forward MT to update student information.” and “Bradley mentioned that third-party Voter Registration Cards were coming into our office at a rate of approximately 50 per day.” **See Exhibit E.**

INACTIVE/INELIGIBLE ELECTOR FINDINGS

If an elector didn’t vote in 2016 and 2018 general elections, state statute says they should be removed from the voter rolls. Montana Code Ann. § 13-19-207(2)(b) (2020) provided at the time that inactive electors were not to be mailed ballots unless they reactivated their registration in compliance with Mont. Code Ann. 13-2-222 (2020). The INTEGRITY PROJECT

found issues with eligibility dates, addresses, large number of inactive electors, people we know moved and questionable voter history all indicating poor management of the elector rolls and inadequate oversight by the Secretary of State's office.

Based on not casting ballots in 2016 nor 2018 general elections 1,135 electors should have been removed rather than being sent a ballot or had updated eligibility date.

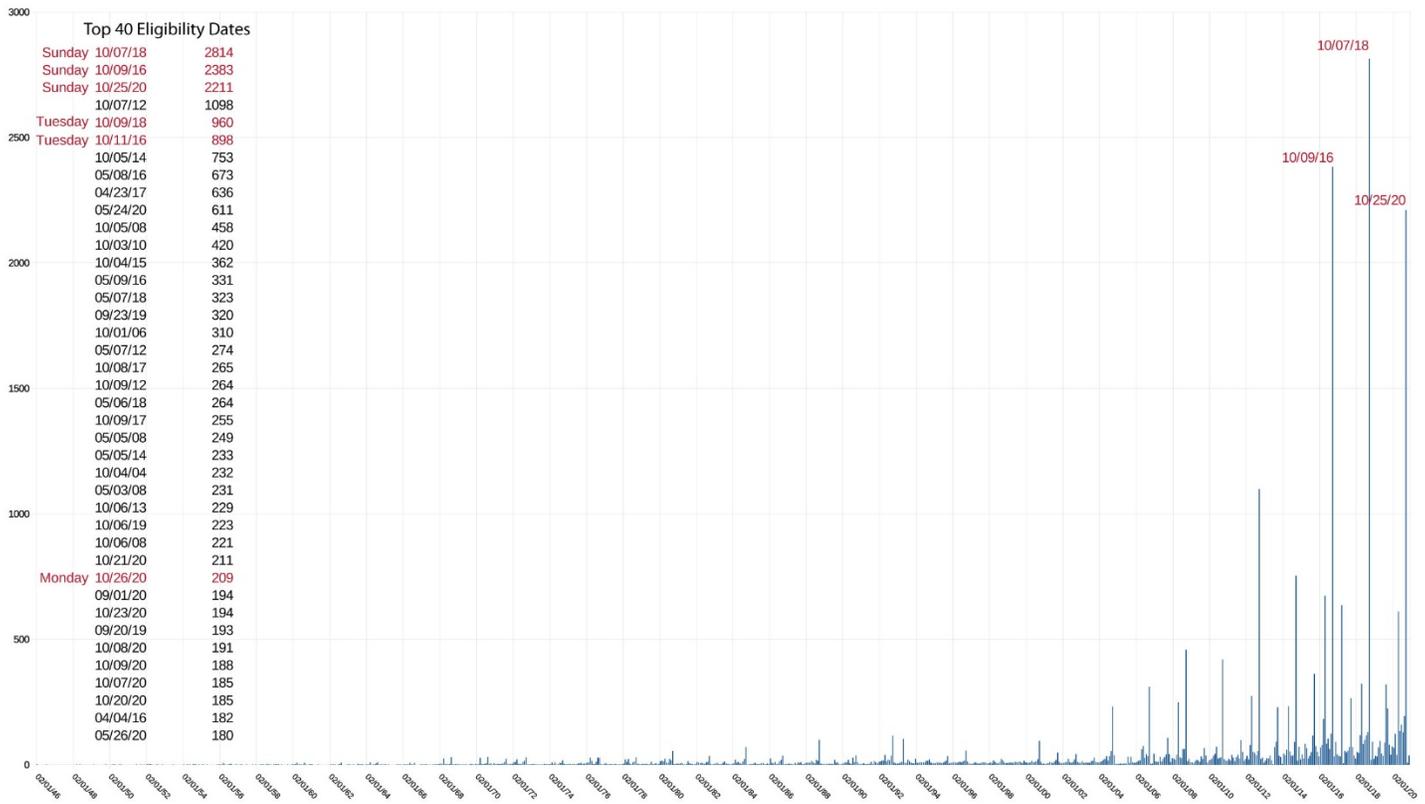
If the eligibility date is excluded 5,721 electors were sent a ballot that did not vote in 2016 General Election through the 2020 Primary Election but had voted in elections prior to 2016.

13,004 electors did not vote the 2016 general election or since, including first time voters. This is a 16.3% of all electors in the 2020 General election

To put these numbers in perspective THE ELECTIONS OFFICE reportedly sent ballots to 2,274 outdated or wrong address, according to the SOS voter registration data base. The following Missoula County races were decided by a smaller margin:

- Supreme Court Justice 5 – 1,844 vote margin/2,274 undeliverable ballots
- Senate District 7 – 160 vote margin/579 undeliverable ballots
- House District 96 – 190 vote margin/250 undeliverable ballots

Graphed below is a representation of the occurrence of eligibility dates in the voter database. Note the three outlier dates at the far right of the graph with far and away more registrations than any other dates: 10/09/16, 10/07/18, 10/25/20. These top 3 dates are more than twice as common each as the 4th on the list. Combined these 3 dates represent 8.2% of all registered electors in Missoula County. All three dates are the Sunday before the last day to register to vote by mail in the last 3 elections. This finding is included due to its peculiarity, especially considering the other issues discovered involving eligibility date in the database.



## RESIDENCY FINDINGS

No standard seems to exist as to a lawful claim to Missoula County residency, or that residency being current. There are many records that are possible double voters, voting in other counties, states or even countries.

3 Voters claim the Missoula County Court House (200 W Broadway) as their residence. All three mail their ballots to Canada.

The Poverello Center has 204 total voters, 130 are inactive and undeliverable. Of these, 3 active voters and 9 inactive, claim another address as their residence but send their ballots to the Poverello P.O. Box.

5 voters claim the Salvation Army (355 Russell) as their residence.

12 voters claim Share House (1335 Wyoming) as their residence.

10 voters claim Winds of Change (1220 Cedar) as their residence and 2 mail to 1220 Cedar but claim other addresses as their residence.

Apartment complexes and other rentals have large numbers of inactive electors, often with the same unit numbers as an active elector, suggesting that the inactive elector is not valid. Of

the 2,655 voters included in the apartment complexes and rentals found, 905 or 34.1% are inactive.

There are several residences where most of the voters registered at that address are inactive.

There are 1,834 total electors that send their ballots obviously out of county. This is 2% of all registered voters in Missoula County. 346 inactive, 4 provisional, 88 actives out of the US. Of those 88 Active out-of-country, 27 were unreturned or undeliverable. 3 were rejected. While many of these could be military or people legitimately away during the election, there is no indication of the last follow-up or verification that residency is still in fact Missoula County. It should be noted that of the 46 APO/FPO addresses, 34 are inactive (74%).

There are 226 voter records that have no address in the separated, specific, residence address fields. The entire address is in the field that has it in totality. For most of these voters the record could and should have an address format like the other approximately 90,000 records. However, this is where non-typical residence addresses are found such as:

- Mullan & North Reserve Missoula MT 59808
- Broadway and Russell Missoula MT 59808
- East Main St. & Higgins Missoula MT 59802
- STAR RTE 7 MILES E ON HIWAY 200 E BONNER MT 59823 mails to WARDNER BC
- 110 ARTHUR MISSOULA MT 59801 (address seems to describe Jeanette Rankin Park) mails to SPRUCE GROVE, ALBERTA
- 2775 EXPO PKWY MISSOULA MT 59808 (C'MON Inn) mails to Billings, MT
- 2951 EXPO PKWY MISOSULA MT 59808 (My Place Hotel)
- 32 CAMPUS DDRIVE MISSOULA MT 59801 (UM Postal drop) mails to VANCOUVER, BC

NOTE: Typos in the above are as found in the voter record.

University of Montana addresses are not sufficiently scrutinized both during registration and then afterwards when cleaning the voter rolls. Of 1,104 voters claiming residence in Aber, Craig, Knowles, Pantzer, Turner, Jesse, Miller, Elrod, and Duniway Halls only 420 are active (38%). 66 (15.7%) of the ballots sent to these active voters were undeliverable or unreturned.

A sample of 61 voters with undeliverable or unreturned ballots was taken and the names and addresses compared against Missoula County GIS tool at <https://gis.missoulacounty.us/propertyinformation/>. Of these only 3 names and addresses match the records in GIS. 14 are residences that very likely changed hands, 1 is indeterminate, the rest are probably renters. **See Exhibit G.**

There is no way to know if the ballots sent to probable renters, UM Students or people utilizing our homeless shelters were received by those electors and purposefully not returned or if they were received by someone else and were not voted. More alarming is there is no way to know if someone received a ballot sent to the correct address, but the wrong voter, and the current occupant of that address voted that ballot, thus showing a "Processed/Accepted". Considering the above information, it is reasonable to assume this could have occurred.

The nature of the totality of examples in combination cause one to believe such verification is rarely, if ever, performed in violation of MCA 13-2-220.

### ENVELOPE COUNT FINDINGS

During the INTEGRITY PROJECT signature envelope count, a random sub-sample of 15,455 mail-in envelopes were scrutinized for other defects. Of these, 53 never had their signatures checked, thus having no indication that the signature had ever been verified. Spread this finding across the entirety of the election and 5,047 or 7% of all ballots might have been rejected for these reasons. This could have affected the Supreme Court Justice 5 race – 1,844 vote margin/5,074 ineligible votes. In addition, 55 lacked postmark dates, which makes verifying when the ballot was cast impossible.

For the 4 THE ELECTIONS OFFICE staff members, as listed on their website, to have checked 72,536 ballots Processed/Accepted, they would have had to check 6 signatures every second for 48 hours straight. This is not only impossible to accomplish it is ridiculous to ask the public to believe.

### PRINTED BALLOTS

THE ELECTIONS OFFICE records indicate printing 12,833 excess ballots, in addition to the purchase of a special ballot printer. An INTEGRITY PROJECT review of THE ELECTIONS OFFICE invoices from Allegra Printing finds 100,999 ballots were ordered. As of December 2020, Missoula County reported 79,127 active voters, 90,747 total active, inactive, and provisional voters.

In select districts, THE ELECTIONS OFFICE over-ordered printed ballots. THE ELECTIONS OFFICE ordered, for example, 631 ballots for 114 voters (03-BONN92), 568 ballots for an area with 407 voters (HLLG94-T); 2,480 ballots for 1,983 voters (MDWHL99-T). This was with an original 115% ballot printing ratio for all active, inactive and provisional voters. **See Exhibit H.** THE

ELECTIONS OFFICE only ordered additional ballots in 3 precincts, 65 precincts had no additional ballots printed and 2 had no ballots printed.

### RESOLUTION BALLOTS

Bradly Seaman, THE ELECTIONS OFFICE Administrator, stated Missoula had 2,610 adjudicated ballots or ballots resolved through the Resolution Committee. This is a full 3.6% of ballots cast.

### ELECTION & COMMITTEE FINDINGS

According to the Missoula County Election Committee minutes The INTEGRITY PROJECT finds of the nine people serving on the Missoula County Elections Committee only 1 position is Republican. The Republican representative rarely attends, according to meeting minutes. The at-large positions are all appointed by County Commissioners resulting in a 8 to 1 Democrat/Republican representation discrepancy.

According to the list of Election Judges provided by THE ELECTIONS OFFICE, of the Election Judges; 58 are identified as Democrat; 57 list no party; 27 are blank and 13 are Republican; and 5 independents. The INTEGRITY PROJECT believes with this count fulfilling the requirements of MCA 13-4-102 is impossible.

Bradley Seaman, THE ELECTIONS OFFICE Administrator, stated that neither party submitted a list of election judges, therefore according to 13-4-102 THE ELECTIONS OFFICE made all appointments. **See Exhibit I.**

### REPLACEMENT BALLOTS

On October 28, 2020, an elector was in possession of an absentee ballot that she had requested and had received several weeks prior. Upon receipt, she filled it out and sealed it, but, as of October 28, 2020, had yet to mail or drop off her absentee ballot. She changed her mind about a candidate and decided to change her vote. When she called the Missoula County Election Office to see how to get a new ballot, an ELECTIONS OFFICE worker told her she did not need a new ballot. Instead, she instructed:

- a. Carefully open both envelopes;
- b. Draw an "x" through the bubble that I don't want;
- c. Fill out the bubble I do want;
- d. Put back in the blue envelope;
- e. Tape it shut;
- f. Put blue envelope back in the white envelope and tape it shut;

- g. Write "taped by voter"
- h. Initial it; and
- i. Turn in or mail altered ballot.

The elector then sent an email to the election office personnel to confirm the instructions, as she did not want to make a mistake. She later received an email response from THE ELECTIONS OFFICE confirming the instructions she had been given. **See Exhibit J.**

### CTCL FUNDS FINDINGS

On October 6th, 2020, Missoula County Elections Administrator Bradley Seaman received approval from the Missoula County Board of County Commissioners for an agreement with Center for Tech and Civic Life (CTCL) for grant money in the amount of \$312,818.

THE ELECTIONS OFFICE documents indicate they were using CTCL funds to pay salaries and benefits until 6/29/2021. **See Exhibit K.**

According to THE ELECTIONS OFFICE they failed to submit the required funds accounting report to CTCL due January 31, 2021. THE ELECTIONS OFFICE also indicated they did not retain a copy of the grant request, which precludes the public access to this information.

### CONCLUSIONS

The totality of the issues presented, if born out, suggest that at best THE ELECTIONS OFFICE is negligent in its duties to maintain up to date and accurate voter rolls and electronic records. At worst there is knowing and purposeful manipulation and dereliction to pad invalid voter registrations to provide ample room for fraud and ballot manufacture. Further there is reason to believe that there may be active disregard for court orders and the law.

These findings were found by regular citizens spending scores of hours on their free time, with resistance from THE ELECTIONS OFFICE. In no way is this an all-inclusive list, but instead are alarming examples of the issues regarding Missoula County easily found in the Montana Voter Records.

THE ELECTIONS OFFICE is a poor steward of the voter rolls, possibly to the point of violating Mont. Code Ann. § 13-2-220.

The examples in this report suggest THE ELECTIONS OFFICE sends ballots blindly with little to no address or residency verification. Certainly not within a timeframe that would be pertinent to a given election. This is evidenced by the large number of undeliverable ballots. No

standard seems to exist as to a lawful claim to Missoula County Residency, or that residency being current.

THE ELECTIONS OFFICE has the tools to determine whether an address requires additional scrutiny or more frequent verification but fails to utilize these tools. It should be noted that with more time and requested information further patterns can be seen in the above cohorts and in the voter data generally and further issues could be found and documented. Anecdotally, it has been noticed that a significant number of histories show a series of “sent” and “undeliverable” only to have a sudden accepted vote in FG2020. There are further University related addresses that are strange. A full survey of the rentals in Missoula County would likely find quite a few anomalies and issues. A query could be run to see which voters show up in multiple categories of concern. Overall, it seemed that every time a new thread of inquiry was undertaken, several more issues were discovered. There are certainly major improvements that could be made to the voter rolls, oversight by the SOS Office and record keeping as required by the State of Montana.

Further access to government records, policies, and materials could definitively prove or disprove the nature of the findings contained herein. The lack of cooperation from THE ELECTIONS OFFICE and its agents in this regard has been disheartening and alarming. It is unnerving that a citizen could almost immediately find issues and questions regarding the voter rolls that do not have explanations included in the very same dataset. Yet, THE ELECTIONS OFFICE staff and County Commissioners assure the public they are running “free, fair and accurate” elections. It does not inspire confidence that the voter rolls reflect actual lawful voters and that those voters said to have voted did so. The state of THE ELECTIONS OFFICE voter rolls also makes citizen of Missoula County questions just how many are truly being disenfranchised by their actions or lack thereof.