

WHAT HAPPENS TO MY BALLOT AFTER IT IS CAST?

By Victoria Hammitt and Jonathan Diaz

Due to the speed and manner in which election results have historically been reported, many Americans are unfamiliar with the process election administrators undertake to reach a final vote tally. It is important for voters to understand the way these procedures regularly unfold to reduce uncertainty and increase voters' confidence in the process. More complete knowledge can allow voters to feel certain and confident in events as they occur, resist disinformation, and enable them to recognize when the post-election process has truly gone awry.

Election administration in the United States is highly localized. Different states and election jurisdictions (counties, cities, or towns) conduct elections in different ways, but typically the local officials responsible for administering elections in their communities conduct most of the post-election procedures. Although specifics vary, election officials in every locality follow a defined set of steps designed to reach a complete and accurate vote count. These multi-step processes build in numerous checks and safeguards to ensure electoral integrity.

What follows is an overview of how we get from voters casting ballots – early or on Election Day, in person, or by mail – to a final determination of the winners of the contests on those ballots.

1. After Votes Are Cast

In modern elections, votes are cast through numerous methods. Voters may vote in person (either before or on Election Day), by hand-marking a paper ballot or using an electronic voting machine, or they may submit a ballot by mail, deposit a ballot into a ballot drop-box, or turn in their ballot at a precinct or election office. This section describes how votes are collected immediately after being cast.

a. In-Person Voting

The majority of in-person voters in the 2020 election cast their vote by marking a paper ballot by hand or with an electronic marking device. Most often, the

voter then runs the ballot through a scanner at the polling place to record their vote, but some jurisdictions collect the ballots to be scanned at a central location, and others manually count the paper ballots. A much smaller proportion of voters cast their votes using a direct-recording electronic voting machine, which electronically captures and stores the voters' selections.¹ Paper ballots or paper records of electronic votes are collected into secure boxes or envelopes.

The total results captured by each scanner or electronic voting machine are stored on a memory device (such as an encrypted drive sealed within the scanner). As a backup, each machine can also generate a "results tape" resembling a cash register receipt, which physically lists the number of votes each candidate for each race received on ballots cast on that machine. Along with the ballots and other polling place materials, these electronic and physical records are securely transported to a central election center.

b. Mail Voting

Mail ballots must be processed before they can be counted. According to the Brennan Center, "While this procedure varies by state, processing generally involves confirming the identity and authenticity of the voter, verifying the voter's information to confirm that they are registered and eligible to vote, and checking the signature on the ballot envelope against a signature on file."² After confirming this information – which is usually written or printed on an outer envelope – the envelope is opened and separated from the ballot, which protects voters' right to cast a secret ballot. Some jurisdictions also use inner secrecy envelopes, which ensure that the ballot cannot be read until the outer envelope has been processed and removed. Processing is typically conducted at a central counting facility, but some localities process mail ballots at polling places instead.

Some jurisdictions then count these ballots by hand. More commonly, mail ballots are fed through scanners, often high-volume scanners that can handle more than one ballot at a time. Sometimes, ballots are damaged or have been otherwise rendered unreadable by the scanners. Typically, two election officials transcribe voters' selections from the damaged ballots onto clean ballots that can be scanned. Original and duplicate ballots are clearly marked, and the originals are preserved, ensuring the process can be reviewed and verified.

2. The Canvass

According to the Election Assistance Commission (EAC), an election *canvass* is the “compilation of election returns and validation of the outcome that forms the basis of the official results” in the town, city, or county.³ In other words, the canvass is the process of election officials compiling vote counts from all sources into a single final vote total for the relevant area.

This section describes the components of the canvass at the local level. State officials also conduct a canvass of state-level and federal races, in which they aggregate the results from each election jurisdiction within a state or federal subdivision (such as a Congressional district).

a. Tabulation

Tabulation involves the totaling of individual votes, usually by scanners that read in-person and by-mail paper votes and record the totals on memory drives. Some scanners can transmit totals to a central office electronically (which is how precincts sometimes report initial results within minutes of the polls closing), but the central election office checks electronic transmissions against the physical memory drives to ensure accuracy.

i. Reporting Unofficial Results

After polls close and as totals begin to arrive from precincts, election officials usually start publicly releasing unofficial results as they are tabulated. The earliest results are often from ballots cast before Election Day. These results are then updated as more votes are tabulated and aggregated, until all votes are counted.

These unofficial results are the numbers reported by the news media on Election Day as they are released by election officials. Because unofficial results are reported as they are released, they often comprise partial results, which is why they may appear to change over time as more ballots are tabulated. Many election offices also work around the clock, so it is not unusual for results to be updated late at night or early in the morning.

b. Inspecting/Reconciling Returns

Although methods vary, a central part of most canvasses is inspecting returns to ensure that the number of votes reported is consistent with other data points. For example, officials may compare the number of ballots tallied with the number of voters who checked in at a polling place, or the number of ballots tallied with the number of mail ballots received in a precinct. Officials attempt to resolve any discrepancies identified, with State and local law providing guidance on how to remedy any problems that arise. It is common for small variations to occur; for example, if a voter checks into a polling place but then decides to leave without voting, there might be a discrepancy of one between the number of voters checked in and the number of votes cast. But if a more significant deviation is detected, election officials investigate to determine its source and ensure that the final results include all ballots properly cast.

c. Provisional Ballots

A “provisional” ballot is a ballot that is kept apart from others and not tabulated immediately because polling-place officials are unable to determine if the voter is eligible to vote. Voters may be asked to cast a provisional ballot for a number of reasons, including a missing name on the polling place voter list, a lack of required identification, or (in some states) if they previously requested a mail ballot.

Provisional ballots are sealed inside an envelope on which the voter provides information about their eligibility and their signature. During the canvass, election officials use this information to verify the voter’s identity and determine if they were eligible to vote. If the voter was eligible, their provisional ballot is processed and tabulated, in a manner similar to mail ballots, and their vote added to the count. If the voter was not eligible, their ballot is not tabulated.

d. Cure Opportunities

Some states provide voters an opportunity to correct, or “cure,” certain errors on mail ballots or present proof of eligibility for a provisional ballot (for example, by providing identification they may not have had with them on Election Day). Such ballots would have been conditionally rejected and set aside during processing, and some states have procedures to notify voters of the defect.

If, for example, election officials reject a mail ballot because the signature on the envelope does not match the signature the election agency has on file for

that voter, the voter may be able to “cure” by submitting proof that they did in fact sign the envelope. In that case, the envelope is then opened and the ballot is removed, scanned, and tabulated, with the votes being aggregated into the count tallies.

e. Audits

Many states have laws requiring election officials to review a sample of paper ballot records to ensure that the results match the tallies that had been reported. These statutorily prescribed audits ensure that electronic scanning and tabulating equipment is accurately counting votes. Following chain-of-custody and other security measures, officials securely retrieve a defined set of paper ballots (all in-person ballots from one precinct or a single batch of mail ballots, for example) and manually tabulate the votes. The results are then compared to the results from the scanner or other voting machine.

3. Recounts

After the canvass has been conducted, the results of a given race are sometimes so close that small shifts in the vote tallies may change the final outcome from unofficially released results. Minor administrative errors can occur (sometimes as simple as an election worker typing the wrong digit on a keyboard when entering one precinct’s results), so when the margin of victory is this narrow, it is especially important to get the count exactly right. Numerous states provide for automatic or mandatory recounts when the margin between the top two candidates meets a certain threshold. Many states additionally permit interested parties, including candidates or voters, to petition for a recount (sometimes still only within a margin threshold).

A recount is a “retabulation of the vote count in an election”;⁴ it is conducted for the specific race for which it has been initiated to confirm the results of the vote canvass. Recounts can be conducted electronically, using scanners for paper ballots, or reloading cartridges from direct-reporting electronic machines, or they can be conducted by hand. Just like the canvass, ballots from several sources (in-person, mail, provisional, etc.) must be tabulated and aggregated into a single count. The results of the recount then become the final result.

4. Certification

The *certification* of the election results occurs after the canvass (and any recount) is complete, when the relevant authority formally approves the final, official results. According to the National Conference of State Legislatures, “The certification of election

results is a review done by someone other than the election officials themselves, and it gives assurance that the election results are correct.”⁵ Elections are first certified at the local level and then, for state-level and federal races, certified at the state level.

The certifying entity is usually a local board of election for local elections and the governor, chief election officer (such as a Secretary of State), or a state board for state, federal, and other boundary-crossing elections. The certifying authority is presented with the documentation of and results from the canvass to certify, signifying that the count is officially complete. It may then issue notices of certification to candidates and other agencies, as well as publicly provide more detailed information about the final count (for example, results by precinct, or numbers of rejected ballots).

Example: the post-election process in Maricopa County, Arizona

1. *After Votes Are Cast:* In 2020, approximately 82% of Maricopa County voters used a mail ballot, 10% voted in person before Election Day, and 8% cast ballots at a vote center on Election Day.⁶
 - a. *Early Voting:* Once received, mail ballots and ballots cast early in person are sorted into batches, and election officials check voter signatures on the affidavit envelope against a known signature from the voter registration file or past affidavits. Ballots with verified signatures are opened by hand by two-person bipartisan Citizen Boards, and the ballot is separated from the affidavit envelope. Ballots are then run through high-volume scanners, which count the votes in each batch.⁷
 - b. *In-Person Election Day Voting:* Paper ballots, marked by hand or by ballot marking device, are inserted by voters into the tabulator at the vote center. Results are stored on two separate, encrypted memory cards and printed on receipt paper by poll workers after they close the vote center.⁸
2. *The Canvass:* The process to reach a final tally of votes cast in Maricopa County involves election officials, tabulation technicians, and a number of bipartisan Central Boards, including snag, duplication, write-in tally, and audit boards.
 - a. *Tabulation:* Tabulation results from the vote center scanners are physically transported on memory cards to the Central Counting Place. The data is uploaded onto the secure Election Management System (EMS), which is connected electronically (but not over the internet) to the central tabulation equipment used to count early ballots. The EMS is used to tally the final results from both sources; tabulation is viewable 24 hours a day, 7 days a week.

- b. *Inspecting/Reconciling Returns*: In Arizona, county Accuracy Certification Boards are responsible for ensuring that the number of ballots received and the number processed by the vote tally system are the same, and for resolving any discrepancies.⁹ Continuous reconciliation of early voting ballot batches through each step of the process also ensures that all ballots are accounted for.
 - c. *Provisional Ballots*: The County Recorder researches voter information for provisional ballots and determines if those voters were registered and eligible to vote.¹⁰ Verified ballots are processed and tabulated in the same manner as early ballots; unverified ballots are rejected and set aside.
 - d. *Cure Opportunities*: The county attempts to contact voters with missing or mismatched signatures on their early ballots. Missing signatures must be supplied by Election Day. Signature mismatches can be cured up to five business days after the election, the same deadline for curing provisional ballots by supplying required identification.¹¹ Cured ballots are processed and tabulated; after the deadline, those that were not cured are rejected.
 - e. *Audits*: Ballots from 2% of vote centers and over 5,000 early ballots (26 batches with at least one batch from every machine used for tabulation) are hand-counted. The results are compared to the counts from the tabulation equipment to ensure it is tabulating accurately.¹²
3. *Recounts*: A recount occurs only if it is automatically triggered by the margin of votes between the top two candidates reaching a certain threshold. The threshold requires a very small margin but varies by contest; for example, a Presidential election recount would only be triggered by a margin of 200 or fewer votes.¹³
4. *Certification*: The Elections Department submits the results of the canvass (comprising a Statement of Votes Cast and cumulative Official Final Report) to the Board of Supervisors, which reviews and certifies the results in a public meeting.¹⁴ The official canvass results from state-level and federal races are transmitted to the Secretary of State. The Secretary of State then canvasses and certifies the results of those races; this duty is non-discretionary, meaning the Secretary of State aggregates the results reported by the counties with no authority to change or reject them.

¹ See *Election Day Equipment Map 2020*. VERIFIED VOTING.

<https://verifiedvoting.org/verifier/#mode/navigate/map/ppEquip/mapType/normal/year/2020> (last visited Dec. 10, 2021).

² Derek Tisler et al., *The Roadmap to the Official Count in an Unprecedented Election*, BRENNAN CTR. (Oct. 26, 2020), <https://www.brennancenter.org/our-work/research-reports/roadmap-official-count-unprecedented-election>.

³ *Quick Start Management Guide: Canvassing and Certifying an Election*, ELECTION ASSISTANCE COMMISSION 2 (Oct. 2008), https://www.eac.gov/sites/default/files/document_library/files/Quick_Start-Canvassing_and_Certifying_an_Election.pdf.

⁴ *Quick Start Management Guide: Conducting a Recount*, ELECTION ASSISTANCE COMMISSION 2 (Oct. 2008), https://www.eac.gov/sites/default/files/eac_assets/1/6/Quick%20Start-Conducting%20a%20Recount.pdf.

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- ⁵ *After the Voting Ends: Postelection Processes*, NAT'L CONF. OF STATE LEGISLATURES (Oct. 30, 2020), <https://www.ncsl.org/research/elections-and-campaigns/the-canvass-november-2020.aspx>.
- ⁶ *See 2020 November General Election Canvass Presentation*, MARICOPA CTY ELECTIONS DEPT 4 (Nov. 20, 2020), <https://recorder.maricopa.gov/pdf/November%20General%20Election%20Canvass%2011-20-2020.pdf>.
- ⁷ *Early Voting Plan November 2020 General Election*, MARICOPA CTY RECORDER & MARICOPA CTY ELECTIONS DEPT 8-9, https://recorder.maricopa.gov/pdf/GENERAL%20ELECTION%202020_Early%20Voting%20Plan_FINAL.pdf (last visited Dec. 10, 2021).
- ⁸ *Tabulation Security*, MARICOPA CTY ELECTIONS DEPT., <https://recorder.maricopa.gov/beballotready/Election%20Security%20PDF%20For%20BeBallotReady%20-%20English.pdf> (last visited Dec. 10, 2021).
- ⁹ *Ariz. Elections Procedures Manual*, ARIZ. SEC'Y OF STATE 203 (Dec. 2019), https://azsos.gov/sites/default/files/2019_ELECTIONS_PROCEDURES_MANUAL_APPROVED.pdf.
- ¹⁰ *Early Voting Plan November 2020 General Election*, *supra* note 9, at 11.
- ¹¹ *Ariz. Elections Procedures Manual*, *supra* note 9, at 68-69, 182.
- ¹² *Hand Count/Audit Report*, MARICOPA CTY RECORDER & MARICOPA CTY ELECTIONS DEPT 1, https://azsos.gov/sites/default/files/2020_General_Maricopa_Hand_Count.pdf (last visited Dec. 10, 2021).
- ¹³ *Ariz. Elections Procedures Manual*, *supra* note 9, at 245.
- ¹⁴ *Election Day & Emergency Voting Plan November 2020 General Election*, MARICOPA CTY RECORDER & MARICOPA CTY ELECTIONS DEPT 46, <https://recorder.maricopa.gov/pdf/Final%20November%202020%20General%20Election%20Day%20and%20Emergency%20Voting%20Plan%209-16-20.pdf> (last visited Dec. 10, 2021).

