REPORT OF THE ELECTORAL MISSION OF
TRANSPARENCIA ELECTORAL AND ACSEO FOR THE 2022 US MIDTERM ELECTIONS

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INTRODUCTION

Transparencia Electoral deployed an Electoral Mission in the United States for the Midterm Elections that were held on Tuesday, November 8th. The delegation was comprised of 40 observers from 6 Latin American countries (Argentina, Brazil, Chile, Colombia, México and Venezuela), most of whom hold positions in electoral management bodies at the national or subnational level, or who specialize in elections, participated in a two-day agenda in Los Angeles County, the largest in the United States (with more than 10 million residents).

A smaller delegation, made up of Leandro Querido, Executive Director of *Transparencia Electoral*; Luis Miguel Santibáñez Suárez, Coordinator for México; Marcelo Peregrino Ferreira, President of ACSEO and Coordinator for Brazil; Ann Ravel, Coordinator for the United States; and Eduardo Repilloza Fernández, Coordinator of Election Technology and Data Analysis, gathered in San José, County of Santa Clara, days before the deployment in Los Angeles.

On November 3rd and 4th, a shorter agenda was carried out that included meetings with authorities of the **County of Santa Clara**, which had **1,009,422 registered voters** for the November 8th election, as well as with the Mayor of the City of San José, Sam Liccardo, and a team from Google that works closely for the initiatives countering disinformation.

This was the first election after the latest redistricting process, which happens every 10 years. The law in the State of California requires that the community is engaged during redistricting, which includes no residents that don't speak English. Also, it establishes the criteria for how districts should be drawn: they should share common borders that are preferably natural (roads, rivers, rail lines, highways, etc.), neighborhoods should not be broken up and districts should be shaped encouraging "geographic compactness".

The California Fair Political Practices Commission is an agency created in 1974 and is a five-member independent, non-partisan commission responsible for the impartial administration of the Political Reform Act, which regulates campaign financing, conflicts of interest, lobbying, and governmental ethics, including the redistricting process in the State.

Counties are political-territorial units in the United States that take care of government aspects that are too small for the State Government, and too big for Cities, and (among other things such as Social Security and Health) they are in charge of implementing electoral systems for the cities they serve. Los Angeles has 88 cities under its jurisdiction, as well as an unincorporated territory, and Santa Clara County, which holds 15 cities, nearly 2 million people and over 1 million voters, making it the 6th county in the State of California in terms of population.

Santa Clara County includes part of the San Francisco Bay Area sometimes referred to as "Silicon Valley", where most of the global "Big Tech" companies are located. Santa Clara County and the County of Los Angeles have instituted innovative electronic voting systems, from accessible ballot marking devices (BMDs) with several features that allow

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people with disabilities to vote faster and that can display ballots in several languages, to e-poll books that allow eligible voters to vote at any of the available polling stations, not just one assigned. These factors exercise a natural gravitational pull for election observers looking to understand more about the responsible implementation of election technology and disinformation countering efforts.

On Election Day (November 8th, 2022), American citizens were able to vote in 36 governor races, renew 35 of the 100 seats in the US Senate and elect all 435 seats in the US House of Representatives of what will be the 118th Congress. On that day, the Mission visited polling stations in different cities of the **County of Los Angeles** to see how the process was developing and observe the way voters used the BMD machines (ballot marking devices) that are part of the Voting Solutions for All People (VSAP) system the County has built along with third parties and instituted for more the **5,614,000 registered voters**.

Transparencia Electoral extends a recognition to the County authorities in Santa Clara and Los Angeles and to the people who turned out to vote in this transcendental election.

WHAT WAS ON THE BALLOT?

Besides voting to elect 1 Senator (1 Democrat elected), 52 Representatives (40 Democrats elected and 12 Republicans) and for a Governor (Gov. Gavin Newsom -D- was re-elected), Californians voted for 7 measures or propositions. These last ones are a way for voters to directly participate in deciding key aspects of their lives. The 7 propositions were:

✅ **Proposition 1: Reproductive rights -** Approved with 65% in favor and 35% against. The State constitution will be modified to include the right to choose to have an abortion or use contraceptives.

❌ **Proposition 26: Sports betting at tribal casinos** - Rejected with 70% against and 30% in favor. The measure would have legalized in-person sports gambling at California's racetracks and tribal casinos.

❌ **Proposition 27: Online sports betting -** Rejected with 83% against and 17% in favor. California's tribes or gambling companies would have been allowed to offer online sports betting, including on mobile devices. All sports wagering is currently illegal in the state.

✅ **Proposition 28: K-12 arts funding -** Approved with 62% in favor and 38% against. The State will be required to establish an annual source of funding for arts and music education in all public K-8 schools, K-12 schools and charter schools.

❌ **Proposition 29: Dialysis regulation -** Rejected with 70% against and 30% in favor. A licensed nurse practitioner, physician or physician assistant on-site would have been required at kidney dialysis clinics during treatments.

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❌ **Proposition 30: Income tax for electric cars -** Rejected with 59% against and 41% in favor. This would have increased taxes for individuals who earned over $2 million a year.

✅ **Proposition 31: Flavored tobacco ban -** Approved with 63% in favor and 37% opposed. The measure upholds a 2020 law that bans the sale of flavored tobacco products like e-cigarettes, smokeless tobacco and menthol cigarettes.

BEFORE ELECTION DAY

Countering disinformation

On November 4th, part of the Electoral Mission met with a team from Google that had a very open and honest conversation about the challenges of disinformation during election cycles and how to counter it while protecting free speech.

Key parts of the conversation involved the efforts Google and other Big Tech companies have been making to counter disinformation on their platforms. The team explained there is a mix of human analysts and algorithms and artificial intelligence that is behind these efforts, and that policies are updated and published often to reflect how the fight against fake news is evolving.

One of the challenges is that as their strategies and codes become more precise, their counterparts (cyber pirates and disinformation firms) also get smarter. However, a migration has been detected in disinformation campaigns from platforms such as Facebook, Twitter and Google services like YouTube, to private messaging applications, which may speak to the effectiveness of the efforts to counter them.

The team also explained the definitions used for hateful speech policies, as well as the constant evolution of what is or isn't their responsibility as a platform, providing an interesting insight into their daily, lively debates, as citizens who also want to protect democracy.

Agenda prior to Election Day

Santa Clara County

Work started in the County of Santa Clara, which includes the cities of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga and Sunnyvale. On November 3rd, the Mission met with Shannon Bushey, Registrar of Voters of the County of Santa Clara and the directors of all departments that are part of the Registrar's office.

They explained particularities about the electoral process in Santa Clara County, which differs in a few ways from how they do in other counties in California. For example, the law requires there is an automatic full recount (100%) for races where the votes obtained by the first 2 candidates have a difference of 0.25% or under.

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At the Registrar's office, the Mission met with Paulo Chang, Coordinator of Precinct Operations; Matt Moreles, Assistant Registrar of Voters; and Mike Fong, Coordinator of Election Logistics and Voting Systems; Bob Nguyen, Coordinator of GIS Mapping; Vanessa Hamm, Manager of Policies and Procedures; and Alfred Gonzalez, Vote-By-Mail Coordinator.

As in the County of Los Angeles, the County of Santa Clara has also implemented technology to make it easier for people to vote. New e-poll books have been implemented where election workers can confirm the voter's information and request their signature. With this computerized roster of voters, election workers can find voters by name, address, date of birth, or state ID (which is not required by law in the State of California). If the voter is not located, they can still vote as a Provisional Voter. This means the vote will be counted later if the voter is confirmed to be eligible by the Registrar's office. E-poll books have the County's entire list of voters, enabling voters to choose from any one of over 100 different Vote Centers available.

Voters who choose to vote in person, will have a "Blue Voting Booth" at their disposal, equipped with a 19 inches "Accessible Ballot Marking Tool", which is another type of Ballot Marking Device (BMD). The voter has the option to mark the paper ballot by hand or by using the device. If the voter decides to vote on paper, they can request a paper ballot from the election worker, and there are official, on-demand ballot printers that can actually print it in 9 different languages (English, Chinese, Hindi, Japanese, Khmer, Korean, Spanish, Tagalog and Vietnamese). If the voter chooses to use the device, the election workers providers a small activation card that needs to be inserted into the device to activate the system and begin to vote.

The device includes enhanced accessibility options, such as an audio feature and the ability for voters to connect tools of their own, such as sip-and-puff, paddle switches, and Audio-Tactile Interface (ATI). After all votes are marked, it reminds the voter to review all their ballot choices before they print the ballot.

The ballot is counted at the polling station, using a voting machine that reads the ballot with the printed choices. These all-in-one machines scan the ballots and count them on the spot, whether they were completed with the ballot marking system or by hand, effectively relieving the workload of election workers. After the close of polls, memory devices from the voting machines are returned to the ROV and data is added to the results, eliminating the need to hand process ballots on Election Night.

Supervisor Joe Smitian, 1 of the 5 Supervisors of the Santa Clara County Board of Supervisors, also met with Transparencia Electoral on November 3rd, and discussed the redistricting process in California, among other aspects of the election process.

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County of Los Angeles

On Monday, November 7th, all 40 members of the Electoral Mission were received by two of the five members of the Board of Supervisors of the County of Los Angeles. Supervisor Hilda Solis, who represents the County's First District and was former President Obama's Secretary of Labor (2009-2013), presented Transparencia Electoral with a recognition for promoting free and fair elections in the Americas.

During the meeting with the team of the 1st District Supervisor, the Mission was also able to hear from members of the Anti-Recidivism Coalition (ARC), a civil society organization that works to change the narrative around incarceration in the United States by elevating, mobilizing and supporting those who have experienced incarceration. The organization promoted and helped pass propositions such as Proposition 57, approved with over 65% of the vote in 2016, which expanded rehabilitative programming in prisons and limited the ways that youth may be transferred to adult criminal court. Also, it helped pass Proposition 17 in 2020, which restored the right to vote to people on parole.

On the other hand, Holly J. Mitchell, representative of the Second District and current Chair of the Board of Supervisors, held an encounter with the group and shared her concerns about the state of democracy, disinformation, free speech and the electoral system in the United States. She thanked the group for being in Los Angeles and congratulated Dean Logan, the Registrar-Recorder of the County of Los Angeles, for the work he and his office have been doing to promote voting there.

Logan also held a meeting on November 7th, the day before the election, at the VSAP Operations Center in Whittier, California, and explained the logistical details of the election process in the County.

The County of Los Angeles has demonstrated its commitment to democratic principles by offering voters more opportunities and methods to cast their ballot, and by providing advanced, easy-to-use voting technology.

The County of Los Angeles' Voting System for All People (VSAP), which has been in use in this jurisdiction since 2020, protects the secrecy of the vote, regardless of disabilities, through state-of-the-art electoral technology. In addition to vote-by-mail, the County implements in-person early voting and voters are able to vote from any of the official polling stations.

The process went smoothly showing that the County has easily adapted to its innovative electoral system. The path towards modernization has allowed the Registrar-Recorder's office to be inclusive and efficient in their tasks as an electoral management body.

Los Angeles has become a global benchmark for electoral modernization for organizations and experts dedicated to promoting fair and transparent elections. Their significant investment in technology, the inclusion of different actors in the discussion on the implementation of new voting mechanisms, accompanied by changes in state and local

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processes, has allowed them to have a system that guarantees the participation of all voters without exception.

ELECTION DAY

Deployment on the field

During election day, the group visited three voting centers and was able to observe a well-organized election, with correctly implemented processes that respond to the needs of voters. On a visit to the Beverly Hills City Hall, which served as a voting center, they were received by Huma Ahmed, the City Clerk of Beverly Hills, in charge of the elections in the city.

Contingencies

In a webinar held between Transparencia Electoral and Shannon Bushey, Registrar of Voters of the County of Santa Clara, she commented on the case of ballots that had been found, discarded along with other mail unrelated to the election, on the side of a freeway in the County. The United States Postal Service (USPS), in charge of gathering and delivering the vote-by-mail ballots from homes and dropboxes, recovered 36 ballots that a citizen reported seeing on November 11th near Highway 17, between San Jose and Santa Cruz, and they were all returned to the Registrar's office, where they were able to verify and approve 31 of them to be counted with the election results, even though some of them had been out in the rain. The USPS opened an investigation into the case, and the Mission will follow-up on resolution.

In the days leading to election day, the Mission was made aware that there were groups across the country that claimed to do "election observation" as a means to attempt to obstruct the voting and vote counting procedures. Also, there were scattered reports from voters about people "hovering" around dropboxes, which were individuals who may or may not have been part of concerted efforts to keep watch for wrongdoers engaged in "voter fraud", but who ultimately were intimidating voters. The Mission was not able to verify any of these situations independently, but Election Day in the County of Los Angeles concluded successfully, with few issues to report.

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TRANSPARENCIA ELECTORAL INITIATIVES

Election Observation Missions

Transparencia Electoral has deployed more than 20 Electoral Observation Missions in the continent, made up of electoral authorities, members of political parties, senior government officials, academics, among others.

DemoAmlat

A regional network made up of electoral bodies, political parties, academics and civil society organizations committed to a "Minimum Agenda of Democratic Compromise". Several international encounters have been held and it publishes a monthly magazine in which experts from different countries contribute with articles that address the challenges of democracy in Latin America.

American Conference of Subnational Election Officials (ACSEO)

Transparencia Electoral holds the Technical Secretariat of ACSEO (CAOESTE, by its acronym in Spanish), an entity that brings together electoral authorities and officials from subnational organizations, as well as experts, specialists and other interested parties.

#DemoTech

An initiative to promote the responsible implementation of technology in democratic electoral processes. We have held four international events in which electoral authorities, high-ranking government officials, legislators, companies that provide technological solutions in electoral processes, researchers, among others, have exhibited.

Editorial initiatives

Transparencia Electoral has a research team that has made possible the publication of several studies. Among them: "30 years of elections in Latin America" (2017); Distinguished work by the Legislature of the City of Buenos Aires for its "Social and Cultural Interest", "This is how you vote in Cuba" (2018), "Challenges of democracy in Latin America" (2019), "The Cuban illiberal model and its influence in Latin America" (2020) and "This is how you vote in Venezuela" (2020).

Training School

An online training platform with content on elections, democracy, technology, gender, among other topics, explained by prestigious specialists.

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