

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM: 3.1
(ID # 24151)

MEETING DATE:
Tuesday, February 06, 2024

FROM : SUPERVISOR KEVIN JEFFRIES AND SUPERVISOR KAREN SPIEGEL :

SUBJECT: SUPERVISOR KEVIN JEFFRIES AND SUPERVISOR KAREN SPIEGEL:
Enhanced Post-Election Manual Verification

RECOMMENDED MOTION: That the Board of Supervisors:

1. Direct the Registrar of Voters to implement a 2% Manual Tally for the March 5, 2024 Primary Election.
2. Direct the Registrar of Voters to implement a Risk-Limiting Audit pilot program during a future Special Election.
3. Direct the Executive Office to identify additional funding for the Registrar of Voters to fund these enhanced verification processes.

ACTION:Policy


Supervisor Kevin Jeffries, Chair 1/31/2024


Supervisor Karen Spiegel, Supervisor 2nd District 1/31/2024

MINUTES OF THE BOARD OF SUPERVISORS

(WITHDRAWN)

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

BACKGROUND:

The Registrar of Voters (ROV) is tasked with ensuring that the electoral process is conducted professionally, responsibly, in compliance with all election laws and regulations, and with integrity on behalf of our constituents. A key component of the work done by the ROV is maintaining public confidence in honest and impartial elections that are conducted in a fair, efficient and accurate manner.

With the goal of continuing to strengthen public trust in our elections, our offices have asked the ROV to identify additional steps that can be taken to enhance manual verification of the accuracy of our election system, in conformance with election laws and regulations, which go beyond those steps already required by the Secretary of State of all counties. There are two additional opportunities for enhance manual verification that the ROV has identified:

- Increase the mandated 1% manual tally to 2%. The Secretary of State requires that elections officials manually tally all the ballots in 1 percent of the precincts, selected at random by the elections officials, which is then checked against the tabulated results for those precincts. The 1% Manual Tally is done in public view. Through this proposal, the required 1% manual tally would double to 2%, which is within the discretion of the election official. This would involve using additional temporary staff after the election to double the manual tally, which is estimated to cost an additional \$360,000 (based on turnout at the past Statewide election in November 2022).
- Conduct a Risk-Limiting Audit during an upcoming Special Election. Risk-Limiting Audits are identified by the Secretary of State as an alternate process for election manual verification. This process provides for elections officials to manually tally randomly selected ballots in close races, stopping as soon as it is implausible that a full recount would show a different result than the ballots reviewed. Risk-Limiting Audits are currently part of a pilot program in California. Unlike the 1% (or 2%) manual tally, this would be an entirely new process to train ROV staff on. The recommendation from the ROV is to pilot this on an upcoming Special Election, which are smaller in scale, before implementing it in a future Statewide election. There are a few Counties, including Orange County, that have started to pilot Risk-Limiting Audits. The ROV would identify an appropriate upcoming special election as a pilot, and estimate costs to perform this process at that time. This process will also be open for public observation.

As part of this action, the ROV will report back to the Board on the efficacy of these two additional enhancement mechanisms, so that they can be further considered for use in future election cycles.

Impact on Residents and Businesses:

Enhancing Post-Election Manual Verification through the 2% manual tally for the March 2024 election and a Risk-Limiting Auditing in a future Special Election will serve to further increase voter trust and confidence in the process in which our elections are conducted.

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Additional Fiscal Information:

Through this Board action, the Executive Office will return to the Board with an appropriate budget adjustment to cover the ROV's costs for these enhanced services, which are estimated to be \$360,000 for the March 2024 election.

6 mins.

Riverside County Board of Supervisors Request to Speak

Submit request to Clerk of Board (right of podium), Speakers are entitled to three (3) minutes, subject to Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Greg Langworthy

Address: 21227 Front St

City: Wildomar Zip: 92595

Phone #: 951-704-5149

Date: Feb. 5, 2024 Agenda # 3.1

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

Support Oppose Neutral

Note: If you are here for an agenda item that is filed for "Appeal", please state separately your position on the appeal below:

Support Oppose Neutral

I give my 3 minutes to: _____

Riverside County Board of Supervisors Request to Speak

Submit request to Clerk of Board (right of podium), Speakers are entitled to three (3) minutes, subject to Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Lewis Powell

Address: 33927 Plowshare Rd.

City: Wildomar, CA. Zip: 92595

Phone #: 951-244-9005

Date: 2-5-2024 Agenda # 3-1

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

 Support Oppose Neutral

Note: If you are here for an agenda item that is filed for "Appeal", please state separately your position on the appeal below:

 Support Oppose Neutral

I give my 3 minutes to: Greg Langworthy



Riverside County Board of Supervisors Request to Speak

Submit request to Clerk of Board (right of podium), Speakers are entitled to three (3) minutes, subject to Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Jim NIEDERCKER

Address: PO Box 890337

City: TEMECULA Zip: 92589

Phone #: 951 675 3923

Date: 2/6/24 Agenda # 3.1

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

 Support Oppose Neutral

Note: If you are here for an agenda item that is filed for "Appeal", please state separately your position on the appeal below:

 Support Oppose Neutral

I give my 3 minutes to: _____

2/4/24

Ms. Steph Nelson
Deputy County Counsel
3960 Orange Street
Suite 500
Riverside, CA. 92501

CC: Riverside County Supervisors

Dear Ms. Nelson,

My public records request #23-2593 for audit logs in Riverside County was denied. The denial cited Elections Codes 7922.000, 7924.000, 7927.705, 2 CCR 19064, and 6254(f) via the Black Panther case to justify the denials. A second case, Young v. Diaz was also cited. I don't agree with the denial. The statutes and other statutes linked to these main statutes, and the two cases are analyzed below. The key provisions of the statutes are included in red font.

Calif Gov't Code 7922.000

7922.000. An agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this division, or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.

As noted below, no confidential voter information will be disclosed, therefore there is no restriction to disclosing the audit logs and the public interest is not impacted.

Calif Gov't Code 7924.000

7924.000. (a) Except as provided in Section 2194 of the Elections Code, both of the following are confidential and shall not be disclosed to any person:

(1) The home address, telephone number, email address, precinct number, or other number specified by the Secretary of State for voter registration purposes.

(2) Prior registration information shown on an affidavit of registration.

(b) The California driver's license number, the California identification card number, the social security number, and any other unique identifier used by the State of California for purposes of voter identification shown on an affidavit of registration, or added to the voter registration records to comply with the requirements of the federal Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.), are confidential and shall not be disclosed to any person.

(c) The signature of the voter that is shown on an affidavit of registration is confidential and shall not be disclosed to any person.

(d) For purposes of this section, "home address" means street address only, and does not include an individual's city or post office address.

Analysis: Code 7924.000 included in council's denial lists the information that may not be disclosed such as a voter's home address, telephone number, and registration information. Audit logs capture the transactions or work performed by the system and don't include any confidential voter information. For example, the system will log when an administrator runs a report or a tabulator rejects a scanned ballot. The Election Management System, EMS, is completely independent of the voter registration system and the voter rolls data. Ballots contain no voter information; they are completely anonymous. I validated no confidential information is included in the EMS audit logs by obtaining and examining the San Diego County Dominion system audit logs which are made public. The exclusion of voter information from the audit logs is also validated based on the fact that Stanislaus County, San Francisco County, and San Bernardino County have made their audit logs available to the public.

California Code, Elections Code - ELEC § 2194

(a) Except as provided in Section 2194.1, the **affidavit of voter registration information** identified in Section 7924.000 of the Government Code:

(1) Shall be confidential and shall not appear on any computer terminal, list, affidavit, duplicate affidavit, or other medium routinely available to the public at the county elections official's office.

(2) Shall not be used for any personal, private, or commercial purpose, including, but not limited to:

(A) The harassment of any voter or voter's household.

(B) The advertising, solicitation, sale, or marketing of products or services to any voter or voter's household.

(C) Reproduction in print, broadcast visual or audio, or display on the internet or any computer terminal unless pursuant to paragraph (3).

(3) Shall be provided with respect to any voter, subject to the provisions of Sections 2166, 2166.5, 2166.7, and 2188, to any candidate for federal, state, or local office, to any committee for or against any initiative or referendum measure for which legal publication is made, and to any person for election, scholarly, journalistic, or political purposes, or for governmental purposes, as determined by the Secretary of State.

(4) May be used by the Secretary of State for the purpose of educating voters pursuant to Section 12173 of the Government Code.

(b)(1) Notwithstanding any other law, the **California driver's license number, the California identification card number, the social security number, and any other unique identifier** used by the State of California for purposes of voter identification shown on the affidavit of voter registration of a registered voter, or added to voter registration records to comply with the requirements of the federal Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.), are confidential and shall not be disclosed to any person.

(2) **Notwithstanding any other law, the signature of the voter shown on the affidavit of voter registration or an image thereof is confidential and shall not be disclosed** to any person, except as provided in subdivision (c).

(c)(1) The home address or signature of any voter shall be released whenever the person's vote is challenged pursuant to Sections 15105 to 15108, inclusive, or Article 3 (commencing with Section 14240) of Chapter 3 of Division 14. The address or signature shall be released only to the challenger, to elections officials, and to other persons as necessary to make, defend against, or adjudicate the challenge.

(2) An elections official shall permit a person to view the signature of a voter for the purpose of determining whether the signature compares with a signature on an affidavit of registration or an image thereof or a petition, but shall not permit a signature to be copied.

(d) A governmental entity, or officer or employee thereof, shall not be held civilly liable as a result of disclosure of the information referred to in this section, unless by a showing of gross negligence or willfulness.

(e) For the purposes of this section, "voter's household" is defined as the voter's place of residence or mailing address or any persons who reside at the place of residence or use the mailing address as supplied on the affidavit of registration pursuant to paragraphs (3) and (4) of subdivision (a) of Section 2150.

(f) Notwithstanding any other law, information regarding voters who did not sign a vote by mail ballot identification envelope or whose signature on the vote by mail ballot identification envelope did not compare with the voter's signature on file shall be treated as confidential voter registration information pursuant to this section and Section 6254.4 of the Government Code. This information shall not be disclosed to any person except as provided in this section. Any disclosure of this information shall be accompanied by a notice to the recipient regarding Sections 18109 and 18540. Voter information provided pursuant to this subdivision

shall be updated daily, include the name of the voter, and be provided in a searchable electronic format.

Analysis: As noted above, the Election Management System, EMS, is completely independent of the voter registration system and the voter rolls data. No voter information is included in the audit logs.

Calif Gov't Code 7927.705

7927.705. Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

7924.510 applies to air pollution equipment and data

7924.700 applies to a record of a notice or an order that is directed to the owner of any building and relates to violation of a housing or building code, ordinance, statute, or regulation.

7929.610 applies to test questions or materials that would be used to administer an examination and are provided by the State Department of Education and administered as part of a statewide testing program of pupils.

Analysis: Code 7927.705 pertains to records related to air pollution, housing and building codes, and exams administered by the State Dept. of Education. These types of records do not apply to the request for audit logs.

Other statutes linked to the statutes referenced in the denial are not violated by the disclosure of the EMS audit logs. These statutes are noted below.

California Code, Elections Code - ELEC § 2194.1

Any affidavit of registration information identified in Section 7924.000 of the Government Code in existence 100 years after the creation of the record shall be available to the public.

Calif Elections Code Sections 2166, 2166.5, 2166.7, and 2188 include non-disclosure of voter data when voter may be harmed by disclosure.

California Elections Code 19064 - County Security

(a) Each county shall protect the confidentiality, integrity, and availability of the data and the election information system authorized to process, store, and transmit voter registration data. This system shall utilize system hardening and resilient architecture by means of redundancy, high availability, or other fault-tolerant methodologies.

The remainder of the code lists technical requirements to secure the data.

Election Code 6254(f) is cited in the Black Panther Case; see below.

Statute Analysis Summary: Audit logs that include the following are exempt from disclosure:

- Home address, telephone number, email address, precinct number, or other number specified by the Secretary of State for voter registration purposes
- Prior registration information shown on an affidavit of registration.
- The California driver's license number, the California identification card number, the social security number, and any other unique identifier used by the State of California for purposes of voter identification

The EMS audit logs do not contain any voter information and therefore no statutes are violated.

Analysis of Cases

Summary of Young v. Diaz:

- Young requested election records from the 2020 election including digital ballot images, audit logs, tabulator tapes, and cast vote records
- Nevada County provided redacted copies of some records stating full disclosure is a violation of the California Public Records Act.
- After five months, the court ordered the county to provide a representative sample of an audit log with redactions deemed appropriate.
- Young supplied the court with audit logs from Stanislaus County which uses the same system to demonstrate the logs contain no personal information.
- Young also informed the court San Francisco County provides audit logs in full on line.

The court ordered Nevada County to submit under seal, a complete, un-redacted log. The court found the audit logs did not disclose the voter information that is protected. After two years of litigation, the court ordered Nevada County to disclose the requested records, excluding the ballot images. The judge ordered Nevada County to pay more than \$85,000 in legal fees to Young.

The case of Black Panther Party v. Kehoe was also cited to support the denial. The case before the California Third District Court of Appeal in 1974 concerned complaints of unethical practices by collection agencies.

Summary of Black Panther Party v. Kehoe :

- Case is related to disclosure of information related to complaints per Elections Code 6254 (f)
- The Bureau of Collection and Investigative Services licenses and monitors complaints concerning the states private collection agencies.
- The Black Panther Party claims that written complaints issued to the bureau concerning collection agencies are public records and are subject to public record requests.

The Court of Appeals ultimately overturned the trial courts decision and ruled in favor of the Black Panther Party. The request for audit logs in Riverside County is not associated with any formal complaint, thus the citation of Election Code 6254(f) is not applicable.

Conclusion

The review of the statutes and cases reveals the requested audit logs do not contain confidential voter information and the courts held the audit log requests should be granted. I respectfully request my request #23-2593 be approved. If you disagree, I request we meet to discuss the matter.

Respectfully,
Jim Niederecker
951-675-3923
jniedere@proton.me



Riverside County Board of Supervisors Request to Speak

Submit request to Clerk of Board (right of podium), Speakers are entitled to three (3) minutes, subject to Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Yvette Anthony

Address: 23958 Via Madrid

City: Murriete Zip: 92562

Phone #: 951-265-3241

Date: 2/6/24 Agenda # 3.1

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

 Support Oppose Neutral

Note: If you are here for an agenda item that is filed for "Appeal", please state separately your position on the appeal below:

 Support Oppose Neutral

I give my 3 minutes to: _____

✓

Riverside County Board of Supervisors Request to Speak

Submit request to Clerk of Board (right of podium), Speakers are entitled to three (3) minutes, subject to Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Sharon Neil

Address: 16153 Stevens

City: Lake Elsinore Zip: 92530

Phone #: 952-897-0334

Date: 2-6-24 Agenda # 3.1

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

 Support X Oppose Neutral

Note: If you are here for an agenda item that is filed for "Appeal", please state separately your position on the appeal below:

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I give my 3 minutes to: _____



Riverside County Board of Supervisors Request to Speak

Submit request to Clerk of Board (right of podium), Speakers are entitled to three (3) minutes, subject to Board Rules listed on the reverse side of this form

SPEAKER'S NAME: Ray BLIGHT

Address: _____

City: _____ Zip: _____

Phone #: _____

Date: _____ Agenda # 3:1

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

_____ Support _____ Oppose _____ Neutral

Note: If you are here for an agenda item that is filed for "Appeal", please state separately your position on the appeal below:

_____ Support _____ Oppose _____ Neutral

I give my 3 minutes to: _____



Riverside County Board of Supervisors Request to Speak

Online

Submit request to Clerk of Board (right of podium), Speakers are entitled to three (3) minutes, subject to Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Shelby Bunch

Address: _____

City: _____ Zip: _____

Phone #: _____

Date: _____ Agenda # 3.1

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

_____ Support _____ Oppose _____ Neutral

Note: If you are here for an agenda item that is filed for "Appeal", please state separately your position on the appeal below:

_____ Support _____ Oppose _____ Neutral

I give my 3 minutes to: _____

Lopez, Daniel

From: Aquia Mail
Sent: Monday, February 5, 2024 8:19 PM
To: Shelbysings@msn.com
Cc: Clerk of the Board
Subject: Request to Speak Web Submission



Thank you for submitting your request to speak. The Clerk of the Board office has received your request and will be prepared to allow you to speak when your item is called. To attend the meeting, please call (669) 900-6833 and use **Meeting ID # 864 4411 6015 . Password is 20240206**. You will be muted until your item is pulled and your name is called. Please dial in at 9:00 am with the phone number you provided in the form so you can be identified during the meeting.

Submitted on February 5, 2024

Submitted values are:

First Name

Shelby

Last Name

Bunch

Address (Street, City and Zip)

31859 Willow Wood Court

Phone

9512849412

Email

Shelbysings@msn.com

Agenda Date

02/06/2024

Agenda Item # or Public Comment

ITEM: 3.1 (ID # 24151)

State your position below

Oppose