

Complaint to Board of Supervisors Re: Mishandling of public records request (Tehama-528)

Thu, 22 May 2025 11:39:41 AM -0700

To "shoughtby"<shoughtby@tehama.gov>

Bcc

Sean Houghtby, Clerk of the Board
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My file: Tehama-528

To: Robert Burroughs, Supervisor for District 1; Tom Walker, Supervisor for District 2; Pati Nolen, Supervisor for District 3; Matt Hansen, Supervisor for District 4; Greg Jones, Supervisor for District 5

On April 24, 2025, I asked for your assistance regarding violation of my civil right to obtain election records pursuant to California Constitution Article 1, Section 3(b). I included the list of absurd legal authorities used to obstruct my requests, along with my explanation of why the provision cited did not apply. **The only response I got was a letter from Michelle Nasise of Prentice Long, citing the same statutes that do not apply!**

Ms. Nasise also said that the Tehama election office does not maintain audit logs because “the requested data does not exist outside of the voting machines”. The records I requested are created during the election and exported at the end of the election.

California Voting System Standard 2.1.5.1 states:

“h. Voting systems **shall** store logs in a publicly documented log format, such as XML, or include a utility to export the logs into a publicly documented format for off-system viewing. . . .

“n. Voting system equipment **shall** digitally sign and export event logs at the end of an election.”
(Emphasis in original.)

I supplied an upload site, capable of receiving these records: <https://mega.nz/filerequest/YW7qc2Akf0M>

Ms. Nasise also took the position that because the records have to be exported (which can be done in less than a minute) I must pay for “extraction”. In National Lawyers Guild v. City of Hayward, the California Supreme Court held that (1) a government agency may not charge for redactions and that (2) simply transferring electronic records in response to a public records request is not data “extraction” or “compilation” for which a requestor can be charged. I have said that I want the records unaltered, not a custom report, but Ms. Nasise suggested that I contact the election department to get a custom report.

Please insist that the County of Tehama Election Department and their counsel stop these dishonest, unlawful obstructive ploys. At the very least ask exactly what information must be removed and why.

Compliance with the California Voting System Standards is a pre-condition for approval of any electronic voting system in California. The voting systems must be designed so that the logs do not create security risks or infringe on voter privacy. California Voting Systems Standards, Section 2.1.5.1(c).

You should be aware that Ms. Nasise and Prentice Long have provided electronic election records to other counties, including Trinity County and Sierra County.

Thank you for your continued efforts to stop these violations of the California Public Records Act and Article 1, Section 3(b) of the California Constitution.

---- On Thu, 24 Apr 2025 15:30:29 -0700

wrote ---

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To: Robert Burroughs, Supervisor for District 1; Tom Walker, Supervisor for District 2; Pati Nolen, Supervisor for District 3; Matt Hansen, Supervisor for District 4; Greg Jones, Supervisor for District 5

I would like your assistance regarding violation of my civil right to obtain election records pursuant to California Constitution Article 1, Section 3(b).

On December 18, 2024, I requested non-exempt public election records. All of the records I requested were created during the election and must be retained for 22 months. California Voting System Standards, Section 2.1.5.1(n) requires that the electronic records be exported after the election. California Voting System Standard 2.1.5.1 also says: “h. Voting systems **shall** store logs in a publicly documented log format, such as XML, or include a utility to export the logs into a publicly documented format for off-system viewing. . . .”

I requested audit logs and system logs for the November 2024 general election. I supplied an upload site, capable of receiving these records: <https://mega.nz/filerequest/YW7qc2Akf0M>

I should have received these records promptly after making my request. Instead, I have had to contend with the use of absurd, obviously inapplicable legal authorities to obstruct my requests.

California Constitution Article II, §7 says, “Voting shall be secret.”

Compliance with the California Voting System Standards is a pre-condition for approval of any electronic voting system in California. The logs are designed to be to be publicly available for offsite viewing and must not create security risks or infringe on voter privacy. California Voting Systems Standards, § 2.1.5.1(c).

The electronic records I requested do not contain a field for the voter's name. In fact, there would be no way to obtain the voter's name from the ballots that are tabulated because the ballots do not contain the voter's name. Therefore any claim of exemption based on protecting voter privacy is without merit. It is not possible to use the logs to identify any voter or determine how any voter voted. Neither the ballots processed through the electronic voting system nor any record in the system contains voter identifying information.

Government Code §7922.000

This is a general section. To rely on this section the County must either cite a statute that actually creates an exemption or state facts sufficient to show that the public interest in withholding records outweighs the public interest in disclosing the records. The people handling my request identified neither an express exemption nor a public interest in withholding records.

In Young v. Nevada County, the trial court ordered release of cast vote records, audit logs, and tabulator logs, stating:

“Election audit trails provide the supporting documentation for verifying the accuracy of reported election results. They present a concrete, indestructible archival records of all system activity related to the vote tally, **and are essential for public confidence** in the accuracy of the tally, for recounts, and for evidence in the event of criminal or civil litigation.” (Emphasis in original.)

Government Code §7927.705 These are the categories listed: taxpayer, tax preparer, teacher, telephone answering service, timber yield tax, title insurer, tobacco tax, tow truck drive, toxic substances, trade secrets, traffic violator, transit districts, tribal gaming, trust companies. None of them applies to the records I sought.

Security, Government Code §7929.210

Government Code §7929.210 does not make the audit and system logs exempt. This law exempts only records that would jeopardize the security of an information technology system. If releasing the voting system logs had that effect, your use of the voting system would be unlawful.

Compliance with the California Voting System Standards is a pre-condition for approval of any electronic voting system in California. The logs are designed to be to be publicly available for offsite viewing and must not create security risks or infringe on voter privacy. California Voting Systems Standards, § 2.1.5.1(c).

The voting system creators designed the logs to be publicly available and compliant with mandatory voting systems standards that require the logs not create security risks or infringe on voter privacy. California Voting Systems Standards, Section 2.1.5.1(c).

Before certification, voting systems are tested, including the audit logs and system logs. Unless your system has failed those tests, the reliance on §7929.210 is without merit.

Election Code §2300 This statute may seem applicable because it is an election code section, but it creates no public record exemption at all. The statute bans the following:

- Preventing registered voters from casting ballots
- Interfering with the use of provisional ballots
- Preventing people who are in line before the polls close from voting
- Intimidating voters
- Preventing voters from correcting their mistakes
- Preventing voters from obtaining assistance
- Preventing vote by mail
- Preventing voters from obtaining election materials in another language
- Preventing voters from asking questions
- Preventing voters from reporting illegal or fraudulent activity

People seeking records after an election should not be accused of violating this code!

Election Code §17600(b) defines “certified voter technology”. Definitions do not create exemptions. Citing a statute that defines a term might be appropriate if there is another statute the uses the term when creating an exemption. Citing the definition as if it alone was an exemption is a sham.

Election Code §19214 allows the Secretary of State to protect parts of her Certification Report from disclosure. It does not allow a public agency to withhold records from a member of the public who is not seeking any part of the Secretary of State’s report!

Election Code §§ 15630, 15370, 17301, 17302, and Citizens Oversight v. Vu apply only to the inspection of original ballots. Using such authorities to withhold records from someone who is not asking to inspect ballots is obviously wrong.

To avoid legal enforcement proceedings and county liability for the attorney’s fees and costs of enforcement, please instruct Michelle Ascencion, County Clerk-Recorder-Registrar of Voters to provide these records. These records are in the custody and control of the Ventura County election department. The records are not exempt and can be transferred within minutes. If assistance is needed Dominion Customer Service can be reached at 866-366-4357 between 8 a.m. and 5 p.m. Eastern Standard Time. Their assistance has aided election staff in retrieving records in other counties.

I thank you for your attention and prompt action.