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January 4, 2021

Scott A. McMillan
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Re: PRA Request dated December 18, 2020

Dear Mr. McMillan:

This letter responds to your California Public Records Act request directed to the Registrar of Voters, which is dated December 18, 2020. Your letter requests certain records regarding the November 3, 2020 General Election.

As discussed below, several of the requests seek voter registration information and voter history. Voter registration information, including voter history, can be applied for and purchased pursuant to Sections 2188 and 2194 of the Election Code, as well as California Code of Regulations, title 2, section 19001, *et seq.*, which among other things, require the submittal of an application form as specified in California Code of Regulations, title 2, section 19008. The application and purchase of voter registration data can also be accomplished through the following link: <https://www.ocvote.com/data/voter-data-available-for-purchase/>

Several of the request regarding inspections and logs appear to seek records regarding the Registrar's efforts to ensure that election results match voter selections reflected on paper ballots. The Registrar provides extensive data and reports regarding the November 2020 election online for free at the following link regarding the risk limiting audits that were conducted by the Registrar with respect to the November 2020 election: <https://www.ocvote.com/results/risk-limiting-audit>

Many of the requests do not describe specific records nor are they framed in a manner that relates to how the Registrar maintains its records. For example, several of the requests cite to 2 CCR 19064, subdivision (c), which requires counties to "complete a security assessment of its election information system *prior to a statewide primary election*," but seek records that were created *after* the statewide primary election. Likewise, several of the requests appear to refer to a Dominion voting system, which the County of Orange does not use. We provide the suggestions above to help you develop focused and effective requests that reasonably describe identifiable

records pursuant to Government Code section 6253.1. As to each specific request, we provide the following responses:

1. Provide those documents identifying, by date, time and means, all synchronization transmissions between the California Secretary of State and the county Registrar of Voters.

Response: The Registrar does not possess an existing record that contains all of the information requested. The Registrar shall make available for review and duplication the most responsive records it has identified.

2. Provide those documents with the results of each synchronization transmission between the California Secretary of State and the county Registrar of Voters, by number of registrants confirmed as valid, and those that are identified as invalid.

Response: The Registrar does not possess an existing record that contains all of the information requested. However, the Registrar shall make available for review and duplication the most responsive records it has identified.

3. Provide those documents which reflect notifications from the Secretary of State requesting or directing modifications to a voter's registration record between September 1, 2020 and November 15, 2020.

Response: The Registrar has identified responsive records containing statistics regarding such notifications, which will be made available for review and duplication. An extraction and compilation of voter registration data can also be prepared and made available for review and duplication once the Registrar receives a completed application for voter registration data and fee pursuant to 2 CCR § 19001, *et seq.*

4. Provide those documents that reflect, in summary form, the modifications to the voter registration record, by date, time, and by any unique voter registration number or name of voter, for those records modified between September 1, 2020 and November 15, 2020.

Response: The Registrar can extract and compile responsive voter registration data once the Registrar receives a completed application for voter registration data and fee pursuant to 2 CCR § 19001, *et seq.*

5. Provide those documents identifying where, by geographic location, ballots were counted in the County between October 15, 2020, through November 30, 2020.

Response: The Registrar counted ballots at its headquarters located at 1300 South Grand Avenue, Building C, Santa Ana, CA.

6. Provide those documents, i.e., logs, narratives of inspection, created between September 1, 2020 and November 15, 2020 reflecting "Active management (inventory, tracking, and correction) of all software on the network so that only authorized software is installed and can execute" took place in compliance with 2 CCR § 19064(c)(2).

Response: The Registrar shall provide a summary of the County's voter system's security features that prevent unauthorized software installation. Records that describe potential vulnerabilities and the County's resolution of such risks are exempt from disclosure pursuant to Government Code sections 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

7. Provide those documents, i.e., logs, narratives of inspection, created between September 1, 2020 and November 15, 2020 reflecting "active management (tracking, reporting, and correction) of the security configuration of laptops, servers, and workstations in order to prevent attackers from exploiting vulnerable services and settings" took place in compliance with 2 CCR § 19064(c)(3).

Response: Records that describe potential vulnerabilities and the County's resolution of such risks are exempt from disclosure pursuant to Government Code sections 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

8. Provide those documents, i.e., logs, narratives of inspection, created between September 1, 2020 and November 15, 2020 reflecting "Active management (tracking, control, and correction) of the ongoing operational use of ports, protocols, and services on networked devices in order to minimize vulnerabilities available for attack" took place in compliance with 2 CCR § 19064(c)(9).

Response: Records that describe potential vulnerabilities and the County's resolution of such risks are exempt from disclosure pursuant to Government Code sections 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

9. Provide the log files for all data traffic, including connection requests accepted and refused, between the county's election information file and any other location between September 1, 2020 and November 15, 2020.

Response: This request seeks information security records that are exempt from disclosure pursuant to Government Code sections 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

10. Provide those documents, i.e., logs, narratives of inspection, created between September 1, 2020 and November 15, 2020 reflecting "Tracking, controlling, preventing, and correcting the security use of wireless local area networks, access points, and wireless client systems" which took place in compliance with 2 CCR § 19064(c)(15).

Response: This request seeks information security records that are exempt from disclosure pursuant to Government Code sections 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

11. Provide those documents, i.e., logs, narratives of inspection, created between September 1, 2020 and November 15, 2020 reflecting the inventory and identification of all wireless connections in the County's ballot processing location.

Response: The Registrar has identified responsive records, which will be made available for review and duplication.

12. Provide those documents, i.e., logs, narratives of inspection, created between September 1, 2020 and November 15, 2020 reflecting the inventory and identification of all wireless-capable devices in the County's ballot processing location.

Response: The Registrar has identified responsive records, which will be made available for review and duplication.

13. Provide those documents, identifying by serial number, MAC address, device, and location, and the custodian of, all wireless-capable devices in the County's ballot processing location between November 2, 2020 and November 13, 2020.

Response: See Response to Request No. 12. The additional information requested regarding MAC addresses would create a security risk and is exempt from disclosure pursuant to Government Code sections 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

14. Provide those documents, reflecting any incident response infrastructure (e.g., plans, defined roles, training, communications, and management oversight) operational prior to October 15, 2020, which took place in compliance with 2 CCR § 19064(c)(19).

Response: Records responsive to this request have been identified and are available for review and duplication. However, the County shall withhold information security records that are exempt from disclosure pursuant to Government Code sections 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

15. Provide those documents, reflecting training on any incident response infrastructure (e.g., plans, defined roles, training, communications, and management oversight) prior to October 15, 2020.

Response: The Registrar has identified responsive records, which will be made available for review and duplication.

16. Provide those documents, reflecting roles on any incident response infrastructure (e.g., plans, defined roles, training, communications, and management oversight) prior to October 15, 2020.

Response: Records responsive to this request have been identified and are available for review and duplication. However, the County shall withhold information security records that are exempt from disclosure pursuant to Government Code sections 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

17. Provide those documents, reflecting communications on any incident response infrastructure (e.g., plans, defined roles, training, communications, and management oversight) prior to October 15, 2020.

Response: The Registrar has identified responsive records, which will be made available for review and duplication.

18. Provide those documents, reflecting management oversight on any incident response infrastructure (e.g., plans, defined roles, training, communications, and management oversight) prior to October 15, 2020.

Response: Records responsive to this request have been identified and are available for review and duplication. However, the County shall withhold information security records that are exempt from disclosure pursuant to Government Code sections 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

19. Provide those documents reflecting the identity of each person that has accessed the routers for the county's EMS and election information systems between October 15, 2020 and November 13, 2020.

Response: This request seeks information security records that are exempt from disclosure pursuant to Government Code sections 6254(c), 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

20. Provide those documents which identify all persons, not permanently employed by the County, who accessed servers or routers of the EMS and election information system between October 15, 2020 and November 14, 2020.

Response: This request seeks information security records that are exempt from disclosure pursuant to Government Code sections 6254(c), 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

21. Provide documents which identify all persons authorized by the county who accessed servers or routers of the EMS and election information system between October 15, 2020 and November 14, 2020.

Response: This request seeks information security records that are exempt from disclosure pursuant to Government Code sections 6254(c), 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

22. Provide those documents which identify all persons with USB or “flash drives” that were allowed access to any location where votes were tallied or processed in the County.

Response: Records identifying Registrar employees who have access to voting machine tabulation storage devices are exempt from disclosure pursuant to Government Code sections 6254(c), 6254(k), 6254.19 and 6255, and California Constitution, article I, Section 1.

23. Provide those documents which identify all persons with sign-on authentication authorization as a direct user to the county's EMS and election information system between September 15, 2020 and December 1, 2020.

Response: Records identifying Registrar employees who have sign-on authorization are exempt from disclosure pursuant to Government Code sections 6254(c), 6254(k), 6254.19 and 6255, 2 Cal. Code. Reg. § 19064, and California Constitution, article I, Section 1.

24. Provide the log files for the county's EMS and election information system with entries between September 15, 2020 and December 1, 2020.

Response: This request seeks information security records that are exempt from disclosure pursuant to Government Code sections 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

25. Provide those documents or records reflecting a network topology plan or map referencing the devices attached each other device within the county's EMS and election information system.

Response: This request seeks information security records that are exempt from disclosure pursuant to Government Code sections 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

26. Provide those documents or records reflecting the log monitoring tools used to send real-time alerts and notifications.

Response: The Registrar has identified responsive records, which will be made available for review and duplication.

27. Provide the "real-time alerts and notifications", as referenced in 2 CCR 19064(e)(3) sent between September 1, 2020 through December 10, 2020.

Response: This request seeks information security records that are exempt from disclosure pursuant to Government Code sections 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

28. Provide those documents or records reflecting review, at any time, of "any errors, abnormal activities, and any system configuration changes", identified between September 1, 2020 through December 10, 2020.

Response: This request seeks information security records that are exempt from disclosure pursuant to Government Code sections 6254(c), 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

29. Provide those documents which reflect "any errors" in the county's EMS and election information system identified between September 1, 2020 through December 10, 2020.

Response: This request seeks information security records that are exempt from disclosure pursuant to Government Code sections 6254(c), 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

30. Provide those documents which reflect "abnormal activities" in the county's EMS and election information system identified between September 1, 2020 through December 10, 2020.

Response: This request seeks information security records that are exempt from disclosure pursuant to Government Code sections 6254(c), 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

31. Provide those documents which reflect "system configuration changes" in the county's EMS and election information system identified between September 1, 2020 through December 10, 2020.

Response: This request seeks information security records that are exempt from disclosure pursuant to Government Code sections 6254(c), 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

32. Provide those documents which reflect "unauthorized use" in the county's EMS and election information system identified between September 1, 2020 through December 10, 2020.

Response: The Registrar has determined that it possesses no records responsive to this request.

33. Provide those documents which reflect "suspected breach" in the county's EMS and election information system identified between September 1, 2020 through December 10, 2020.

Response: The Registrar has determined that it possesses no records responsive to this request.

34. Provide those documents which reflect "denial of service attack " in the county's EMS and election information system identified between September 1, 2020 through December 10, 2020.

Response: The Registrar has determined that it possesses no records responsive to this request.

35. Provide those documents reflecting a report to the Secretary of State Elections Division Help Desk of a "detected unauthorized use, suspected breach, or denial of service attack" between September 1, 2020 through December 10, 2020, as required under 2 CCR 19064 (g).

Response: The Registrar has determined that it possesses no records responsive to this request.

36. All records reflecting change in registration status submitted to the statewide voter system by the county due to felony status processed between September 1, 2020, and November 10, 2020.

Response: The Registrar has identified responsive records, which will be made available for review and duplication once the Registrar receives a completed application for voter registration data and fee pursuant to 2 CCR § 19001, *et seq.*

37. All records reflecting change in registration status submitted to the statewide voter system by the county due to federal felony status processed between September 1, 2020, and November 10, 2020.

Response: See response No. 36. The County's responsive records do not identify whether the change in registration status is due to a state versus a federal felony.

38. All records reflecting change in registration status submitted to the statewide voter system by the county due to county death records reflecting voter to be deceased processed between September 1, 2020, and November 10, 2020.

Response: The Registrar has identified responsive records, which will be made available for review and duplication once the Registrar receives a completed application for voter registration data and fee pursuant to 2 CCR § 19001, *et seq.*

39. All records reflecting the total cancellations directed by the Secretary of State processed by the county between September 1, 2020, and November 10, 2020.

Response: The Registrar has identified responsive records, which will be made available for review and duplication once the Registrar receives a completed application for voter registration data and fee pursuant to 2 CCR § 19001, *et seq.*

40. All records reflecting searches of county felony records between September 1, 2020, and November 10, 2020.

Response: See response No. 36. The Registrar processes the list of voters whose registrations are cancelled due to a felony conviction that is provided by the State.

41. All records reflecting searches of county death records between September 1, 2020, and November 10, 2020.

Response: See response No. 38.

42. All records reflecting county searches of DMV Change of Address (DMV COA) between September 1, 2020, and November 10, 2020.

Response: The Registrar has identified responsive records, which will be made available for review and duplication once the Registrar receives a completed application for voter registration data and fee pursuant to 2 CCR § 19001, *et seq.*

43. All records reflecting total submissions by changes in the registration record to the statewide voter registration system in accordance with Section 19061, between September 1, 2020, and November 10, 2020.

Response: The Registrar has identified responsive records, which will be made available for review and duplication once the Registrar receives a completed application for voter registration data and fee pursuant to 2 CCR § 19001, *et seq.*

44. Those documents reflecting the dates of certifications of information provided to the Secretary of State according to 2 CCR § 19086(b).

Response: The Registrar has identified responsive records, which will be made available for review and duplication.

45. Those documents reflecting the date of generation of the official list extract from the statewide voter registration system for the purpose of conducting the 2020 General Election.

Response: The request appears to seek production of a printed roster on a specific date, which the Registrar does not possess, because the County of Orange utilizes electronic poll books as described in Section 2550 of the Election Code, which are constantly updated.

46. Those documents reflecting the date of each subsequent or supplemental rosters, after the initial roster for the purpose of conducting the 2020 General Election.

Response: See response No. 45.

47. All certifications executed by any county election official for the November 3, 2020 General Election.

Response: The Registrar has identified responsive records, which will be made available for review and duplication.

48. The number of ballots determined by the county through adjudication for the November 3, 2020 election.

Response: Responsive records regarding the number of ballots duplicated are available for duplication and production.

49. All ballots duplicated by the county through adjudication for the November 3, 2020 election.

Response: Responsive records regarding the number of ballots duplicated are available for duplication and production. To the extent this request seeks production of the ballots themselves, such records are exempt from disclosure pursuant to Government Code sections 6254(k) and 6255, the California Constitution, article II, Section 7, and Elections Code sections 15370 (after ballots are counted and sealed, the elections official may not open any ballots nor permit any ballots to be opened), 15630 (all ballots, whether voted or not, and any other relevant material, may be examined as part of any recount if the voter filing the declaration requesting the recount so requests) and 17302 (packages containing ballots and identification envelopes shall be kept by the elections official, unopened and unaltered, for six months from the date of the election).

50. Those documents that identify the records of ballots duplicated for the November 3, 2020 election.

Response: There are no responsive records, except for the ballots themselves, which are exempt from disclosure pursuant to Government Code sections 6254(k) and 6255, the California Constitution, article II, Section 7, and Elections Code sections 15370 (after ballots are counted and sealed, the elections official may not open any ballots nor permit any ballots to be opened), 15630 (all ballots, whether voted or not, and any other relevant material, may be examined as part of any recount if the voter filing the declaration requesting the recount so requests) and 17302 (packages containing ballots and identification envelopes shall be kept by the elections official, unopened and unaltered, for six months from the date of the election).

51. Those documents that identify the records of ballots adjudicated for the November 3, 2020 election.

Response: ROV can produce reports voter registration data for inspection and duplication, but to the extent that this request seeks information regarding specific ballots, the ballots are exempt from disclosure pursuant to Government Code sections 6254(k) and 6255, the California Constitution, article II, Section 7, and Elections Code sections 15370 (after ballots are counted and sealed, the elections official may not open any ballots nor permit any ballots to be opened), 15630 (all ballots, whether voted or not, and any other relevant material, may be examined as part of any recount if the voter filing the declaration requesting the recount so requests) and 17302 (packages containing ballots and identification envelopes shall be kept by the elections official, unopened and unaltered, for six months from the date of the election).

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52. Those documents that identify the records of changes to ballots made for the November 3, 2020 election.

Requests Nos. 53 through 63 seek records regarding the use of voting systems during the November 3, 2020 General election, that were manufacture by Dominion Voting Systems, including Eric Coomer, an executive of Dominion, and documents containing terms used to describe features of a voting system offered by Dominion. The County of Orange does not use a Dominion voting system; thus, it does not possess any records reflecting the use of such a voting system during the November 3, 2020 General Election. The Registrar is ready to assist you in developing a focused and effective request that reasonably describes identifiable records pursuant to Government Code section 6253.1.

The County does not possess an existing record that contains all the information sought in Requests Nos. 1 and 2. Where the Registrar has identified an existing, non-exempt record that contains some of the information requested exists, the Registrar will make the record available for review and duplication. In addition, pursuant to Section 6253.9, subdivision (c), the Registrar can extract and compile data to construct a record that it does not otherwise generate or maintain in the ordinary course of business upon the Requester's payment of the costs of the computer services for extracting and compiling the responsive data into a custom report.

Please feel free to contact Justin Berardino at (714) 567-5103 to arrange for the delivery of a copy of the responsive records. If you would like to obtain printed copies of the requested records, you will be required to pay the County's copy charge of \$0.15 per page (8 ½ by 11) in accordance with Government Code Section 6253(b).

Very truly yours,

LEON J. PAGE
COUNTY COUNSEL

By /s/
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