



REPLY TO:

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November 7, 2024

Via U.S. Mail Only

Michelle Ascencion
Ventura County Registrar of Voters
800 S. Victoria Avenue
Hall of Administration, Lower Plaza
Ventura, California 93009-1200

Re: *Issues of Concern Regarding Cybersecurity Breaches*

Dear Registrar Ascencion:

Advocates for Faith & Freedom is a nonprofit legal organization based in Murrieta, California. Our organization is dedicated to safeguarding constitutional liberties, including the preservation of election integrity. We serve as pro bono legal counsel¹ for Election Integrity Project California, Inc. (“EIPCa”). EIPCa is a nonprofit 501(c)(3) public benefit corporation committed to defending, through education, research, and advocacy the civil rights of United States citizens to fully participate in the election process under Federal and state law. EIPCa provides grassroots oversight to ensure the integrity of that part of the Republic through which citizens exercise their most fundamental right - the right to choose representatives by fair and honest elections. EIPCa works to ensure that all votes are lawfully cast and accurately counted. EIPCa is neither affiliated with nor supportive of any political party or organization and its members have diverse political affiliations. EIPCa accomplishes its purpose in several different manners, including training citizens to observe and document election procedures used to manage elections and process ballots, communicating with election officials, and by requesting and auditing election data.

As you are aware, the California Constitution provides that “[t]he Legislature shall prohibit improper practices that affect elections.” (Cal. Const., art. II, § 4.) Such improper practices impacting elections involve the connection of voting machines to the internet.² Specifically, “A voting system shall comply with all of the following: (a) No part of the voting system shall be connected to the Internet at any time; (b) No part of the voting system shall electronically receive or transmit election data through an exterior communication network, including the public telephone system, if the communication originates from or terminates at a polling place, satellite location, or counting center; (c) No part of the voting system shall receive or transmit wireless communications or wireless data transfers.” (Elec. Code§ 19205(a)-(c).)

¹ As pro bono counsel, our clients do not pay for our legal representation. We provide our legal services free of charge.

² See Secretary Weber, “Presidential Primary: Voting Technology Security” Memo, Published January 29, 2024 (California voting systems and tabulators - ARE NOT connected to the internet, nor do they have modems or hardware in them that could be remotely “activated”) (emphasis in original.)

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As you are further aware, California grants its citizens a statutory right to observe elections³, including the right to check and review the preparation and operation of tabulating devices. (Elec. Code §§ 20872 and 20873.) Observers also have the right to ask questions and receive answers regarding the election process and procedures that have been implemented. (*Id.*)

EIPCa has numerous volunteers that are currently observing the November 2024 election process. Through their careful observation, these workers have noticed several concerning issues regarding how the election has been conducted by your office. In lieu of formal litigation, EIPCa is requesting answers to certain questions and demanding that your office comply with the above-referenced election laws.

First, it has been observed that the voting tabulators are connected to ethernet cords which run into the floor in a manner that prevents any observation of what the other end of the cord is connected to. The right to observation is rendered nugatory if observers cannot verify that the laws are being kept. An ethernet cable is most used to connect a device to the internet. When observers questioned officials as to why an ethernet cord was plugged into the tabulators, they were not provided an answer as to the purpose of the cord.

The election process is meant to be a no-trust system, meaning it is not a satisfactory answer that authority simply states that all laws are being followed—or that the ethernet cord does not provide an internet connection. The right to observation is meant to allow verification of what an official may claim. For these reasons, in lieu of litigation, our office requests that you (1) provide an answer as to the purpose of the ethernet cords which are connected to tabulators; (2) ensure that the ethernet cord can be viewed in its entirety, from where it plugs in to the tabulator on one end, to where it connects on the opposite end; and (3) demonstrate that the ethernet cord is the best method for accomplishing the stated purpose of the cord—for instance, by citing to where in the user guide that an ethernet cord is required.

Second, observers have noticed that elections workers have failed to comply with basic standards and procedures. For instance, on numerous occasions, observers have noted that elections workers will prop open doors into secure areas for extended periods of times—often for numerous hours at a time. When asked about this, workers have responded that the doors are only opened to allow for equipment to be moved. However, during their observation, EIPCa observers noticed that the doors remain open hours after equipment has finished being moved. As another example, individuals who do not clearly display badges have been permitted into tabulating areas. When asked, officials have stated they are accompanied by individuals with permission. It is not clear that this practice is permissible, and our office asks that you provide a basis for allowing non-qualified individuals into such areas. Regardless, observers have witnessed that these non-qualified individuals, have, contrary to the allegations provided, been accompanied.

Likewise, multiple observers have observed individuals “piggybacking”—or following an individual who used identification to open a secured door without providing identification themselves—into secured areas. These are basic lapses that undermine procedural security, and there is clear signage in the areas that such actions are impermissible.⁴ Observers have also seen

³ “Observe” means to watch, view, listen, take notes, and ask questions. (*See*, Elec. Code § 20872.)

⁴ One sign is noted to read:

The Election Technology Room is a year-round restricted access environment due to the sensitive nature of work that is conducted therein. Access to the Election Technology Room for any reason must be approved by a member of the Clerk Recorder executive team. Access is controlled via a secure key card entry system whose authorization access is approved by the executive team. All persons who access the Election Technology Room other than those specifically assigned to specific election related duties shall be

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workers sharing computer passwords, often not logging off and allowing the next person to get on the computer without having to log in under their own username.⁵By showing disregard toward your own rules and condescension to observers seeking to ensure election integrity, the workers under voter authority undermine the election process.

To restore trust in the process moving forward, EIPCa further requests that your office ensure that all policies are enforced in protecting the confidence of secure areas. This must include ensuring that doors to secure areas are never propped open, and that if observers bring a lapse in security to an official's attention, it be remedied immediately. It must also include measures to ensure that only qualified officials are in secure areas and that a record is kept of all individuals who enter the area. Records may be kept by requiring all individuals entering an area to scan their badges and, for those without badges, requiring them to sign in and out of a log books. Likewise, each worker must be required to log in to any official computer used in the election process with their unique username and password.

The acts requested by EIPCa are only those ministerial acts which are already required of your office. (*Devlin v Donnelly* (1912) 20 Cal.App. 495, 498.) However, litigation to enforce those duties is costly, time-consuming, and ultimately, may erode trust between the electorate and the elected. EIPCa asks only that you take the above-referenced actions in accordance with California law and in lieu of any further litigation.

Sincerely,

ADVOCATES FOR FAITH & FREEDOM



Robert H. Tyler
President & General Counsel

approved and under direct account by Elections Division Management personnel or their designees. At no time shall anyone be allowed access to the Election Technology Room during periods of ballot processing and tallying other than personnel directly involved in election administration.

⁵ (See, Cal. Code of Regs., Tit. 2, § 20272; California Elec. Code, § 20272.)