

**Follow-up Public Records Act Request – Date: 8/11/03**

**From: Jim March**  
**Webmaster, Equal Rights for CCW Home Page**  
**Email: jmarch@prodigy.net / Fax: 707-221-7152**

**To: Mr. Bradley J. Clark**  
**Alameda County Registrar of Voters**

**CC: Jeanine B. Nadel**  
**Alameda County Counsel's office**

Mr. Clark,

First, I formally object to the denial of my initial PRAR. The Public Records Act clearly allows on-site inspection of records; as was clear from my request, the purpose was to set up such an on-site inspection at a time of your convenience. That would have been easier than the request below; apparently, you and your attorneys want to “do this the hard way”. Not a problem.

As we discussed verbally at your office, I am not interested in any action or information request which would compromise the security of your election systems, or that would give me access to proprietary Diebold product.

You may consider this a replacement for my initial request, versus an addition. I am assuming the 10-day response rule therefore applies to this follow-up as if it were an initial request.

Please treat each item below as “distinct/individual”, in that if your attorneys feel that any one (or more) items are not releasable, release the others and we’ll debate what’s left.

- 1) Please provide a copy of all contracts for services and/or products with Diebold Election Systems, it’s subsidiaries or it’s authorized sales representatives with Alameda County. *(This item should be compact enough to reasonably fax-transmit; I request that you do so at your earliest convenience.)*
- 2) Please provide a copy of the license agreements for all software products with Diebold and it’s subsidiaries or it’s authorized sales representatives with Alameda County. *(This item should be compact enough to reasonably fax-transmit; I request that you do so at your earliest convenience.)*
- 3) Please provide the sales contracts for the hardware and software on the central vote-count computer running the GEMS software, in particular any such documents that list the hardware purchased with or included with the system. *(This item should be compact enough to reasonably fax-transmit; I request that you do so at your earliest convenience.)*
- 4) Please provide a directory listing of all files on the central vote-count computer that runs the GEMS program. This is accomplished by entering the following commands:

a) On any Windows-based system (NT, 2000, XP, 98, etc), you can pull up a “DOS/Command line window” by doing a “run” command from the “START” menu, and entering “command” (no quotes) as the program to run. *(There are other ways to open a command line window, it doesn't matter how you get there.)*

b) At the command line, type in the following command, exactly:

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dir c:\*.* /a /s /v > c:\filelist.txt (then hit the “enter/return” key)
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*(Note: I've hit the spacebar twice where each space would go in the command, to help with the accurate entry of this command. To understand what this command does, use the integral help system by typing “dir /?” (without quotes) – as you'll see, all this does is produce a file listing and routes the output to a text file, hence this command is utterly harmless. **It should be done on the actual vote-count system that runs GEMS.**)*

c) This command creates a file at the top level of the primary hard disk named “filelist.txt”. It will be...sizable. Print it if that's the only way to get it to me – I would greatly prefer a copy on CD or even multiple floppies, as it would be easier and cheaper for both of us. Let me know if an electronic copy of this file is available.

*(Item #4 is going to be large if printed; on-site pickup by myself will be required. The listing of the contents of that hard drive are of critical public importance given the allegations being made. This request item will tell us what version of the Diebold software is loaded, what version of Windows, and most importantly whether or not the various pieces of Windows code are “factory original” or altered (via the date/size info). This request will not violate any possible Diebold confidentiality agreements, unless Diebold went to suspiciously crazy lengths to conceal what they're doing. I consider this listing of files in use by the county an existing “public record” and I believe the courts will agree.)*

5) I want an electronic copy of the vote-tally database from the 2002 election results for Alameda County. This is the database created by and managed by the Diebold GEMS software. I do not want the Diebold GEMS program or other code, either source code or compiled. This should NOT be a “Comma Separated Values” text file or equivalent, but rather the exact files the Diebold software creates/uses as it tallies the vote.

*(If possible, the request under item #5 should be provided on a standard CD, which I can pick up on-site. If the data is in some other electronic format, please list the format in question. If the Registrar's office lacks access to a CD Burner (Writer) drive, as an alternative load the data onto a standard PC in the Registrar's office, and I'll bring an external USB hard drive on which to load the data. Note that the only elections data that is listed as private under GC6250-6270 involves anything that reveals the address, phone, driver's license or similar private info on voters. The GEMS database SHOULD NOT contain anything like that; if it does, and you claim exemption under those statutes, something is seriously wrong. This database should not be protected under the Diebold confidentiality agreements you provide as items 1 and 2; if it does, again, Diebold is going to extreme and probably illegal lengths to conceal **something** and an immediate legal action will be filed under the Public Records Act in response.)*

6) I want copies of the "Logic and Accuracy Tests" for the central vote-tally system, both before and after the main 2002 election (not the primaries). To clarify: the L&A Tests from as close to the 2002 main election as possible, before and after. *(This item should be compact enough to reasonably fax-transmit; I request that you do so at your earliest convenience. If it's too big to conveniently fax, we can deal with it on a pick-up basis.)*

7) I want any information pertaining to a mistake made in 2002 where a candidate was left off of the Chinese ballot, including the results of any investigation performed by the Registrar's office into the details. *(This item should be compact enough to reasonably fax-transmit; I request that you do so at your earliest convenience. If it's too big to conveniently fax, we can deal with it on a pick-up basis.)*

General notes: given the obvious need for public inquiry into this area given the serious nature of the allegations to date. I can assure you: additional stonewalling will result in legal action and severe negative publicity. I request a waiver of all copying fees due to the obvious public benefits involved.

Alameda County has nothing to fear from this inquiry, other than possibly some embarrassment. But that will be minimal even under a worst-case scenario where Bev Harris is completely on-target here – the ones that should worry are the Federal Election Commission and their labs that supposedly "tested" this stuff.

Finally, I apologize if you and/or your attorneys find my unwillingness to list an address in these PRARs offensive or disrespectful. I regularly publish exposes into government misconduct (see also: <http://www.equalccw.com/oaklandzen.html> and <http://www.equalccw.com/donperata.gif> for just two examples, the latter of which was picked up by the Drudge Report, which was the second time I've made Drudge <grin!>) and as it is, half my friends wonder why I'm still alive. If Ms. Harris' allegations are correct, the Diebold issue is approximately 100 times "hotter" than anything I've previously dealt with. Alameda County's government in general has to date been a strong supporter of gun control, apparently without any concern that people accessing public records, campaign finance data and similar might fall under threat of criminal attack if they use these legal tools to actually FIND one or more crooks.

Maybe I'm paranoid. Maybe not. Diebold Election System's entire business is at stake, as GEMS is used in both the touch-screen and optical scan product lines. At least one US Senator is on Diebold's board of directors. And if the Federal system for checking the integrity of these systems is badly off-kilter, EVERY electronic voting system will need urgent re-analysis.

In any case, thank you for your prompt reply,

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Jim March

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