

California Department of Justice Office of the Attorney General		<i>Legal Alert</i>	
Subject: Guidance Regarding Seizure of Election Materials Pursuant to Criminal Search Warrants	No. OAG 2026-03	Contact for information: AB1664_Notices@doj.ca.gov	
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TO: All Interested Parties

Recent events both within the State of California and nationwide raise the specter that law enforcement could seek criminal search warrants to seize election materials.¹ If such a seizure occurs during the upcoming general election period, it will significantly affect the State's ability and duty to administer the election, as well as impact Californians' fundamental right to vote. Accordingly, this legal alert provides an overview of relevant California law and guidance to courts that may receive search warrant applications for sensitive election materials.

Potential Risks to State-Administered Elections

Seizing election materials during an election—when election officials are counting or recounting votes, and election results have not yet been certified—would jeopardize California's ability to administer elections by delaying results and violating state chain-of-custody requirements. If, during this period, the federal government or any other law enforcement agency obtains authorization for a search warrant to seize equipment used to process ballots and tabulate votes, this could significantly interrupt Californians' ability to have their votes counted. Critically, if law enforcement obtains authorization for a search warrant and seizes voted ballots, election officials will be unable to track and count every Californian's vote and will be unable to tabulate the results of the election in their county. This would prevent county election officials from performing their statutory duties and prevent the Secretary of State from performing her constitutional and statutory duty to certify the results of statewide and federal elections. Further, the seizure of voted ballots

¹ In early 2026, the Riverside County Sheriff's Office obtained court authorization to seize ballots and election materials from California's November 2025 Special Election, which the California Supreme Court found violated state law. *Cervantes v. Bianco*, (2026) 20 Cal.5th 1093 [348 Cal.Rptr.3d 292, 300]. Additionally, in the past two years, the federal government has issued grand jury subpoenas and federal search warrants to seize election materials from counties in Georgia, Arizona, and Michigan. See, e.g., *The Safeguarding Democracy Project, A Judicial Guide to Search Warrants Seeking Election Materials: How Alternatives to Election Material and Ballot Seizures Can Avoid Irreparable Harm, Promote Election Integrity, and Further the Public Interest*, UCLA School of Law (Sept. 9, 2026), available at https://law.ucla.edu/sites/default/files/PDFs/Safeguarding_Democracy/Judicial_Guide_to_Search_Warrants.pdf

during an ongoing election would interrupt California's strict chain-of-custody requirements, which protect the integrity of voted ballots and ballot materials.

Relevant California Election Law

County election officials are required to count and report ballots within 13 days after the election,² and to prepare and publish a certified statement of the election results within 30 days of the election.³ The Secretary of State must then certify the results of statewide and federal races no later than the 38th day after the election.⁴

To ensure the integrity and security of elections generally and ballots more specifically, California imposes a comprehensive set of strict requirements for handling ballots and administering elections.⁵ After voters hand their voted ballots to election workers, the workers deposit them in ballot containers, which are later sealed and transported by the workers to be counted by election officials.⁶ “[N]o person, except one employed and designated for the purpose by the elections official ..., shall touch any ballot container.”⁷ As soon as the ballots are counted, they must be “carefully sealed in a strong envelope” and “shall not thereafter be examined by any person.”⁸ After ballots are counted and sealed, “the elections official may not open any ballots nor permit any ballots to be opened,” except in narrow circumstances like a recount or a contest challenging the election results.⁹ And these sealed ballots are required to be kept “unopened and unaltered” and maintained at all times “in the custody of the elections official,” even in the event of an election contest or criminal prosecution.¹⁰ The California Supreme Court recently affirmed that ballots must not leave the custody of election officials.¹¹ This “clear custodial command safeguards the integrity of our elections by protecting ballots from alteration, tampering, or other improper interference.”¹² If voted ballots are seized during the upcoming election period, it would violate these strict chain-of-custody requirements and jeopardize the integrity of the election results. It would also prevent election officials from conducting a recount, if one is statutorily requested or required.¹³

Importantly, California also securely maintains voted ballots and other election materials for future investigatory needs. California law requires election workers to securely maintain ballots and related materials from a federal election for 22 months—unopened and unaltered.¹⁴ Accordingly, California's strict chain-of-custody requirements ensure that election materials will be preserved and available for inspection *after* the election and certification period if there is a legitimate law enforcement need to investigate any legitimate claims of fraud.

² See Cal. Elec. Code § 15307.

³ *Id.* § 15372.

⁴ *Id.* § 15501.

⁵ *E.g., id.* § 15201 (voted ballots must remain in election workers' “exclusive possession until delivered to the elections official” for counting); § 15279 (once ballots are counted, they must be sealed and “shall not thereafter be examined by any person”); § 15551(d) (“In no event shall” voted ballots, among other materials, “be taken from the custody of the elections official.”).

⁶ Cal. Elec. Code § 14277, 15201.

⁷ *Id.* § 15204.

⁸ *Id.* § 15279.

⁹ *Id.* §§ 15370, 16601.

¹⁰ *Id.* §§ 17301(b), 15551(d), 16601.

¹¹ *Cervantes v. Bianco* (2026) 20 Cal.5th 1093 [348 Cal.Rptr.3d 292, 303].

¹² *Id.* at p. 296.

¹³ Cal. Elec. Code § 16100.

¹⁴ *Id.* § 17301(b).

Recent legislation has strengthened chain-of-custody protections for election materials and added protections against law enforcement interfering with elections.¹⁵ Specifically:

- Peace officers in California may not interfere with the administration of any election in this State or in the discharge of duties by elections officials or workers, except as necessary to respond to urgent threats to public health and safety.¹⁶
- No person (with limited exceptions) in possession of a firearm or uniformed peace officer or security personnel may be stationed at a polling place.¹⁷
- An individual shall not allow an agent of a law enforcement agency to access, disrupt, modify, or take possession of certified voting technology unless authorized by a court order.¹⁸
- Local governments and election officials must provide notice to the Secretary of State and the Attorney General as soon as they become aware of a search warrant, subpoena, or law enforcement investigation related to election materials.¹⁹

Guidance for State Courts Reviewing Warrants for Election Materials

It is important that California courts become familiar with controlling election law before authorizing the search or seizure of any ballots or other election materials. The California Supreme Court recently clarified that search warrants cannot override a statute that “unambiguously prohibits the removal of ballots from an election official’s custody.”²⁰ When evaluating warrants, courts should be careful to ensure that any authorized search or seizure does not violate California laws requiring key elections materials to remain in the custody of elections officials.²¹

Even in those limited circumstances where California statute does not explicitly prohibit the seizure of a category of election materials, search warrants for those materials submitted close in time to an election should be carefully scrutinized to protect the ability of election officials to carry out their duties, including facilitating voting, canvassing the vote, administering any recounts, and timely reporting and certifying results. Courts may wish to consider deferring authorization until an election is complete, authorizing review on-site, or other similar measures. The procedures recommended below for federal courts may assist California courts in evaluating these critical issues.

Recommended Procedural Steps for Federal Courts Reviewing Warrants for Election Materials

Federal courts can use procedural safeguards to minimize any undue disruption to elections, which are the foundation of both state and federal government. District courts have the power to set procedural rules “for the conduct of their business,” so long as the rules are consistent with statute and federal rules of practice and

¹⁵ Senate Bill No. 73 (2025-2026 Reg. Sess.); Assemb. Bill No. 1418 (2025-2026 Reg. Sess.), Assemb. Bill No. 1664 (2025-2026 Reg. Sess.).

¹⁶ Cal. Elec. Code § 15007(a).

¹⁷ *Id.* § 18544(a).

¹⁸ *Id.* § 19230(b).

¹⁹ *Id.* § 23.

²⁰ *Cervantes, supra*, at p. 304.

²¹ Cal. Elec. Code §§ 15551, 15553, 17300–17306, 19320.

procedure.²² Federal law further authorizes courts to enact procedural rules without prior notice and comment when they determine “that there is an immediate need for a rule.”²³

To ensure that California can safeguard and lawfully administer the 2026 general election currently underway, as well as future elections, federal district courts should consider implementing the following, or similar, procedures for any instance during the election period in which federal authorities seek a search warrant to seize voting machines, voted ballots, or other sensitive election materials. Such procedures could include:

- Requiring the affiant or prosecutor to provide effective notice (e.g., within two hours of submitting the search warrant packet to the magistrate judge) to the California Attorney General, the California Secretary of State, and the county elections official and county counsel for the search location, including by providing a copy of the proposed search warrant packet, including the affidavit.²⁴
- Delaying authorization of any search warrant application to allow an opportunity for a challenge to the warrant application, unless the authorizing Magistrate Judge determines there is an exigent need to avoid delaying authorization of the warrant.
- Carefully scrutinizing any request to seal a search warrant for an election office.
- Automatically assigning any challenge to a search warrant to seize election materials to the Chief District Judge for resolution.
- Requiring expedited briefing and a hearing prior to execution of the warrant for any motion challenging the search warrant.

These or similar procedures will help ensure that a federal court is presented with adequate information about the necessity, impact, and available alternatives to inform its decision on a warrant application seeking election materials.

Other Resources

In addition to the resources in this Bulletin, readers may also want to review other recent guidance issued by the Attorney General and Secretary of State:

- Protecting California Voters and Election Workers on Election Day and Early Voting, 2026-DLE-20;
- Law Enforcement Access to Voting Sites (Senate Bill 73 Guidance), 2026-DLE-19
- [Access to Voting for Eligible Persons with a Criminal History or Who are Incarcerated, 2026-DLE-17;](#)
- [Access to Voting for Eligible Persons Under the Supervision of Probation Departments, 2026-DLE-18;](#)
- Consumer Alert on the Spread of Election Misinformation, Oct. 27, 2026;
- [Urgency Legislation: Signing of Senate Bill 1418, and Assembly Bills 282 and 1664;](#)
- [Urgency Legislation: Signing of Senate Bill 884;](#)
- [General Election: Voter Intimidation; Prohibited Voter Challenges;](#)
- [General Election: Prohibitions on Electioneering and the Corruption of the Voting Process;](#)
- [General Election: Unauthorized Ballot Drop Boxes and Ballot Return Requirements;](#) and

²² 28 U.S.C. § 2071(a).

²³ *Id.* § 2071(e).

²⁴ As required by state law, both the Attorney General and the Secretary of State have procedures for receiving notice of criminal process related to elections materials. Cal. Elec. Code § 23. Consistent with those procedures, parties should direct notice of any warrants or warrant applications related to election materials to legalsupport@sos.ca.gov and AB1664_Notices@doj.ca.gov.

- [Regulations: Election Observations Rights and Responsibilities.](#)

The California Supreme Court recently issued opinions and orders related to the Riverside County Sheriff's seizure of ballots, which are available online at:

- [*Cervantes v. Bianco*](#)
- [*Bonta v. Bianco*](#)