



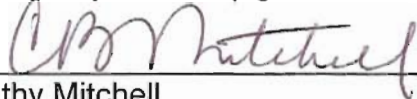
DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS

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October 20, 2008

County Clerk/Registrar of Voters (CC/ROV) Memorandum #08303

TO: All County Clerks/Registrars of Voters

FROM: 
Cathy Mitchell
Chief, Elections Division

RE: November General: Cameras At Polling Places

As you may be aware, the issue of whether people can film or photograph their experiences at the polls on Election Day has been the subject of discussion both in California and around the country in recent days. There are at least two projects underway nationally – Video The Vote at <http://www.videothevote.org/> and the New York Times Polling Place Photo Project at <http://pollingplaces.nytimes.com/> – that encourage people to record their experiences at the polling place on Election Day. While the projects encourage people to be aware of the law and to be respectful of the rights of voters, there is no guarantee that people will follow that advice or even be aware that the presence of their camera may intimidate some voters.

We recognize that it is not a simple task for a seasoned elections official or a first-time poll worker to determine whether a voter may feel “intimidated” by the presence of cameras at the polls, or whether the person using the camera is attempting to “dissuade” someone from voting.

The Secretary of State’s office has historically taken the position that the use of cameras or video equipment at polling places is prohibited, though there may be circumstances where election officials could permit such use. For example, if a credentialed media organization wants to photograph or film a candidate voting at a polling place, this is something you may permit, provided you ensure such activity does not interfere with voting, is not intimidating to any voters or election workers, and that the privacy of voters is not compromised.

There are several laws that speak to the issue of whether people are allowed to film inside or adjacent to a polling place, most of which stem from the principle set forth in Article II, Section 7 of the California Constitution, which reads:

Voting shall be secret.

It is also clear that, over the years, the Legislature and the Governor have sought to make the voting process private and free from any form of intimidation or coercion.

California Elections Code section 18540 states:

(a) Every person who makes use of or threatens to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years.

(b) Every person who hires or arranges for any other person to make use of or threaten to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years.

Elections Code section 18541 states:

(a) No person shall, with the intent of dissuading another person from voting, within 100 feet of a polling place, do any of the following:

- (1) Solicit a vote or speak to a voter on the subject of marking his or her ballot.
- (2) Place a sign relating to voters' qualifications or speak to a voter on the subject of his or her qualifications except as provided in Section 14240.
- (3) Photograph, videotape, or otherwise record a voter entering or exiting a polling place.

(b) Any violation of this section is punishable by imprisonment in a county jail for not more than 12 months, or in the state prison. Any person who conspires to violate this section is guilty of a felony.

(c) For purposes of this section, 100 feet means a distance of 100 feet from the room or rooms in which voters are signing the roster and casting ballots.

Elections Code section 18370 states in part:

No person, on election day, or at any time that a voter may be casting a ballot, shall, within 100 feet of a polling place or an elections official's office:

- (a) Circulate an initiative, referendum, recall, or nomination petition or any other petition.
- (b) Solicit a vote or speak to a voter on the subject of marking his or her ballot.
- (c) Place a sign relating to voters' qualifications or speak to a voter on the subject of his or her qualifications except as provided in Section 14240.
- (d) Do any electioneering.

Elections Code section 14221 states:

Only voters engaged in receiving, preparing, or depositing their ballots and persons authorized by the precinct board to keep order and enforce the law may be permitted to be within the voting booth area before the closing of the polls.

Elections Code section 14291 states:

After the ballot is marked, a voter shall not show it to any person in such a way as to reveal its contents.

If you have any questions on this or any other issue, please do not hesitate to contact me at (916) 657-2166.