



**SILENT MAJORITY FOUNDATION**

5238 Outlet Dr.

Pasco, WA 99301

[www.silentmajorityfoundation.org](http://www.silentmajorityfoundation.org)

July 21, 2022

Attn: County Auditor

Re: Preservation of Documents in Anticipation of Litigation

Dear Auditor

Our democratic republic cannot survive if citizens believe their vote is nullified by election systems that have the potential for fraud. These systems include the counting of illegal ballots and the negligent or intentionally inaccurate counting of ballots. Additionally, using computers to scan ballots, manipulate the ballot images, and then count the ballot images, has caused increasing doubts as to the legitimacy of our plebiscites. The 2000 Presidential election Florida recount that led to the Bush v. Gore Supreme Court decision, Hillary Clinton's claims that the Russians caused her 2016 loss to Donald Trump, and Trump's claims concerning the 2020 election process, have all diminished public trust. Governor Inslee recently championed the cause of election integrity immediately prior to the 2022 Legislative Session as he assisted in introducing Senate Bill 5843, which directly addressed election integrity.<sup>1</sup> The Governor then testified on behalf of the bill. Clearly, election integrity is an issue of high importance to nearly everyone, including the Governor.

Trust in government increases when people find through open investigation that government has complied with the law and the Constitution. Washington's Public Records Act, RCW 42.56.030, states; *public servants do not get to decide what is good for the people to know and what is not good for them to know.* When investigation by the people is blocked, the peoples' ability to dispute the integrity of elections is inhibited, diminishing trust in government, and the validity of elections.

### **1. Washington and Federal Law Election Record Retention Requirements.**

Washington law requires that all federal elections records be maintained consistent with federal law. State RCW 29A.60.110,<sup>2</sup> WAC 434-262-200, and Federal laws 52 USC § 20701 and 42 U.S.C. § 1974, require the retention for twenty-two months of "*all records and papers ... relating to any ... act requisite to voting.*" Violation of this provision stipulates "*any officer of election or custodian who willfully fails to comply with this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both.*" The elections officials and custodians, to whom this letter is directed, have failed to comply with the cited laws, and are at risk of such penalties.

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<sup>1</sup> See: Governor Inslee's statement: [Efforts to stop violence fueled by election lies](https://www.governor.wa.gov/news-media/inslee-statement-efforts-stop-violence-fueled-election-lies), [www.governor.wa.gov/news-media/inslee-statement-efforts-stop-violence-fueled-election-lies](https://www.governor.wa.gov/news-media/inslee-statement-efforts-stop-violence-fueled-election-lies); and [TVW broadcast on SB 5843 hearing, where Gov. Inslee was the first to testify on behalf of the Bill](https://www.king5.com/news/politics/gov-inslee-testifies-sb-5843-hearing):

<sup>2</sup> The term "ballot" is broad, including paper and electronic images and related material. RCW 29A.04.008.



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**2. Clear Ballot Group, Inc.’s Impact on the County’s Election Records for the 2020 General Election.**

Clear Ballot Group, Inc. provided their ClearVote voting system<sup>3</sup> including the ClearCount software, to 17 counties in Washington for the 2020 General Election. The system does not count paper ballots. Instead, ballots are scanned on the scan station which produces and saves images of the ballots. The images are read by the election system and tabulated during the scanning process. If the ClearCount software is unable to read the ballot selections, the image/record is manipulated through adjudication, and then tabulated. Each step in the process, for purposes of this letter, is termed an “event.”

Events are logged for each process within the system in real time. These logs are the record of events that take place within the system while processing and counting the votes. Clear Ballot’s system creates two logs while the system is running: The Election Activity Log and the Web Activity Log. Some overlapping information exists between the two logs. However, each log contains unique information, and together are considered the audit logs for the ClearCount system.<sup>4</sup> These records must be maintained by counties in compliance with Federal and Washington State law. Our extensive team of professionals, data analysts and volunteers have noted that these logs were no longer available for your county, upon request, through the Washington Public Records Act (RCW 42.56, *et. seq.*).

**3. County’s Failure to Retain Election Records Compliant with the Law.**

In response to a review of a public records request,

\_\_\_\_\_ confirmed the record was deleted, stating, *“The web activity log was ‘wiped’ once the December 2020 software update was performed.”*

You, and each of you, are hereby requested to preserve any and ALL election documents, records and communications pertaining to 2020 elections and after, including but not limited to: The logs generated by the ClearCount voting system computers and software; the logs of any other system used by the county to tabulate the ballots; all records referenced by, or associated with those logs; and all electronic and physical storage. If in doubt about whether a document is responsive, retain the document.

Please confirm, within five (5) days of receipt of this letter, your commitment to retain these records.

You are also advised that the election records generated in the 2022 election, including log files and associated records, must be retained, and will be requested. Moreover, if you fail to respond to this request, a lawsuit may be filed against your county and each individual who failed to comply with state or federal law. If you have questions on these obligations or our request, do not hesitate to contact me.

Regards,

<sup>3</sup> “Voting systems” is used as defined in RCW 29A.12.005.

<sup>4</sup> According to Clear Ballots Documentation [[ClearCount Functionality Description 1.3.2.2 pages 21-22](#)]



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Pete Serrano

Director/General Council

Cc: . County Elections Dept.  
County Commissioners  
County Prosecutor