



SECRETARY OF STATE
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STATE OF CALIFORNIA

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ELECTIONS

October 27, 2004

TO: All County Clerks/Registrars of Voters (04352)

FROM: John Mott-Smith
JOHN MOTT-SMITH
Chief, Elections Division

SUBJECT: CAMERAS OR VIDEOTAPING AT POLLING PLACES

The question arose on one of the conference calls with Secretary of State Shelley as to whether or not cameras and/or videotape equipment may be permitted in polling places.

Attempts to film or videotape voters may be construed by voters as intimidation under Elections Code section 18540

Elections Code section 18541 provides, in part, that: "No person shall, with the intent of dissuading another person from voting, within 100 feet of a polling place photograph, videotape, or otherwise record a voter entering or exiting a polling place." A violation of this section is punishable by imprisonment in the county jail for not more than 12 months, or in state prison, and conspiracy to violate this section is a felony.

Moreover, the United States Department of Justice has indicated that attempts to videotape certain voters at polling places could constitute a violation of Section 11 (b) of the Voting Rights Act, 42 U.S.C. 1973i(b).

In general, it is the opinion of this office that use of cameras or video equipment at polling places is prohibited.

However, there may be circumstances where you, as the election official, could permit such use. For example, if a candidate is voting at a polling place and media film crews wish to record this activity this may be a permissible activity.. In this instance, it would still be important that you ensure that such activity does not interfere with voting, is not intimidating to any voters present in the polling place, and that the privacy of voters is not compromised.

Finally, the question has arisen separately whether or not a voter may photograph the roster posted outside the polling place for GOTV purposes. Some persons have indicated that using a digital camera for this purpose is much easier and less intrusive on the voting process than hand-copying each name of voters who have not yet voted that day. Our office has indicated that this is permissible, with the understandings that no voters may be included in the photo, that the photographer in no way interferes with the voting process or electioneers, and there is no element of intimidation present in the process.

If you have any questions on this or any other issue please do not hesitate to contact me.

Vote/camera2-104