
RIEMER LAW LLC

(443) 266-2937

1125 West Street, Suite 200
Annapolis, MD 21401

Justin@Riemer.law

February 27, 2024

Lorena S. Portillo
Clark County Registrar of Voters
Clark County Election Department
965 Trade Drive, Suite A
North Las Vegas, NV 89030-7802

VIA FIRST CLASS MAIL AND EMAIL

Re: Notice of Claim

To Registrar Portillo:

My firm, in association with Dustun Holmes at McMenemy Holmes PLLC, represents Restoring Integrity and Trust in Elections (“RITE”), a nonprofit organization whose mission is to protect the rule of law in elections throughout the United States. We have diligently reviewed purportedly complete productions and associated correspondences from the Clark County Election Department (“Clark County” or “you”) arising out of RITE’s public records request of February 17, 2023. *See* Ex. A (the “Request”). Based on this review, we have concluded that you are in violation of the National Voter Registration Act (“NVRA”) and several state public records and election laws.

This letter constitutes a notice of claim pursuant to 52 U.S.C. § 20510(b). Specifically, Clark County has violated the NVRA’s records retention and disclosure obligations. Under the NVRA, Clark County must “maintain for at least 2 years” and “make available for public inspection . . . all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.” 52 U.S.C. § 20507(i)(1).

The record of RITE’s interactions with Clark County, as detailed in this notice, establishes that you have violated the NVRA. Among other things, RITE has obtained from other sources a trove of responsive Clark County records covered by the NVRA that were not contained within your purportedly complete productions. Those sources include documents released by Washoe County and the Nevada Secretary of State (“Secretary’s Office”) pursuant to records requests. In addition, your productions compare unfavorably to those of Washoe County on a number of dimensions, even though the jurisdictions are similarly situated with respect to the NVRA. For example, entire classes of documents that are voluminous within Washoe County’s productions are suspiciously sparse in those of Clark County. RITE is also confident that Clark County’s productions would compare unfavorably to those of the Secretary’s Office, had RITE not permitted it to exclude from its production records reflecting its communications with county election officials, including Clark County’s.

There are only two possible explanations for the discrepancies RITE has identified in the record. Both of which are a violation of the NVRA. The first possibility is that you simply withheld records you are obligated to “make available” to RITE. Alternatively, you failed to maintain these records “for at least 2 years.” As explained more fully below, RITE’s review of the Washoe and Secretary disclosures and metadata of the records within your purportedly complete productions suggests that this last possibility is the most likely explanation.

These explanations for the discrepancies identified also establish that you have violated multiple Nevada statutes and regulations that mandate minimum records retention periods and other records management policies, including the requirement to suspend the destruction of records relevant to a pending records request. *See* Nev. Rev. Stat. § 293.503 (imposing on local election officials a two year retention period for “records of any program or activity that is conducted within the county to ensure the accuracy and currency of the statewide voter registration list. . . .”); *see also* § 239.125 and Nev. Admin Code §§ 239.155, 239.161 (local governments subject to minimum records management standards and retention periods as prescribed by the Nevada State Library, Archives and Public Records Administrator, including the duty to suspend destruction of records upon receipt of public records request).¹

In light of the foregoing, RITE demands that you take immediate steps to remedy these legal violations. If you have withheld responsive records, RITE is entitled to their immediate production. And if you have destroyed records that are less than two years old, RITE is entitled to a forthright and unambiguous admission of that error, an explanation for why it occurred, and firm assurances that you will immediately implement processes and procedures to prevent ongoing and future violations of the NVRA.

I. Factual Background

On February 17, 2023, RITE submitted the Request to you for various records related to Clark County’s voter registration practices under the NVRA. Ex. A. The Request was made pursuant to the NVRA’s public records disclosure provision and the Nevada Public Records Act (NPR A).²

At the outset, RITE made some concessions that would make Clark County’s production easier. For example, RITE agreed to narrow the Request by allowing you to make a rolling production of records and provide non-record narrative responses for requests 1.A., 1.B., and 1.E. Ex. A at 2; Ex. B at 13.³

Despite these accommodations, deficiencies in your production were immediately apparent when you began producing records and information in March of 2023. For example, your entire initial records production consisted of 26 email records in response to request 2.A. through 2.J.

¹ *See* Local Government Records Management Program Manual at page 5; available at: https://nsla.nv.gov/ld.php?content_id=45756231.

² Ex. A at 1 (“On behalf of RITE, this is a request for the following records pursuant to the Nevada Public Records Act (“NPR A”), NRS § 239.010, and the National Voter Registration Act (“NVRA”), 52 U.S.C. § 20507(i.)”); *see also* note on page 2 of the Request referencing NVRA’s preemption of NPR A exemptions.

³ Exhibit B contains the correspondence between RITE and Clark County referenced within this notice and is available at the following link: [REDACTED]

Ex. B at 31, 63. In response to an inquiry from RITE, you indicated you had produced all relevant records, but you later admitted that was inaccurate. *Id.* at 31, 35, 40, 43, and 46.

After this false start, RITE again agreed to narrow the scope of the Request, this time through mutually agreed search terms to identify records responsive to request 2.A. *Id.* at 48-50. Request 2.A. sought all correspondence between Clark County and the Secretary's Office from January 1, 2022 to the present. Ex. A at 2. On July 14, 2023, you produced some records responsive to 2.A, specifically 103 emails and a PDF file containing four partially redacted emails. Ex. B at 58. Once again, RITE sought confirmation that this production was complete. Clark County represented, on multiple occasions, that it was. *Id.* at 57, 61-62.

Yet again, however, deficiencies were apparent on the face of the production. RITE had understood that the July production would include some or all of the 26 records from the deficient March production. Clark County indicated agreement with this understanding. *Id.* at 57. But the March records were missing entirely from the July production.

Other than the July production, you made five productions of records. These productions were implausibly small, consisting of only very few emails or other records. For example, you only disclosed 34 total emails that were responsive to requests 2.B., 2.C., 2.D., 2.F., 2G., and 2.J. Nevertheless, you again represented that they were completely responsive to various components of the Request. *Id.* at 62.

Remarkably, after a year of correspondence, you have to date produced a grand total of 169 emails, two non-email records, and a small number of short narrative responses. Clark County represents that this small batch of documents is fully responsive to all components of the Request apart from subparts 2.E., 2.H., and 2.I. *Id.* at 62. And you have persisted in this representation, without offering any plausible explanation, in response to RITE's repeated requests for assurances to that effect. *See Id.* at 61-64.⁴

A comparison of your productions to records received through requests to Washoe County and the Secretary's Office, however, casts substantial doubt on your claims to have made complete productions.⁵

First, whereas you have produced only 169 email records, Washoe County produced more than 4,300 and the Secretary's Office has produced more than 2,000, with production ongoing.⁶

⁴ A summary outlining the records produced and other relevant information for each subpart of the request is set forth in Exhibit C. Given its belief that Clark County has failed to make fulsome productions in several respects, RITE declined to provide any search terms for the remaining unfilled requests of 2.E., 2.H., and 2.I. *See* Exhibit B at 63.

⁵ These requests were similar in all material respects, with the exception that RITE relieved the Secretary's Office of its obligation to produce correspondence between it and county election officials since it had every reason to believe it would receive those records from Washoe and Clark Counties. *See* Ex. D at 2-9 for requests and correspondence with Washoe and the Secretary's Office, available at the following link: [REDACTED].

⁶ Washoe County was especially diligent in producing records, so much so that RITE waived its rights to records covered by requests 2.B. through 2.J.

Second, RITE obtained dozens of email records that included Clark County officials, were sent within the applicable time period, and contained agreed-upon search terms, and yet are not within your productions. Exhibit E catalogues a sampling of these email records, identifies which Clark County officials were on them, and lists examples of the agreed-upon search terms found in the emails and their attachments.

Third, Washoe County produced many responsive email exchanges with the Secretary's Office. This is to be expected, since RITE's request to Washoe County similarly sought its correspondence with the Secretary's Office and Washoe County is a large election jurisdiction with a large staff with substantial need to coordinate its work with and seek guidance from the Secretary's Office. But despite being, by far, an even larger election jurisdiction and despite its presumably larger staff, Clark County's productions contained few instances of such correspondence.

The relative lack of exchanges with the Secretary's Office is particularly notable given that RITE has obtained several emails sent by his office soliciting written responses, often in the form of data, from all counties, including Clark County. You produced some of these solicitations, but not all of them. And your productions contain very few responses to them. For example, you did not produce two emails sent by the Secretary's Office on September 30, 2022 requesting data nor any emails evidencing a response to them. Ex. E at rows 11 and 12. You produced two emails sent by the Secretary's Office on May 20, 2022 asking for counties to reply by a certain date with statistics regarding the removal of duplicate and deceased voters.⁷ You produced no records evidencing a reply to these requests in contrast to Washoe County which produced replies to the two September and two May email information requests. Ex. D at 11-18.⁸ It is apparent from RITE's review that county officials regularly comply with the Secretary's Office's data requests especially for information related to Nevada's voter registration processes. Yet your production noticeably omits this type of correspondence.

In light of your failure to provide any explanation for these issues, RITE searched for its own answers, which included analyzing the metadata in the emails produced. RITE found that various email metadata strongly evidence that at least one reason for these gaps and anomalies is that Clark County operates pursuant to a record retention policy that deletes emails after 180 days. That is a violation of the NVRA and state law.

The first piece of evidence that Clark County operates according to a document retention schedule that violates the NVRA is a metadata category labeled "RetentionDate." For every email record from which metadata could be extracted, this field is populated with a date. With only a few exceptions, that date is exactly 180 days from the date the record was created in the system, identified by a metadata field labeled "ClientSubmitTime." *See e.g.*, Ex. F, Example 1. This is strong evidence that your default period for retaining emails is 180 days, 550 days shorter than required by the NVRA.

⁷ These emails contained the subject lines "ERIC 5.8.2022 and 5.16 2022 Duplicate Reports" and "ERIC 5.8.2022 Deceased Reports."

⁸ See FN5 for link to Exhibit D.

The second piece of metadata evidence confirms the logical inference from the first. Every record contains a metadata field that is populated with one of five entries: “DiscoveryHolds,”⁹ “Inbox,” “Deletions,” “Joe Gloria,” or “Secretary of State Office.” All but 13 of the email records are tagged “DiscoveryHolds.” This label almost certainly identifies records retained pursuant to some form of legal document preservation hold that, notwithstanding the retention date listed, exempts some documents from Clark’s automatic 180-day deletion policy.

All but four records created more than 180 days before the Request are “DiscoveryHolds.” Three out of those four exceptions are labeled “Secretary of State Office” and the final one is labeled “Joe Gloria” and all have a “RetentionDate” field populated with a date that is 7,305 days (40 years) from the “ClientSubmitTime.” *See e.g.*, Ex. F, Example 2. Apart from these four emails, Clark County produced to RITE no emails that were older than 180 days. The fact that records tagged with these exceptions still existed and were produced is to be expected since all evidence in the metadata indicate they were exempt from deletion.

The “Inbox” or “Deletions” tags which account for the remaining six emails not labeled “DiscoveryHolds,” “Joe Gloria,” or “Secretary of State” help complete the picture. There is no indication in the metadata that these emails are exempt from the 180-day retention period. All emails bearing these labels were included in your first production on March 30, 2023. They were also created shortly before the date of RITE’s request (between January 11 and February 10, 2023) and so would not have fallen victim to the 180-day deletion policy at the time you conducted searches for the March production.¹⁰

The fact that there are no emails labeled “Inbox” or “Deletions” in your July and October productions also supports that you delete these categories of emails after 180 days. If you did not, then the July and/or October email productions would have been expected to contain some emails with those designations. The strong likelihood is that responsive emails, including many of those listed in Exhibit E, were being deleted slowly but surely between the date of the Request and the time you finally conducted the July and October searches.¹¹ By then, the only emails remaining were either “DiscoveryHolds” or those subject to the 40-year retention period. Other emails would have been deleted before RITE even made the Request since RITE sought Records going back to January 1, 2022, or 412 days from the date of the Request, well past the 180-day retention period. And as evidenced by Exhibit E, whatever criteria used to assign these special retention tags to certain email records largely fail to account for and preserve large swaths of important records related to your administration of voter registration processes.

⁹ Two emails are labeled “Discovery Holds” (space between the two words).

¹⁰ Unexplained is why none of these five emails were included in the July or October productions. Only one email was scheduled for deletion prior to the date of the July production and all but one appear to be responsive to the agreed upon search terms.

¹¹ This also means that Clark County could not have instituted any pause of its destruction policies in response to RITE’s request.

RITE has tried to follow up with you to receive an explanation, including whether the county's record retention policies would explain these discrepancies. Unfortunately, you have chosen not to respond to or even acknowledge receipt of RITE's inquiries on this point for more than two months. Ex. B at 61. As a result, this demand letter is RITE's only remaining option to vindicate its rights under federal and state law to receive documents known to exist or to learn why documents that should exist have been deleted or otherwise destroyed.

II. Legal Claims

A. Clark County's Record Retention Practices Violate and are Preempted by the NVRA

You are in violation of the NVRA by failing to adhere to the law's records retention requirement. 52 U.S.C. § 20507(i)(1) requires a "[s]tate [to] maintain for at least 2 years . . . all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters." The Request sought records that are covered by the NVRA's records retention requirement. You failed to produce responsive records known to exist. And the evidence strongly suggests that one reason for these missing records is because you have been operating pursuant to a records retention policy that deletes emails older than 180 days.

First, there can be no doubt that Clark County is subject to the NVRA. Courts have consistently held that local election jurisdictions with voter registration responsibilities are covered by the NVRA. *See Am. C.R. Union v. Martinez-Rivera*, 166 F. Supp. 3d 779, 793 (W.D. Tex. 2015) (rejecting local official's claim that Secretary of State was a necessary party because the local official "has certain obligations under the NVRA as the designated voter registrar" and if the official "failed to meet her obligations, [plaintiff] can bring a civil suit against her.").

That is especially true when, as here, state law deputizes local jurisdictions to fulfill some of the state's NVRA responsibilities. *See* NRS § 293.503(1)(b) and (3) (explicitly making county election officials the custodian of all records pertaining to voter registration and counties are subject to records retention requirements that are clearly drafted to track those of the NVRA); NRS § 293.530 (placing various list maintenance responsibilities for removing non-residents squarely on the shoulders of county officials); NRS § 293.540 (requiring county officials to remove deceased, mentally incapacitated, and ineligible felon voters and duplicate registrations.).

Second, the Request sought records covered by the NVRA. The NVRA requires retention for two years and production of "*all* records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters . . ." 52 U.S.C. § 20507(i)(1) (emphasis added). Although the statute leaves little ambiguity, courts have repeatedly noted the provision's breadth. *See Project Vote/Voting for Am., Inc. v. Long*, 682 F.3d 331, 336 (4th Cir. 2012) (cleaned up) ("the use of the word 'all' as a modifier suggests an expansive meaning because 'all' is a term of great breadth."). The phrase "programs and activities" in § 20507(i)(1) aligns with language in § 20507(b), which governs, without limitation, "[a]ny State program or activity to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current voter registration roll for elections." In other words, the scope of records contemplated by the NVRA's retention provision extends much further than the

specific list maintenance obligations prescribed by the NVRA. Finally, the provision covers both individual voter registration records and official communications regarding voter registration list maintenance activities. *Pub. Int. Legal Found. v. Boockvar*, 431 F. Supp 3.d 553, 556-57, 560 (M.D. Pa. 2019).

The Request sought to obtain records related to Clark County's programs and activities that ensure the maintenance of an accurate and current list of registered voters and the county's administration of voter registration activities mandated by the NVRA, records that fit comfortably within the scope of the NVRA, especially as authoritatively interpreted by multiple courts. *See Ex. A.*

Third, this is not primarily a matter of missing documents that "should" exist, although it is that too. It is a matter of missing documents "known" to exist. And beyond that, this is a matter where the evidence strongly suggests that an unlawful retention policy is the reason so many documents are missing.

Despite representations that your productions are complete, RITE has within its possession from other sources records that you did not produce. As recently as November 7, 2023, you told RITE that it had "received all the records responsive to [RITE's] search terms" and that "the County provided [RITE] with the records in which contained the search terms that you requested that could be identified by Clark County." Ex. B at 62. Yet, RITE has within its possession documents you should have produced, but did not. *See e.g.*, Ex. E. And RITE has identified gaps in the production that defy reasonable explanation. *See supra* Factual Background at 2-6.

The examples of records missing from your productions yet *known to exist* are legion, and include those in Exhibit E. All these records relate to "programs and activities conducted for the purpose of ensuring the accuracy and currency" of Clark County's voter registration records and the administration of other programs under the NVRA. 52 U.S.C. § 20507(i)(1). And all were created and modified within two years of the Request date and so fall within § 20507(i)(1)'s minimum retention period. They also contain one or more of the agreed-upon search terms. Here are just a few examples:

- Row 4: A February 28, 2022 email from the Secretary's office to Clark County regarding updating the registration status of an individual registered through the state's Automatic Voter Registration system administered by the Department of Motor Vehicles ("DMV");
- Rows 11, 12, 19, and 20: Emails from the Secretary's Office to Clark County and other county election officials regarding efforts to remove duplicate and deceased records from the voter rolls; and
- Rows 1, 5, 9, 13, 15, 18: Emails between Secretary's Office and counties regarding potential problems with the processes used by the DMV to register voters.

Beyond the emails confirmed to be missing, there are also gaps in the record that are simply implausible. For example, Clark County would reasonably be expected to produce a volume of NVRA-related correspondence directly with the Secretary's Office similar to that produced by Washoe County. There is simply no reason to suspect your office uses email to communicate with the Secretary's Office regarding your administration of voter registration activities at a rate that is

dramatically less frequent than Washoe County. But the record is largely missing such communication. Further, it is extremely unlikely that no employee from Clark County bothered to respond to various email solicitations from the Secretary that sought specific information related to NVRA-mandated activities, especially when it is clear that other counties such as Washoe do. *See* Ex. E at Rows 11-12, 19-21, 23-25. Here again, however, the record is unreasonably light on such responsive communications.

As detailed above, the metadata in your productions are highly suspicious and strongly point toward a simple reason for the missing documents and unexpected gaps described above: A record retention policy that deletes email after 180 days. Nearly all of the very few records produced appear to have been retained solely as a result of a litigation or other similar legal hold. *See* Ex. F. And whatever process Clark County uses to assign longer retention policies to records fails to include documents that the NVRA requires you to preserve. The only logical inference supported by the metadata is that you have been operating pursuant to a 180-day default email retention policy, in violation of the NVRA's two-year records maintenance obligation.

In light of the foregoing, and multiple upcoming important federal elections, it is imperative that you quickly come into full compliance with the NVRA and in no event later than 90 days from the date of this notice. You can accomplish this by modifying your office's various records retention procedures, policies, and Information Technology protocols to maintain for two years records related to your administration of voter registration programs as required by the NVRA, including your activities related to maintaining your list of registered voters. You must also acknowledge any unlawful record retention practices that may have affected RITE's lawful entitlement to records covered by the Request and confirm you have removed and adequately modified your NVRA-violating protocols.

Further, RITE now supplements its Request to seek documentation of your retention policies, including those in place as of the date of this letter, at the time of the Request, and at the time of your productions. This includes, but is not limited to your email retention policies. You should also disclose to RITE Clark's remedial policies when they are available so RITE can determine whether they comply with the NVRA.

You need to act expeditiously so that RITE can determine whether litigation to ensure NVRA compliance is necessary. If you fail to take these steps, RITE intends to seek judicial remedies to vindicate its rights under the NVRA.

B. Alternatively, Clark County is in Violation of the NVRA's Public Records Disclosure Requirement

If, despite strong evidence to the contrary, some or all of the various records requested by RITE do in fact still exist, then you are in violation of the NVRA because you have to "make available for public inspection" the same records you are required to maintain for two years. 52 U.S.C. § 20507(i)(1). As detailed above, RITE has confirmed the existence of many responsive Clark County records that should have been maintained pursuant to the NVRA. Unless you violated your duty to retain those records under the NVRA, *see supra*, the records must be produced to RITE

without further delay. This includes records you failed to provide in response to Requests 1.C., 1.D., and 1.G., where narrative responses were not permitted. *See* Ex. C.

As it has throughout this saga, RITE will continue to work with Clark County in good faith to clarify any ambiguity regarding the Request, including with respect to identifying relevant date ranges and formulating search terms, among other matters. Nevertheless, RITE will not hesitate to seek judicial remedies to vindicate its rights under the NVRA, as necessary, if you fail to produce any of the requested records that are still in existence.

C. Clark County is in Violation of Various State Records Retention Laws

Nevada state law contains mandates strikingly similar to those of the NVRA regarding the maintenance of voter registration records. Specifically, Nevada law requires Clark County to maintain for two years “records of any program or activity that is conducted within the county to ensure the accuracy and currency” of the list of eligible voters. NRS § 293.503(3). The statute also dictates that county officials are responsible for “custody of all books, documents and papers pertaining to . . . registration” under Nevada’s election statutes. *Id.* at 1(b). Thus, to the extent you have deleted or otherwise destroyed records responsive to the Request, you are in violation of NRS § 293.503 for the same reasons it is in violation of the NVRA.

Moreover, you appear to be in violation of state laws that mandate retention of a broader array of documents than even the NVRA and NRS § 293.503. Clark County is bound by the Local Government Records Retention Schedules set forth in the Program Manual of the State Library, Archives, and Public Records Administrator (NSLAPR).¹² *See* NRS § 239.125; NAC §§ 239.155, 239.161.¹³ Although these directives allow for local flexibility, they do provide for “minimum periods of retention for records of local governments” and require that “[a]ll records deemed relevant” to “pending . . . public records requests . . . are to be placed on a Legal Hold and destruction is to be suspended until after the matter has been . . . resolved.”¹⁴ *See* NRS § 239.125(2); NAC § 239.161. Based on the record, you have violated these binding rules and regulations.

Other areas of noncompliance would likely be uncovered during discovery. For example, the very small number of records produced, particularly combined with the metadata analysis described above, strongly indicates that you have not been complying either with the Local Government Records Retention Schedule or with several retention schedules Clark County has approved for itself in its Records and Information Management (RIM) Policy.¹⁵

¹² The comprehensive Local Government Records Retention Schedules document, which includes a section for election record guidelines, is found here: https://nsla.nv.gov/ld.php?content_id=60238524.

¹³ NRS § 239.125(2) requires NSLAPR to issue regulations for local government adherence. NAC 239.155 makes clear that “[a] local government entity shall not dispose of any record except in accordance with” the “Local Government Records Management Program Manual.”

¹⁴ *See* Local Government Records Management Program Manual at page 5.

¹⁵ RIM Policy is available at this link: <https://riteusa.org/wp-content/uploads/2024/01/Record-Retention-Policy.pdf>.

III. Preservation Notice

Notice is hereby provided to Clark County that it must cease any further deletion, destruction, or removal of any additional records that may relate to the Request or this letter. The term “records” should, as always, be construed broadly and to include both paper and electronic documents and communications such as email messages, text messages, application-based messages, and any computer files.

IV. Conclusion

This notice outlines serious violations of federal and state law and we strongly encourage you to address these issues without delay. As RITE has maintained consistently, we will work with you in good faith to come into compliance, but it is imperative that the public, including Nevada voters, can be confident that election officials are complying with important laws that help ensure the transparent administration of our elections in accordance with state and federal law.

Thank you for your attention to this important matter.

Respectfully,

A handwritten signature in black ink that reads "J. Justin Riemer". The signature is written in a cursive, flowing style.

J. Justin Riemer

CC:

Francisco V. Aguilar
Nevada Secretary of State
101 N Carson Street, Suite 3
Carson City, NV 89701

Lisa Logsdon
County Counsel
Clark County District Attorney – Civil Division
200 Lewis Ave,
Las Vegas, NV 89101

EXHIBIT A

RIEMER LAW LLC

(443) 266-2937

1125 West Street, Suite 200
Annapolis, MD 21401

Justin@Riemer.law

February 17, 2023

Lorena Portillo
Asst. Registrar of Voters
Clark County Elections Department
965 Trade Drive, Suite A
Las Vegas, Nevada 89030

Dear Ms. Portillo:

My firm represents Restoring Integrity and Trust in Elections (“RITE”), an organization dedicated to protecting the rule of law in American elections. RITE is particularly invested in ensuring states and local election jurisdictions are complying with applicable federal and state laws for voter registration list maintenance, including the removal of ineligible and deceased voters from the voter rolls.

On behalf of RITE, this is a request for the following records pursuant to the Nevada Public Records Act (“NPR”), NRS § 239.010, and the National Voter Registration Act (“NVRA”), 52 U.S.C. § 20507(i).

1. Any and all records (including, but not limited to, email and attachments, text messages, memoranda, and other written correspondence) from January 1, 2022 to the present sufficient to identify:
 - A. The number of mail ballots sent by the Clark County Elections Department (“Elections Department”) returned as undeliverable by the U.S. Postal Service (U.S.P.S.) or through other means for the June 14, 2022 Primary and November 8, 2022 General Election.
 - B. The number of other election-related mail pieces sent by the Elections Department returned as undeliverable by the U.S.P.S. or through other means.
 - C. Policies, processes, or practices for handling election-related mail returned to the county as undeliverable, including ballots mailed to voters that were returned as undeliverable. This includes policies, processes, or practices for using undeliverable mail to conduct list maintenance.
 - D. Any address confirmation mailings conducted, contemplated, or otherwise discussed in a record, including those using U.S.P.S. National Change of Address (NCOA) data.
 - E. The number of inactive voters whose registration was canceled by Clark County.
 - F. Policies, processes, or practices for canceling the registration of:
 - i. inactive voters;
 - ii. deceased voters; and
 - iii. voters identified as non-citizens.
 - G. Clark County’s use of any data provided to Nevada by the Electronic Registration Information Center (“ERIC”).
 - H. The use or discussed use of jury lists provided by Nevada or federal courts for voter registration list maintenance.
 - I. Any communications or complaints from Nevada voters or other individuals regarding their receipt of mail ballots intended for residents no longer residing at the address where the ballot was received.

2. Any and all records (including, but not limited to, email and attachments, text messages, memoranda, and other written correspondence) from January 1, 2022 to the present between any employee or agent of the Elections Department and any employee or agent of:
 - A. The Nevada Secretary of State's office. For purposes of this request, you can search for any emails with the domain "@sos.nv.gov".
 - B. Nevada's Department of Health and Human Services, including its Office of Vital Statistics within the Division of Public and Behavioral Health.
 - C. The Southern Nevada Health District. This would include, but not be limited to, emails containing the domain "@snhd.org".
 - D. Nevada's Department of Motor Vehicles. For purposes of this request, you can search for any emails with the domain "@dmv.nv.gov".
 - E. Clark County District Courts. For purposes of this request, you can search for emails with the domain "@clark.wa.gov".
 - F. The Nevada Administrative Office of the Courts. For purposes of this request, you can search for emails with the domain "@nvcourts.nv.gov".
 - G. The U.S. Social Security Administration. For purposes of this request, you can search for any emails with the domain "@ssa.gov".
 - H. The U.S. Department of Homeland Security. For purposes of this request, you can search for any emails with the domain "@dhs.gov".
 - I. The U.S.P.S. For purposes of this request, you can search for any emails with the domain "@usps.gov".
 - J. ERIC. For purposes of this request, you can search for any emails with the domain "@ericstates.org".

As you may be aware, the NVRA's public records disclosure provision preempts any purported state NPRA exemptions preventing the disclosure or inspection of the requested records related to Nevada's voter registration list maintenance practices. 52 U.S.C. § 20507(i). If you intend to assert exemptions under the NPRA, please provide a log identifying which exemptions you believe apply and what records those exemptions implicate, and provide a detailed explanation of why you believe those exemptions are applicable.

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$500. However, you should not charge any fees because the disclosure of the requested information furthers a significant public interest and will contribute to the public's understanding of Nevada's efforts to ensure free and fair elections. This information is not being sought for commercial purposes.

I am requesting these records in electronic format and on a rolling basis. Per NPRA requirements, my firm's address is 1125 West Street, Suite 200, Annapolis, MD 21401 and I can be reached at Justin@riemer.law or (772) 559-1567.

Sincerely,



J. Justin Riemer

EXHIBIT B

Exhibit B is available at:



EXHIBIT C

Exhibit C summarizes the records produced by Clark County in response to each component of the Request and includes additional relevant information regarding each of the Request’s subparts.

| Request # | Status | Comments |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.A. The number of mail ballots sent by the Clark County Elections Department (“Elections Department”) returned as undeliverable by the U.S. Postal Service (U.S.P.S.) or through other means for the June 14, 2022 Primary and November 8, 2022 General Election. | Narrative response provided in 3/20/2023 email. | RITE agreed to narrative response in 2/25/2023 email. |
| 1.B. The number of other election-related mail pieces sent by the Elections Department returned as undeliverable by the U.S.P.S. or through other means. | Narrative provided in 3/20/2023 email. Specifically, Clark provided an aggregate number as opposed to a specific breakdown. | RITE agreed to narrative response in 2/25/2023 with caveat that Clark provide “some type of breakdown on types of mail and numbers returned for each as opposed to an aggregate number for all mailings.” RITE never received that breakdown. |
| 1.C. Policies, processes, or practices for handling election-related mail returned to the county as undeliverable, including ballots mailed to voters that were returned as undeliverable. This includes policies, processes, or practices for using undeliverable mail to conduct list maintenance. | Narrative provided in 3/20/2023 email. No other records produced. | RITE did not agree to a narrative response for this request. <i>See</i> 2/25/2023 email which agrees to narrative responses for 1A, 1B, and 1E. Ex. B at 13. |
| 1.D. Any address confirmation mailings conducted, contemplated, or otherwise discussed in a record, including those using U.S.P.S. National Change of Address (NCOA) data. | Narrative provided in 3/20/2023 email. No other records produced. | RITE did not agree to a narrative response for this request. <i>See</i> 2/25/2023 email which agrees to narrative responses for 1A, 1B, and 1E. Ex. B at 13. |
| 1.E. The number of inactive voters whose registration was canceled by Clark County. | Narrative provided in 3/20/2023 email. | RITE agreed to narrative response in 2/25/2023 email. |
| 1.F. Policies, processes, or practices for canceling the registration of: i. inactive voters; ii. deceased voters; and iii. voters identified as non-citizens. | One five-page PDF document provided in 3/20/2023 email. | This was a broad request for procedures to remove ineligible voters and only one document was produced. |
| 1.G. Clark County’s use of any data provided to Nevada by the Electronic Registration Information Center (“ERIC”). | Narrative provided in 3/20/2023 email. One 16-page PDF provided on 4/27/2023 response. | RITE did not agree to a narrative response to the request; however, Clark did produce one 16-page document. |
| 1.H. The use or discussed use of jury lists provided by Nevada or federal courts for voter registration list maintenance. | Narrative provided in 3/20/2023 email. | RITE did not agree to a narrative response, but RITE understands Nevada does not utilize jury lists for list maintenance. |
| 1.I. Any communications or complaints from Nevada voters or other individuals regarding their receipt of mail ballots | Produced a two-page pdf document containing | On 4/8/2023, RITE asked for confirmation that Clark only received two complaints responsive to request. |

| <u>Request #</u> | <u>Status</u> | <u>Comments</u> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| intended for residents no longer residing at the address where the ballot was received. | scanned emails on 4/6/2023. | On 4/24/2023, Clark responds that “it would be accurate to say that a search for written records responsive to that request produced two records.” |
| 2.A. The Nevada Secretary of State’s office. For purposes of this request, you can search for any emails with the domain “@sos.nv.gov”. | Produced 103 emails in a .PST file on 7/14/2023. Clark also produced 26 emails in a 3/30/2023 response that were not included in the 7/14/2023 production. | Clark initially stated that 3/30/2023 production was “documents responsive to request number 2, A-J” and later acknowledged it was not a full production. Ex. B. at 31. Clark purports to have made a full production responsive to search term 2.A. through its production on 7/14/2023. |
| 2.B. Nevada’s Department of Health and Human Services, including its Office of Vital Statistics within the Division of Public and Behavioral Health. | Produced 34 emails in a .PST file on 10/3/2023 which includes all records Clark purports to be responsive to 2B, 2C, 2D, 2F, 2G, and 2J. <i>See also comment to 2A.</i> | County attorney in referencing 10/3/2023 production notes: “The latest batch of emails that you received were the responses for 2B, 2C, 2D, 2F, 2G and 2J.” Ex. B. at 62. |
| 2.C. The Southern Nevada Health District. This would include, but not be limited to, emails containing the domain “@snhd.org”. | <i>See status for 2B and comment for 2A</i> | <i>See comment for 2B.</i> |
| 2.D. Nevada’s Department of Motor Vehicles. For purposes of this request, you can search for any emails with the domain “@dmv.nv.gov”. | <i>See status for 2B and comment for 2A</i> | <i>See comment for 2B.</i> |
| 2.E. Clark County District Courts. For purposes of this request, you can search for emails with the domain “@clark.wa.gov”. | Clark County requested search terms. RITE has declined to do so. Clark also produced 26 emails in an initial 3/30/2023 response. <i>See comment to 2A.</i> | Initial request contained a typo regarding the email domain used by Clark County courts. |
| 2.F. The Nevada Administrative Office of the Courts. For purposes of this request, you can search for emails with the domain “@nvcourts.nv.gov”. | <i>See status for 2B and comment for 2A.</i> Clark also produced 26 emails in an initial 3/30/2023 response. <i>See comment to 2A.</i> | <i>See comment for 2B.</i> |
| 2.G. The U.S. Social Security Administration. For purposes of this request, you can search for any emails with the domain “@ssa.gov”. | <i>See status for 2B and comment for 2A</i> | <i>See comment for 2B.</i> |

| Request # | Status | Comments |
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| 2.H. The U.S. Department of Homeland Security. For purposes of this request, you can search for any emails with the domain “@dhs.gov”. | Clark County requested search terms. RITE has declined to do so. Clark also produced 26 emails in an initial 3/30/2023 response. <i>See comment to 2A.</i> | |
| 2.I. The U.S.P.S. For purposes of this request, you can search for any emails with the domain “@usps.gov”. | Clark County requested search terms. RITE has declined to do so. Clark also produced 26 emails in an initial 3/30/2023 response. <i>See comment to 2A.</i> | |
| 2.J. ERIC. For purposes of this request, you can search for any emails with the domain “@ericstates.org”. | <i>See status for 2B and comment for 2A</i> | <i>See comment for 2B.</i> |

EXHIBIT D

Exhibit D is available at:



EXHIBIT E

| # | <u>Email Subject</u> | <u>Email Date</u> | <u>Sent to/from Clark officials?</u> | <u>Responsive to Search Terms (Non-exhaustive)</u> |
|----|-----------------------------------------------------------------------------|------------------------------|-----------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | AVR Transmissions 1/14 (Washoe Produced) | Tue 1/18/2022 7:36 PM | Email sent from [REDACTED] to [REDACTED] Clark County emails including: • [REDACTED] | 2A (DMV*) |
| 2. | RE: SOS & Clerks Call Notes 2.8.22 (Washoe Produced) | Wed 2/9/2022 11:32 PM | Email sent from [REDACTED] to [REDACTED] to Clark County emails including: • [REDACTED] | 2A (In attachment: Electronic Registration Information Center; “ERIC states” ~5; “ERIC state” ~5; “list maint*”; death; NCOA; duplicat*) |
| 3. | Reminder Pre-Primary Reports (Washoe Produced) | Mon 2/14/2022 11:13 PM | Email sent from [REDACTED] to [REDACTED] to Clark County emails including: • [REDACTED] | 2A (NVRA; inactiv*; deceased) (In calendar attachment: “list maint*”; “ballots returned” ~7) |
| 4. | FW: Record Update (SOS produced) | Mon 2/28/2022 10:08 AM | Email from [REDACTED] to [REDACTED] | 2A (DMV*) |
| 5. | AVR Transmissions (Washoe Produced) | Wed 3/9/2022 9:49 PM | Email from [REDACTED] to [REDACTED] Clark County emails including: • [REDACTED] | 2A (DMV*) |
| 6. | Clerks and SOS Meeting Minutes 3.22.2022 | Tue 3/22/2022 11:54 PM | Email from [REDACTED] to [REDACTED] Clark County emails including: • [REDACTED] | 2A (“Undeliver*”; “cross-state”; “in-state”; “ERIC report” ~7) |

| # | Email Subject | Email Date | Sent to/from Clark officials? | Responsive to Search Terms (Non-exhaustive) |
|-----|-----------------------------------------------------------------------------------|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| | (Washoe Produced) | | • [REDACTED] | |
| 7. | RE: SOS & Clerks Call 4.12.22 (Washoe Produced) | Wed 4/14/2022 12:04 AM | Email from [REDACTED] to [REDACTED] Clark County emails including: • [REDACTED] | 2A (deceased) |
| 8. | AVR Monthly Statistics (Washoe Produced) | Mon 5/2/2022 4:14 PM | Email from [REDACTED] to [REDACTED] Clark County emails including: • [REDACTED] | 2A (“Vital”; death) |
| 9. | RE: AVR Monthly Statistics (Washoe Produced) | Wed 5/4/2022 4:08 PM | Email from [REDACTED] to [REDACTED] Clark County emails including: • [REDACTED] (Email from [REDACTED] was in response to email from [REDACTED] an email Clark did not produce.) | 2A (“Vital”; death) |
| 10. | SOS & Clerks Call Notes 2022.09.27 (Washoe Produced) | Wed 9/28/2022 10:15 PM | Email from [REDACTED] to [REDACTED] Clark County emails including: • [REDACTED] | 2A (“ERIC EBU” ~7; DMV*; “ballot return” ~7) |
| 11. | ERIC Deceased Reports for June 2022 and August 2022 uploaded into | Fri 9/30/2022 7:44 PM | Email from [REDACTED] | 2A (Deceased; “ERIC report” ~7) (In attachment: death; “registration cancel” ~7; |

| # | <u>Email Subject</u> | <u>Email Date</u> | <u>Sent to/from Clark officials?</u> | <u>Responsive to Search Terms (Non-exhaustive)</u> |
|-----|-------------------------------------------------------------------------------------------------------------------------------------|------------------------------|------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|
| | IPSWITCH County Folders (Washoe Produced) | | | |
| 12. | ERIC Duplicate Reports for June 2022 and August 2022 uploaded into IPSWITCH County Folders (Washoe Produced) | Fri 9/30/2022 9:46 PM | Email from [REDACTED] to Clark County emails including: <ul style="list-style-type: none"> • [REDACTED] | 2A (Duplicat*; “ERIC Report” ~7) |
| 13. | FW: DMV registration (SOS Produced) | Tue 10/4/2022 2:46 PM | Email from [REDACTED] | 2A (DMV*) |
| 14. | FW: DMV offers walk-in voter registration for new Nevada residents (SOS Produced) | Tue 10/4/2022 4:29 PM | Email from [REDACTED] | 2A (DMV*) |
| 15. | DMV Portal AVR Transmission for 10/14 & 10/15 (Washoe Produced) | Mon 10/17/2022 3:32 PM | Email from [REDACTED] to Clark County emails including: <ul style="list-style-type: none"> • [REDACTED] | 2A (DMV*) |

| <u>#</u> | <u>Email Subject</u> | <u>Email Date</u> | <u>Sent to/from Clark officials?</u> | <u>Responsive to Search Terms (Non-exhaustive)</u> |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|
| 16. | SOS Clerks Call & Notes 2022.10.11 (Washoe Produced) | Tue 10/18/2022 3:24 PM | Email from [REDACTED] to Clark County emails including: <ul style="list-style-type: none"> • [REDACTED]v.gov; • [REDACTED] • [REDACTED] | 2A (DMV*) |
| 17. | SOS Clerks Call Notes 2022.11.29 (Washoe Produced) | Fri 12/3/2022 1:08 AM | Email from [REDACTED] to Clark County emails including: <ul style="list-style-type: none"> • [REDACTED] | 2A (“ERIC states” ~5; death; “Vital”) |
| 18. | FW: Application Error (SOS produced) | Tue 12/20/2022 10:05 AM | Email from [REDACTED] to [REDACTED] and [REDACTED] | 2A (DMV*) |
| 19. | ERIC Reporting Requirements for Deceased In-State and Cross State Duplicate Reports from 10.24.2022. (Washoe Produced) | Thu 12/29/2022 6:53 PM | Email from [REDACTED] to Clark County emails including: <ul style="list-style-type: none"> • [REDACTED] | 2A (Duplicat*; Deceased; “ERIC Report” ~7; “In-State”; “Cross-State”) |
| 20. | ERIC Duplicates Report 12.30.2022 (Washoe Produced) | Tue 2/21/2023 10:54 PM | Email from [REDACTED] to Clark County emails including: <ul style="list-style-type: none"> • [REDACTED] | 2A (duplicat*; deceased; “ERIC Report” ~7) (In attachment: DMV*) |

| # | <u>Email Subject</u> | <u>Email Date</u> | <u>Sent to/from Clark officials?</u> | <u>Responsive to Search Terms (Non-exhaustive)</u> |
|-----|-----------------------------------------------------------------------------------------|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| 21. | ERIC 12.30.22 Deceased Reports (Washoe Produced) | Tue 2/21/2023 11:45 PM | Email from [REDACTED] to [REDACTED] Clark County emails including: <ul style="list-style-type: none"> [REDACTED] | 2A (Deceased; "ERIC report" ~7) |
| 22. | RE: 2023.03.07 SOS & Clerks Call Meeting Notes (Washoe Produced) | Mon 3/13/2023 4:38 PM | Email from [REDACTED] to [REDACTED] Clark County emails including: <ul style="list-style-type: none"> [REDACTED] | 2A ("List maint*"; deceased; duplicat*; NVRA; etc.) (In attachment: inactiv*; USPS; NCOA) |
| 23. | 12.29.2022 ERIC Cross-State Reports (Washoe Produced) | Tue 3/21/2023 9:17 PM | Email from [REDACTED] to [REDACTED] Clark County emails including: <ul style="list-style-type: none"> [REDACTED] | 2A ("cross-state"; NVRA; inactiv*; "list maint*") (In attachment: "ERIC states" ~5; "ERIC report" ~7; NCOA) |
| 24. | 2022 ERIC In-State Updates Report (Washoe Produced) | Tue 3/21/2023 7:50 PM | Email from [REDACTED] to [REDACTED] Clark County emails including: <ul style="list-style-type: none"> [REDACTED] | 2A ("in-state"; NVRA) (In attachment: DMV*; NCOA; USPS; "confirmation mail" ~7; "list maint*") |
| 25. | RE: 12.29.2022 ERIC Cross-State Reports (Washoe Produced) | Wed 3/22/2023 8:13 PM | Email from [REDACTED] to [REDACTED] several Clark County emails including: <ul style="list-style-type: none"> [REDACTED] | 2A ("cross-state"; NVRA; inactiv*; "list maint*") |

EXHIBIT F

Example 1: Screenshots of metadata extracted from email sent May 20, 2022, demonstrating default retention date until November 16, 2022 (180 days after sending). Email is flagged under “DiscoveryHolds”.

| ERIC 5.16.2022 In-State Update Reports | | 5/20/2022 7:56 PM |
|----------------------------------------|---------------------------|-------------------------------------------------|
| 0x3008 | LastModificationTime | 1/5/2023 2:52:52 AM |
| 0x300b | SearchKey | F5-8F-8F-79-44-3C-B9-4E-93-4A-9B-C9-1B-3E-FD-FC |
| 0x3014 | undocumented | CA-01-00-00-20-9E-D0-6B-F4-46-2B-9E |
| 0x3016 | ConversationIndexTracking | True |
| 0x3019 | PolicyTag | 52-39-D0-A2-6A-0F-8F-45-97-D8-A0-A9-2F-5E-D6-B7 |
| 0x301b | StartDateEtc | 89-1C-00-00-80-59-A3-A9-83-6C-D8-01 |
| 0x301c | RetentionDate | 11/16/2022 7:56:15 PM |
| 0x301d | RetentionFlags | 0 |
| 0x335b | | 0 |
| 0x335e | | 3 |

| | | |
|--------|---------------------|----------------------|
| 0x0e04 | DisplayTo | [REDACTED] |
| 0x0e05 | undocumented | DiscoveryHolds |
| 0x0e06 | MessageDeliveryTime | 5/20/2022 7:56:16 PM |

Example 2: Screenshots of metadata extracted from email sent February 9, 2022, demonstrating 40-year retention period from the time email was sent.

| VREMS functional requirements | | 2/9/2022 5:49 PM |
|-------------------------------|---------------|---------------------------------|
| 0x301c | RetentionDate | 2/9/2042 5:49:10 PM |
| 0x0e05 | undocumented | Secretary of State Office (SOS) |