



OFFICE OF THE SECRETARY OF STATE

ELECTIONS DIVISION

Directive of the Secretary of State	Subject: Critical Infrastructure Security	Directive Issued at the Request of: Secretary of State	Date: May 3, 2022	Number: 2022-3
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The Secretary of State in carrying out the duties of the office shall issue detailed directives necessary to maintain uniformity in the application, operation, and interpretation of Oregon election laws. (ORS 246.110 and 120). The information provided here is an official directive of the Secretary of State.

This directive provides a framework for elections officials to protect sensitive information about Critical Elections Infrastructure, consistently with their obligations under the Oregon Public Records Law.

Definitions

Critical Elections Infrastructure includes but is not limited to physical elections offices, secure ballot storage, ballot scanning and tally machines, vote-by-mail infrastructure, information processing systems, communications systems, and elections security plans.

Security Breaches includes but is not limited to:

- allowing unauthorized access to Critical Elections Infrastructure;
- compromising chains of custody;
- allowing malicious actors to identify areas of structural or operational vulnerability that would permit unlawful election interference; and
- revealing or otherwise identifying security measures, or weaknesses or potential weaknesses in security measures, designed to protect elections workers, voters, and Critical Elections Infrastructure.

Sensitive Information is information about Critical Elections Infrastructure that would permit Security Breaches to occur.

Requirements

Oregon Public Records Law recognizes the importance of protecting information that, if released, would permit Security Breaches. See, for example, ORS 192.345(22), (23) and ORS 192.355(32). Therefore, County elections officials shall consider whether any proposed or requested disclosures would reveal Sensitive Information.

County elections officials shall consider each proposed or requested disclosure individually in light of all the circumstances. Because no two counties have the exact same infrastructure and circumstances, it is not possible to provide a comprehensive list of Sensitive Information. Instead, this directive provides examples for county elections officials to consider in consultation with county counsel.

Some disclosures would plainly reveal Sensitive Information, such as

- Lists of staff who operate specific systems or equipment
- Usernames and/or passwords
- Software code
- Detailed system architecture

If a disclosure would reveal Sensitive Information, county elections officials should determine, in consultation with county counsel, how to fulfill the request to the extent possible, as required by Oregon Public Records Law, while protecting Critical Elections Infrastructure.

Other disclosures may relate to Critical Elections Infrastructure without revealing Sensitive Information. For example, contracts with voting system vendors do not generally reveal Sensitive Information. In such cases, county elections officials should fulfill such requests promptly and completely, consistently with their obligations under Oregon Public Records Law.

In some cases, it may not be immediately clear whether a disclosure would reveal Sensitive Information. If county elections officials are unable to ascertain whether a disclosure would reveal Sensitive Information, they shall notify the Elections Division and provide sufficient information so the Elections Division can provide meaningful consultation. In the case of public records requests, this includes, at minimum, the complete request and any related correspondence with the requestor.

There are sufficient similarities among counties that sensitive information disclosed by one county could permit a security breach in others. Therefore, county elections officials shall notify the Elections Division in advance about any anticipated disclosure of Sensitive Information. Disclosures that are discovered after the fact shall be reported as soon as possible. All disclosures must be reported, including those that are planned in advance, discovered after the fact, or compelled (for example, by court order or other legal process).

Shemia Fagan
Secretary of State

A handwritten signature in dark ink, appearing to read "Deborah Scroggin", with a long horizontal flourish extending to the right.

By: Deborah Scroggin
Director