

**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

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CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA  
ATTORNEY GENERAL



JANE E. YOUNG  
DEPUTY ATTORNEY GENERAL

June 10, 2021

**Sent via email only:**

Marylyn Todd  
[REDACTED]

Re: June 3, 2021, Right to Know re Windham Audit (2021149461)

Dear Ms. Todd:

We received your June 3, 2021 right-to-know requests for documents related to the Windham Audit. The response being provided in this letter is on behalf of the Secretary of State and the Attorney General's Offices (collectively referred to in this response as "the State") and includes all documents in the possession of either Office.

1. Your first request is:

"I request a detailed timeline of exactly any and all involvement of Harri Hursti and/or Nordic Innovation Labs regarding New Hampshire's accuvote machines. Please also send all email or text message communications between the secretary of State's office and the AG's office involved with Harri Hursti and/or (sic). Please send a thorough detailed timeline of any involvement of Mr. Hursti and our accuvote machines. I am requesting information dated 2010 through 2021."

**Response:** RSA 91-A only requires the State to produce documents that exist. It does not require the State to create documents. The State does not have a timeline document that is responsive to your request. The State has documents that constitute communications between our Offices, Harri Hursti, and/or Nordic Innovation Labs. Those documents are being collected and reviewed to determine if they are responsive.

The collection and review of those documents will take more than 5 business days. The State will provide those documents to you by July 15, 2021. As documents become available, the State will provide, on a rolling basis, documents that are responsive to your request.

2. Your second request is:

“In 2016, James O’Keefe was served a subpoena from Richard (Dick) Tracy. Pursuant to article 91A, I request any and all the information James O’Keefe supplied to the NH’s AG office as well as the NH Secretary of State’s office for this subpoena.”

**Response:** There are no records responsive to your request that are available under RSA 91-A from either Office.

3. Your third request is:

“I request any and all invoices paid to LHS paid by the State of NH.”

**Response:** The Attorney General’s Office does not have any documents responsive to this request. The Secretary of State’s Office has documents that we believe would constitute invoices paid by the State to LHS. Those documents are being collected and reviewed to determine if they are responsive.

The collection and review of those documents will take more than 5 business days. The State will provide those documents to you by July 15, 2021. As documents become available, the State will provide, on a rolling basis, documents that are responsive to your request.

4. Your fourth request is:

“In 2010 all NH machines received a "firmware update." Please send any and all information pertaining to this update. Also who actually did the updates. Who performed the updates?”

**Response:** RSA 91-A only requires the State to produce documents that exist. It does not require the State to answer questions. The State is reviewing to see if it has documents, from 2010, showing a “firmware update.” If there are documents, those documents will be collected and reviewed to determine if they are responsive.

The collection and review of those documents will take more than 5 business days. The State will provide those documents to you by July 15, 2021. As documents become available, the State will provide, on a rolling basis, documents that are responsive to your request.

5. Your fifth request is:

“There are five towns whose town clerks state either the SOS has their machine tapes from the 2020 election or they are locked in their ballot boxes. Bud Fitch sent me an email last week basically stating I would have to go through the court process to receive this public information. Does it sound logical knowing a judge would obviously grant me access to this PUBLIC INFORMATION that I need to spend my own money on obtaining a lawyer? I'm hoping we can receive this information lawfully without wasting hard earned tax paying money. The five towns are as follows:

A. Hollis

B. New Ipswich

C. Rindge

D. Westmoreland

E. Wilton”

**Response:** The 5 towns you identified in your request had recounts involving the 2020 General Election. At the end of each recount, the boxes were sealed. Whether the ballot counting devices’ tapes are inside those sealed boxes is unknown.

However, in accordance with RSA 660:16, II, those sealed boxes cannot be re-opened without a court order or a duly enacted law allowing those boxes to be re-opened. This information was provided to you through a May 20, 2021 email from Orville Fitch, Elections Legal Counsel, Assistant Secretary of State.

6. Your sixth request is:

“According to Harri Hursti the reason why he is not being supervised while continuing the audit is due to copyright infringements? Please provide who released those copyrights to Harri and what the process is for us to receive released copy rights as well. Who has the exclusive access to these copyrights?”

**Response:** RSA 91-A only requires the State to produce documents that exist and does not require the State to respond to questions. The State does not have any documents responsive to your request. By way of additional response, and without waiving RSA 91-A’s limitation on only providing documents, the State does not know who holds the copyrights on the memory cards and the software used in the ballot counting devices.

7. Your seventh request is:

“I request any non-disclosure agreements between Harri Hurst and or Nordic Innovation labs and the State of New Hampshire and its affiliates and Diebold Premier.”

**Response:** The State is reviewing to see if it has documents related to any non-disclosure agreements. If there are documents, those documents will be collected and reviewed to determine if they are responsive.

The collection and review of those documents will take more than 5 business days. The State will provide those documents to you by July 15, 2021. As documents become available, the State will provide, on a rolling basis, documents that are responsive to your request.

8. Your eighth request is:

“A copy of the “exact electronic record of the data written to each memory card” used in Windham for the November 3, 2020 election per RSA 656:42 VIII. (a) -

*Before each election, the vendor for any electronic ballot counting device shall provide the secretary of state with an exact electronic record of the data written to each memory card to be used in the election.”*

**Response:** Neither Office has a document responsive to this request.

9. Your ninth request is:

I would also like to know when the audit footage will be loaded on the DOJ's website for public viewing?

**Response:** Without waiving RSA 91-A's requirement of only providing documents and not answers to questions, the State's Department of Information Technology is working to finalize the format to link the livestream recordings to the Department of Justice's website. Due to the size of the files, this process is taking longer than anticipated. We will provide a further response to this request by close of business on Monday, June 14, 2021.

Marylyn Todd  
June 10, 2021  
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Sincerely,

/s/ Anne Edwards  
Anne M. Edwards  
Associate Attorney General