



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 5, 2024

Mr. Hannah Bell
Assistant Criminal District Attorney
Tarrant County
401 West Belknap
Fort Worth, Texas 76196

OR2024-020047

Dear Ms. Bell:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 24-012189 (Ref. No. EL-2024-136).

The Tarrant County Elections Administration (the "county") received a request for registered voters election history over a twelve-year period, including the state voter ID, voter name, primary address, precinct number of polling place where the voter voted, and vote type. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Article VI of the Texas Constitution is entitled "Suffrage." Section 4 of article VI states:

In all elections by the people, the vote shall be by ballot, and the Legislature shall provide for the numbering of tickets and make such other regulations as may be necessary to detect and punish fraud and preserve the purity of the ballot box; and the Legislature shall provide by law for the registration of all voters.

¹ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Tex. Const. art. VI, § 4. Texas courts have construed article VI, section 4 as providing a right to a secret ballot. *See Wood v. State ex rel. Lee*, 126 S.W.2d 4 (Tex. 1939); *Oliphint v. Christy*, 299 S.W.2d 933, 939 (Tex. 1957); *In re Talco-Bogata Consol. Indep. Sch. Dist. Bond Election*, 994 S.W.2d 343 (Tex. App.—Texarkana 1999, no pet.). This requirement of secrecy is mandatory—“that every voter is thus enabled to secure and preserve the most complete and inviolable secrecy *in regard to the persons for whom he votes*[.]” *Wood*, 126 S.W.2d at 8; *Carroll v. State*, 61 S.W.2d 1005, 1007 (Tex. Crim. App. 1933) (emphasis added). In order to protect the secret ballot, “[p]ublic policy requires that the veil of secrecy should be impenetrable, unless the voter himself voluntarily determines to lift it[.]” *Carroll*, 61 S.W.2d at 1008. The right of nondisclosure belongs to the individual voter. *See Oliphint*, 299 S.W.2d at 939. The right to a secret ballot has been held to protect personally identifiable information contained in election records that could tie a voter’s identity to their specific voting selections. *See generally Wood*, 126 S.W.2d at 9; *Carroll*, 61 S.W.2d at 1008. Thus, we note election records custodians must redact such personally identifiable information to protect the constitutional right to a secret ballot in Texas. *See Attorney General Opinion KP-411 at 4 (2022)*; *see also Gov’t Code § 552.007* (providing that a governmental body has no discretion to release information deemed confidential by law). You inform us, and provide documentation demonstrating, the requested information regarding the locations at which some of the voters cast their ballots constitutes personally identifiable information that could tie a voter’s identity to their specific voting selections. Accordingly, the personally identifiable information of voters contained in the requested information must be redacted. The county must release the remaining information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Justin H. Miller
Assistant Attorney General
Open Records Division

JHM/eb

Ref: ID# 24-012189

c: Requestor