



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 14, 2019

Ms. Deanne Lin
Assistant County Attorney
Harris County Attorney's Office
1019 Congress Street, 15th Floor
Houston, Texas 77002

OR2019-22548

Dear Ms. Lin:

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# 778218 (File No. 19PIA0369).

The Harris County Voter Registrar's Office (the "voter registrar's office") received a request for the records of all registered voters in Harris County. You state the voter registrar's office does not possess some of the requested information.¹ 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.²

Initially, we note the voter registrar's office has submitted a list comprising a representative sample of information "obtained under Section 62.113" of the Election Code as responsive to a portion of the present request for information. To the extent any information responsive to the other portions of the request existed on the date the voter registrar's office received the request, we assume the voter registrar's office has already released it. *See* Elect. Code

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

²We 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 that those records contain substantially different types of information than that submitted to this office.

§ 18.0008(a) (registrar shall furnish copy of list prepared under subchapter A of chapter 18 to person requesting it). If the voter registrar's office has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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. You raise section 552.101 in conjunction with 62.113 of the Government Code and argue this statute prohibits the voter registrar's office from producing the requested information to respond to categories 1 and 3 of the present request for information. Section 62.113 provides as follows:

(a) The [county clerk] shall maintain a list of the name and address of each person who is excused or disqualified under [subchapter B of chapter 62 of the Government Code] from jury service because the person is not a citizen of the United States.

(b) On the third business day of each month, the clerk shall send a copy of the list of persons excused or disqualified because of citizenship in the previous month to:

(1) the voter registrar of the county;

(2) the secretary of state; and

(3) the county or district attorney, as applicable, for an investigation of whether the person committed an offense under Section 13.007, Election Code, or other law.³

(c) A list compiled under this section may not be used for a purpose other than a purpose described by Subsection (b) or Section 16.0332 or 18.068, Election Code.⁴

(d) A person commits an offense if the person violates Subsection (c). An offense under this section is a Class C misdemeanor[.]

³Section 13.007 provides in part that "[a] person commits an offense if the person knowingly makes a false statement or requests, commands, or attempts to induce another person to make a false statement on a registration application." Elec. Code § 13.007(a).

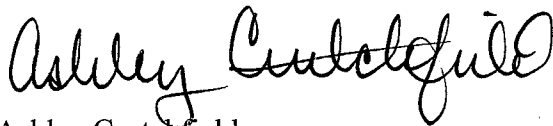
⁴Sections 16.0332 and 18.068 of the Election Code pertain to the use of the list created under section 62.113 by a voter registrar and the secretary of state's office, respectively. *See* Elec. Code §§ 16.0332, 18.068.

Gov't Code § 62.113(a)-(d). Thus, information maintained by a county clerk pursuant to section 62.113(a) and obtained by the voter registrar's office pursuant to section 62.113(b)(1) may only be used as provided by section 62.113(c). *Id.* § 62.113(a)-(c). Any other use of such information is a criminal offense. *Id.* § 62.113(d). You state the submitted information consists of a list obtained by the voter registrar's office pursuant to section 62.113. Based upon your presentations, and our review, we conclude release of the list in this instance would be "for a purpose other than a purpose described by Subsection (b) or Section 16.0332 or 18.068, Election Code." *See id.* § 62.113(c). Accordingly, we conclude the list is confidential pursuant to section 62.113(c) of the Government Code and must be withheld under section 552.101 of the Government Code.

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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/gw

Ref: ID# 778218

Enc. Submitted documents

c: Requestor
(w/o enclosures)