



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 7, 2022

Ms. Natalie Barnett
Assistant County Attorney
Parker County Attorney's Office
101 North Main Street
Weatherford, Texas 76086

OR2022-27280

Dear Ms. Barnett:

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# 967241.

The Parker County Elections Office (the "elections office") received a request for three categories of ballot information related to a specified election. You state you have released some information to the requestor. You claim the submitted information is exempted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim.

Initially, you state the elections office does not maintain some of the requested information in the format sought by the requestor. The Act does not require a governmental body to create or release information that did not exist when a request for information was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (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). However, a governmental body does have a duty to make a good-faith effort to relate a request for information to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). Thus, documents in any format from which the information responsive to the request may be derived are responsive to the request. In this instance, we assume the

¹ We note you did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the requested information. *See id.* §§ 552.007, .302, .352.

elections office has made a good-faith effort to relate this request to information it holds, and we will address the applicability of your arguments against disclosure of the requested information.

Next, we address your assertion the remaining information at issue cannot be released in response to a request under the Act pursuant to section 66.058 of the Election Code. Section 66.058 provides, in relevant part:

(a) Except as otherwise provided by this code, the precinct election records shall be preserved by the authority to whom they are distributed for at least 22 months after election day.

(b) For a period of at least 60 days after the date of the election, the voted ballots shall be preserved securely in a locked room in the locked ballot box in which they are delivered to the general custodian of election records. . . .

(b-1) Except as permitted by this code, a ballot box or other secure container containing voted ballots may not be opened during the preservation period.

...

(g) Electronic records created under Chapter 129 shall be preserved in a secure container.

Elec. Code § 66.058(a)-(b-1), (g). The term “precinct election records” means the precinct election returns, voted ballots, and other records of an election that are assembled and distributed under chapter 66 of the Election Code. *See id.* § 66.02; *see also id.* §§ 121.001 (noting other provisions of this code apply to an election in which a voting system is used), 127.132 (explaining voted ballots, election returns, and other election records of an electronic voting system shall be delivered to the authorities who receive corresponding records from precinct polling places using regular paper ballots), 129.001 (stating chapter 129 applies to voting system that uses direct recording electronic voting machines and, to the extent possible, procedures applicable to electronic voting system under chapter 127 are applicable to voting system under chapter 129). Although you assert the information at issue may not be released until the expiration of the 22-month preservation period set out in section 66.058(a), we note the election at issue in the present request occurred on November 3, 2020. Thus, as of the date of this letter, the 22-month period has since passed. Accordingly, we need not determine whether the information at issue cannot be released in response to a request under the Act pursuant to section 66.058 of the Election Code. As you raise no further exceptions to disclosure, the elections office must release the remaining requested 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,

Tim Neal
Assistant Attorney General
Open Records Division

TN/eb

Ref: ID# 967241

c: Requestor