



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 30, 2022

Ms. Hannah Bell
Assistant District Attorney
Tarrant County
401 West Belknap Street, 9th Floor
Fort Worth, Texas 76196-0201

OR2022-37017

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# 984296.

The Tarrant County Elections Administration Office (the "county") received a request for certain information pertaining to a specified election. 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 information.

Initially, you inform us the county is seeking clarification with respect to a portion of the present request for information. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). We understand the county has not yet received a response to the request for clarification. Additionally, we note a governmental body has a duty to make a good-faith effort to relate a request for information to information the governmental body holds. Open Records Decision No. 561 (1990). In this instance, the county has made arguments against the disclosure of responsive information. Thus, we assume the county has made a good-faith effort to relate the request to information it holds, and we will address the applicability of the arguments against disclosure of the information at issue. However, the county has no obligation at this time to release any additional responsive information for which it has not received clarification. If the requestor responds to the request for clarification, then the county must seek a ruling from this office before withholding any additional responsive

information from the requestor. *See* Gov't Code § 552.222(b); *City of Dallas*, 304 S.W.3d at 387.

Next, we address your assertion that the requested test materials cannot be released in response to a request under the Act pursuant to section 129.024 of the Election Code. Section 129.024 of the Election Code provides:

- (a) On completing each test, the general custodian of election records shall place the test materials in a container provided for that purpose and seal the container in a manner that prevents opening without breaking the seal. The general custodian of election records and at least two members of the testing board shall sign the seal.
- (b) The test materials shall remain sealed for the period for preserving the precinct election records.
- (c) The container may not be unsealed unless the contents are necessary to conduct a test under this subchapter or a criminal investigation, election contest, or other official proceeding under this code. If the container is unsealed, the authority in charge of the proceeding shall reseal the contents when not in use.

Elec. Code § 129.024. Section 66.058 of the Election Code 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.
- ...
- (g) Electronic records created under Chapter 129 shall be preserved in a secure container.

Id. § 66.058(a), (g). Although you assert, pursuant to section 129.024(b), the test materials at issue may not be released until the expiration of the 22-month preservation period set out in section 66.058(a) for precinct election records, we note section 1.012 of the Election Code establishes the test materials are election records that constitute public information and requires the election records custodian to make the information available to the public. We conclude, by expressly requiring the custodian to provide public access to such records, the legislature authorized unsealing the containers of test materials for such a purpose during the 22-month preservation period. *See id.* § 129.024(c); *cf.* Attorney General Opinion KP-411 at 6 (2022) (determining legislature authorized entry into locked ballot boxes for purpose of granting public access during the 22-month preservation period set out in section 66.058(a)). Thus, members of the public may inspect or obtain copies of the test materials during the 22-month preservation period, and the county may not withhold any portion of the information at issue under section 129.024 of the Election Code. As you raise no further exceptions to disclosure, the county must release the information at issue.

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,

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/eb

Ref: ID# 984296

c: Requestor