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Honorable Carol Autry
Randall County Tax Assessor-Collector
Courthouse
Canyon, Texas 79015

Honorable Richard D. Magee
Nueces County Tax Assessor-Collector
Nueces County Courthouse, Suite 301
Corpus Christi, Texas 78401-3884

Election Law Opinion JWF-24
Re: Disclosure for public
inspection of voter regis-
tration files which contain
a registrants' social
security and telephone
numbers

Dear Ms. Autry and Mr. Magee:

This is in response to your letters of August 3, 1983 in which you inquire about the requirements of Tex. Elec. Code Ann. art. 5.15a, subd. 3 (Vernon Supp. 1982-1983) in regard to the disclosure of telephone and social security numbers of voters.

This official election law opinion is rendered by me as chief election officer of the state in accordance with Tex. Elec. Code Ann. art. 1.03, subd. 1 (Vernon Supp. 1982-1983).

Tex. Elec. Code Ann. art. 5.13b, subd. 2, provides that it is optional for an applicant to provide his telephone number and/or his social security number on a voter registration application. This subdivision goes on to provide that the registrar shall not transcribe, copy, or record any telephone number furnished on an application.

However, since the application files must be made available for public inspection pursuant to Tex. Elec. Code Ann. art. 5.15a, subd. 3, a person inspecting the files

would have access to any telephone numbers appearing on the applications. There is no provision of the Election Code which would prevent this. Telephone numbers may not be recorded, copied, or transcribed by the registrar, but persons inspecting the files are not subject to this prohibition.

On the Texas Voter Registration Application the following statement appears:

The disclosure of social security number is voluntary. It is solicited by authority of Article 5.13b, V.T.E.C. and will be used only to maintain the accuracy of the registration records.

This statement appears in compliance with the Privacy Act of 1974 (Pub.L. 93-579, §7b; 5 U.S.C. §552a note), which provides in pertinent part that:

Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

The Attorney General of the State of Texas has consistently held that social security numbers are public information and are not excepted from required public disclosure under the Open Records Act. Tex. Att'y Gen. ORD-254 (1980); Tex. Att'y Gen. ORD-169 (1977); and Tex. Att'y Gen. ORD-242 (1974). In Tex. Att'y Gen. ORD-169 (1977), the Attorney General rejected the argument that disclosure of a social security number by a governmental body is restricted by the provisions of the Privacy Act of 1974 cited above. The Attorney General expressly stated that they could not find "any law of the United States which would be violated by the disclosure of social security numbers...." Id. at 8. In Industrial Foundation of the South v. Texas Industrial Accident Board, 540 S.W.2d 668, 672 (Tex. 1976) the court also upheld the constitutionality of disclosing social security numbers.

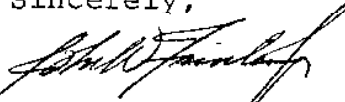
Although the social security number must therefore be used by the voter registrar's office only for the purpose stated on the Voter Registration Application, neither the Texas Open Records Act nor the Privacy Act of 1974 prohibit the disclosure of voter registration applications which contain a person's social security number for inspection by the public. As in the case of the tele-

phone number, it is unavoidable that this information will be available to persons inspecting the files without any limitations as to its uses.

SUMMARY

Although Tex. Elec. Code Ann. art. 5.13b, subd 2 prohibits a voter registrar from transcribing, copying, or recording any telephone number furnished on a voter registration application, persons inspecting the files are not subject to this prohibition. The Privacy Act of 1974 (Pub.L. 93-579, §7b: 5 U.S.C. §552a note) and Tex. Elec. Code Ann. art. 5.13b, subd. 2 limit the uses which may be made of a person's social security account number by a voter registrar. However, neither the Privacy Act of 1974 nor the Texas Open Records Act prohibit or limit the disclosure of voter registration applications which contain a person's social security number for inspection by the public. Persons inspecting the files will have access to any social security numbers appearing on the applications without any of the limitations placed on voter registrars as to the uses which may be made with this information.

Sincerely,



John W. Fainter, Jr.
Secretary of State

Ward Allen White
General Counsel

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