

VOLUME NO. 38

OPINION NO. 65

ELECTIONS - Voter registration forms available for public inspection;
ELECTIONS - Precinct registers available for public inspection;
RIGHT TO KNOW - Public inspection of election records;
COUNTY OFFICERS AND EMPLOYEES - Election administrator, duties;
1972 MONTANA CONSTITUTION - Article II, section 9;
MONTANA CODE ANNOTATED - Sections 13-1-109, 13-1-303, 13-2-114, 13-15-301.

- HELD: 1. Original voter registration forms are available for public inspection.
2. Precinct registers are available for public inspections following the canvass of election returns.

29 January 1980

J. Fred Bourdeau, Esq.
Cascade County Attorney
Cascade County Courthouse
Great Falls, Montana 59401

Dear Mr. Bourdeau:

You have requested an opinion on the following questions:

1. Are original signed voter registration forms public records available for inspection?
2. Are precinct registers public records available for inspection after the election returns are canvassed?

It is my opinion that the documents in question must be made available for public inspection. Section 13-1-109, MCA, provides:

Election records open to the public. Unless specifically provided otherwise, all records pertaining to elector registration and elections are public records. They shall be open for inspection during regular office hours.

The provision is a new section passed by the 1979 Legislature as part of a comprehensive update and recodification of state election laws. 1979 Mont. Laws, ch. 571. It is consistent with the right to know provision of the Montana Constitution, article II, section 9.

Section 13-2-112, MCA, requires an election administrator to file the original signed registration form for each elector alphabetically in a separate file for each precinct. The registration form is to be assigned a number, which may be the elector's social security number. "If social security numbers are used, they may not be printed on lists of registered voters or released as public information." § 13-2-114(1), MCA. Therefore, an original signed registration form is available for public inspection unless the elector's social security number appears on it.

If social security numbers are used as registration numbers, information concerning registered electors may still be available from lists which may not include the social security numbers. Section 13-2-115(1), MCA, requires an election administrator to prepare and have printed lists of all registered electors in each precinct immediately after registration is closed. "Extra copies of the lists shall be retained by the election administrator and furnished to an elector upon request." § 13-2-115(2), MCA. Before each

election, the election administrator must prepare a precinct register for each precinct for use by the election judges. The precinct register, in addition to listing the names and addresses of registered electors, contains a space for the signature of each elector. § 13-2-116(1), MCA. On election day, each elector must sign the precinct register before receiving a ballot. § 13-13-114, MCA. After the election, the election judges must deliver the precinct register, enclosed in a securely fastened package, to the election administrator who must file the package and keep it unopened until the county board of canvassers meets to canvass the returns. The board opens the package. § 13-15-301(1), MCA.

Immediately after the returns are canvassed, the election administrator shall file the pollbooks, election records, and the papers delivered to the board of canvassers with the unopened packages of ballots and ballot stubs.

§ 13-15-301(2), MCA.

This section does not specifically provide that those records are not to be opened to the public following the canvass. The administrator is instructed to file them. The only records that are not available for public inspection are the ballots and ballot stubs that are sealed pursuant to section 13-1-303, MCA.

THEREFORE, IT IS MY OPINION:

1. The original signed voter registration form is available for public inspection unless the elector's social security number appears on it.
2. Precinct registers are public records available for inspection after the election returns are canvassed.

Very truly yours,

MIKE GREELY
Attorney General