

DE 88-29 - July 15, 1988

**Computer Access to List of Registered Voters
Section 98.211, F.S.**

To: Honorable Gertrude Walker, Supervisor of Elections, Saint Lucie County, 2300 Virginia Avenue, Room 204, Fort Pierce, Florida 33450

Prepared by: Division of Elections

This is in reference to your request for an advisory opinion. Under Section 106.23(2), Florida Statutes, the Division of Elections has the authority to issue advisory opinions relating to the Florida Election Code, Chapters 97-106, Florida Statutes, to several categories of persons including supervisors of elections. Your specific questions are as follows:

1. Is inquiry access by all St. Lucie County departments to the supervisor of elections' master file a violation of Section 98.211(1)(a), Florida Statutes?
2. Does the Florida Election Code allow online computer access to voter registration master file to those entities listed in Section 98.211(2), Florida Statutes?

According to the Public Records Act, it is the general state policy that "all state, county, and municipal records shall at all times be open for a personal inspection by any person. S. 119.01, Fla. Stat. The definition of "public records" includes "all documents, papers, ... made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.01, Fla. Stat. In addition, Section 119.07, Florida Statutes, states in part:

Every person who has custody of a public record shall permit the record to be inspected and examined by any person ... under supervision by the custodian of the public record or his designee. The custodian shall furnish a copy of the record upon payment of the fee prescribed by law or if a fee is not prescribed by law, upon payment of the actual cost of duplication of the record.

Your first question is whether inquiry access by all St. Lucie County departments to the supervisor of elections' master file is a violation of Section 98.211(1)(a), Florida Statutes. Voter registration records are an exception to the Public Records Act in that they are public records, but Section 98.211, Florida Statutes, limits who may receive copies of lists of registered voters from the supervisors or who may make extracts from those records. Section 98.211(1)(a), Fla. Stat., as amended by Chapter 87-538, Laws of Fla.

If inquiry access is provided to all departments in St. Lucie County, there is no assurance that the information obtained will be furnished only to those entities identified by Section 98.211(1)(a)-(f), Florida Statutes, as amended by Chapter 87-538, Laws of Fla. Also, inquiry access circumvents the

supervisor's duty to provide copies or allow the requesting party to make copies. Section 98.211(1), Fla. Stat., as amended by Chapter 87-538, Laws of Fla.

Inquiry access also circumvents the requirement that anyone who acquires a list of registered voters from the supervisor must sign an oath that such information will not be used for commercial purposes and will be used only for "elections, political or governmental activities, voter registration, law enforcement, or jury selection." Section 98.211(3), Fla. Stat., as amended by Chapter 87-538, Laws of Fla. Because inquiry access also eliminates the signing of the oath, there is no assurance that the information will be used in the prescribed manner.

In addition, Section 98.161(3), Florida Statutes, states that "the supervisor is the official custodian of the registration books and has exclusive control of matters pertaining to registration of electors." Inquiry access by all departments undermines the supervisor's "exclusive control" and violates the requirements of Section 98.211(1)(a), Florida Statutes, as amended by Ch. 87-538, Laws of Fla.

In reference to your second question, does the Florida Election Code allow online access to the voter registration master file to those entities listed in Section 98.211(2), Florida Statutes, online access to those entities also frustrates the requirements of Section 98.211, Florida Statutes. Online access circumvents the signing of the oath and there is no assurance that the information will be furnished only to the prescribed persons, nor that such information will be used solely for the limited purposes enumerated in Section 98.211(2), Florida Statutes. Online access also circumvents the supervisor's "exclusive control" of the registration books. Section 98.161(3), Fla. Stat.

Therefore, the Florida Election Code does not allow online computer access to the voter registration master file to those entities listed in Section 98.211(2), Florida Statutes, as amended by Chapter 87-538, Laws of Fla.

SUMMARY

Section 98.211, Florida Statutes, does not allow inquiry access to the voter registration master file to county departments nor does it allow online access to those entities listed in Section 98.211(2), Florida Statutes. Such access circumvents the requirements of Section 98.211, Florida Statutes.