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BOYD ORR

REPRESENTATIVE, 115TH DISTRICT

Ford County has received the attached Kansas Open Records Act ("KORA") request for the names of all individuals who cast a provisional ballot that was not counted in the November 2018 general election. The request further seeks each individual's voter registration identification number, street address, email address, phone number, voting district, and reason why his/her provisional ballot was not counted. It is my understanding that identical requests have been submitted to every other county in the State of Kansas as well.

The propriety of this request is unclear under Kansas law. On the one hand, K.S.A. 25-2422(a)(1) strictly prohibits "disclosing or exposing the contents of any ballot, whether cast in a regular or provisional manner, or the name of any voter who cast such ballot." While the public may be entitled to examine voter registration books, active voter lists, and other lists of voters, see K.S.A. 25-2320(a), it appears that a disclosure of the specific reason(s) as to why an individual voter's provisional ballot was rejected may be beyond the scope of this provision.

On the other hand, a district judge in Johnson County earlier this year reasoned that the information sought by this KORA requester was within the scope of KORA. See *Hammet v. Metsker*, No. 18-CV-5173, 2019 WL 400273 (Johnson County Dist. Ct., Jan. 31, 2019) (Hauber, J.). The court's statutory analysis in construing the intersection and potential conflict between K.S.A. 25-2422(a)(1) and K.S.A. 25-2320(a), however, is certainly subject to debate and a contrary interpretation.

In order to ensure that our county is fully compliant with state law, I am respectfully requesting pursuant to K.S.A. 75-704 that the Attorney General provide us guidance regarding whether the information sought by the individual in the attached KORA request is within the ambit of K.S.A. 25-2422(a)(1) - and thus should not be disclosed - or whether the reasoning of the Johnson County District Judge is correct - thus requiring the information to be disclosed. We would also appreciate if you would clarify what other voting-related information must be and/or must not be disclosed in response to a KORA request.

Your prompt attention to this matter would be most appreciated. Because the requester has already initiated litigation on this matter in at least one county, any expedited consideration you can give would be ideal. Please feel free to call me if you have any questions.

THANKS,
Rep. Boyd Orr