



STATE OF NEW MEXICO
DIANNA J. DURAN
SECRETARY OF STATE

March 30, 2011

Heath Haussamen
NMPolitics.net

Sent via email: heath@haussamen.com

Re: Records Request

Mr. Haussamen:

On March 15, 2011 we received your request to review documents pertaining to undocumented immigrants voting in New Mexico elections. Unfortunately, we cannot permit inspection of the requested records because they are excepted from disclosure "as otherwise provided by law" pursuant to NMSA 1978, § 14-2-1(A)(12).

Upon advisement of our legal counsel, we conclude that the records are prohibited from release pursuant to state and federal driver privacy statutes, the Driver Privacy Protection Act ("DPPA") and the New Mexico Driver Privacy Protection Act ("NMDPPA"). The information within the records obtained from the New Mexico Motor Vehicle Division ("MVD") indisputably qualifies as personal information protected from disclosure under both the DPPA and the NMDPPA.

The DPPA provides: "It shall be unlawful for any person knowingly to obtain or disclose personal information, from a motor vehicle record, for any use not permitted under section 2721(b) of this title." *See* 18 U.S.C. § 2722. The NMDPPA similarly provides that it is unlawful to disclose to any person other than another employee of the department or bureau any personal information about an individual obtained in connection with a driver's license or permit. *See* NMSA 1978, § 66-2-7.1(A). As such, the information within the records you request is personal information governed by the DPPA and the NMDPPA and shall not be obtained by nor disclosed to a third party.

You have stated within your request that you seek this information for use in connection with research activities. It is noted that 18 U.S.C. § 2721(b)(5) provides, "Personal information . . . [may] be disclosed . . . [f]or use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals." *See* § 66-2-7.1(A)(4). However, this exemption only applies to MVD's release of records. Thus, if you believe that you are entitled to receive such information under the research exception, you must claim this

exception directly to MVD. We cannot redisclose this personal information, regardless of the purpose for your request.

You also requested copies of voter registration forms on which the voter indicated that they are not citizens of the United States. The Secretary of State's Office does not maintain the original voter registration forms for registered voters. The original forms are maintained by the county clerks in each county. There are approximately 1.16 million registered voters in the State of New Mexico. Therefore, while we anticipate a future comprehensive review of voter registration forms, we cannot provide copies of any non-citizen voter registration forms at this time.

If you have any questions, please feel free to contact our office.

Sincerely,



Christiana Sanchez
Records Custodian