



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

MEMORANDUM

Date: June 16, 2025
To: Michigan County Clerks, Deputy Clerks, and/or County FOIA Specialists
From: Adam Fracassi, Deputy Director of Elections
Subject: Public disclosure of voters' method of voting

The Michigan Bureau of Election (Bureau) is aware that county clerks recently received a Freedom of Information Act request from an organization known as Michigan Fair Elections Institute. The request acknowledges that the organization anticipates receiving the Bureau's voter list report for the May 6, 2025, election by the close of business on June 13, 2025; separately requests the same list from each of Michigan's 83 counties; and indicates that the organization intends to compare the state and county reports, along with the statement of votes cast report, to ensure they match.

Further, the request states that the minimum required headers for the voter list are the following: Voter_ Identification_ Number, County, Jurisdiction, Precinct, Election_ Date, Is_ absentee_ voter. This last header, "Is_ absentee_ voter," would disclose the method by which an individual voter cast their vote and is not included in the Bureau's report.

On March 4, 2024, the Bureau sent an email notice to clerks in which it informed clerks of changes to future public reporting of voters' method of voting. That notice is included in its entirety below. In the notice, the Bureau explained why reporting on an individual's method of voting fails to ensure Michigan's constitutional guarantee of a secret ballot.

On March 25, 2024, a lawsuit was filed arguing that the Michigan Election Law requires voter-specific reporting on the method of voting regardless of constitutional guarantees. *Mantravadi v Bureau of Elections*, Case No. 24-000038-MZ. That lawsuit is ongoing, and given this pending litigation on the subject, clerks are reminded that the method of voting may not be released. Questions about a county's responsibility to respond to your respective FOIA request on this topic should be directed to your county attorney.

March 4, 2024, email notice to clerks:

Dear Clerks:

As you are aware, the Michigan Election Law requires that election results be reported on a precinct level, and that election results also be broken down by the specific method of voting: early, absentee, and Election Day. Additionally, Michigan's constitution guarantees that voters have a right to a secret ballot. Const 1963, art 2, § 4.

With the expansion of the methods of voting (early, absentee, and on Election Day), jurisdictions may have limited number of voters utilizing any one of these methods of voting in a particular precinct. In situations in which there are a very low number of votes in an individual precinct or early voting location, there may be a risk that it is possible to determine how an individual is voted if voter history reports are combined with election results.

Accordingly, the Bureau is taking several steps to ensure that all voter history data, including method of voting, is stored and retained in QVF, but that when QVF data is publicly disclosed the voter's right to a secret ballot is preserved. Clerks should consult with their attorneys for specific information on how to respond to any FOIA requests, but should be sure to safeguard the secrecy of voter ballots when releasing QVF data.

First, the Bureau will continue to provide voter history in response to public records requests but will no longer provide the *method* of voting in these reports. The existing voter history report is being amended to remove the method of voting (although the method will still be retained in QVF). When releasing voter history in response to a public records request, the report will still provide the voter's name, address, jurisdiction, and information related to whether they voted as a simple yes/no. The report will not indicate whether each particular voter voted early, absentee, or in person on election day.

Again, this information will remain in QVF and be accessible to clerks and their staff for administration purposes; however, it should not be released in response to a public records request. You may continue to release voter history information but should not release the specific method of voting.

The Bureau will continue to provide total numbers broken down by method of voting. For example, the Bureau will continue to report that [x] voters voted early, [x] voted by absentee, and [x] voted on election day. This information can also be released broken down by county.

Additionally, if you receive requests for a copy or inspection of a pollbook, you should first review the poll book to determine the number of voters. If there are a limited number of voters on a particular day or in a particular precinct, compare that number to the canvass results to see if the way that voter voted could be determined by comparing the pollbook and election returns. By doing this, if you could be able to see how a particular voter voted, you should copy the pollbook and then redact the voter's name and any other personally identifiable information such as address. You should then provide the redacted pollbook in response to the records request.

Please keep in mind that FOIA authorizes a public body to charge to determine whether information should be redacted and to redact the information. You should talk to your attorney for specific information on how to bill for such requests and whether this applies to your jurisdiction.

As always, thank you for your work, and if you have any questions, please do not hesitate to contact the Bureau.