

NEWS RELEASE

Released by: Gordon J. MacDonald, Attorney General
William M. Gardner, Secretary of State

Subject: Marked Voter Checklists

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Secretary of State William M. Gardner and Attorney General Gordon J. MacDonald issue the following statement regarding the marked voter checklists and recent contacts regarding the release of the marked voter checklists.

Under New Hampshire law, information regarding registered voters including the name, domicile address, mailing address, town or city, party affiliation, if any, and whether the person voted in that election, which is maintained on those marked voter checklists, is public information subject to the Right-to-Know Law, RSA Chapter 91-A, except as otherwise provided by statute. RSA 654:31-a. Thus, checklists as maintained by municipalities containing this public information are public documents. RSA 654:25, RSA 654:31. Following a general election, supervisors of the checklist must send a copy of the marked checklist to the State Archives and clerks must maintain a copy as a public record. RSA 659:102.

Secretary Gardner and his staff have become aware that some of the marked checklists submitted by municipalities to the State Archives contained handwritten non-public information regarding individual voters. A very small number of handwritten entries related to voters who at one time were entitled to vote non-publicly by absentee ballot because they had domestic violence protective orders issued by courts but were added to the public checklist as voters who voted in person at the 2016 General Election. RSA 654:25. The Attorney General's Office is contacting the individuals involved. Subject to a more thorough review, the inclusion of this information appears to be the result of informal and well-intentioned practices adopted by a minority of municipalities. However, these local practices create the risk of exposure of non-public information.

Secretary Gardner and his staff have been preparing an electronic copy of the marked checklists maintained at the State Archives for production to the Presidential Advisory Commission on

Election Integrity, as well as in response to other requests his office has received under the Right-to-Know Law. Secretary Gardner has not released any public records and will not release the requested copies of the marked checklists until an ongoing process of redacting handwritten non-public information is completed. The Secretary of State and Attorney General will announce in advance when such a release is to occur.

In addition:

- There will be no public access to the marked voter checklists maintained at the State Archives pending a further announcement; and
- The Secretary of State's Office will continue to provide guidance to local election officials to ensure that non-public information is not included on publicly available checklists.