



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 6, 2006

Ms. Christy Drake-Adams
Bovey, Akers & Bogorquez, LLP
12325 Hymeadow Drive
Austin, Texas 78750

OR2006-10347

Dear Ms. Drake-Adams:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 258674.

The Balch Springs Police Department (the "department"), which you represent, received a request for information to show that a named person at a specific address was registered as a sex offender in 2003, 2004, and 2005. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses fingerprint information protected by sections 560.001, 560.002, and 560.003 of the Government Code, which provide:

Sec. 560.001. DEFINITIONS. In this chapter:

- (1) "Biometric identifier" means a retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry.
- (2) "Governmental body" has the meaning assigned by Section 552.003 [of the Government Code], except that the term includes each entity within or created by the judicial branch of state government.

Sec. 560.002. DISCLOSURE OF BIOMETRIC IDENTIFIER. A governmental body that possesses a biometric identifier of an individual:

(1) may not sell, lease, or otherwise disclose the biometric identifier to another person unless:

(A) the individual consents to the disclosure;

(B) the disclosure is required or permitted by a federal statute or by a state statute other than Chapter 552 [of the Government Code]; or

(C) the disclosure is made by or to a law enforcement agency for a law enforcement purpose; and

(2) shall store, transmit, and protect from disclosure the biometric identifier using reasonable care and in a manner that is the same as or more protective than the manner in which the governmental body stores, transmits, and protects its other confidential information.

Sec. 560.003. APPLICATION OF CHAPTER 552. A biometric identifier in the possession of a governmental body is exempt from disclosure under Chapter 552.

Gov't Code §§ 560.001 - .003. The submitted fingerprints are confidential under section 560.003. We note, however, that because the requestor is the representative of the person to whom these fingerprints pertain, the requestor has a right of access to the fingerprints. *See id.* § 560.002(1). Accordingly, the submitted fingerprints must be released to the requestor in this instance pursuant to section 560.002.

You also claim that the marked Texas-issued motor vehicle record information is excepted from public disclosure under section 552.130 of the Government Code. In relevant part, section 552.130 provides:

(a) Information is excepted from required public disclosure if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130(a)(1), (2). We note, however, that section 552.130 protects privacy interests. Section 552.023 of the Government Code gives a person or the person's authorized representative a special right of access to information that is excepted from public disclosure under laws intended to protect that person's privacy interest as subject of the information. *See id.* § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Thus, the requestor has a right of access to his client's Texas-issued motor vehicle record information and the department may not withhold it under section 552.130 of the Government Code.

You also claim that the social security numbers are excepted from public disclosure under section 552.147 of the Government Code. Section 552.147 provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code § 552.147. However, section 552.147 is based on privacy concerns as well. Accordingly, pursuant to section 552.023, the requestor has a right of access to his client's social security number and the department may not withhold it under section 552.147 of the Government Code. As you do not claim any other exceptions against disclosure, the submitted information must be released in its entirety.¹

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll

¹We note, however, that the submitted documents contain information that is confidential with respect to the general public. *See* Gov't Code § 552.023. Thus, in the event the department receives another request for this information from someone other than this requestor or his client, the department must ask this office for a decision whether the information is subject to public disclosure.

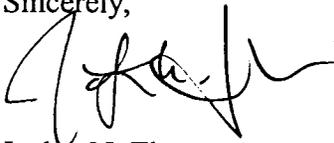
free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jaelyn N. Thompson
Assistant Attorney General
Open Records Division

JNT/ir

Ref: ID# 258674

Enc. Submitted documents

c: Mr. James Belt, Jr.
4510 S. Malcolm X blvd.
Dallas, TX 75215
(w/o enclosures)