



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 10, 2007

Mr. Daniel Bradford  
Assistant County Attorney  
Travis County  
P.O. Box 1748  
Austin, Texas 78701

OR2007-13175

Dear Mr. Bradford:

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# 291351.

The Travis County Sheriff's Office (the "sheriff") received a request for any reports made by a named individual about another individual, and more specifically, reports made the week of February 2, 2007. You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that the submitted information is subject to section 552.022 of the Government Code. This section provides in part that

the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

- (1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body[.]

Gov't Code § 552.022(a)(1). In this instance, the submitted information consists of completed reports made of, for, or by a governmental body. The completed reports must be released under section 552.022(a)(1) unless expressly confidential under other law. You claim that the completed reports are excepted from disclosure under section 552.103 of the Government Code. We note, however, that section 552.103 is a discretionary exception to public disclosure that protects a governmental body's interests and may be waived. *See*

*Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 665 at 2 n.5 (discretionary exceptions generally), 542 at 4 (1990) (statutory predecessor to section 552.103 subject to waiver). As such, section 552.103 is not other law that makes information confidential for the purposes of section 552.022. Therefore, the sheriff may not withhold the completed reports under section 552.103. However, we note that some of the submitted information is confidential under sections 552.130 and 552.137, which are other laws for purposes of section 552.022.

Section 552.130 of the Government Code excepts from disclosure information that “relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state.”<sup>1</sup> Gov’t Code § 552.130. We note, however, that section 552.130 is designed to protect individuals’ privacy and that the right to privacy expires at death. *See Moore v. Charles B. Pierce Film Enters. Inc.*, 589 S.W.2d 489 (Tex. Civ. App.—Texarkana 1979, writ ref’d n.r.e.); *see also Justice v. Belo Broadcasting Corp.*, 472 F. Supp. 145, 146-47 (N.D. Tex. 1979); Attorney General Opinions JM-229 (1984); H-917 (1976); Open Records Decision No. 272 at 1 (1981). Therefore, information from motor vehicle records that were issued to a person who is now deceased may not be withheld under section 552.130. Accordingly, the sheriff must withhold the Texas motor vehicle information we have marked pursuant to section 552.130.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). Gov’t Code § 552.137(a)-(c). The e-mail addresses we have marked do not appear to be of a type specifically excluded by section 552.137(c). You do not inform us that the relevant members of the public have consented to the release of these e-mail addresses. Therefore, the sheriff must withhold the e-mail addresses we have marked under section 552.137.

In summary, the sheriff must withhold the Texas motor vehicle information and e-mail addresses that we have marked pursuant to sections 552.130 and 552.137 of the Government Code, respectively. The remaining information must be released.

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

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<sup>1</sup>The Office of the Attorney General will raise mandatory exceptions like sections 552.130 and 552.137 of the Government Code on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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 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,



Kara A. Batey  
Assistant Attorney General  
Open Records Division

KAB/jh

Ref: ID# 291351

Enc. Submitted documents

c: Ms. Isadora Vail  
Austin American-Statesman  
Williamson County Bureau  
203 East Main Street  
Round Rock, Texas 78664  
(w/o enclosures)