



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 27, 2009

Mr. David M. Swope
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002-1700

OR2009-15244

Dear Ms. Swope:

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# 359542 (C.A. File No. 09GEN1274).

The Harris County Sheriff's Department (the "sheriff") received a request for: (1) logs where receipt of alarm application and fees were entered, (2) all alarm applications and fees received, (3) a log of all certificates issued and the issue date, (4) actual certificates, (5) false alarm logs, (6) copies of all invoices for false alarms, and (7) the log of all false alarm cases referred to the sheriff's collection agent. You state the sheriff has no information responsive to the request for a log of all certificates issued and the issue date.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.² We have also received and considered comments submitted by the

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

²We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and, therefore, does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

requestor. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested 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. You inform us the Harris County Commissioners Court approved the Revised Rules Governing the Regulation of Alarm Systems in Harris County, Texas (the "alarm system rules"). Section 19(e) of the alarm system rules provides: "[i]nformation provided to the [sheriff] pursuant to [the alarm system rules] shall be treated as confidential information and will not be disseminated except for legitimate law enforcement purposes and administration and enforcement of these rules, or as may be required under the law[.]" You assert the submitted information is confidential pursuant to section 19(e) of the alarm system rules. A governmental body may not promulgate a rule purporting to make information confidential unless the governmental body has specific statutory authority to do so. *See* Open Records Decision 594 at 3 (1991) (requiring statutory authority before a governmental body may deem information confidential); *see also City of Brookside Village v. Comeau*, 633 S.W.2d 790, 796 (Tex. 1982). Moreover, by its express terms, section 19(e) provides that alarm system records may be disclosed as required by law. The Act is one such law. The Act requires the release of all information held by governmental bodies unless one of the Act's specific exceptions protects the information from required disclosure. *See* Gov't Code §§ 552.001(a), 301(a). You raise section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code. Section 1702.284 provides in relevant part:

(a) Information contained in alarm systems records maintained by a governmental body that concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used is confidential and may be disclosed only to the [Texas Private Security Board]; to the alarm company to which the confidential records relate, or as otherwise required by state law or court order.

Occ. Code § 1702.284(a). Because the requestor has specifically excluded "information pertaining to the location of an alarm system, the name of the occupant of the alarm system location, address, telephone number, or the type of alarm system" from his request, we need not address the applicability of section 1702.284. As you have claimed no other exceptions to disclosure of the responsive information, it must be released.³

³We note the submitted alarm system permit application contains the requestor's Texas driver's license number which is confidential to the general public pursuant to section 552.130 of the Government Code. Gov't Code § 552.130(a)(1), (2). Section 552.130 protects personal privacy. Therefore, the requestor has a right of access to his own Texas motor vehicle record information under section 552.023 of the Government Code. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987). Because, in this instance, the requestor has a special right of access to his own section 552.130 information, the sheriff must seek another decision from this office if it receives another request for the same information from a different requestor. *See* Gov't Code §§ 552.301, .302.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 359542

Enc. Submitted documents

c: Requestor
(w/o enclosures)