



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 19, 2010

Ms. Karen McNair
Assistant Liberty County Attorney
P.O. Box 9127
Liberty, Texas 77575

OR2010-10696

Dear Ms. McNair:

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# 385144.

The Liberty County Sheriff's Office (the "sheriff") received a request for all records documenting use of Reeves Shooting Range by the sheriff during a specified period. You state the sheriff has released a portion of the requested information to the requestor. You claim portions of the information you highlighted in the submitted information are not subject to the Act, and that portions are excepted from disclosure under section 552.136 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.¹

We first address your assertions the highlighted gun models and serial numbers are not subject to the Act. The Act applies to "public information," which is defined under section 552.002 as:

¹We assume that 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 that those records contain substantially different types of information than that submitted to this office.

information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body; or
- (2) for a governmental body and the governmental body owns the information or has a right of access to it.

Gov't Code § 552.002; *see also id.* § 552.021. You contend that because the gun models and serial numbers pertain to guns privately owned and purchased by sheriff employees, they should not be subject to release under the Act. However, you inform this office that these weapons are used as the employees' service weapons in the line of duty. Additionally, this model and serial number information is contained on Handgun Qualification and Proficiency Forms that certify the employees passed target practice using their service weapons and contain representations from the employees that their service weapons have been inspected and that the employees are authorized to use them. Thus, we find these forms were created by and are maintained for the sheriff in connection with official business of the sheriff. Consequently, we find that these forms, as well as the information on these forms, consist of public information subject to the Act. As such, the gun models and serial numbers you highlighted on these documents must be released unless they are excepted under the Act. *Id.* § 552.021. As you raise no exceptions to disclosure under the Act for this information, it must be released.

Next, you seek to withhold the officers' initials and signatures from the submitted information. You suggest a person with illegitimate motives who obtains the officers' initials and signatures at issue presents a risk of identity theft to the officers. However, in determining whether information must be released, this office is not permitted to consider the requestor's subsequent use of the information. *See id.* § 552.204(a). You also claim these initials and signatures should be withheld because the sheriff and its employees consider this information to be confidential. However, the expectation of confidentiality is not a basis for the withholding of information subject to the Act. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 677 (Tex. 1976) (information not confidential under the Act simply because party submitting information anticipates or requests it be kept confidential). You do not provide this office with arguments explaining how this information is excepted under the Act. Consequently, the officers' initials and signatures must be released.

You claim the bank account number you highlighted is an access device number excepted under section 552.136 of the Government Code. Section 552.136 states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b). Section 552.136(a) defines "access device" as "a card, plate, code, account number, personal identification number, electronic serial

number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to . . . obtain money, goods, services, or another thing of value [or] initiate a transfer of funds other than a transfer originated solely by paper instrument.” *Id.* § 552.136(a). Upon review, we conclude the bank account number you highlighted, and the routing number we marked, are access device numbers that must be withheld under section 552.136.² As you do not provide any other reasons under the Act to withhold the submitted information, the remaining information must be released.

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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/eeg

Ref: ID# 385144

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a bank account number and bank routing number under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.