



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 22, 1995

Mr. Boyd Kennedy  
Staff Attorney  
Texas Parks and Wildlife Department  
4200 Smith School Road  
Austin, Texas 78744

OR95-828

Dear Mr. Kennedy:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your requests were assigned ID# 34397 and ID# 34745.

The Texas Parks and Wildlife Department (the "department") received two requests for documents relating to a complaint filed by one of the requestors against Game Warden Steven Vail. You claim that one of the documents requested is excepted from disclosure under section 552.107(1) of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.<sup>1</sup>

Section 552.107(1) excepts from disclosure information that an attorney cannot disclose because of a duty to his client. Section 552.107(1) excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. Open Records Decision No. 574 (1990) at 5. We conclude that the two

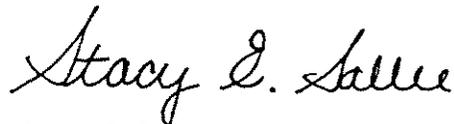
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<sup>1</sup>We note that different information was submitted in connection with the two requests. It appears that the memoranda submitted in connection with the first request were part of a more complete set of documents that were submitted in connection with the second request. In both requests, however, you claim that section 552.107(1) excepts "one document" from disclosure. There appear to be two documents submitted in connection with the first request, a legal memorandum and a request for that memorandum. In your second request, you state that "this same document" was the subject of an earlier request. Therefore, we will consider whether section 552.107(1) applies only to the two documents submitted in connection with the first request.

documents submitted in connection with the first request, a legal memorandum and a request for legal advice, contain client confidences and an attorney's legal advice or opinions. The department may withhold these documents from disclosure. However, the department may not withhold from disclosure the other documents that were submitted to this office for review.<sup>2</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee  
Assistant Attorney General  
Open Government Section

SES/KHG/rho

Ref.: ID# 34397 and ID# 34745

Enclosures: Submitted documents

cc: Mr. James M. Whitten  
Law Offices of James M. Whitten  
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Corpus Christi, Texas 78470  
(w/o enclosures)

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<sup>2</sup>We note that one of the submitted documents contains the game warden's social security number. Federal law may prohibit disclosure of his social security number. A social security number is excepted from required public disclosure under section 552.101 of the act in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), if it was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. See Open Records Decision No. 622 (1994); see also 42 U.S.C. § 405(c)(2)(C)(vi) (governing release of social security number collected in connection with the administration of any general public assistance, driver's license or motor vehicle registration law). Based on the information you have provided, we are unable to determine whether this social security number is confidential under this federal statute. We note, however, that section 552.352 of the Open Records Act imposes criminal penalties for the release of confidential information.

Mr. Richard W. Carter  
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