



January 30, 2001

Ms. Janie L. Johnson
Assistant Criminal District Attorney
Gregg County
101 East Methvin Street, Suite 333
Longview, Texas 75601

OR2001-0351

Dear Ms. Johnson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 143701.

The Gregg County Sheriff's Office (the "sheriff's office") received a request for

Any and all documents reflecting a cash bond, a certificate of deposit, or any other financial security on file with the Gregg County Sheriff's Department and/or the State of Texas, placed by Emmanuel Lilly, individually, or d/b/a Lilly's Bonding Service as security for bail bonds written by said parties.

You do not take a position in regard to the release of the documents, but pursuant to section 552.305 the Government Code, you have notified Mr. Lilly of Lilly's Bonding Service about the request. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Public Information Act in certain circumstances). We did not receive a response from Mr. Lilly. However, having reviewed the submitted documents, we find that portions of them are confidential as discussed below.

The submitted documents contain a social security number. Section 552.101 encompasses confidentiality provisions such as the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). This provision makes confidential social security numbers and related records that have been obtained or maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* In this case, it is not apparent to us that the social security number

contained in the requested information has been obtained or maintained by the city pursuant to any provision of law enacted on or after October 1, 1990. You have cited no law, nor are we aware of any law, enacted on or after October 1, 1990, that authorizes the county to obtain or maintain a social security number. Therefore, we have no basis for concluding that the social security number at issue is confidential under section 405(c)(2)(C)(viii)(I). We caution you, however, that section 552.352 of the Government Code imposes criminal penalties for the release of confidential information. Gov't Code § 552.352. Prior to releasing the social security number, the sheriff's office should ensure that the number has not been obtained or maintained by the sheriff's office pursuant to any provision of law enacted on or after October 1, 1990.

The submitted documents also contain a Texas driver's license number. Section 552.130 of the Government Code prohibits the release of 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. Therefore, under section 552.130, the sheriff's office must withhold the Texas driver's license number that appears in the documents.

In conclusion, the sheriff's office may have to withhold the social security number that appears in the documents under section 552.101 in conjunction with federal law. The sheriff's office must withhold the Texas driver's license that appears in the documents. The sheriff's office must release the remaining submitted information.

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, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records

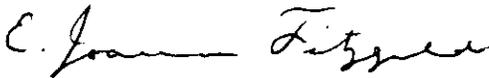
will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure 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 Department of Public 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 General Services Commission 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,



E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF/er

Ref: ID# 143701

Encl: Submitted documents

cc: Mr. James T. Womack
Perry & Womack
P.O. Box 3266
Longview, Texas 75606
(w/o enclosures)

Mr. Emmanuel Lilly
Lilly's Bonding Service
305 S. Court St.
Longview, Texas 75601
(w/o enclosures)