



May 9, 2002

Ms. Marva M. Gay  
Senior Assistant County Attorney  
Harris County  
1019 Congress, 15<sup>th</sup> Floor  
Houston, Texas 77002-1700

OR2002-2464

Dear Ms. Gay:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 162471.

The Harris County Tax Assessor - Collector received a request for the voter registration database for Harris County, with social security numbers included. You state that you will furnish much of the information to the requestor. However, you claim that some of the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the representative sample of submitted information.<sup>1</sup>

You contend that the social security numbers are excepted from public disclosure under section 552.101 of the Government Code in conjunction with section 13.004 of the Election Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."<sup>2</sup> This section encompasses information protected by other statutes. Section 13.004 provides as follows:

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<sup>1</sup> We assume that the "representative sample" of responsive documents 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.

<sup>2</sup> Section 552.352 of the Government Code imposes criminal penalties for the release of confidential information.

- (a) The registrar may not transcribe copy, or otherwise record a telephone number furnished on a registration application.
- (b) The registrar may transcribe, copy, or otherwise record a social security number furnished on a registration application only in maintaining the accuracy of the registration records.

Elec. Code § 13.004. You argue that because the request does not involve maintaining the accuracy of the registration records, the registrar is prohibited from copying the social security numbers in response to the request for information. We agree. However, we note that section 13.004 does not prohibit access to and inspection of the social security numbers. *Cf.* Election Law Opinion No. JWF-24 (1984) (although voter registrar is prohibited from transcribing, copying, or recording any telephone numbers furnished on a voter registration application, persons inspecting the files were not subject to this prohibition). Nevertheless, federal law may prohibit disclosure of the social security numbers. A social security number is excepted from required public disclosure under section 552.101 of the act in conjunction with 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). You suggest that the federal provision applies in this instance because you state section 13.004 of the Election Code was enacted after October 1, 1990, specifically in 1997. However, section 13.004 does not establish the requirement that the registrar maintain the social security numbers, but only prescribes the purposes for which the registrar may “transcribe, copy, or otherwise record” these numbers, to the extent the registrar holds the numbers. Consequently, we do not believe the social security numbers are confidential under federal law in conjunction with section 13.004 of the Election Code.

You also object to the public disclosure of telephone numbers. We note that the submitted information contains no telephone numbers. We also note that the requestor does not seek telephone numbers. Further, you make no specific arguments for excepting telephone numbers from disclosure. Accordingly, we do not address your objection to the disclosure of telephone numbers.

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 Texas Building and Procurement 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



V.G. Schimmel  
Assistant Attorney General  
Open Records Division

VGS/sdk

Ref: ID# 162471

Enc: Submitted documents

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(w/o enclosures)