



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 19, 2006

Ms. Leslie R. Sweet  
Legal Advisor  
Dallas County Sheriff's Department  
133 N. Industrial Blvd., LB 31  
Dallas, Texas 75207-4313

OR2006-05254

Dear Ms. Sweet:

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# 249497.

The Dallas County Sheriff's Department (the "department") received a request for "[t]he Bail Bond Board's file for Fair Park Bail Bonds." You claim that the requested information is exempted from disclosure under section 552.107, 552.108, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information is subject to section 552.022 of the Government Code. Section 552.022 provides that:

the following categories of information are public information and not exempted from required disclosure under this chapter unless they are expressly confidential under other law:

- (1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). The submitted information constitutes a completed investigation made of, for, or by a Dallas County Bail Bond Board investigator. A completed investigation must be released under section 552.022(a)(1), unless the information is exempted from disclosure under section 552.108 or expressly confidential under other law.

Although you claim that this information is excepted from disclosure under sections 552.107 and 552.111 of the Government Code, we note that these exceptions to disclosure are discretionary exceptions under the Act that do not constitute "other law" for purposes of section 552.022.<sup>1</sup> Accordingly, no portion of the submitted information may be withheld on the basis of these exceptions. However, because information subject to section 552.022(a)(1) may be withheld as provided by section 552.108, we will address your arguments under this exception.

Section 552.108 of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication." Gov't Code § 552.108(a)(2). You state that the submitted information pertains to an investigation that did not result in conviction or deferred adjudication. You explain that the investigation was conducted to "determine if there were any violations of the local Bail Bond rules." However, after reviewing the submitted information, you have failed to demonstrate that the submitted information was obtained during the course of a criminal investigation of Fair Park Bail Bonds. Therefore, we have no basis for finding that section 552.108(a)(2) is applicable to the submitted information.

Next, we note that section 552.130 of the Government Code excepts from disclosure information that relates to a driver's license or motor vehicle title or registration issued by an agency of this state.<sup>2</sup> Gov't Code § 552.130. Therefore, the department must withhold the submitted photocopy of the Texas driver's license in accordance with section 552.130. The remaining submitted information must be released.

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

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<sup>1</sup>Discretionary exceptions are intended to protect only the interests of the governmental body, as distinct from exceptions which are intended to protect information deemed confidential by law or which implicates the interests of third parties. *See* Open Records Decision Nos. 665 at 2 r.5 (2000) (discretionary exceptions generally); 663 (1999) (governmental body may waive section 552.111) *see, e.g.* Open Records Decision No. 630 at 4 (1994) (governmental body may waive attorney-client privilege, section 552.107(1)). Discretionary exceptions, therefore, do not constitute "other law" that makes information confidential.

<sup>2</sup>The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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).

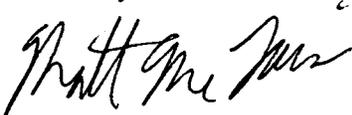
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. 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 Office of the Attorney General 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,



Matthew T. McLain  
Assistant Attorney General  
Open Records Division

MM/krl

Ref: ID# 249497

Enc. Submitted documents

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(w/o enclosures)