ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 27, 2006

Mr. Bob Schell
Chief, Civil Division
Dallas County Criminal District Attorney's Office
411 Elm Street, Fifth Floor
Dallas, Texas 75202

OR2006-08171

Dear Mr. Schell:

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# 255264.

Dallas County (the "county") received three requests from the same requestor for the following information:

1. The "name, sex, ethnicity, salary, title, and dates of employment of each employee and officer" of county security;

2. The "name, sex, ethnicity, salary, title, and dates of employment of each employee and officer" of the county Sheriff's Department's Criminal Investigation Section (the "sheriff"); and

3. The report of an investigation of a specified incident involving the requestor.

You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that the submitted information includes documents that are subject to section 552.022 of the Government Code. Section 552.022 provides, in relevant part:

> (a) the following categories of information are public information and not excepted 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; [and]
> >
> > (2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body[.]

Gov't Code § 552.022(a)(1), (2). The submitted information contains a completed investigation which is expressly public under section 552.022(a)(1), and information regarding employees of the county and the sheriff which is expressly public under section 552.022(a)(2). You assert that the submitted information is excepted from disclosure under section 552.103 of the Government Code. However, this exception is a discretionary exception under the Act and does not constitute "other law" for purposes of section 552.022. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469 (Tex. App.—Dallas 1999, no pet.) (government body may waive section 552.103); Open Records Decision Nos. 665 at 2 n.5 (2000) (governmental body may waive litigation exception, section 552.103); 522 at 4 (1989) (discretionary exceptions in general). Thus, the county may not withhold the submitted information under section 552.103 of the Government Code.

However, section 552.130 of the Government Code is applicable to some of the submitted information.[1] This section excepts from public disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document. *See* Gov't Code § 552.130(a)(1), (3). We have marked information that must be withheld under section 552.130.

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[1]This office will raise exceptions such as sections 552.130 and 552.147 on behalf of a governmental body, as these exceptions are mandatory and may not be waived. *See* Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

The submitted information also contains social security numbers. Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Therefore, the county must withhold the social security numbers contained in the submitted information under section 552.147.[2]

In summary, we have marked the information that must be withheld under sections 552.130 and 552.147. The rest of the 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 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).

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[2]We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

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,

Cindy Nettles
Assistant Attorney General
Open Records Division

CN/eb

Ref: ID# 255264

Enc. Submitted documents

c: Mr. Abdel Tannous
P.O. Box 4231
Dallas, Texas 75208
(w/o enclosures)