



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 7, 2006

Sheriff Tom Maddox
Sabine County Sheriff's Office
P.O. Box 848
Hemphill, Texas 75948

OR2006-08839

Dear Sheriff Maddox:

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# 256780.

The Sabine County Sheriff's Office (the "sheriff's office") received requests for information pertaining to the arrest of a named individual. You indicate that some of the requested information does not exist.¹ Although you make no arguments against the disclosure of the submitted information, you ask this office to determine if the information may be released. We have reviewed the submitted information.

We note that the submitted documents include information which may be excepted from disclosure under sections 552.1175 and 552.130 of the Government Code.² Section 552.1175 provides in relevant part:

(a) This section applies only to:

¹We note that the Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex.Civ.App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

²The Office of the Attorney General will raise mandatory exceptions like sections 552.1175 and 552.130 of the Government Code on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

...

(2) county jailers as defined by Section 1701.001, Occupations Code[.]

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a)-(b). We note that a post office box number is not an "address" for purposes of section 552.1175, and may not be withheld under that section. Therefore, pursuant to section 552.1175(a), the sheriff's office must withhold the home telephone number we have marked under section 552.1175 if the number belongs to a commissioned county jailer who elects to restrict access to the information in accordance with section 552.1175(b).

Section 552.130 of the Government Code excepts from disclosure certain motor vehicle information. Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

Id. § 552.130. Pursuant to section 552.130, the sheriff's office must withhold the Texas motor vehicle record information we have marked.

In summary, the sheriff's office must withhold the home telephone number we have marked under section 552.1175 of the Government Code if it relates to a commissioned county jailer who elects to restrict access to the information in accordance with section 552.1175(b). The

sheriff's office must also withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining 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).

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,



James A. Person III
Assistant Attorney General
Open Records Division

JAP/dh

Ref: ID# 256780

Enc. Submitted documents

c: Mr. George H. Stevens
170 Primrose Lane
Hemphill, Texas 75948
(w/o enclosures)