



BEN W. "Bud" CHILDERS  
County Attorney

November 18, 2005

**COUNTY ATTORNEY**  
Fort Bend County, Texas

**RQ-0418-GA**

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OPINION COMMITTEE

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Via CMRRR # 7004 1160 0001 3059 0092

Honorable Greg Abbott  
Attorney General of Texas  
Opinion Committee  
P.O. Box 12548  
Austin, Texas 78711-2548

FILE # ML-44513-05

I.D. # 44513

Re: Request for Attorney General Opinion

Dear Attorney General Abbott:

On behalf of the Honorable Dianne Wilson, County Clerk of Fort Bend County, I am seeking an opinion from your office. I request your opinion on the following questions:

1. Whether Section 552.147 of the Government Code (Senate Bill 1485) is permissive or mandatory in relation to Section 552.007 of the Government Code that prohibits selective disclosure?
2. Whether Section 552.147 of the Government Code (Senate Bill 1485) applies to all county clerk records (i.e. real property, birth records, death records and marriage records?)
3. Whether Section 552.147 of the Government Code (Senate Bill 1485) authorizes the county clerk to permanently redact a social security number from the original, filed document?
4. If Section 552.147 of the Government Code (Senate Bill 1485) authorizes a county clerk to redact social security numbers from either an original, filed document or a copy requested under the Public Information Act, can the county clerk certify the document as "certified copy?"
5. If the county clerk may certify a document that contains a redacted social security number as a "certified copy" of the original document, must the certification stamp include a disclaimer that the document has been altered (i.e. that a social security number has been redacted)?
6. If county clerk documents are available to the public via the internet, does Section 552.147 of the Government Code (Senate Bill 1485) or any other law, require the redaction of all social security numbers prior to their availability on the internet?

7. Section 552.147 of the Government Code (Senate Bill 1485) addresses the social security numbers of "living persons." How is a governmental body to determine whether a document contains a social security number of a living person?

### **Statement of Facts**

Senate Bill 1485 of the 79<sup>th</sup> Legislature, Regular Session (2005), amended Section 552 of the Texas Government Code, otherwise known as the Public Information Act, hereinafter referred to as "PIA," as follows:

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
SECTION 1. Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.147 to read as follows:

Sec. 552.147. EXCEPTION: SOCIAL SECURITY NUMBER OF LIVING PERSON.

(a) The social security number of a living person is excepted from the requirements of Section 552.021.

(b) A governmental body may redact the social security number of a living person from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

It appears that this bill was signed by the Governor on June 17, 2005 and was effective September 1, 2005.

### **Argument**

The implications of this new law are far reaching and many questions have arisen with regard to requests for documents made under the PIA and procedural matters that will necessarily follow requests for documents that contain social security numbers. In order to explain each of the above questions, I will repeat the question and explain the question in more detail.

1. Whether Section 552.147 of the Government Code (Senate Bill 1485) is permissive or mandatory?

Although Section 552.147 of the Government Code (Senate Bill 1485) includes the permissive word "may", Section 552.007 of the Government Code prohibits a governmental body from selectively disclosing information that is not confidential by law but that a governmental body may withhold under an exception. Therefore, a county clerk must treat all requests for public information uniformly and may not pick and choose when to release a social security number. However, Open Records Letter Rulings issued from the Office of the Attorney General of Texas as recent as September 13, 2005, prohibit the release

of social security numbers. **See Exhibit A, OR2005-08302.** Therefore, is Section 552.147 permissive or mandatory?

2. Whether Section 552.147 of the Government Code (Senate Bill 1485) applies to real property, birth, death and marriage certificates?

Section 552.147 of the Government Code (Senate Bill 1485) appears to apply to any document that is subject to the PIA, including real property records maintained by the county clerk. Since the PIA does not apply to records of the judiciary pursuant to Section 552.003(1)(B) of the Government Code, it appears that a county clerk may release court records (civil, criminal and probate) that contain social security numbers. Section 552.147 of the Government Code (Senate Bill 1485) will necessarily require each deputy clerk to determine whether the request is for real property records or other records subject to the PIA, where any social security number may be redacted, yet release a document from a probate file, for example, that contains social security numbers because records of the judiciary are not subject to the Public Information Act, or direct the requestor to the Office of Court Administration if the request for records is denied.

3. Whether Section 552.147 of the Government Code (Senate Bill 1485) authorizes the county clerk to permanently redact a social security number from the original, filed document?

In order to alleviate the need for a clerk to read each filed document to determine whether it contains a social security number prior to public disclosure, may a county clerk permanently redact a social security document when it is filed? The redaction of social security numbers at the time the document is filed (by either a deputy clerk or the person filing the document) will remove the burden and responsibility of a clerk to read each document and redact social security numbers prior to public disclosure. However, pursuant to Section 191.001(c) of the Local Government Code, the county clerk shall record, exactly, without delay, and in the manner provided by this subtitle, the contents of each instrument that is filed for recording and that the clerk is authorized to record. Additionally, Section 37.10(a)(3) prohibits the tampering of a Governmental Record. Can a governmental body use a computer program to scan all documents at the time of filing and redact all social security numbers if no request under the PIA has been made, in anticipation of a future request?

4. If Section 552.147 of the Government Code (Senate Bill 1485) authorizes a county clerk to redact social security numbers from either an original, filed document or a copy requested under the PIA, can the county clerk certify the document as "certified copy?"

If the county clerk redacts social security numbers from a document requested under the PIA, is he or she able to certify the document as a certified copy of the original document on file? Certification signifies that the copy is a "true copy." *Tex. Attorney Gen. v. Litten*, 999 S.W.2d 74, 78n.7 (Tex. App.-Houston [14<sup>th</sup> Dist.] 1999, pet. denied). The alteration of a document filed in the county clerk's office changes the origin of the document, rendering the clerk unable to certify the document as an exact copy of the original document filed.

5. If the county clerk may certify a document that contains a redacted social security number as a "certified copy" of the original document, must the certification stamp include a disclaimer that the document has been altered (i.e. that information has been redacted to comply with the law)?

The current certification stamp used by the Fort Bend County Clerk certifies that the document is a true and correct copy as the same appears on file and recorded in the appropriate records. If either the original document contains a redacted social security number, or the social security number on the copy has been redacted, either document has been altered and would not be certified under our current system.

6. If county clerk documents are available to the public via the internet, does Section 552.147 of the Government Code (Senate Bill 1485) or any other law, require the redaction of all social security numbers prior to their availability on the internet?

The Fort Bend County Clerk currently images/scans all documents filed in her office. If a member of the public seeks information/documents maintained by the county clerk, the information is available at a computer terminal in her office, with the exception of juvenile records and other records deemed confidential by law. By the very nature of the documents being scanned and imaged when they are filed, the County Clerk is able to provide these documents to the public over the internet.<sup>1</sup> Does Section 552.147 of the Government Code (Senate Bill 1485) allow for the redaction of social security numbers from documents that have not been requested under the PIA? As stated above, all county clerk records are available to the public on the internet; the public does not have to request a the document under the PIA because it is available to anyone on the internet.

### Summary

Section 552.147 of the Government Code (Senate Bill 1485) allows a governmental body to redact social security numbers from documents requested under the Public Information Act. However, the PIA requires the uniform

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<sup>1</sup> See [http://www.co.fort-bend.tx.us/Admin\\_of\\_Justice/County\\_Clerk/index\\_info\\_research.htm](http://www.co.fort-bend.tx.us/Admin_of_Justice/County_Clerk/index_info_research.htm)

treatment of all requests under the PIA; therefore, the county clerk must treat all requests the same. Section 551.147 of the Government Code appears to be permissive, not mandatory, yet Open Records Letter Ruling issued by the Office of the Attorney General of Texas direct a governmental entity to withhold social security numbers.

Thank you in advance for your time and consideration with regard to this matter. If you require any additional information to make a determination in this case, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben W. Childers". The signature is fluid and cursive, with a large initial "B" and "C".

Ben W. "Bud" Childers,  
Fort Bend County Attorney

Enclosure: Exhibit A

cc: Honorable Dianne Wilson,  
Fort Bend County Clerk



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 13, 2005

Mr. Paul J. Stewart  
Assistant County Attorney  
Fort Bend County  
301 Jackson Street, Suite 728  
Richmond, Texas 77469-3108

OR2005-08302

Re: Request for information regarding a named location and offense report number 05-5060

Dear Mr. Stewart:

The Office of the Attorney General has received your request for a ruling and assigned your request ID# 235794.

After reviewing your arguments and the submitted information, we have determined that your request does not present a novel or complex issue. Thus, we are addressing your claims in a memorandum opinion. You claim that the submitted information may be withheld from the requestor pursuant to section 552.108(a)(1) of the Government Code. We have considered your arguments and the submitted information and have determined that in accordance with section 552.108(a)(1) you may withhold the submitted information. However, you must release the basic information, except for the arrestee's social security number, which is confidential under section 552.147 of the Government Code.

For more information on the cited exception, as well as information on the rights and obligations of governmental bodies and requestors, please refer to open government information contained on the Office of the Attorney General website at [www.oag.state.tx.us](http://www.oag.state.tx.us). You may also contact our Open Government Hotline at 1-877-OPENTEX.

Enc: Submitted documents

cc: Kifah W. Alsayed  
21819 Canton Pass Lane  
Katy, Texas 77450  
(w/o enclosures)

