OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

July 20, 2000

Mr. Wyman Hopkins
Administrative Sergeant
City Of Rosenberg
2120 Fourth Street
Rosenberg, Texas 77471

OR2000-2745

Dear Mr. Hopkins:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 137325.

The Rosenberg Police Department (the "department") received a request for case number 00-12393. You indicate that you have released certain information to the requestor. You claim that the remaining information is excepted from disclosure under section 552.108(a)(2) of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

Section 552.108(a) excepts from public 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[.]

The submitted information consists of an offense report involving a burglary of a vehicle. You seek to withhold the "body" of the offense report because the "respective case . . . is an open and active investigation." This explanation does not meet your burden of establishing the applicability of section 552.108(a)(2) in that it does not establish that this case has come to a conclusion that did not result in a conviction or deferred adjudication for purposes of

section 552.108(a)(2). Therefore, we conclude that the submitted information may not be withheld from disclosure under section 552.108(a)(2). The department must release the information to the requestor, subject to the following exceptions.

The submitted document contains information protected from disclosure by sections 552.101 and 552.130 of the Government Code. The social security number in the document may be confidential if it was obtained or is maintained by the department pursuant to any provision of law, enacted on or after October 1, 1990. 42 U.S.C. section 405(c)(2)(C)(viii); *see* Open Records Decision No. 622 (1994). As you noted, section 552.130 excepts information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. Thus, the department must withhold from the requestor the driver's license number, license plate number, and vehicle identification number. The remaining information in the report must be released to the requestor.

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).

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,

Carla Gay Dickson
Assistant Attorney General
Open Records Division

CGD/ljp

Ref: ID# 137325

Encl. Submitted documents

cc: Ms. Marika Fernandez
2304 Ruby Street
Rosenberg, Texas 77471
(w/o enclosures)