



OFFICE *of the* ATTORNEY GENERAL  
GREG ABBOTT

January 13, 2003

Mr. Gordon Bowman  
Assistant County Attorney  
Travis County  
P. O. Box 1748  
Austin, Texas 78767

OR2003-0264

Dear Mr. Bowman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 174893.

The Travis County Attorney (the "county attorney") received a written request for all documents pertaining to the arrest of a named individual. You state that most of the requested information has been released to the requestor. You contend, however, that certain other documents coming within the scope of the request, a representative sample of which you submitted to this office, are excepted from required disclosure pursuant to sections 552.101, 552.108, and 552.130 of the Government Code.<sup>1</sup>

You first contend that the documents you submitted to this office under Tab A constitute prosecutorial work product that is excepted from public disclosure pursuant to section 552.108(a)(4) of the Government Code, which provides that information is excepted from public disclosure if it is information that is either (A) prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation or (B) information that reflects the mental impressions or legal reasoning of an attorney representing the state. After reviewing your arguments and the submitted documents, we

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<sup>1</sup>In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

After reviewing your arguments and the submitted documents, we agree that the county attorney may withhold the information submitted under Tab A in its entirety pursuant to section 552.108(a)(4) of the Government Code.

You next contend that certain information in the requested records is made confidential under section 58.007 of the Family Code and thus must be withheld from the public pursuant to section 552.101 of the Government Code. Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision." (Emphasis added.) Section 58.007(c) of the Family Code provides in pertinent part:

- (c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:
  - (1) kept separate from adult files and records; and
  - (2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

We note, however, that the information you seek to withhold under section 58.007 pertains to an individual who was seventeen years of age at time of his arrest. Section 51.02(2)(A) of the Family Code defines "child" for purposes of section 58.007 as a "person who is . . . ten years of age or older and under 17 years of age." Consequently, none of the information pertaining to that individual is made confidential under section 58.007 of the Family Code.

You also contend that a social security number contained in the requested records is excepted from public disclosure pursuant to section 552.101. Social security numbers are excepted from required public disclosure under section 552.101 of the Government Code in conjunction with 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), if the social security numbers were obtained or are maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. *See Open Records Decision No. 622 (1994)*. It is not apparent to us that the social security number contained in the records at issue was obtained or is maintained by the county attorney pursuant to any provision of law enacted on or after October 1, 1990. You have cited no law, nor are we aware of any law, enacted on or after October 1, 1990, that authorizes the county attorney to obtain or maintain a social security number. Therefore, we have no basis for concluding that the social security number at issue was obtained or is maintained pursuant to such a statute and is, therefore, confidential under section 405(c)(2)(C)(viii)(I). We caution, however, that section 552.352 of the Government Code imposes criminal penalties for the release of confidential information. Prior to releasing the social security number, the county attorney should ensure that this number was not obtained or maintained by the county attorney pursuant to any provision of law enacted on or after October 1, 1990.

Finally, we address the applicability of section 552.130 of the Government Code. Section 552.130(a)(1) of the Government Code requires the county attorney to withhold "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state." Accordingly, the county attorney must withhold all Texas driver's license numbers pursuant to section 552.130(a)(1) of the Government Code. Also, section 552.130(a)(2) of the Government Code requires the withholding of information relating to "a motor vehicle title or registration issued by an agency of this state." Consequently, the county attorney must withhold all Texas license plate and VIN numbers contained in the records at issue pursuant to section 552.130(a)(2).

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).

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 Texas Building and Procurement Commission 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



David R. Saldivar  
Assistant Attorney General  
Open Records Division

DRS/RWP/lmt

Ref: ID# 174893

Enc: Submitted documents

c: Mr. Malcolm Greenstein  
Greenstein & Kolker  
1006 E Cesar Chavez St  
Austin, Texas 78702  
(w/o enclosures)