



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 26, 2004

Ms. Loren B. Smith  
Olson & Olson  
2727 Allen Parkway, Suite 600  
Houston, Texas 77019

OR2004-7306

Dear Ms. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 209185.

The City of Friendswood (the "city"), which you represent, received a request for a specified "report for call" and arrest report and sought a ruling from this office as to whether some of the requested information was excepted from disclosure under the Public Information Act (the "Act"). In response, this office issued Open Records Letter No. 2004-1445 (2004) to the city on February 26, 2004 in which we concluded that social security numbers contained within the submitted information may be confidential under federal law, information maintained by the city revealing that an individual, other than the requestor, is a suspect, arrestee, or defendant, must be withheld pursuant to section 552.101 of the Government Code in conjunction with the common-law right to privacy, and that Texas motor vehicle information that we marked must be withheld pursuant to section 552.130 of the Government Code. We also concluded that the city must release the remaining submitted information to the requestor. We have re-examined our ruling in that decision and have determined that an error was made in its issuance. Where this office determines that an error was made in the decision process under sections 552.301 and 552.306 of the Government Code and that error resulted in an incorrect decision, we will correct the previously issued ruling. *See generally* Gov't Code § 552.011 (providing that the Office of Attorney General may issue a decision to maintain uniformity in application, operation, and interpretation of this chapter). Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on February 26, 2004. You claim that the information at issue is excepted from disclosure pursuant to sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or

prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why section 552.108 is applicable to that information. *See* Gov’t Code § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986). You indicate that the information at issue pertains to a pending criminal investigation. Thus, we agree that section 552.108(a)(1) is applicable to the information at issue.

We note, however, that section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *See* Gov’t Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing types of basic information that must be made available to public, to include detailed description of offense). Accordingly, we conclude that with the exception of basic information that must be released to the requestor, the city may withhold the submitted information pursuant to section 552.108(a)(1) of the Government Code. We note, however, that the city maintains the discretion to release all or part of this information that is not otherwise confidential by law.<sup>1</sup> *See* Gov’t Code §552.007.

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

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<sup>1</sup> Because we base our ruling on section 552.108(a)(1) of the Government Code, we need not address your remaining claimed exception to disclosure, except to note that "basic information" may not generally be withheld under section 552.103 of the Government Code. *See* Open Records Decision Nos. 597 (1991), 362 (1983).

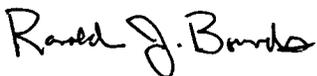
governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge 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 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 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,



Ronald J. Bounds  
Assistant Attorney General  
Open Records Division

RJB/krl

Ref: ID# 209185

c: Mr. Matthew Arp  
16602 Tibet  
Friendswood, Texas 77546  
(w/o enclosures)