



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 1, 2005

Mr. Mark Schnall
Langley & Banack, Inc.
745 East Mulberry, Suite 900
San Antonio, Texas 78212-3166

OR2005-05849

Dear Mr. Mark Schnall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 230191.

The Selma Police Department (the “department”), which you represent, received a request for a specified incident report. You claim that portions of the requested information are excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See* Gov’t Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the information at issue relates to a pending criminal prosecution. Based on your representations and our review, we determine that the release of the information you seek to withhold under section 552.108 would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. 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) (court delineates law enforcement interests that are present in active cases). We therefore agree that section 552.108(a)(1) is applicable to the information you have marked.

We note, however that basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*, and includes a "detailed description of the offense." See *Houston Chronicle*, 531 S.W.2d at 187; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). You have marked the entire narrative portion of the submitted incident report as information you seek to withhold under section 552.108. The remaining portions of the incident report do not contain information sufficient to satisfy the requirement that a "detailed description of the offense" be released. Accordingly, we determine that the department must release a sufficient portion of the narrative section of the incident report to encompass a detailed description of the offense, to satisfy the required release of basic information pursuant to *Houston Chronicle*. The department may the remaining information at issue under section 552.108(a)(1). We note that the department has the discretion to release all or part of this information that is not otherwise confidential by law. Gov't Code § 552.007.

We next address your claim under section 552.130 with respect to the Texas motor vehicle driver's license and registration information in the submitted documents.¹

Section 552.130 of the Government Code provides in pertinent part:

(a) Information is excepted from the requirements 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[.]

Gov't Code § 552.130. We agree the department must withhold the vehicle identification number, license plate number, and Texas driver's license number and type information you have marked in the documents pursuant to section 552.130. We note, however, that you have also marked the state of issuance for the driver's license and motor vehicle registration information at issue. Since section 552.130 only applies to information concerning a driver's license, title, or registration "issued by an agency of [Texas]," information in the responsive documents that identifies Texas as the state of issuance is not excepted from disclosure under section 552.130. Accordingly, the department may not withhold this information under section 552.130.

¹ We note that, as this information does not constitute basic information under *Houston Chronicle*, it is encompassed by the department's section 552.108 claim. However, as you specifically raise section 552.130, we will address your claim under section 552.130 for this information.

You ask this office to issue the department a previous determination for section 552.130 information. We decline to issue a previous determination at this time. Accordingly, this letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us and must not be relied upon as a previous determination regarding any other records or any other circumstances.

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); *Tex. 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 ten calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'DS', with a long horizontal flourish extending to the right.

David R. Saldivar
Assistant Attorney General
Open Records Division

DRS/seg

Ref: ID# 230191

Enc: Submitted documents

c: Ms. Rebecca Shipman
5158 Gordon Cooper
Kirby, Texas 78219
(w/o enclosures)