



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 13, 2005

Ms. Sandra Gentry
Administrative Support II
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2005-09313

Dear Ms. Gentry:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 234665.

The Baytown Police Department (the "department") received a request for a specified offense report. You claim that the requested information is excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You claim that the orange highlighted information is excepted from public disclosure under section 552.108. Section 552.108(a) 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 required 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 requested offense report relates to a pending investigation. Based on this representation, we conclude that section 552.108(a)(1) is applicable to the information you have highlighted in orange, and it may be withheld on that basis. *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.*, 536 S.W.2d 559

(Tex. 1976) (per curiam) (court delineates law enforcement interests that are present in active cases).

You also claim that the pink highlighted information is confidential under section 552.130 of the Government Code. In relevant part, section 552.130 provides:

a) information is excepted from required public disclosure 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. After reviewing the requested information, we conclude that you must withhold the Texas-issued motor vehicle record information you have highlighted under section 552.130 of the Government Code.

We note that section 552.147 of the Government Code¹ provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. Therefore, the department must withhold the social security number we have marked under section 552.147 of the Government Code.² We note that, because section 552.147 protects privacy interests, the requestor has the right to access his own social security number under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). You have not explained how the remaining information highlighted in green constitutes social security numbers or how section 552.147 would be applicable to except this information from disclosure; therefore, you may not withhold that information under section 552.147 of the Government Code.

In summary, the department may withhold the orange highlighted information under section 552.108(a)(1) of the Government Code. The department must withhold the Texas-issued motor vehicle record information under section 552.130 of the Government

¹ Added by Act of May 23, 2005, 79th Leg., R.S., S.B. 1485, § 1, sec. 552.147(a) (to be codified at Tex. Gov't Code § 552.147).

² We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

Code. The social security number we have marked must be withheld under section 552.147 of the Government Code. The remaining information must be released.³

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); *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

³ We note that the information being released contains information that would be excepted from disclosure to the general public under laws and exceptions designed to protect privacy. If the department receives another request for this information from a person who would not have a special right of access, the department should resubmit this same information and request another decision. *See* Gov't Code § 552.301(a), .302; Open Records Decision No. 673 (2001).

complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General 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. 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,



Lisa V. Cubriel
Assistant Attorney General
Open Records Division

LVC/seg

Ref: ID# 234665

Enc: Submitted documents

c: Mr. Freddy Ramirez
3500 McKinney, #2
Baytown, Texas 77521
(w/o enclosures)