



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 8, 2005

Ms. Lisa M. Salinas
Custodian of Records
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2005-10104

Dear Ms. Salinas:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 235861.

The Baytown Police Department (the "department") received two requests for information related to a specified traffic accident. You state that you have released some of the requested information. You state that the department will redact social security numbers in the submitted information pursuant to section 552.147 of the Government Code.¹ You claim that portions of the remaining submitted 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.

You claim that the orange highlighted information is excepted from public disclosure under section 552.108 of the Government Code. Section 552.108(a) excepts from disclosure

¹Section 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. We note that one of the submitted social security numbers belongs to one of the requestors. Because section 552.147 protects individual privacy interests, that requestor has a special right of access to her own social security number under section 552.023 of the Government Code. *See* Gov't Code § 552.023 (person's authorized representative has special right of access to information held by governmental body that relates to the person and that is protected from public disclosure by laws intended to protect the person's privacy interests).

“[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 submitted information relates to a pending criminal investigation. Based on this representation, we agree 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. per curiam*, 536 S.W.2d 559 (Tex. 1976) (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(a)(1)-(2). After reviewing the submitted information, we find that the department must withhold the Texas-issued motor vehicle record information you have highlighted in pink and the additional information we have marked pursuant to section 552.130. We note, however, that some of the information at issue pertains to one of the requestors. Because section 552.130 protects individual privacy interests, that requestor has a special right of access under section 552.023 of the Government Code to her own Texas-issued motor vehicle record information. *See* Gov’t Code § 552.023.

We note that the remaining information includes an insurance policy number excepted from disclosure under section 552.136 of the Government Code.² This section provides that “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136. Accordingly, the department must withhold the insurance policy number we have marked pursuant to section 552.136.

²This office will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the orange highlighted information may be withheld under section 552.108 of the Government Code. The Texas-issued motor vehicle record information highlighted in pink and the additional information we have marked must be withheld pursuant to section 552.130 of the Government Code; however, the department must release the Texas-issued motor vehicle information to the requestor to whom such information pertains pursuant to section 552.023 of the Government Code. The insurance policy number we have marked must be withheld under section 552.136 of the Government Code. The remaining information must be released.

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

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,



Caroline E. Cho
Assistant Attorney General
Open Records Division

CEC/sdk

Ref: ID# 235861

Enc. Submitted documents

c: Ms. Rhonda Loney
1500 North Alexander #10
Baytown, Texas 77520
(w/o enclosures)

Mr. Alan Hudgins
c/o Baytown Police Department
3200 North Main Street
Baytown, Texas 77521