



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 5, 2006

Mr. John T. Patterson
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2006-04653

Dear Mr. Patterson:

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# 248224.

The City of Waco (the "city") received a request for information pertaining to a specified automobile accident, including any surveillance videotapes, photographs, and incident or investigative reports. You state that you will release some of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.103 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹

Initially, we note that the submitted information is subject to section 552.022 of the Government Code. Section 552.022 provides several categories of information that are not excepted from required disclosure unless they "are expressly confidential under other law," and provides in pertinent part:

- (a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are

¹We 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 Nos. 499 (1988), 497 (1988). This ruling 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.

public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

- (1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). The submitted information is expressly public under section 552.022(a)(1) and may only be withheld if confidential under other law or excepted from disclosure under section 552.108. Although you argue that the information is excepted under section 552.103 of the Government Code, section 552.103 is a discretionary exception to disclosure and is not "other law" for purposes of section 552.022.² However, you also assert section 552.130 for a portion of this information. Because information subject to section 552.022(a)(1) may be withheld as provided by section 552.130, we will address your arguments under this exception.

You contend that portions of the submitted information must be withheld under section 552.130 of the Government Code. This section excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. See Gov't Code § 552.130. Accordingly, the department must withhold the arrestee's Texas motor vehicle information as marked on the submitted documents. You have also submitted a CD containing photographs. The department also must withhold those portions of the photographs that reveal the arrestee's Texas license plate number.³

Finally, we note that the submitted information contains social security numbers. Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Therefore, the city must withhold the arrestee's social security number contained in the submitted information under section 552.147.

In summary, the department must withhold the arrestee's Texas motor vehicle record information under section 552.130 and the arrestee's social security number under

²Discretionary exceptions are intended to protect only the interests of the governmental body, as distinct from exceptions which are intended to protect information deemed confidential by law or the interests of third parties. See *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App. -Dallas 1999, no pet.) (governmental body may waive section 552.103); see also Open Records Decision No. 522 at 4 (1989) (discretionary exceptions in general).

³We note that the requestor has a special right of access under section 552.023 of the Government Code to her clients' Texas motor vehicle information. See Gov't Code § 552.023

section 552.147 of the Government Code. The department must release the remainder of the submitted information to the requestor.⁴

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).

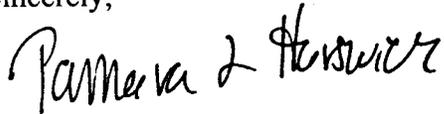
Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or

⁴Some of the information being released contains or consists of confidential information that is not subject to release to the general public. See Gov't Code § 552.352. However, the requestor in this instance has a special right of access to the information. Gov't Code § 552.023. Because some of the information is confidential with respect to the general public, if the city receives a future request for this information from an individual other than the requestor, the requestor's clients, or the clients' authorized representative, the city should again seek our decision.

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,



Tamara L. Harswick
Assistant Attorney General
Open Records Division

TLH/eb

Ref: ID# 248224

Enc. Submitted documents

c: Ms. Tabatha Branch
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(w/o enclosures)