



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 24, 2007

Mr. Robert Green  
Open Records Specialist  
Baytown Police Department  
3200 North Main Street  
Baytown, Texas 77521

OR2007-06528

Dear Mr. Green:

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# 283488.

The Baytown Police Department (the "department") received a request for a specified police report. You inform us that you will redact social security numbers pursuant to section 552.147 of the Government Code.<sup>1</sup> We note, however, that one of the social security numbers belongs to the requestor's client. Because section 552.147 is intended to protect the privacy interests of individuals, the requestor has a right of access to her client's social security number under section 552.023 of the Government Code, and it may not be withheld from her under section 552.147. *See id.* § 552.023 (person or person's authorized representative has special right of access to information excepted from public disclosure under laws intended to protect that person's privacy interest). You claim that portions of the remaining 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 of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or

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<sup>1</sup>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.

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 this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the information that you have highlighted in orange relates to a pending case. Based on your representation, we conclude that the department may withhold the orange-highlighted information under section 552.108(a)(1). *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).

Section 552.130 of the Government Code excepts from public disclosure information that relates to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state. *See Gov’t Code § 552.130(a)(1)*. You seek to withhold the Texas driver’s license information that you have highlighted in pink under section 552.130. However, this exception also protects privacy interests. As an authorized representative of one of the depicted individuals, the requestor has a right of access to that person’s driver’s license number. Therefore, the Texas driver’s license number of the requestor’s client may not be withheld under section 552.130, and that information must be released. *Id.* § 552.023(a); *Open Records Decision No. 481* at 4. The remaining Texas driver’s license information that you have marked must be withheld under section 552.130.

In summary: (1) the department may withhold the orange-highlighted information under section 552.108(a)(1) of the Government Code; and (2) except for the driver’s license number of the requestor’s client, the department must withhold the pink-highlighted Texas driver’s license information under section 552.130 of the Government Code. The rest of the submitted information must be released.

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

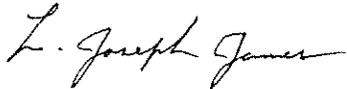
will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to 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,



L. Joseph James  
Assistant Attorney General  
Open Records Division

LJJ/eeg

Ref: ID# 283488

Enc. Submitted documents

c: Choicepoint  
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(w/o enclosures)