



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 30, 2007

Mr. Carey L. Bovey  
Bovey & Bojorquez, LLP  
12325 Hymeadow Drive, Suite 2-100  
Austin, Texas 78750

OR2007-11266

Dear Mr. Bovey:

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# 288072.

The Brenham Police Department (the "department"), which you represent, received two requests from the same requestor for information related to a fatal traffic accident. You state that the department has released some of the requested information but claim that the remaining 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. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we address the submitted CRB-3 accident report. You acknowledge that the document at issue was completed pursuant to chapter 550 of the Transportation Code and that the requestor has provided the department with two of the three pieces of information, the date and location of the accident. *See* Transp. Code § 550.064 (officer's accident report); *id.* § 550.065(c)(4) (providing for the release of accident reports to a person who provides two of three required pieces of information). You state the department will release the accident report, but you seek to withhold portions of the report pursuant to section 552.130 of the Government Code. Information that is specifically made public by statute may not be withheld from the public under any of the exceptions to public disclosure under the Act. *See, e.g.,* Open Records Decision Nos. 544 (1990), 378 (1983), 161 (1977), 146 (1976). As the

requestor has provided the department with two of three required pieces of information in accordance with section 550.065(c)(4), the department must release the CRB-3 accident report in its entirety pursuant to section 550.065.

We turn next to your arguments against the disclosure of the remaining information. Section 552.108(a)(1) 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] release of the information would interfere with the detection, investigation, or prosecution of crime.” 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), 552.301(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 conclude that the release of this information 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. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. We note that some of the information you seek to withhold under section 552.108, including a detailed description of the offense in the narrative portions of the reports at issue, constitutes basic information for purposes of *Houston Chronicle*. Thus, with the exception of the basic front page offense and arrest information, the department may withhold the information you have marked under section 552.108.

You have marked portions of the remaining information that you claim are excepted from disclosure 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). We note, however, that section 552.130 protects privacy interests. Section 552.023 of the Government Code gives a person or the person’s authorized representative a special right of access to information that is excepted from public disclosure

under laws intended to protect that person's privacy interest as subject of the information. *See* Gov't Code § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Thus, the requestor has a right of access to his client's own information, and the department may not withhold it under section 552.130. However, the department must withhold the Texas motor vehicle record information of the other individuals, which we have marked, under section 552.130.

Finally, you have marked social security numbers that the department seeks to withhold from the remaining information. 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. We agree that the department may withhold the social security numbers you have marked in the remaining information under section 552.147.<sup>1</sup>

In summary, the submitted CRB-3 accident report must be released in its entirety under section 550.065 of the Transportation Code. Other than basic information, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The department must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code. The department may withhold the social security numbers you have marked under section 552.147 of the Government Code. The remaining information must be released to the requestor.

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

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<sup>1</sup>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.

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# 288072

Enc. Submitted documents

c: Mr. Robert Medina  
Brent Coon & Associates  
300 Fannin, Suite 200  
Houston, Texas 77002  
(w/o enclosures)