



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 4, 2008

Mr. Gregory Alicie
Open Records Specialist
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2008-02877

Dear Mr. Alicie:

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# 303599.

The Baytown Police Department (the "department") received a request for a specified incident 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.

Section 552.108(a)(2) 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 . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]" Gov't Code § 552.108(a)(2). You state that the information you have marked relates to a criminal investigation that did not result in a conviction or deferred adjudication. Based on your representation and our review submitted information, we conclude that section 552.108(a)(2) is applicable to the information at issue. Accordingly, the department may withhold the information you have marked under section 552.108(a)(2).

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. *Id.* § 552.130(a)(1), (2). However, we note that the request indicates that the requestor represents an insurance company. As such, this requestor may be the authorized representative of the individual to whom the marked motor

vehicle record information belongs. Section 552.023 of the Government Code provides a person or a person's authorized representative a special right of access to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect the person's privacy interests. *Id.* § 552.023(a). Section 552.130 is intended to protect privacy interests. To the extent the requestor has a right of access to her insured's Texas motor vehicle record information under section 552.023, the department must release the marked information. To the extent the requestor does not have a right of access to the information at issue, it must be withheld under section 552.130 of the Government Code.

Finally, you claim that the information you have marked is excepted from disclosure under section 552.147 of the Government Code. 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. *Id.* § 552.147(b). Section 552.147 is also based on privacy. Accordingly, if requestor is acting the as the authorized representative of the individual to whom this social security number pertains, then, pursuant to section 552.023, the requestor has a right of access to the social security number belonging to this individual. However, if the requestor is not acting as the authorized representative of this individual, the department may withhold his social security number under section 552.147. The department may withhold the partial social security numbers that belong to other individuals, which you have marked, under section 552.147 of the Government Code.¹

In summary, the department may withhold the information you have marked under section 552.108(a)(2) of the Government Code. If the requestor is acting as the authorized representative of the individual whose information is at issue, then the department must release this individual's Texas motor vehicle record information and social security number to the requestor. If the requestor is not acting as the authorized representative, then the department must withhold the individual's Texas motor vehicle record information under section 552.130 and may withhold the individual's social security number under section 552.147. The department may withhold the partial social security numbers you have marked under section 552.147. 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

¹We 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.

governmental body wants to challenge this ruling, the governmental body must file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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).

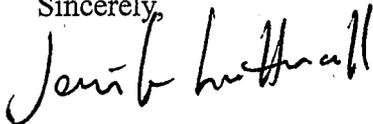
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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 challenge 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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/eeg

Mr. Gregory Alicie- Page 4

Ref: ID# 303599

Enc. Submitted documents

c: RAB Reports
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Houston, Texas 77277-0358
(w/o enclosures)