



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 30, 2008

Mr. Marc J. Schnall
Langley & Banack
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745 East Mulberry, Suite 900
San Antonio, Texas 78212-3166

OR2008-10372

Dear Mr. Schnall:

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# 317247.

The Selma Police Department (the "department") received a request for a specified police report and "all other reports related to [it] or to [a named individual]." You claim that portions of the requested information are excepted from disclosure under sections 552.108, 552.130, 552.136, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted 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[.]" Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must reasonably explain how and why release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the information you have marked relates to a pending criminal prosecution. Based on your representation and our review of the submitted information, we conclude that release of the information you have marked 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. 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). Thus, the department may withhold the information you have marked under section 552.108 of the Government Code.

Section 552.130 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. Gov't Code § 552.130 (a)(1), (2). The department must generally withhold

the Texas motor vehicle information you have marked, as well as the additional information we have marked, under section 552.130 of the Government Code. We note, however, that the requestor may be the attorney for one of the individuals whose information is at issue. Thus, the requestor may have a special right of access to this individual's information under section 552.023. *See id.* § 552.023(b). Thus, to the extent the requestor has a special right of access to this individual's Texas motor vehicle information under section 552.023, the department must release this information to the requestor. However, the department must withhold the Texas motor vehicle information of other individuals under section 552.130. To the extent the requestor does not have a special right of access to the information at issue, the department must withhold all of the information marked under section 552.130.

Section 552.136 of the Government Code states 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.” *Id.* § 552.136. An access device number is one that may be used to “(1) obtain money, goods, services, or another thing of value; or (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.” *Id.* The department must withhold the credit card number you have marked under section 552.136.

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. *Id.* § 552.147. Therefore, the department may generally withhold the social security numbers in the submitted information under section 552.147. However, we note that section 552.147 protects privacy. Thus, to the extent the requestor has a special right of access to one of the individual's social security number under section 552.023, the department must release this information to the requestor. To the extent the requestor does not have a special right of access to the information at issue, the department may withhold all of the submitted social security numbers under section 552.147.

In summary, the department may withhold the information you have marked under section 552.108 of the Government Code. To the extent the requestor does not have a special right of access to the Texas motor vehicle information, the department must withhold the information you have marked, as well as the additional information we have marked, under section 552.130 of the Government Code. The department must withhold the credit card number you have marked under section 552.136 of the Government Code. To the extent the requestor does not have a special right of access to the social security numbers, the department may withhold this information under section 552.147 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 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,



Bill Dobie
Assistant Attorney General
Open Records Division

WJD/jb

Ref: ID# 317247

Enc. Submitted documents

c: Mr. Shawn C. Brown
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(w/o enclosures)