



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 5, 2008

Ms. P. Armstrong  
Assistant City Attorney  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2008-10535

Dear Ms. Armstrong:

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# 318051.

The Dallas Police Department (the "department") received a request for a specified police report. You claim that portions of the requested information are 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.<sup>1</sup>

Section 552.108(a)(1) 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). 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 some of the submitted information, which you have marked, relates to a pending criminal investigation and prosecution. Based upon this representation, and our review, we conclude that release of the information at issue 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

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<sup>1</sup>We 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 open records letter 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.

law enforcement interests that are present in active cases). Accordingly, we agree that section 552.108(a)(1) is generally applicable to the information at issue.

In this instance, we note that the requestor is an investigator with the Enforcement Division of the Texas Lottery Commission (the "commission"). Section 466.201 of the Government Code states that the commission is entitled to obtain criminal history record information ("CHRI") maintained by another law enforcement agency to assist in the investigation of any of the nine categories of persons enumerated in that section. Gov't Code § 466.201(a). Section 411.108 of the Government Code also provides that the commission is entitled to obtain CHRI maintained by the Texas Department of Public Safety ("DPS") that relates to a person who falls within one of the twelve categories of persons listed in subsection (a) of that section. *See id.* § 411.108(a). Likewise, under section 411.087 of the Government Code, an agency that is entitled to obtain CHRI from the DPS is also authorized to "obtain from any other criminal justice agency in this state [CHRI] maintained by that criminal justice agency[.]" *Id.* § 411.087(a)(2).

CHRI is defined as "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions." *See id.* § 411.082(2). Thus, when read together, sections 466.201, 411.087, and 411.108 of the Government Code may grant the commission a right of access to the submitted incident report.

Upon review, we are unable to determine whether the commission is investigating an individual within one of the categories enumerated in section 466.201 or section 411.108 of the Government Code. Accordingly, if any of the individuals who are listed as arrestees in the submitted report fall within one of the categories enumerated in either section 466.201 or section 411.108 of the Government Code, then the commission is authorized to obtain the CHRI pertaining to such individual contained in the submitted report. *See* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). The remaining information you have marked may be withheld under section 552.108 of the Government Code.

If, however, none of the individuals listed as an arrestee in the submitted report fall within one of the categories enumerated in section 466.201 or section 411.108, then the department may withhold the information you have marked under section 552.108.

We now address your remaining claims against disclosure under sections 552.130 and 552.147 of the Government Code. Section 552.130 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(a)(1)-(2). We agree that the department must withhold the Texas motor vehicle information that you have marked under section 552.130.

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.<sup>2</sup> Gov’t Code § 552.147(a). We agree that the department may withhold the social security number that you have marked under section 552.147.

In summary, if any of the individuals who are listed as arrestees in the submitted report fall within one of the categories enumerated in either section 466.201 or section 411.108 of the Government Code, then the commission is authorized to obtain the CHRI pertaining to such individual contained in the submitted report; the remaining information you have marked may be withheld under section 552.108 of the Government Code. If, however, none of the individuals listed as an arrestee in the submitted report fall within one of the categories enumerated in section 466.201 or section 411.108, then the department may withhold the information you have marked under section 552.108. The department must withhold the marked Texas motor vehicle information under section 552.130 of the Government Code. The department may withhold the marked social security number 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). If the governmental body does not file suit over 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,

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<sup>2</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. Gov’t Code § 552.147(b).

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,



Paige Savoie  
Assistant Attorney General  
Open Records Division

PS/ma

Ref: ID# 318051

Enc. Submitted documents

c: Mr. Daniel Heinz  
Texas Lottery Commission  
c/o Ms. P. Armstrong  
Assistant City Attorney  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215  
(w/o enclosures)