



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 11, 2008

Mr. Darrell G-M Noga  
Fee, Smith, Sharp & Vitullo, L.L.P.  
Three Galleria Tower  
13155 Noel Road, Suite 1000  
Dallas, Texas 75240

OR2008-10921

Dear Mr. Noga:

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# 322775.

The City of Coppell (the "city"), which you represent, received a request for information related to a specified arrest. You state that some of the information has been or will be released to the requestor, but claim that the remaining requested information is excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code.<sup>1</sup> 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." 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). We note that the submitted information includes a citation. Because a copy of the citation has been provided to the individual who was cited, we find that release of the citation will not interfere with the detection,

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<sup>1</sup>Although you also raise section 552.101 of the Government Code as an exception to disclosure of the submitted information, you have provided no arguments regarding the applicability of this exception; we therefore assume that you no longer urge this exception. *See* Gov't Code §§ 552.301(b), (e); .302.

investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the city may not withhold the citation under section 552.108(a)(1). You state that the remaining information relates to a pending criminal prosecution. 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*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (listing basic information that must be released from offense report in accordance with *Houston Chronicle*). Thus, with the exception of the basic front-page offense and arrest information and the marked citation, the city may withhold the information at issue under section 552.108(a)(1).

The citation contains information subject to section 552.130 of the Government Code. This section 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 or a motor vehicle title or registration issued by an agency of this state. *See id.* § 552.130(a)(1)-(2). We note that section 552.130 protects personal privacy. The requestor is the individual to whom the Texas driver's license information in the citation pertains. As such, the requestor has a right of access to her driver's license information under section 552.023 of the Government Code. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual or authorized representative asks governmental body to provide information concerning that individual). We note that some of the information in the citation is excepted under section 552.130 of the Government Code, which 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). You inform us that the requestor is not the owner of the motor vehicle at issue. Therefore, the city must withhold the Texas motor vehicle record information we have marked in the citation under section 552.130.

Finally, the city seeks to withhold a social security number contained in the remaining information pursuant to section 552.147(b) of the Government Code. Section 552.147 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. In this case, however, the social security number belongs to the requestor, who has a right to her own social security number. *See generally* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles).

In summary, with the exception of the basic front-page offense and arrest information and the marked citation, the city may withhold the submitted information under section 552.108(a)(1). We have marked the Texas issued motor vehicle record information in the citation that must be withheld under section 552.130 of the Government Code. The remaining submitted information must be released to the requestor.<sup>2</sup>

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, 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,

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<sup>2</sup>Some of the information that is subject to release is confidential information that is not subject to release to the general public. *See* Gov't Code § 552.352. However, the requestor in this instance has a special right of access to the information. *Id.* § 552.023. Because some of the information is confidential with respect to the general public, if the city receives a future request for this information from an individual other than the requestor, the city should again seek our decision.

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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/mcf

Ref: ID# 322775

Enc. Submitted documents

c: Ms. Sarah Almond  
801 Hebron Parkway, #7208  
Lewisville, Texas 75057  
(w/o enclosures)