



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 26, 2008

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

OR2008-13230

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# 323019.

The Baytown Police Department (the "department") received separate requests from two requestors for information regarding a specified motor vehicle accident. You claim portions of the submitted 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. We have also considered comments submitted by the first requestor's attorney. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note in correspondence to our office, the first requestor's attorney informs us his client excludes from her request driver's license information, motor vehicle numbers, and social security numbers. Thus, any driver's license information, motor vehicle numbers, or social security numbers within the submitted documents or contained on the submitted CD are not responsive to the first requestor's request for information and the department need not release this information to the first requestor in response to her request. However, the second requestor does not exclude this information; thus, we will address your arguments

under sections 552.130 and 552.147. Furthermore, this ruling does not address the information you have marked as nonresponsive, and it need not be released.

Next, we note you have only submitted for our review information responsive to some of the categories in the second request. You do not indicate the department has released or will release to this requestor any of the responsive information. You also do not inform us the submitted information constitutes a representative sample of the responsive information. We therefore assume, to the extent any additional responsive information existed when the department received this request for information, the department has released it to the requestor. If not, then the department must do so immediately. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000). We will, however, address your arguments against disclosure for the submitted information.

We note you have submitted a copy of a CR-3 accident report completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (Texas Peace Office's Accident Report form). Section 550.065(b) of the Transportation Code states that, except as provided by subsection (c), accident reports are privileged and confidential. Section 550.065(c)(4) provides for release of accident reports to a person who provides at least two of the following three pieces of information: (1) date of the accident; (2) specific location of the accident; and (3) name of any person involved in the accident. *Id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *Id.* § 550.0601. The second requestor has provided the department with two of the three pieces of information pursuant to section 550.065(c)(4); thus, the department must release the CR-3 accident report in its entirety to the second requestor under this section.¹

We now turn to your arguments for the submitted information. 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). 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), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You claim the information you have highlighted in orange is excepted from disclosure under section 552.108(a)(1). You state the submitted information pertains to a pending criminal investigation. Based on your representation and our review of the information at issue, we conclude release of the information highlighted in orange would interfere with the detection, investigation, or prosecution of crime. *See Houston*

¹*See* Open Records Decision Nos. 613 at 4 (1993) (Act's exceptions cannot impinge on statutory right of access to information), 451 at 4 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under Act).

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). Accordingly, the department may withhold the information you have highlighted in orange under section 552.108(a)(1).

Next, you contend portions of the remaining submitted information are subject to section 552.130 of the Government Code, which excepts from disclosure “information [that] relates to a motor vehicle title or registration issued by an agency of this state[.]” Gov't Code § 552.130(a)(2). Accordingly, the department must withhold the information you have highlighted in pink under section 552.130 of the Government Code. The department must also withhold this same information from the submitted CD.

Lastly, you claim the submitted information contains social security numbers excepted under section 552.147 of the Government Code, which states “[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 withhold the submitted partial social security numbers pursuant to section 552.147 of the Government Code.²

In summary, the department need not release nonresponsive information in response to either request for information. The department must release the submitted CR-3 accident report in its entirety to the second requestor pursuant to section 550.065(c)(4) of the Transportation Code. The department may withhold the information highlighted in orange under section 552.108(a)(1) of the Government Code.³ The department must withhold the motor vehicle information you have highlighted in pink in the submitted documents, as well as this same information on the submitted CD, under section 552.130 of the Government Code. The department may withhold the partial social security numbers highlighted in green under section 552.147 of the Government Code. The remaining responsive information must be released to the requestors.

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

²We note section 552.147(b) 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.

³The department has the discretion to release all or part of the information excepted under section 552.108 that is not otherwise confidential by law. *See* Gov't Code § 552.007.

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, 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,



Katherine M. Kroll
Assistant Attorney General
Open Records Division

KMK/eeg

Ref: ID# 323019

Enc. Submitted documents

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