



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 19, 2009

Mr. Jonathan T. Koury  
Bovey & Bojorquez, LLP  
12325 Hymeadow Drive, Suite 2-100  
Austin, Texas 78750

OR2009-06823

Dear Mr. Koury:

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# 344926.

The City of Brenham (the "city"), which you represent, received a request for a report related to a specified incident. You claim that the submitted 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.

We note that the submitted records contain fingerprint information that is governed by chapter 560 of the Government Code, which provides that a governmental body may not release fingerprint information except in certain limited circumstances. *See* Gov't Code §§ 560.001 (defining "biometric identifier" to include fingerprints), .002 (prescribing manner in which biometric identifiers must be maintained and circumstances in which they can be released), .003 (providing that biometric identifiers in possession of governmental body are exempt from disclosure under Act). The submitted fingerprint information is confidential under section 560.003; however, the requestor has a special right of access to his own fingerprint information. *See id.* § 560.002(1). Therefore, the city must release this information, which we have marked, pursuant to section 560.002.

Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) 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 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), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us that the submitted report relates to a pending criminal investigation. Based upon your representation, we conclude that the 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, we agree that section 552.108(a)(1) is applicable to the information you have marked and it may be withheld on that basis.

You assert that some of the remaining information 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). Accordingly, the Texas driver’s license number you have marked must be withheld from the public pursuant to section 552.130 of the Government Code.

You claim the social security number you have marked is excepted from disclosure under section 552.147 of the Government Code. This section provides “[t]he social security number of a living person is excepted from” required public disclosure under the Act.<sup>1</sup> Therefore, the city may withhold the marked social security number under section 552.147.

In summary, the city must release the marked fingerprint information pursuant to section 560.002 of the Government Code. The city may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The city must withhold the Texas driver’s license number you have marked under section 552.130 of the Government Code. Finally, the city may withhold the social security number it has marked pursuant to section 552.147 of the Government Code. The remaining information must be released to the requestor.<sup>2</sup>

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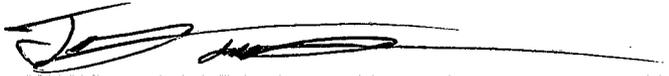
<sup>1</sup>We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

<sup>2</sup>We note that the requestor has a right of access to information being released that otherwise would be excepted from release under the Act. *See* Gov’t Code § 552.023(a) (“a person or person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests.”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Thus, the city must again seek a decision from this office if it receives another request for this particular information from a different requestor.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Travis Tidmore  
Assistant Attorney General  
Open Records Division

TT/sdk

Ref: ID# 344926

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)