



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 12, 2010

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

OR2010-15477

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# 399571.

The Baytown Police Department (the "department") received a request for incident report number 2010-30714. You claim some the submitted information is excepted from disclosure under sections 552.108, 552.130, 552.147, and 552.151 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). 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). You state the submitted information relates to a pending criminal investigation. Based on this representation, we conclude 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). Section 552.108(c) refers to the basic "front-page" information held to be public in *Houston Chronicle* and includes

the names of the investigating officers. *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic front-page offense and arrest information, the department may withhold the information you have marked under section 552.108(a)(1).

You seek to withhold the identifying information of undercover officers from the remaining information under section 552.151 of the Government Code, which provides in part the following:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

You represent release of the identifying information of the undercover officers would subject the officers to a "substantial threat of physical harm." Based on your representation, we find the department has demonstrated release of the information at issue would subject the officers to a substantial threat of physical harm. Therefore, we conclude the department must withhold the identifying information of the undercover officers you have marked under section 552.151.

You assert some of the remaining information is excepted under section 552.130 of the Government Code, which provides 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). However, some of the information marked under section 552.130 pertains to the requestor. The requestor has a right of access to her own Texas motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). We note the remaining Texas motor vehicle record information pertains to the requestor's husband. Accordingly, if the requestor is the authorized representative of her husband, then she has a right of access to his Texas motor vehicle record information under section 552.023. If, however, the requestor is not her husband's authorized representative, then we agree the department must withhold his Texas motor vehicle record information, which you have marked, as well as the information we have marked, under section 552.130.<sup>1</sup>

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<sup>1</sup>We note Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general opinion.

You assert the submitted social security numbers are excepted under section 552.147 of the Government Code, which provides “[t]he social security number of a living person is excepted from” required public disclosure under the Act. The department may withhold the social security numbers marked in the submitted information under section 552.147.<sup>2</sup>

To conclude, with the exception of basic information, the department may withhold the information you have marked under section 552.108 of the Government Code; however, in releasing basic information, the department must withhold the identifying information of undercover officers marked under section 552.151 of the Government Code. If the requestor is not her husband’s authorized representative, the department must withhold the information pertaining the requestor’s husband that is marked under section 552.130 of the Government Code. The department may withhold the information marked under section 552.147 of the Government Code. The department must release the remaining information.<sup>3</sup>

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, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/tp

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<sup>2</sup>We note 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>3</sup>Because the requestor has a right of access to information in the submitted documents under section 552.023 of the Government Code, the department must again seek a decision from this office if it receives a request for this information from a different requestor.

Ref: ID# 399571

Enc. Submitted documents

c: Requestor  
(w/o enclosures)