



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 12, 2010

Ms. Jennifer C. Cohen  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2010-17186

Dear Ms. Cohen:

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# 402019 (DPS ORA #10-2190).

The Texas Department of Public Safety (the "department") received a request for report number TX-1434104. You state that some responsive information has already been released to the requestor. 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 representative sample of information.<sup>1</sup>

Section 552.108(a)(1) provides, in pertinent part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

---

<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.

(1) 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(a)(1) must reasonably explain how and why release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt* 551 S.W.2d 706 (Tex. 1977). You state that the requested records pertain to an ongoing investigation. Based on your representation and our review, we find that section 552.108(a)(1) applies to the information the department wishes to withhold. *See Houston Chronicle Publishing 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) (specifying law enforcement interests that are present in active cases). Thus, the department may withhold the portions of the report marked under section 552.108(a)(1) of the Government Code.

You have also marked portions of the report that you believe should be withheld under sections 552.130 and 552.147 of the Government Code. These sections protect a person's motor vehicle information and social security number. However, the requestor is the insurance company representing the individual at issue. Section 552.023 of the Government Code gives a person's authorized representative a special right of access to information that is otherwise excepted from public disclosure under laws intended to protect that person's privacy interests. *See Gov't Code § 552.023*. Thus, in this case the requestor has a special right of access to its insured's information, and the department may not withhold any of the information marked under sections 552.130 and 552.147.<sup>2</sup>

In summary, the department may withhold the information marked under section 552.108. The remaining information must be released.

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.

---

<sup>2</sup> 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. In addition, this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number, under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. As noted, however, the requestor in this situation has a special right of access to this information. However, if the department receives another request for this information from an individual other than one with a right of access under section 552.023, the department is authorized to withhold the social security number and Texas driver's license number at issue without the necessity of requesting an attorney general decision.

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,



Misty Haberer Barham  
Assistant Attorney General  
Open Records Division

MHB/sdk

Ref: 402019

Enc. Submitted documents

c: Requestor  
(w/o enclosures)