



February 8, 2002

Ms. Pamela Smith  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2002-0605

Dear Ms. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 158739.

The Texas Department of Public Safety (the "department") received a request for "copies of or access to documents that reflect the number of officers who provide security to Gov. Perry when he is on a trip, as well as the cost of their travel, accommodations and meals when traveling with the governor." You claim that the submitted information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the submitted representative sample documents.<sup>1</sup> Initially, we note that section 552.022 of the Government Code makes certain information public, unless it is expressly confidential under other law. *See* Gov't Code § 552.022(a). One category of public information under section 552.022 is "information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body." Gov't Code § 552.022(a)(3). Most of the submitted information, which we have marked, constitutes information in a voucher relating to the expenditure of public or other funds by the department. You claim that this information is excepted from disclosure pursuant to section 552.108 of the Government Code. However, we note that section 552.108 is a discretionary exception under the Public Information Act and, as such,

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<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.

does not make information confidential.<sup>2</sup> *See* Open Records Decision Nos. 586 (1991) (governmental body may waive section 552.108). Accordingly, we conclude that the department may not withhold these vouchers from disclosure pursuant to section 552.108 of the Government Code.

However, we note that the vouchers contain social security numbers that are excepted from disclosure pursuant to section 552.117 of the Government Code. Section 552.117(2) excepts from disclosure a peace officer's home address, home telephone number, social security number, and information indicating whether the peace officer has family members, regardless of whether the peace officer made an election under section 552.024 of the Government Code. Section 552.117(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. Accordingly, we conclude that the department must withhold the marked social security numbers from disclosure pursuant to section 552.117(2) of the Government Code.

We also note that the vouchers contain Texas driver's license numbers that are excepted from disclosure pursuant to section 552.130 of the Government Code. Section 552.130 excepts information from disclosure 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. Accordingly, we conclude that the department must withhold the marked Texas driver's license numbers from disclosure pursuant to section 552.130 of the Government Code.

We also note that the vouchers contain account numbers that are subject to section 552.136 of the Government Code. Section 552.136 makes certain access device numbers confidential and provides in pertinent part:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

(1) obtain money, goods, services, or another thing of value; or

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<sup>2</sup> Discretionary exceptions are intended to protect only the interests of the governmental body, as distinct from exceptions which are intended to protect information deemed confidential by law or the interests of third parties. *See, e.g.*, Open Records Decision Nos. 630 at 4 (1994) (governmental body may waive attorney-client privilege, section 552.107(1)), 551 (1990) (statutory predecessor to section 552.103 serves only to protect governmental body's position in litigation and does not itself make information confidential), 522 at 4 (1989) (discretionary exceptions in general). Discretionary exceptions, therefore, do not constitute "other law" that makes information confidential.

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Gov't Code § 552.136. Accordingly, we conclude that the department must withhold the marked account numbers from disclosure pursuant to section 552.136 of the Government Code. However, the department must release the remaining portions of the vouchers pursuant to section 552.022(a)(3) of the Government Code.

We now address your section 552.108 claim for the remaining submitted information. Section 552.108 of the Government Code provides in pertinent part:

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution.

Gov't Code § 552.108(b)(1). This office has determined that procedural information related to law enforcement may, under some circumstances, be withheld under section 552.108 or its statutory predecessors. *See, e.g.*, Open Records Decision Nos. 531 (1989) (detailed use of force guidelines), 456 (1987) (forms indicating location of off-duty police officers), 413 (1984) (security measures to be used at next execution), 341 (1982) (Department of Public Safety drivers' licenses forgery detection procedures), 143 (1976) (specific operations or specialized equipment directly related to investigation or detection of crime). However, a governmental body claiming section 552.108 as an exception to disclosure must reasonably explain, if the information does not supply the explanation on its face, how releasing the information would interfere with law enforcement. *See* Open Records Decision No. 434 at 3(1986). You state that the release of the remaining information would disclose the methods that the department utilizes to protect the Governor, reveal exactly which officers are assigned to protect the Governor and how many are on duty at any particular time, and have a highly negative impact on law enforcement as it applies to providing security to the Governor. Based on your arguments and our review of this information, we conclude that the release of this information would interfere with law enforcement and crime prevention. Accordingly, the department may withhold the remaining information from disclosure pursuant to section 552.108(b)(1) of the Government Code.

In summary, the department must withhold the marked social security numbers from disclosure pursuant to section 552.117(2) of the Government Code. The department must withhold the marked Texas driver's license numbers from disclosure pursuant to section 552.130 of the Government Code. The department must withhold the marked account numbers from disclosure pursuant to section 552.136 of the Government Code. The department must release the remaining portions of the vouchers pursuant to section 552.022(a)(3) of the Government Code. The department may withhold the remaining information from disclosure pursuant to section 552.108(b)(1) of the Government Code.

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 appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal 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).

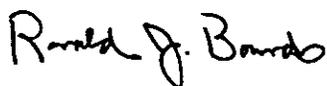
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public 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 Texas Building and Procurement Commission 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,



Ronald J. Bounds  
Assistant Attorney General  
Open Records Division

RJB/sdk

Ref: ID# 158739

Enc. Marked documents

c: Ms. Peggy Fikac  
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(w/o enclosures)