



November 13, 2002

Mr. Gordon Bowman
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2002-6475

Dear Mr. Bowman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 172113.

The County of Travis (the "county") received a request for the county's "policy on the use and/or personal use of county automobiles and other vehicles[,] including "the detailed results of the recent review of the vehicles which are used by county employees to and from their homes, with results provided by department and employee." You state that a portion of the requested information has been released to the requestor. You claim, however, that other requested information is excepted from disclosure under sections 552.101, 552.108, 552.117, 552.1175 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the representative sample of submitted information.¹

Initially, we note that you argue that the social security numbers in the requested documents must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. However, as the submitted documents do not contain any social security numbers, we need not address this argument against disclosure.

We will now address the exceptions you claim with respect to the submitted information. Section 552.108 of the Government Code provides in pertinent part as follows:

- (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:

¹We 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 internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(b)(1). This office has stated that certain procedural information may be withheld under section 552.108 of the Government Code, 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), 143 (1976) (specific operations or specialized equipment directly related to investigation or detection of crime). To claim this aspect of section 552.108 protection, however, a governmental body must meet its burden of explaining, if the requested information does not supply the explanation on its face, how and why release of the requested information would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990). Further, commonly known policies and techniques may not be withheld under section 552.108. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (1989) (Penal Code provisions, common law rules, and constitutional limitations on use of force are not protected under section 552.108), 252 at 3 (1980) (governmental body did not meet burden because it did not indicate why investigative procedures and techniques requested were any different from those commonly known).

Upon review of your arguments, we find that you have not met your burden of explaining how and why release of the submitted information would interfere with law enforcement and crime prevention. Further, we are unable to determine from a review of the submitted information how and why release of such information would interfere with law enforcement and crime prevention. Thus, the submitted information may not be withheld under section 552.108(b)(1) of the Government Code.

Section 552.117(1) excepts from disclosure the home address and telephone number, social security number, and family member information of a current or former official or employee of a governmental body who requests that this information be kept confidential under section 552.024. Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, the county may only withhold information under section 552.117 on behalf of a current or former official or employee who made a request for confidentiality under section 552.024 prior to the date on which the present request for this information was received. For any employee who timely elected to keep his or her personal information confidential, the county must withhold the employee's home address and telephone number, social security number, and any information that reveals whether the employee has family members. The county may not withhold this information under section 552.117 for an employee who did not make a timely election to keep the information confidential. We have marked the information in the submitted documents that must be withheld under section 552.117(1) for any employee who timely elected to keep his or her personal information confidential pursuant to section 552.024.

Section 552.117(2) excepts from public 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. Thus, we have also marked the information in the submitted documents that relates to peace officers and must be withheld under section 552.117(2).²

Section 552.130 excepts from public disclosure information relating to a driver's license, license plate, or motor vehicle title or registration issued by an agency of this state. Therefore, we agree that the county must withhold under section 552.130 the license plate numbers and vehicle identification numbers we have marked in the submitted documents.

To summarize, (1) we have marked the information in the submitted documents that must be withheld under section 552.117(1) for any employee who timely elected to keep his or her personal information confidential pursuant to section 552.024; (2) we have marked the information in the submitted documents that relates to peace officers and must be withheld under section 552.117(2); and (3) we have marked the information that must be withheld under section 552.130. The remaining information must be released to the requestor.

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

²As we are able to make this determination, we need not address your arguments under sections 552.101 and 552.1175.

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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Karen A. Eckerle
Assistant Attorney General
Open Records Division

KAE/sdk

Ref: ID# 172113

Enc: Submitted documents

c: Mr. Duggan Flanakin
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(w/o enclosures)