



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 18, 2006

Mr. Peter G. Smith
City of Richardson
P.O. Box 831078
Richardson, Texas 75083-1078

OR2006-05183

Dear Mr. Smith:

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# 253228.

The Richardson Police Department (the "department") received a request for information relating to an assault. You indicate that the department has released some of the requested information.¹ You claim that the remaining information is excepted from disclosure under sections 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted.

We first note that some of the information at issue is contained in an arrest warrant. Article 15.26 of the Code of Criminal Procedure provides that "[an] arrest warrant, and any affidavit presented to the magistrate in support of the issuance of the warrant, *is public information*["] Crim. Proc. Code art. 15.26 (emphasis added). As a general rule, the exceptions to disclosure found in the Act do not apply to information that other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Therefore, the arrest warrant that we have marked must be released without redaction under article 15.26 of the Code of Criminal Procedure.

Next, we address the exceptions you claim. Section 552.108 of the Government Code excepts from public disclosure "[i]nformation held by a law enforcement agency or

¹See Gov't Code § 552.108(c) (Gov't Code § 552.108 does not except from disclosure basic information about arrested person, arrest, or crime); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 186-88 (Tex. Civ. App. – Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*).

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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A). *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the information that the department seeks to withhold under section 552.108 relates to a pending case. Based on your representation, we conclude that the department may withhold that information under section 552.108(a)(1). *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).

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state. *See* Gov’t Code § 552.130(a)(1). We have marked a Texas driver’s license number that the department must withhold under section 552.130.

Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act.² The department must withhold the social security number that we have marked under section 552.147.

In summary: (1) the department must release the marked arrest warrant without redaction under article 15.26 of the Code of Criminal Procedure; (2) the information that the department seeks to withhold under section 552.108 of the Government Code is excepted from disclosure under section 552.108(a)(1); (3) the marked Texas driver’s license number must be withheld under section 552.130; and (4) the marked social security number must be withheld under section 552.147.³

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

²We 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.

³As we are able to make these determinations, we do not address your claim under section 552.103 of the Government Code. We note that this exception generally does not except from disclosure the same basic information that must be released under section 552.108(c). *See* Open Records Decision No. 597 (1991).

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).

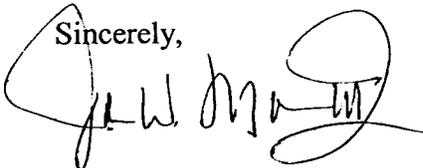
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. 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 Office of the Attorney General 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,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/vh2

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Enc: Submitted documents

c: Ms. Sheila Van Smith
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(w/o enclosures)