



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 1, 2006

Mr. Joseph Harney
Police Legal Advisor
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2006-10229

Dear Mr. Harney:

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# 258385.

The Corpus Christi Police Department (the "department") received a request for information related to a specified incident. You claim that the department need not comply with the request pursuant to section 552.028 of the Government Code. We have considered your argument and reviewed the submitted information.

Section 552.028 of the Government Code provides:

(a) A governmental body is not required to accept or comply with a request for information from:

(1) an individual who is imprisoned or confined in a correctional facility; or

(2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under this chapter.

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

Gov't Code § 552.028. You assert that "[t]he requestor is acting as an agent on behalf of" his son "who is imprisoned or confined in a correctional facility." We note that the fact that a requestor is related to an imprisoned individual does not in itself establish that the requestor is acting as the agent of the imprisoned individual. Since you have not provided any additional information establishing that the requestor is in fact acting as an agent of an imprisoned individual, we cannot conclude that section 552.028 is applicable in this instance. However, portions of the submitted information are excepted from disclosure under sections 552.130 and 552.147 of the Government Code.¹ We will, therefore, address the applicability of these exceptions.

The submitted information includes Texas motor vehicle record information. Section 552.130 of the Government Code provides the following:

(a) Information is excepted from the requirements of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

Id. § 552.130(a). We have marked the Texas motor vehicle record information that must be withheld under section 552.130. We note, however, that this section excepts information from disclosure in order to protect an individual's privacy. Therefore, the requestor is entitled to his own motor vehicle information, and it may not be withheld from him under section 552.130. *See id.* § 552.023 (person has a special right of access to information that is excepted from public disclosure under laws intended to protect that person's privacy interest).

We also note that the remaining submitted information contains a social security number. 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. Therefore, the

¹The Office of the Attorney General will raise mandatory exceptions like sections 552.130, and 552.147 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

department must withhold the social security number contained in the submitted information under section 552.147.²

In summary, the department must withhold the information we have marked under sections 552.130 and 552.147 of the Government Code. The remaining submitted information must be released to the requestor.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 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).

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.

³We note that the information being released contains information that would be excepted from disclosure to the general public under laws and exceptions designed to protect privacy. However, as the individual to whom the information pertains, the requestor has a special right of access to this information. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles). If the department receives another request for this information from a person who would not have a special right of access, the department should resubmit this same information and request another decision. *See id.* §§ 552.301(a), .302; Open Records Decision No. 673 (2001).

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,



L. Joseph James
Assistant Attorney General
Open Records Division

LJJ/dh

Ref: ID# 258385

Enc. Submitted documents

c: Mr. Ernesto De La Cerda
420 Keralum
Mission, Texas 78572
(w/o enclosures)