



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

September 6, 2006

Ms. Julie Joe  
Assistant County Attorney  
Travis County  
P.O. Box 1748  
Austin, Texas 78767

OR2006-10322

Dear Ms. Joe:

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# 258658.

The Travis County Sheriff's Office (the "sheriff's office") received a request for eleven specified incident reports. You claim that the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information made confidential by statute. Section 261.201 of the Family Code provides in relevant part:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Family Code § 261.201(a). You claim that incident report number 05-000658 is confidential under section 261.201. Upon review, we agree that incident report number 05-000658 consists of files, reports, records, communications, or working papers used or developed in an investigation under chapter 261. *See id.* § 261.001(1) (defining “abuse” for purposes of Family Code, ch. 261). Thus, this information is within the scope of section 261.201 of the Family Code. You have not indicated that the sheriff’s office has adopted a rule that governs the release of this type of information. Therefore, we assume that no such rule exists. Accordingly, we find that incident report number 05-000658 is confidential pursuant to section 261.201 of the Family Code and must be withheld under section 552.101. *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).*

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.*; Gov’t Code § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that incident report numbers 05-025528 and 06-0016461 relate to pending criminal investigations. You also state that incident report number 06-0015981 relates to a pending criminal prosecution. Based upon these representations and our review, we conclude that the release of this information would interfere with the detection, investigation, or prosecution of crime. *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.*, 536 S.W.2d 559 (Tex. 1976) (per curiam) (court delineates law enforcement interests that are present in active cases).

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state that incident report numbers 01-00244854, 04-0026377, 04-0026385, 05-0003013, and 05-0008903 relate to criminal investigations that concluded in results other than conviction or deferred adjudication. Accordingly, we agree that section 552.108(a)(2) is applicable to incident report numbers 01-00244854, 04-0026377, 04-0026385, 05-0003013, and 05-0008903.

However, section 552.108 does not except basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-87. Thus, with the exception of basic information, the sheriff's office may withhold incident report numbers, 05-025528, 06-0015981, and 06-0016461 under section 552.108(a)(1) and incident report numbers 01-00244854, 04-0026377, 04-0026385, 05-0003013, and 05-0008903 under section 552.108(a)(2). We note that you have the discretion to release all or part of this information that is not otherwise confidential by law. Gov't Code § 552.007.

Next, you raise section 552.130 of the Government Code for portions of incident report number 05-008521. Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement 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[.]

Gov't Code § 552.130. We have marked Texas motor vehicle information in incident report numbers 05-008521 and 02-0009266 that must be withheld under section 552.130. We note, however, that because section 552.130 protects privacy interests, the requestor has a right of access to information relating to any motor vehicle in which he owns an interest. *Id.* § 552.023; Open Records Decision No. 481 at 4 (1987). Therefore, to the extent any portion of the Texas motor vehicle information we have marked relates to a motor vehicle in which the requestor has an ownership interest, such information must be released to him.

The remaining submitted information contains social security numbers. 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. *Id.* § 552.147. Therefore, the sheriff's office must withhold the social security numbers contained in the submitted information under section 552.147.<sup>1</sup>

In summary, the sheriff's office must withhold: 1) incident report number 05-000658 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code; 2) the Texas motor vehicle record information we have marked under section 552.130

---

<sup>1</sup>We 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.

of the Government Code, except for information pertaining to a motor vehicle in which the requestor has a right of access; and 3) the social security numbers contained in the submitted information under section 552.147 of the Government Code. With the exception of basic information, the sheriff's office may withhold incident report numbers, 05-025528, 06-0015981, and 06-0016461 under section 52.108(a)(1) and incident report numbers 01-00244854, 04-0026377, 04-0026385, 05-0003013, and 05-0008903 under section 552.108(a)(2). The remaining submitted information must be released.

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).

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,



Lisa V. Cubriel  
Assistant Attorney General  
Open Records Division

LVC/eb

Ref: ID# 258658

Enc. Submitted documents

c: Mr. Jairo Vasquez  
1604 Lohman's Crossing  
Austin, Texas 78734  
(w/o enclosures)