



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 7, 2006

Ms. Sandra Gillick
Administrative Support II
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2006-10417

Dear Ms. Gillick:

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# 258465.

The Baytown Police Department (the "department") received a request for a specified offense report and property release form. You state that the department will release the property release form to the requestor. You inform us that the department will redact the social security numbers from the responsive information pursuant to section 552.147 of the Government Code. *See* Gov't Code § 552.147 (authorizing a governmental body to redact a living person's social security number from public release without the necessity of requesting decision from this office under the Act). You claim that the submitted information is excepted from disclosure under sections 552.108, 552.130, and 552.138 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a) 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." 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.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that

the information you have highlighted in orange relates to a pending criminal investigation. Based upon this representation, 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. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, the department may withhold the orange-highlighted information under section 552.108(a)(1).¹

You also assert that portions of the remaining information are excepted from disclosure under section 552.138 of the Government Code. Section 552.138 provides in part as follows:

(a) In this section:

(1) "Family violence shelter center" has the meaning assigned by Section 51.002, Human Resources Code.

(2) "Sexual assault program" has the meaning assigned by Section 420.003.

(b) Information maintained by a family violence shelter center or sexual assault program is excepted from the requirements of Section 552.021 if it is information that relates to:

...

(2) the location or physical layout of a family violence shelter center; [or]

(3) the name, home address, home telephone number, or numeric identifier of a current or a former client of a family violence shelter center or sexual assault program [or]

(4) the provision of services, including counseling and sheltering, to a current or former client of a family violence shelter center or sexual assault program[.]

¹As we are able to make this determination, we need not address your claim under section 552.130 of the Government Code, except to note that Texas motor vehicle record information pertaining to deceased individuals may not be withheld under section 552.130. *See generally Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. App.—Texarkana 1979, writ *ref'd n.r.e.*); *Justice v. Belo Broadcasting Corp.*, 472 F. Supp. 145, 146-47 (N.D. Tex. 1979); Attorney General Opinions JM-229; H-917; Open Records Decision No. 272 at 1 (1981) (privacy rights lapse upon death).

Id. § 552.138(a), (b)(2)-(4). Section 552.138 applies only to information maintained by a family violence shelter center or sexual assault program. *See* House Comm. on State Affairs, Bill Analysis, Tex. S.B. 15, 77th Leg., R.S. (2001) (Engrossed version) (“Senate Bill 15 amends the Government Code to except family violence shelter centers (center) and sexual assault programs (program) from disclosing certain public information.”). You indicate, and the submitted documents reflect, that the information at issue is not maintained by a family violence shelter center or sexual assault program. Accordingly, we conclude that the department may not withhold any portion of the remaining submitted information under section 552.138 of the Government Code.

In summary, with the exception of the basic front page offense and arrest information, the department may withhold the information you have highlighted in orange under section 552.108(a)(1) of the Government Code. 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, 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,



Jaime L. Flores
Assistant Attorney General
Open Records Division

JLF/krl

Ref: ID# 258465

Enc. Submitted documents

c: Ms. Sondra Rhodes
1216 Ivy Avenue
Deer Park, Texas 77536
(w/o enclosures)