



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 29, 2006

Mr. Robert Dillard III
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
City of University Park
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR2006-15147

Dear Mr. Dillard:

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# 267908.

The University Park Police Department (the "department"), which you represent, received a request for information related to a specified arrest. You state you have released some information, but claim that the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We first note that a Texas vehicle identification number has been redacted from the submitted documents. You do not indicate, and this office is not otherwise informed, that the department is authorized to redact Texas vehicle identification numbers without requesting a decision under section 552.301 of the Government Code. See Gov't Code § 552.301(a). Because we are able in this instance to discern the nature of the redacted information, we will determine whether it is excepted from public disclosure. In the future, however, you should refrain from redacting information that you submit to this office in seeking an open records ruling, unless the information is the subject of a previous determination.¹ See *id.* §§ 552.301(e)(1)(D), .302; Open Records Decision No. 673 (2001).

You claim the information submitted as Exhibit C is excepted under section 552.108 of the Government Code. Section 552.108(a) excepts from disclosure "[i]nformation held by a law

¹Although a social security number also has been redacted from the submitted documents, 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 under the Act. See Gov't Code § 552.147(b).

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* Gov’t Code §§ 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 Exhibit C relates to an ongoing, active criminal investigation. Based upon this representation, we agree 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). We note that the department has previously released basic information from these documents. *See* Gov’t Code § 552.108(c) (section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime). Accordingly, the department may withhold Exhibit C pursuant to section 552.108(a)(1).²

Section 552.130 of the Government Code excepts from public disclosure information that relates to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. *See* Gov’t Code § 552.130(a)(1)-(2). The department must withhold the Texas vehicle identification number contained in the information submitted as Exhibit B under section 552.130.

In summary, Exhibit C may be withheld under section 552.108 of the Government Code. The vehicle identification number in Exhibit B must be withheld under section 552.130 of the Government Code. 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).

²As our ruling on this issue is dispositive, we need not address your remaining arguments against disclosure of Exhibit C.

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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/eb

Ref: ID# 267908

Enc. Submitted documents

c: Ms. Jewell Hodges
424 North Janss Street
Anaheim, California 92805
(w/o enclosures)