



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 27, 2007

Mr. Ken Johnson
Assistant City Attorney
City of Waco
P. O. Box 2570
Waco, Texas 76702-2570

OR2007-02319

Dear Mr. Johnson:

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# 272280.

The Waco Police Department (the "department") received a request for information pertaining to a specified case number. You state that you have released basic information to the requestor.¹ You claim that the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

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. Gov't Code § 552.108(a)(2). 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 the submitted police report pertains to a criminal investigation that was "suspended with a suspect." You contend that "suspension of an investigation on a case amounts to a disposition other than a conviction or deferred adjudication." We note, however, that you have submitted a letter from the assistant chief of police informing us that

¹Information normally found on the front page of an offense report is generally considered public, and must be released. See generally Gov't Code § 552.108(c); *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.); see Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*).

²While you cite subsection 552.108(b)(2) of the Government Code for your argument to withhold the submitted police report, we understand you to claim subsection 552.108(a)(2) instead.

when a police report states that a case is suspended, it “means that the case is still pending and under active investigation[.]” Further, you have not stated that the investigation at issue has concluded. Therefore, we find that you have failed to demonstrate the applicability of section 552.108(a)(2) to the submitted information, and it may not be withheld on this basis.

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. *Id.* § 552.130. The department must withhold the Texas motor vehicle record information we have marked under section 552.130.

We note that the remaining 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. The department must withhold the social security numbers we have marked under section 552.147.³ We note, however, that the submitted information contains the requestor’s social security number. Because section 552.147 protects individual privacy interests, the requestor has a special right of access under section 552.023 of the Government Code to her own social security number. *See id.* § 552.023.

In summary, the department must withhold the information we have marked under sections 552.130 and 552.147 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).

³We 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.

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/eb

Ref: ID# 272280

Enc. Submitted documents

c: Ms. Maria Frias
6313 Sydney Drive
Waco, Texas 76708
(w/o enclosures)