



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 10, 2007

Mr. Darrell G-M Noga  
Fee, Smith, Sharp & Vitullo, L.L.P.  
Three Galleria Tower  
13155 Noel Road, Suite 1000  
Dallas, Texas 75240

OR2007-11791

Dear Mr. Noga:

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# 289255.

The City of Coppell (the "city") received a request for all information pertaining to three specified police reports. You state that you have released a portion of the requested information. You claim that the remaining information is excepted from disclosure under sections 552.101, 552.108, 552.117, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information includes documents that have been filed with a court. Section 552.022 of the Government Code provides in relevant part:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

...

(17) information that is also contained in the public court record[.]

Gov't Code § 552.022(a)(17). Section 552.022(a)(17) makes information filed with a court expressly public unless it contains information that is expressly confidential under other law.

You claim that the information at issue is excepted from disclosure under section 552.108 of the Government Code. However, section 552.108 is a discretionary exception that protects a governmental body's interests and is therefore not "other law" for purposes of section 552.022(a)(17). *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108). However, sections 552.101, 552.117, 552.130, and 552.147 are "other laws" that make information confidential for purposes of section 552.022. *See In re City of Georgetown*, 53 S.W.3d 328, 336 (Tex. 2001). Therefore, we will address your arguments under these exceptions for the court-filed documents.

Next, we will address your section 552.108 claim for the remaining information that is not subject to section 552.022. Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information relates to pending prosecutions. Based on your representation and our review, we conclude that section 552.108(a)(1) is generally applicable in this instance. *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, however, that the remaining information includes a citation. Because a copy of the citation has been provided to the individual who was cited, we find your representation insufficient to demonstrate that release of the citation will interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Thus, the city may not withhold the citation that we have marked under section 552.108(a)(1).

However, as you acknowledge, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. 531 S.W.2d 177; *see* Open Records Decision No. 127 (1976) (listing basic information that must be released from offense report in accordance with *Houston Chronicle*). We note that basic information that must be released does not include the identification and description of witnesses or driver's license numbers. ORD 127. Thus, with the exception of the basic offense and arrest information and the submitted citation, the city may withhold the information at issue from disclosure based on section 552.108(a)(1) of the Government Code.<sup>1</sup> We note that you have the discretion to release all or part of the information at issue that is not otherwise confidential by law. Gov't Code § 552.007.

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

We will address your remaining claimed exceptions for the court-filed documents, citation and basic information. Section 552.117(a)(1) of the Government Code excepts from public disclosure the present and former home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024. *Id.* § 552.117(a)(1). Section 552.117(a)(2) protects the same information regarding a peace officer regardless of whether the officer made an election under section 552.024 or section 552.1175 of the Government Code. *See id.* § 552.117(a)(2). We note, however, that the information at issue does not contain any personal information that is encompassed by section 552.117. Accordingly, the city may not withhold any of the information at issue under section 552.117 of the Government Code.

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 id.* § 552.130(a)(1)-(2). We note that section 552.130 protects personal privacy. The requestor is the individual to whom the Texas driver's license information in the citation pertains. As such, the requestor has a right of access to his driver's license information under section 552.023 of the Government Code. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual or authorized representative asks governmental body to provide information concerning that individual). The remaining information at issue does not contain any Texas issued motor vehicle record information. Therefore, no portion of the information at issue may be withheld under section 552.130 of the Government Code.<sup>2</sup>

Finally, we will address you section 552.147 claim for the remaining information at issue. Section 552.147 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. *See Gov't Code* § 552.147(b). We note that the basic information contains the social security number of an arrestee who is not the requestor. Therefore, the city may withhold the social security number of the arrestee who is not the requestor under section 552.147. The remaining information does not contain social security numbers; therefore, the city may not withhold any portion of the remaining information at issue under section 552.147.

In summary, with the exception of the submitted court-filed documents, citation, and basic information, the city may withhold the submitted information under section 552.108(a)(1).

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<sup>2</sup>Some of the information that is subject to release is confidential information that is not subject to release to the general public. *See Gov't Code* § 552.352. However, the requestor in this instance has a special right of access to the information. *Id.* § 552.023. Because some of the information is confidential with respect to the general public, if the city receives a future request for this information from an individual other than the requestor, the city should again seek our decision.

The city may withhold the social security number of the arrestee, who is not the requestor, in the basic information under section 552.147 of the Government Code. The remaining 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,

A handwritten signature in black ink, appearing to read 'Melanie J. Villars', with a stylized flourish at the end.

Melanie J. Villars  
Assistant Attorney General  
Open Records Division

MJV/jb

Ref: ID# 289255

Enc. Submitted documents

c: Mr. Thomas Lane Cheshier  
P.O. Box 1158  
Coppell, Texas 75019  
(w/o enclosures)