



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 19, 2008

Mr. Gregory Alicie  
Open Records Specialist  
Baytown Police Department  
3200 North Main Street  
Baytown, Texas 77521

OR2008-03630

Dear Mr. Alicie:

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# 305161.

The Baytown Police Department (the "department") received a request for a specified incident report. You state that you will redact social security numbers pursuant to section 552.147 of the Government Code.<sup>1</sup> You claim that portions of the submitted information are excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the information you have submitted.

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 . . . 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(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You

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<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.

inform us that the submitted information relates to a pending criminal investigation. Based upon your representation, we find that section 552.108(a)(1) is applicable to the information you have marked. *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). Therefore, the department may withhold the information you have marked under section 552.108(a)(1).<sup>2</sup>

You claim section 552.130 for portions of the remaining information. Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). You have marked information within the submitted police report that is subject to section 552.130. We note, however, that section 552.130 protects personal privacy. In this instance, the requestor appears to be the authorized representative of the individual to whom the remaining information you have marked pertains. Thus, the requestor may have a right of access to this information. *See id.* § 552.023(a) ("A person or a person's authorized representatives has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests."); 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). Accordingly, if the requestor is the authorized representative of the individual to whom the marked Texas motor vehicle record information pertains, the department must release this information to the requestor. If the requestor is not the authorized representative of the individual whose information is at issue, then the department must withhold the information it has marked, in addition to the information we have marked, under section 552.130 of the Government Code.

In summary, the department may withhold the information it has marked under section 552.108(a)(1) of the Government Code. If the requestor is not the authorized representative of the individual to whom the remaining marked Texas motor vehicle record information pertains, then the department must withhold this information under section 552.130. 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

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<sup>2</sup>As our ruling is dispositive, we need not address your section 552.130 argument for this information.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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 challenge 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,



Melanie J. Villars  
Assistant Attorney General  
Open Records Division

MJV/jh

Ref: ID# 305161

Enc. Submitted documents

c: Mr. Rene Lopez  
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(w/o enclosures)