



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 24, 2006

Mr. Peter G. Smith  
Attorney  
City of Richardson  
P.O. Box 831078  
Richardson, Texas 75083-1078

OR2006-04090

Dear Mr. Smith:

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# 246999.

The Richardson Police Department (the "department") received a request for two specified reports. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 of the Government Code provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1)-(2). Generally speaking, these provisions of section 552.108 are applicable to two mutually exclusive types of information. Section 552.108(a)(1) is typically applicable if release of the information would interfere with a pending criminal

investigation or prosecution. *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). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded case that did not result in a conviction or a deferred adjudication. 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 Gov't Code* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state that the submitted information “pertain[s] to a crime which has not been fully investigated, and which has not yet resulted in a conviction or deferred adjudication.” You also state that, “since the case is still an active, pending case, releasing . . . information would unduly interfere with the investigation, detection and prosecution of this case.” We therefore understand you to assert the applicability of section 552.108(a)(1). We note, however, that the submitted information pertains to more than one incident. Having considered your arguments, we find that you have not sufficiently explained how or why the release of the submitted information would interfere with the detection, investigation, or prosecution of crime. *See Gov't Code* §§ 552.108(a)(1), .301(e)(1)(A). We therefore conclude that the department may not withhold any of the submitted information under section 552.108.

We note, however, that section 552.130 of the Government Code is applicable to some of the submitted information. This section excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or to a motor vehicle title or registration issued by an agency of this state. *See Gov't Code* § 552.130(a)(1)-(2). However, because section 552.130 protects individual privacy interests, the requestor has a right of access to her own Texas motor vehicle record information under section 552.023 of the Government Code. *See Gov't Code* § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles). Accordingly, the requestor's own Texas motor vehicle record information must be released to her. The department must, however, withhold the Texas driver's license number we have marked that belongs to an individual other than the requestor pursuant to section 552.130. The remaining information must be released.<sup>1</sup>

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>1</sup>Because some of the information marked for release is confidential with respect to the general public, if the department receives a future request for this information from an individual other than the requestor or the requestor's authorized representative, the department should again seek our decision.

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,



Caroline E. Cho  
Assistant Attorney General  
Open Records Division

CEC/sdk

Ref: ID# 246999

Enc. Submitted documents

c: Ms. Michelle Hunt  
608 Sherwood  
Richardson, Texas 75080  
(w/o enclosures)