



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 11, 2009

Ms. P. Armstrong
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2009-03198

Dear Ms. Armstrong:

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# 340888 (ORR 2008-8563).

The Dallas Police Department (the "department") received a request for information pertaining to a specified incident. You claim that some of the requested information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹

Initially, you acknowledge that the department failed to request a ruling from our office as prescribed by section 552.301. Gov't Code § 552.301(b), (e). A governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption that the information is public and must be released. *Id.* § 552.302. In order to overcome the presumption that the requested information is public information, a governmental body must provide a compelling reason why the information should not be disclosed. *Id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see* Open Records Decision No. 630 (1994). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). The need of a governmental body, other than the agency that is

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

seeking an open records ruling, to withhold information under section 552.108 of the Government Code can provide a compelling reason to withhold information from disclosure. Open Records Decision No. 586 (1991). Because you inform us that the Dallas District Attorney's Office (the "district attorney") objects to the release of the information at issue, we will consider its claim regarding section 552.108. Further, because section 552.130 of the Government Code can provide a compelling reason to withhold information, we will consider your argument under that exception.

Next, we note that the submitted documents include a crash report form that was completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. *See id.* § 550.065(b). Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three items of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *See id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more of the items of information specified by the statute. *Id.* In this instance, the requestor has provided the department with two of the three specified items of information. Therefore, the department must release the submitted crash report form pursuant to section 550.065 of the Transportation Code.

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 must reasonably explain how and why section 552.108 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 have marked the information that the department seeks to withhold under section 552.108. You state that the marked information is related to a pending prosecution. You inform us that the district attorney has requested that the marked information be withheld from disclosure at this time, because its release would interfere with the prosecution of the case. Based on your representations, we conclude that the department may withhold the marked information on behalf of the district attorney under section 552.108(a)(1). *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. ri. *ie*. per curiam, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state. *See* Gov't Code § 552.130(a)(1). We agree that the department must withhold the Texas driver's license number that you have marked, along with the additional Texas driver's license information that we have marked, under section 552.130.

In summary, the department must release the accident report form under section 550.065 of the Transportation Code. The department may withhold the information it has marked under section 552.108(a)(1) of the Government Code. The department must withhold the marked Texas motor vehicle record information under section 552.130 of the Government Code. The remaining information must be released.²

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

Ref: ID# 340888

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

²We note that the submitted information contains a social security number. 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.