



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 22, 2009

Mr. Paul F. Wieneskie
Attorney at Law
Attorney for City of Euless Police Department
204 South Mesquite
Arlington, Texas 76010

OR2009-13311

Dear Mr. Wieneskie:

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# 356404.

The Euless Police Department (the "department"), which you represent, received a request for a specific offense report. You claim that the submitted 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.

Initially, we note the requestor has excluded from her request Texas license plate numbers, driver's license numbers, vehicle identification numbers, social security numbers, and personal financial numbers. Therefore, any such information within the submitted documents is not responsive to the instant request. The department need not release non-responsive information in response to this request, and this ruling will not address that information.

Next, we must address the department's obligations under the Act. Pursuant to section 552.301(e) of the Government Code, the governmental body is required to submit to this office within fifteen business days of receiving the request: (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(e). The

request reflects it was received on July 10, 2009. However, you did not submit a copy of the request for information until August 3, 2009. Consequently, we find the department failed to comply with the requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *City of Dallas v. Abbott*, 279 S.W.3d 806, 811 (Tex. App.—2007, pet. granted); *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). A compelling reason exists when third-party interests are at stake or when information is confidential by law. Open Records Decision No. 150 (1977). Although you raise section 552.108 of the Government Code as an exception to disclosure of the responsive information, this exception is discretionary in nature. It serves only to protect a governmental body's interests and may be waived; as such, it does not constitute a compelling reason to withhold information for purposes of section 552.302. *See* Open Records Decisions Nos. 665 at 2 n.5 (2000) (discretionary exceptions in general), 177 (1977) (statutory predecessor to section 552.108 discretionary). Consequently, the department may not withhold the responsive information pursuant to section 552.108 of the Government Code. As you make no further arguments against the disclosure of the responsive information, it must be released.

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, toll free, at (888) 672-6787.

Sincerely,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/rl

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Enc. Submitted documents

cc: Requestor
(w/o enclosures)