



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 14, 2010

Ms. Sylvia McClellan  
Assistant City Attorney  
City of Dallas  
Criminal law and Police Section  
1400 South Lamar  
Dallas, Texas 75215

OR2010-13891

Dear Ms. McClellan:

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# 397875 (Dallas request no. 2010-07209).

The Dallas Police Department (the "department") received a request for all information related to service number 107352-X. 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 submitted information contains a search warrant that has been filed with a court. A document that has been filed with a court is expressly public under section 552.022 of the Government Code and may not be withheld unless it is confidential under "other law." *See* Gov't Code § 552.022(a)(17). Although you seek to withhold the search warrant under section 552.108 of the Government Code, this is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). As such, section 552.108 is not "other law" that makes information expressly confidential for purposes of section 552.022(a)(17). However, we note some of the information in the search

warrant is subject to section 552.130 of the Government Code.<sup>1</sup> Because this exception is “other law” for purposes of section 552.022(a)(17), we will consider its applicability to the information at issue.

Section 552.130 excepts from disclosure information related 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* Gov’t Code § 552.130(a)(1), (2). We have marked the Texas motor vehicle record information that must be withheld under section 552.130 of the Government Code.<sup>2</sup>

We next turn to your argument under section 552.108 of the Government Code. 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). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending criminal investigation. Based on this representation and our review, we conclude that release of the remaining information would interfere with the detection, investigation, or prosecution of a crime. *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). Therefore, we find section 552.108(a)(1) of the Government Code is applicable to the remaining information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to information held to be public in *Houston Chronicle*. *See Houston Chronicle*, 531 S.W.2d at 186–88; Open Records Decision No. 127 at 3–4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the department may withhold the remaining information from disclosure under section 552.108(a)(1).

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

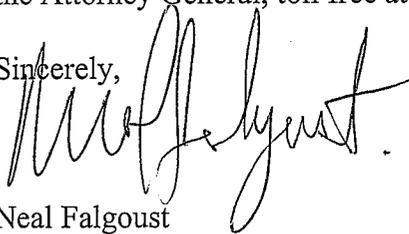
<sup>2</sup>We note this office has issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas license plate numbers, under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

In summary, with the exception of basic information and the court-filed search warrants, the department may withhold the submitted information pursuant to 552.108(a)(1) of the Government Code. The department must withhold the information we have marked in the search warrants pursuant to section 552.130 of the Government Code. Basic information and the remainder of the search warrants 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](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,



Neal Falgoust  
Assistant Attorney General  
Open Records Division

NF/eb

Ref: ID# 397875

Enc. Submitted documents

c: Requestor  
(w/o enclosures)