



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 20, 2012

Mr. Mark G. Mann  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, TX 75046-9002

OR2012-04085

Dear Mr. Mann:

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# 452343 (GCA12-0130).

The Garland Police Department (the "department") received a request for any incident reports filed against the requestor during a specified time period. You state the department has released some information to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note the information you have marked includes the requestor's fingerprints. Section 560.003 of the Government Code provides "[a] biometric identifier in the possession of a governmental body is exempt from disclosure under [the Act]." Gov't Code § 560.003; *see id.* § 560.001(1) ("biometric identifier" means retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry). Section 560.002 of the Government Code provides, however, "[a] governmental body that possesses a biometric identifier of an individual . . . may not sell, lease, or otherwise disclose the biometric identifier to another person unless . . . the individual consents to the disclosure[.]" *Id.* § 560.002(1)(A). Although you seek to withhold the marked fingerprints under section 552.108 of the Government Code, we note the exceptions to disclosure found in the Act are generally not

applicable to information other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Thus, the requestor's fingerprints must be released to him pursuant to section 560.002(1)(A). *See* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).

You claim the remaining information you have marked in red is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a)(1) 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 inform us the submitted information relates to an ongoing criminal investigation. Based upon your representation and our review, we find section 552.108(a)(1) is applicable to the remaining information you have marked in red. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). The department may, therefore, withhold the remaining information you have marked in red pursuant to section 552.108(a)(1).

In summary, the department must release the requestor's fingerprints pursuant to section 560.002 of the Government Code. The remaining information you have marked in red may be withheld under section 552.108(a)(1) of the Government Code. The remaining information must be released.<sup>1</sup>

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

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<sup>1</sup>We note the requestor has a special right of access to some of the information being released in this instance. Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

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,

A handwritten signature in black ink, consisting of several overlapping, fluid strokes that form the name Ana Carolina Vieira.

Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/ag

Ref: ID# 452343

Enc. Submitted documents

c: Requestor  
(w/o enclosures)