



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 4, 2013

Ms. Molly Cost
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2013-01946

Dear Ms. Cost:

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# 481969 (PIR # 12-4295).

The Texas Department of Public Safety (the "department") received a request for information related to a traffic accident involving three named individuals. You claim 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 information you submitted.

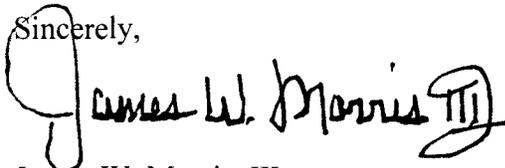
We note, and you acknowledge, the department did not comply with its ten-business-day deadline under section 552.301 of the Government Code in requesting this decision. *See Gov't Code* § 552.301(a)-(b). Therefore, pursuant to section 552.302 of the Government Code, the submitted information is presumed to be subject to required public disclosure and must be released, unless there is a compelling reason to withhold any of the information. *See id.* § 552.302; *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). This statutory presumption can generally be overcome when information is confidential by law or third-party interests are at stake. *See Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982)*. Section 552.108 of the Government Code is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See Gov't Code* § 552.007; *Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to Gov't Code* § 552.108 subject to waiver). Nevertheless, the law enforcement interests under section 552.108 of a governmental body other than the one that failed to comply with section 552.301 can provide a compelling reason for non-disclosure under section 552.302. *See Open Records Decision No. 586 at 2-3 (1991)*. You inform us the Collin County Criminal District Attorney's Office (the "district attorney's office") asserts an interest in the submitted information. Accordingly, we will determine whether the department may withhold the submitted information on behalf of the district attorney's office under section 552.108.

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 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 state, and have provided a letter from the district attorney’s office confirming, the submitted information is related to a pending criminal case. The district attorney’s office’s letter asks the department to withhold the information at issue. Based on your representation and documentation, we conclude the department may withhold the submitted information on behalf of the district attorney’s office under section 552.108(a)(1) of the Government Code. *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 present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

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,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/bhf

Ref: ID# 481969

Enc: Submitted information

c: Requestor
(w/o enclosures)