



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 21, 2014

Ms. Lakenya Greathouse  
Custodian of Records  
Lacy Lakeview Police Department  
P.O. Box 154549  
Waco, Texas 76715-45449

OR2014-04822

Dear Ms. Greathouse:

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# 517497.

The Lacy Lakeview Police Department (the "department") received a request for a specified police report. 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 submitted information.

We must address the department's responsibilities under the Act. Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(b) of the Government Code, a governmental body must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See Gov't Code* § 552.301(b). You state the department received the request for information on December 20, 2013. We understand the department observed holidays on December 24 and 25, 2013. We note this office does not count the date the request was received or holidays in calculating a governmental body's deadlines under the Act. Thus, the department was required to request a decision from this office by January 7, 2014. Consequently, because the department submitted the request for a decision

on January 10, 2014, 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 procedural requirements of section 552.301 results in the legal presumption that the information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *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) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 630 (1994). A compelling reason exists when third-party interests are at stake or when information is confidential by other law. Open Records Decision No. 150 (1977). 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. 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions), 177 (1977) (statutory predecessor to section 552.108 subject to waiver). Accordingly, the department has waived its claim under section 552.108 and may not withhold any of the submitted information on that basis. As you raise no further exceptions to disclosure, the department must release the submitted information.<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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

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<sup>1</sup>We note the information being released contains the requestor's motor vehicle record information to which the requestor has a right of access under section 552.023 of the Government Code. *See Gov't Code* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See Gov't Code* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Accordingly, if the department receives another request for this information from an individual who would not have such a right of access, the department is authorized to withhold the requestor's motor vehicle record information without requesting an attorney general decision.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristi L. Wilkins". The signature is fluid and cursive, with the first name "Kristi" being the most prominent.

Kristi L. Wilkins  
Assistant Attorney General  
Open Records Division

KLW/bhf

Ref: ID# 517497

Enc. Submitted documents

c: Requestor  
(w/o enclosures)