



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 21, 2015

Ms. S. McClellan  
Assistant City Attorney  
Criminal Law & Police Section  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2015-26880

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# 591545 (ORR Nos. 2015-15796 & 2015-15935).

The Dallas Police Department (the "department") received two requests from different requestors for information related to an investigation of a named individual engaging in specified conduct. The first request additionally seeks specified e-mails between several named individuals during a specified time period. You state the department has released some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.130, and 552.137 of the Government Code.<sup>1</sup> Additionally, you provide documentation showing you have notified the Dallas County District Attorney's Office (the "district attorney's office") of its right to submit comments

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<sup>1</sup>We understand the department will withhold social security numbers under section 552.147(b) of the Government Code, which authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See* Gov't Code § 552.147(b). We note the department did not comply with section 552.301 of the Government Code in requesting a ruling from this office with respect to the first request for information. *See* Gov't Code § 552.301(b), (e). Nonetheless, because the exceptions you claim, as well as third-party interests, can provide compelling reasons to overcome the presumption of openness, we will consider the submitted arguments against release of the submitted information. *See id.* §§ 552.007, .302, .352.

to this office why some of the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from the district attorney's office. We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>2</sup>

Section 552.108(a)(2) of the Government Code exempts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). Section 552.108 may be invoked by the proper custodian of information relating to criminal conduct. *See* Open Records Decision No. 474 at 4-5 (1987). Where an agency has custody of information that would otherwise qualify for exception under section 552.108 as information relating to a case of another law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration the information relates to the case and a representation from the other agency that it wishes to have the information withheld. The district attorney's office has provided correspondence to this office in which the district attorney's office informs us the submitted information relates to a closed case that did not result in conviction or deferred adjudication. The district attorney's office also states it objects to release of any portion of the requested information. Based on these representations and our review, we find the department may withhold the submitted information under section 552.108(a)(2) of the Government Code on behalf of the district attorney's office.<sup>3</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

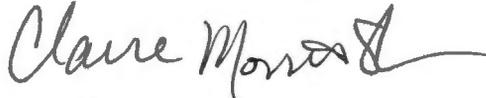
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<sup>2</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

<sup>3</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.

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 that reads "Claire Morris Sloan". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 591545

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)

Mr. Michael J. Sandlin  
Assistant District Attorney  
Dallas County District Attorney's Office  
133 North Riverfront Boulevard, LB 19  
Dallas, Texas 75207-4399  
(w/o enclosures)