



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 12, 1997

Mr. Ron M. Pigott  
Assistant General Counsel  
Legal Services  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR97-2745

Dear Mr. Pigott:

You ask this office to reconsider our ruling in Open Records Letter No. 97-2187 (1997). Your request for reconsideration was assigned ID# 111940.

The Texas Department of Public Safety (the "department") received an open records request for records pertaining to a particular motor vehicle accident. In your request for an open records decision, you argued that the requested information was excepted from required public disclosure pursuant to sections 552.103 and 552.108 of the Government Code. Pursuant to section 552.303(c) of the Government Code, on September 12, 1997, our office notified you by letter sent via facsimile that we required additional information as to the pendency of any criminal litigation regarding this matter. We requested that you provide this information to our office within seven days from the date of receiving the notice. The notice further stated that under section 552.303(e), failure to comply would result in the legal presumption that the requested information is public information.

In Open Records Letter No. 97-2187 (1997), this office concluded that the department could not withhold the requested records pursuant to sections 552.103 or 552.108. In your request for reconsideration, you state that "a thorough search of [department] records has failed to locate" the letter dated September 12, 1997, requesting additional information from the department. Furthermore, you claim that compelling reasons exist for withholding the requested under section 552.108 of the Government Code, because the Comal County Criminal District Attorney's Office has requested that the information not be released.

You have submitted the information at issue to this office, along with a letter from Mr. Edward A. Jendrzej of the Comal County Criminal District Attorney's Office. Mr. Jendrzej asks that none of the requested information be released during the pendency of the prosecution regarding this matter. The need of another governmental body to withhold

requested information under section 552.108 provides a compelling reason for nondisclosure of the information. Open Records Decision No. 586 (1991). Therefore, we conclude that the department may withhold most of the requested information under section 552.108 on behalf of the Comal County Criminal District Attorney's Office. We note, however, that information normally found on the front page of an offense report may not be withheld under sections 552.108 or 552.103. *See* Gov't Code § 552.108(c); Open Records Decision Nos. 127 (1976), 597 (1991).

We overrule Open Records Letter No. 97-2187 (1997) to the extent it conflicts with this conclusion. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Records Division

LRD/rho

Ref.: ID# 111940

Enclosures: Submitted documents

cc: Mr. Jay S. Pearlman  
5225 Katy Freeway, Suite 410  
Houston, Texas 77007  
(w/o enclosures)