



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 4, 1998

Mr. Billy Schat  
Commander  
West Central Texas Interlocal  
Crime Task Force  
400 Oak, Suite 401  
Abilene, Texas 79602

OR98-1835

Dear Mr. Schat:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 117231.

The West Central Texas Interlocal Crime Task Force (the "task force") received a request for information relating to individuals stopped during crime interdiction programs in the last three months. You explain that much of the information that the requestor seeks does not exist. We note that the Open Records Act does not require a governmental body to make available information which does not exist nor does it require a governmental body to prepare new information. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 (1992), 362 (1983). Nevertheless, the task force must make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975); see Gov't Code § 552.353 (providing penalties for failure to permit access to public information). In this instance, you have submitted copies of citations that were issued during January and February of 1998.<sup>1</sup> You claim that these citations are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.108, the "law enforcement exception," provides in relevant part as follows:

- (a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the

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<sup>1</sup>You explain that in February of 1998, the issuance of citations was ceased and the task force no longer maintains records on investigatory stops.

information would interfere with the detection, investigation or prosecution of crime; [or] (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication.

Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). In this instance, you have not demonstrated that the release of the citations would interfere with the detection, investigation, or prosecution of crime. Nor have you demonstrated that any other provision of section 552.108 is applicable. Therefore, the task force may not withhold the submitted citations under section 552.108 of the Government Code.

However, certain information contained in the submitted records is confidential under section 552.130. The Seventy-fifth Legislature added section 552.130 to the Open Records Act which governs the release and use of information obtained from motor vehicle records. Section 552.130 provides in relevant part as follows:

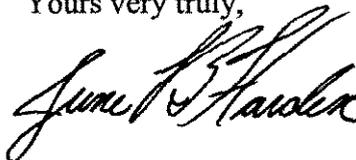
(a) Information is excepted from [required public disclosure] if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Thus, you must withhold Texas driver's license numbers and the license plate numbers pursuant to section 552.130.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/ch

Ref.: ID# 117231

Enclosures: Submitted documents

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(w/o enclosures)