



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

July 14, 2008

Ms. P. Armstrong
Assistant City Attorney
Criminal Law and Police Division
1400 South Lamar
Dallas, Texas 75215

OR2008-09504

Dear Ms. Armstrong:

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# 315704.

The Dallas Police Department (the "department") received a request for a specified arrest report. You claim that portions of the submitted information are excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) 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 claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted incident report relates to a pending criminal investigation and prosecution. Based upon your representation and our review, we find that section 552.108(a)(1) is applicable to the information you have marked. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (per curiam) (court delineates law enforcement interests that are present in active cases). The department may, therefore, withhold the marked information pursuant to section 552.108(a)(1) of the Government Code.¹

¹We note that you have the discretion to release all or part of the marked information that is not otherwise confidential by law. Gov't Code § 552.007.

You have also marked Texas license plate information in the submitted report under section 552.130 of the Government Code. Section 552.130 provides that information relating to a motor vehicle title or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(2). Therefore, the department must generally withhold the Texas motor vehicle record information you have marked under section 552.130. We note, however, that section 552.130 protects privacy. The requestor is the attorney of an individual who may have an ownership interest in the motor vehicle listed in the submitted report. Thus, if the requestor's client has an ownership interest in the vehicle, the requestor has a right of access to the license plate information under section 552.023, and it may not be withheld under section 552.130. *See generally id.* § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles). If the requestor's client does not have an ownership interest in the motor vehicle, the information you have marked under section 552.130 must be withheld.

In summary, the department may withhold the information it has marked under section 552.108 of the Government Code. If the requestor's client does not have an ownership interest in the motor vehicle listed in the report, the department must withhold the information it has marked under section 552.130 of the Government Code. If the requestor's client does have an ownership interest in the motor vehicle, the license plate information must be released to the requestor. The remaining information must be released to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body

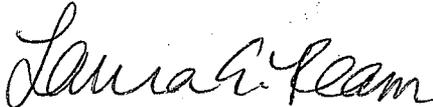
will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Laura E. Ream
Assistant Attorney General
Open Records Division

LER/eb

Ref: ID# 315704

Enc. Submitted documents

c: Mr. Rolando Zambrano
c/o Mr. Stephen Karns
Attorney at Law
6116 North Central Expressway, Suite 450
Dallas, Texas 75206
(w/o enclosures)