



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 31, 2008

Mr. Mark G. Mann  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR2008-14855

Dear Mr. Mann:

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# 330670.

The Garland Police Department (the "department") received a request for information relating to a specified case. You inform us that some of the requested information has been released. You state that some of the remaining requested information is the subject of a previous open records letter ruling. You also claim that most of the remaining information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

You state that some of the information at issue was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2008-13868 (2008). You do not indicate that there has been any change in the law, facts, and circumstances on which the previous ruling is based. Therefore, to the extent that Open Records Letter No. 2008-13868 encompasses the information at issue, the department may continue to rely on the previous ruling. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 6-7 (2001) (listing elements of first type of previous determination under Gov't Code § 552.301(a)). To the extent that the previous ruling does not encompass the information at issue, we will address your claim under section 552.108 of the Government Code.

Section 552.108 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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the department seeks to withhold the information marked in red under section 552.108. You inform us that the marked information is related to a pending criminal investigation. Based on your representations, we conclude that the department may withhold the marked information under section 552.108(a)(1). *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. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

We note that section 552.130 of the Government Code is applicable to the rest of the information at issue.<sup>1</sup> Section 552.130 excepts from disclosure information relating to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state. *See* Gov’t Code § 552.130(a)(1). The department must withhold the Texas driver’s license information that you have marked in green under section 552.130.

In summary: (1) to the extent that Open Records Letter No. 2008-13868 encompasses the information at issue, the department may continue to rely on the previous ruling; (2) the department may withhold the information that you have marked in red under section 552.108(a)(1) of the Government Code; and (3) the department must withhold the Texas driver’s license information that you have marked in green under section 552.130 of the Government Code.

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).

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<sup>1</sup>Unlike other exceptions to disclosure under the Act, this office will raise section 552.130 on behalf of a governmental body, as this exception is mandatory and may not be waived. *See* Gov’t Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

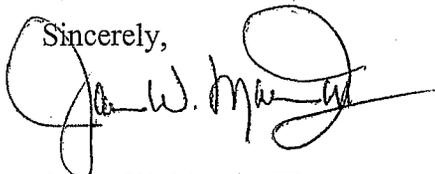
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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



James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/jh

Ref: ID# 330670

Enc: Submitted documents

c: Ms. Amanda White  
2821 Wimbledon Court Apt. A  
Garland, Texas 75041  
(w/o enclosures)