



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 27, 2009

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

OR2009-02607

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# 335884 (GCA08-0893).

The Garland Police Department (the "department") received a request for all information pertaining to arrests or charges for two specified offenses within the last ten years regarding a named individual. You state the department has provided some of the requested information to the requestor. We note you have redacted a social security number.<sup>1</sup> You also state the department has no audio or video recordings responsive to the request.<sup>2</sup> You claim portions of the submitted investigation records 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);

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<sup>1</sup>Section 552.147(b) of the Government Code authorizes a government body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

<sup>2</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

*see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You have marked information in the submitted documents you state pertains to a pending criminal investigation. Based upon this representation, we conclude the release of this information would interfere with the detection, investigation, or prosecution of crime. *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). Accordingly, the information you have marked in red may be withheld pursuant to section 552.108(a)(1) of the Government Code.<sup>3</sup>

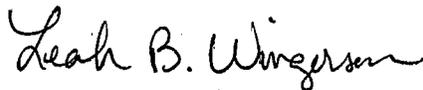
You claim the Texas motor vehicle record information you have marked in the remaining information is confidential under section 552.130, which excepts from disclosure information that “relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [.]” Gov’t Code § 552.130(a)(1). Therefore, the department must withhold the Texas motor vehicle record information you have marked in green under section 552.130 of the Government Code.

In summary, the department may withhold the information marked in red under section 552.108(a)(1) of the Government Code. The department must withhold the Texas motor vehicle record information marked in green under section 552.130 of the Government Code. The remaining information must be released.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/cc

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<sup>3</sup>As our ruling for this information is dispositive, we need not address your remaining argument for portions of this information.

Ref: ID# 335884

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)