



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 26, 2009

Ms. Dianna Eagleton  
Manager, Records Division  
City of North Richland Hills  
P.O. Box 820609  
North Richland Hills, Texas 76182-0609

OR2009-12068

Dear Ms. Eagleton:

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# 353672 (ORL 09-328).

The North Richland Hills Police Department (the "department") received a request for in car video and radio and telecommunications traffic from a specific incident.<sup>1</sup> You state you are providing the responsive video. You claim that portions of the submitted information are excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that the department did not comply with section 552.301 of the Government Code in requesting this decision. Section 552.301(b) requires the governmental body to ask for the attorney general's decision and claim its exceptions to disclosure no later than the tenth business day after the date of its receipt of the written request for information. Gov't Code § 552.301(b). If the governmental body fails to comply with section 552.301, the requested information is presumed to be subject to required public disclosure and must be

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<sup>1</sup> The department sought and received clarification of the request. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* Open Records Decision No. 31 (1974) (when presented with broad requests for information rather than for specific records, governmental body may advise requestor of types of information available so that request may be properly narrowed).

released, unless there is a compelling reason to withhold any of the information. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). You state the department received this request for information on June 5, 2009; therefore, the department's ten-business-day deadline under subsection 552.301(b) was June 19, 2009. The department requested this decision by U.S. Mail meter-marked June 22, 2009. Thus, the department did not comply with section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 319 (1982). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). You raise section 552.130 of the Government Code, which can provide a compelling reason to overcome the presumption of openness. Therefore, we will consider your arguments under this exception.

Section 552.130 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 [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. Thus, we generally agree that the department must withhold the Texas license plate numbers, driver's license numbers, and vehicle identification numbers within the submitted recordings. We note, however, that the requestor may be the authorized representative of the individual whose information is at issue. Section 552.130 protects privacy interests, and the person to whom such information relates, or his authorized representative, has a right of access to such information under section 552.023 of the Government Code.<sup>2</sup> Thus, if the requestor represents the individual at issue, the department may not withhold any of the requestor's client's information under section 552.130. To the extent the requestor does not have a right of access to the motor vehicle information, we agree that the department must withhold that information under section 552.130. 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.

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<sup>2</sup> Section 552.023(a) provides that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023(a).

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,



Chris Schulz  
Assistant Attorney General  
Open Records Division

CS/cc

Ref: ID# 353672

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)