



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 16, 2009

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

OR2009-13091

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# 355393 (DPD ORR No. 2009-5151).

The Dallas Police Department (the "department") received a request for two specified reports. You state that one of the requested reports has been released. You claim that parts of the other requested report are excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.¹

Section 552.108 of the Government Code 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 have

¹This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the department to withhold any information that is substantially different from the submitted information. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

marked the information that the department seeks to withhold under section 552.108. You state that the marked information is related to a pending criminal case or cases. Based on your representation, we conclude that section 552.108(a)(1) is generally applicable to the marked information. *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).

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state. *See Gov't Code* § 552.130(a)(1)-(2). We agree that the department must withhold the Texas driver's license and motor vehicle information you have marked under section 552.130.

Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act.² *Id.* § 552.147(a). We agree the department may withhold the social security number you have marked under section 552.147.

We note, however, that the instant requestor is an investigator with the Texas Department of Family and Protective Services ("DFPS"). Section 411.114 of the Government Code allows, among other things, for DFPS to obtain criminal history record information ("CHRI") concerning an individual who is the subject of a report of abuse or neglect of a child. *See Id.* § 411.114(a)(4), (a)(2)(I). CHRI consists of "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions." *See id.* § 411.082(2).

In this instance, the requestor does not state whether the individual who is the subject of the submitted arrest report is a suspect in a report of abuse or neglect of a child. Therefore, we are unable to conclude that section 411.114 of the Government Code gives the requestor a right of access to any of the submitted information and must rule conditionally. *See id.* § 411.114; *see also id.* § 411.082(2). Accordingly, if the individual to whom the submitted arrest report pertains is a suspect in a report of abuse or neglect of a child, then the department must release information from the submitted report that shows the type of allegation made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions. *See Open Records Decision No. 451 (1986)* (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). In that event, the department may withhold the remaining information you have marked under section 552.108 of the Government Code. If the

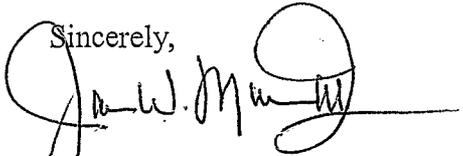
²We note that section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

individual in question is not a suspect in a report of abuse or neglect of a child, then the department may withhold all of the information you have marked under section 552.108. In either event, the marked Texas driver's license and motor vehicle information must be withheld under section 552.130 of the Government Code, the marked social security number may be withheld under section 552.147 of the Government Code, and the rest of the submitted information must be released.³

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, 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, toll free, at (888) 672-6787.

Sincerely,



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

JWM/cc

Ref: ID# 355393

Enc: Submitted documents

c: Requestor
(w/o enclosures)

³Because the instant requestor may have a special right of access to some of the submitted information in this instance, the department should request another decision if it receives a request from another requestor for this same information. See Gov't Code §§ 552.301(a), .302.