



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 2, 2010

Ms. Molly Shortall  
Assistant City Attorney  
City of Arlington  
P.O. Box 90231  
Arlington, Texas 76004-3231

OR2010-01607

Dear Ms. Shortall:

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# 368908 (Tracking No. 2009-11-037).

The Arlington Police Department (the "department") received a request for information relating to an internal affairs investigation. You claim that some of the requested information is exempted from disclosure under sections 552.108, 552.117, and 552.130 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the information you submitted.<sup>2</sup>

Section 552.108 of the Government Code exempts 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

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<sup>1</sup>Although you raise section 552.1175 of the Government Code, we note that section 552.117 is the relevant exception in this instance.

<sup>2</sup>This 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).

at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the police report submitted as Exhibit B is related to a pending criminal prosecution.<sup>3</sup> Based on your representation, we conclude that section 552.108(a)(1) is generally applicable to Exhibit B. *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 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The department must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. The department may withhold the rest of the information in Exhibit B under section 552.108(a)(1).

Section 552.117(a)(2) of the Government Code excepts from disclosure the home address, home telephone number, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the peace officer complies with sections 552.024 or 552.1175 of the Government Code. Section 552.117(a)(2) adopts the definition of peace officer found at article 2.12 of the Code of Criminal Procedure. We understand you to claim section 552.117(a)(2) for information contained in Exhibit D. We note that section 552.117(a)(2) protects a peace officer’s cellular telephone number if the officer pays for the cellular telephone service with his or her own funds. *See* Open Records Decision No. 670 at 6 (2001). In this instance, Exhibit D contains the personal cellular telephone number of an officer of the department. The department must withhold that information, which we have marked, under section 552.117(a)(2). We note that Exhibit D also contains the personal cellular telephone number of the requestor, who also is an officer of the department. Although the department would ordinarily be required to withhold the requestor’s personal cellular telephone number under section 552.117(a)(2), this exception protects personal privacy. The requestor has a right of access to his own private information under section 552.023 of the Government Code.<sup>4</sup> *See* Gov’t Code § 552.023. Therefore, the department may not withhold the requestor’s cellular telephone number in this instance under section 552.117(a)(2). *See* Open

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<sup>3</sup>We understand that the submitted police report is related to the internal investigation that is the subject of this request for information.

<sup>4</sup>Section 552.023 provides in part 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).

Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).<sup>5</sup>

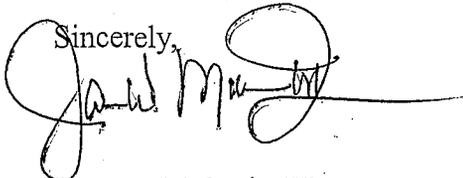
Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130(a)(2). The department must withhold the Texas license plate numbers you have marked in Exhibit C under section 552.130.<sup>6</sup>

In summary: (1) the department may withhold Exhibit B under section 552.108(a)(1) of the Government Code, except for the basic information that must be released under section 552.108(c); (2) the department must withhold the cellular telephone number we have marked in Exhibit D under section 552.117(a)(2) of the Government Code; and (3) the license plate numbers you have marked in Exhibit C must be withheld under section 552.130 of the Government Code. The rest of the submitted 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, toll free, at (888) 672-6787.

Sincerely,



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

JWM/cc

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<sup>5</sup>Should the department receive another request for Exhibit D from a person who would not have a right of access to this requestor's private information, the department should resubmit Exhibit D and request another decision. *See* Gov't Code §§ 552.301, .302.

<sup>6</sup>We note that this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas license plate number under section 552.130, without the necessity of requesting an attorney general decision.

Ref: ID# 368908

Enc: Submitted documents

c: Requestor  
(w/o enclosures)