



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 19, 2010

Ms. Janette Ansolabehere
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2010-05550

Dear Ms. Ansolabehere:

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# 376299 (ORA# 10-0194).

The Texas Department of Public Safety (the "department") received a request for the offense report for a named individual. You state some of the responsive information has been released. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(a)(1) 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: (1) 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 this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). This office has stated a presumption is created regarding the applicability of section 552.108(a)(1) if the criminal matter is pending and the records directly pertain to that matter. *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). In this instance, you explain the charges related to the underlying

offense to which the submitted report directly relates have been disposed. Thus, there is no presumption that release of this information will interfere with the detection, investigation, or prosecution of crime. Because this presumption is not applicable to the present request, section 552.108 requires you provide specific arguments explaining how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. You assert the submitted report, including the basic information, contains "potential references related to ongoing criminal investigations which may culminate in more arrests, and the [d]epartment believes there is sufficient information in the entire offense report . . . to allow someone to identify these investigations." We note you have not marked any portion of the submitted report as relating to a particular criminal investigation. Additionally, you have released portions of the basic information relating to the arrestee and the crime. Upon review, we find your assertion that the submitted report contains "potential references" related to criminal investigations is not a specific argument explaining how release of this report would interfere with the detection, investigation, or prosecution of a particular crime. *See id.* Consequently, we find you have failed to demonstrate the applicability of section 552.108(a)(1) to the submitted information. Accordingly, the submitted information may not be withheld under section 552.108(a)(1) of the Government Code.

Portions of the submitted information are excepted under section 552.130 of the Government Code.¹ Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Upon review, we find portions of the submitted information consist of Texas motor vehicle record information. Accordingly, the department must withhold the Texas motor vehicle record information we have marked under section 552.130.² 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, or call the Office of the Attorney General's Open Government Hotline, toll free,

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We note 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 of the Government Code, without the necessity of requesting an attorney general decision.

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,

A handwritten signature in cursive script, appearing to read "Claire Morris Sloan".

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/jb

Ref: ID# 376299

Enc. Submitted documents

c: Requestor
(w/o enclosures)