



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 28, 2010

Ms. Jennifer C. Cohen
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2010-06089

Dear Ms. Cohen:

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# 377320 (DPS No. 10-0328).

The Texas Department of Public Safety (the "department") received a request for three reports associated with case file M03B090178. You inform us that the department does not have a third report.¹ You state that the department has released basic information from the first report and the entire second report to the requestor. *See* Gov't Code § 552.108(c) (stating basic information about arrested person, arrest, or crime may not be withheld under section 552.108); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). You claim that the marked portions of the submitted information 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). Generally, a governmental body claiming section 552.108(a)(1) 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); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us that the information you have marked relates to a pending criminal case. Based

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

upon your representation and our review, we find that section 552.108(a)(1) is applicable to the information at issue. *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). The department may, therefore, withhold the information you have marked pursuant to section 552.108(a)(1) of the Government Code.

You have marked a vehicle identification number in the remaining information under section 552.130 of the Government Code. Section 552.130 excepts from public disclosure information that relates to a motor vehicle title or registration issued by an agency of this state[.] Gov't Code § 552.130(a)(2). We note that section 552.130 does not apply to out-of-state motor vehicle record information. In this instance, the vehicle identification number you have marked does not pertain to a vehicle registered in Texas. Accordingly, the department may not withhold the vehicle identification number you have marked in the remaining information under section 552.130 of the Government Code. As you raise no further exceptions to its disclosure, the marked vehicle identification number must be released.

In summary, the department may withhold the information you have marked pursuant to section 552.108(a)(1) of the Government Code. The marked vehicle identification number 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, 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,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/jb

Ref: ID# 377320

Enc. Submitted documents

c: Requestor
(w/o enclosures)