



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 4, 2010

Mr. Bruce Bradshaw  
Chief of Police  
Comanche Police Department  
110 East Grand  
Comanche, Texas 76442

OR2010-06369

Dear Chief Bradshaw:

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# 378901.

The Comanche Police Department (the "department") received a request for a specified incident report. You claim that the requested 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.

You seek to withhold the submitted information under section 552.108(a) of the Government Code, which provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation or prosecution of crime; [or]

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1)-(2). As a general rule, the protections afforded by sections 552.108(a)(1) and 552.108(a)(2) of the Government Code are mutually exclusive. Section 552.108(a)(1) is applicable to information pertaining to a pending criminal investigation or prosecution, while section 552.108(a)(2) protects law enforcement records pertaining to a criminal investigation or prosecution that concluded in a final result other than a conviction or a deferred adjudication. A governmental body that claims section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A) (governmental body must submit written comments stating what claimed exception applies that would allow information to be withheld); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). A governmental body that claims section 552.108(a)(1) must demonstrate that release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See Gov't Code* § 552.108(a)(1). A governmental body that claims section 552.108(a)(2) must demonstrate that the information at issue is related to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.108(a)(2).

You contend that this request for information “should be denied because [the responsive report] falls within Section 552.108(a) of the Texas Government Code, an investigation of [the specified offense].” Having considered your representation, we find that you have not sufficiently demonstrated that release of the submitted information would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.108(a)(1); *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). Furthermore, you do not inform us that the submitted information pertains to an investigation that concluded in a result other than conviction or deferred adjudication. Thus, we find you have not sufficiently demonstrated that the submitted information falls within the scope of section 552.108(a)(1) or section 552.108(a)(2). We therefore conclude the department may not withhold any of the submitted information under section 552.108 of the Government Code.

We note a portion of the submitted information is subject to section 552.130 of the Government Code.<sup>1</sup> 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). We note, however, section 552.130 protects privacy interests. In this instance, the submitted information contains the Texas driver's license number and license plate number pertaining to the requestor's client, as well as the driver's license number of another individual. Because the requestor is acting as her client's authorized representative, she has a right of access to her

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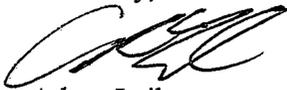
<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

client's driver's license number and license plate number under section 552.023 of the Government Code, and the information may not be withheld under section 552.130. *Id.* § 552.023(b) (governmental body may not deny access to person or person's representative to whom information relates on grounds information is considered confidential under privacy principles). However, as the requestor does not have a right of access to the other individual's driver's license number, which we have marked, the department must withhold the marked driver's license number under section 552.130 of the Government Code.<sup>2</sup> As you raise no exceptions to disclosure of the remaining information, it must be released to the requestor.

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,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/rl

Ref: ID# 378901

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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<sup>2</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 driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.