



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 30, 2010

Mr. Jason Day
City Attorney
City of Royse City
P.O. Box 638
Royse City, Texas 75189

OR2010-13155

Dear Mr. Day:

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# 392154 (RCCA10-0134).

The City of Royse City (the "city") received a request for a specified police incident report involving the requestor. You state the city has provided some of the requested information to the requestor. You claim portions of the submitted incident report are 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 provides in pertinent 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 the 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). Generally, section 552.108(a)(1) is mutually exclusive of section 552.108(a)(2). Section 552.108(a)(1) protects information, the release of which would interfere with a particular pending criminal investigation or prosecution. In contrast, section 552.108(a)(2) protects information that relates to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why the exception it claims is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

In your comments to this office, you state the information you seek to withhold pertains to a criminal case in which charges were filed, that was subsequently dismissed, and that did not result in a conviction or deferred adjudication. You also state, however, the information at issue pertains to an ongoing case. Because you have provided this office with contradictory information, we find you have failed to sufficiently demonstrate the applicability of section 552.108. *See Gov't Code § 552.301(e)(1)(A)* (governmental body must provide comments explaining why claimed exceptions to disclosure apply). Therefore, we conclude the city may not withhold the information at issue under either section 552.108(a)(1) or section 552.108(a)(2) of the Government Code. As you have not claimed any other exceptions to disclosure, the information at issue must be released.¹

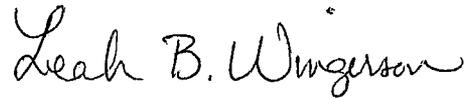
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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,

¹We note the information being released includes the requestor's Texas motor vehicle record information, which is generally confidential under section 552.130 of the Government Code. Because this exception was enacted to protect a person's privacy, the requestor has a right of access to her private information under section 552.023(a) of the Government Code. *See Gov't Code § 552.023(a)* (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual asks governmental body to provide her with information concerning herself). If the city receives another request for this information from an individual other than this requestor, the city should again seek our 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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 392154

Enc. Submitted documents

c: Requestor
(w/o enclosures)