



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 29, 2010

Ms. Jessica Sangsvang  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3<sup>rd</sup> Floor  
Fort Worth, Texas 76102

OR2010-14781

Dear Ms. Sangsvang:

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# 397111 (Fort Worth Public Information Request No. W002595).

The City of Fort Worth (the "city") received a request for information pertaining to a specified criminal case. You claim that the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information is part of a completed investigation, which is subject to section 552.022(a)(1) of the Government Code. Section 552.022(a)(1) provides a completed investigation is public information unless it is confidential by other law or excepted from disclosure under section 552.108. Gov't Code § 552.022(a)(1). Section 552.103 is a discretionary exception and does not make information confidential; therefore, the department may not withhold the submitted information under this exception. *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 473 (1987) (section 552.103 may be waived). However, because section 552.022(a)(1) specifically

allows for the exception of information under section 552.108, we will consider your argument under that exception.

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 . . . 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 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 have submitted an affidavit from the Tarrant County District Attorney’s Office (the “district attorney”) representing the submitted information pertains to a criminal prosecution that resulted in a conviction and a sentence of life in prison. The district attorney states the defendant has not filed an appeal but he has not exhausted all appellate and post-conviction remedies available. Based on the affidavit, we understand you to argue the criminal prosecution at issue is still pending because the defendant still has an opportunity to appeal. However, we note that a mere chance of an appeal is insufficient to demonstrate that the release of the submitted information will interfere with law enforcement efforts. Thus, the city may not withhold any of the submitted information under section 552.108(a)(1) of the Government Code.

We note the submitted information contains Texas license plate numbers subject to section 552.130 of the Government Code.<sup>1</sup> 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). Upon review, we find the city must withhold the Texas license plate numbers we marked under section 552.130.<sup>2</sup> As you raise no further exceptions to its disclosure, 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](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General’s Open Government Hotline, toll free,

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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. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>This office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies, which authorizes withholding of ten categories of information, including Texas license plate numbers 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,



Laura Ream Lemus  
Assistant Attorney General  
Open Records Division

LRL/eb

Ref: ID# 397111

Enc. Submitted documents

c: Requestor  
(w/o enclosures)