



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 24, 2011

Ms. Maria Miller  
Legal Department  
Dallas County Community College District  
1601 South Lamar, Suite 208  
Dallas, Texas 75215-1816

OR2011-01120

Dear Ms. Miller:

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# 406788.

The Dallas County Community College District (the "district") received a request for a specified Brookhaven College Police Department incident report. You state that some of the information has been or will be provided to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Section 552.108 of the Government Code provides in part:

---

<sup>1</sup>Although you seek to withhold the marked information in reliance on Open Records Decision No. 127 (1976), we note that this is not an exception to disclosure but instead summarizes the types of information considered to be basic information under section 552.108(c) of the Government Code. We understand you, therefore, to assert section 552.108 as an exception to disclosure for this information.

(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 subsections 552.108(a)(1) and 552.108(a)(2) 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 claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You do not state whether the information you seek to withhold relates to a pending criminal investigation subject to section 552.108(a)(1) or a closed criminal investigation that did not result in a conviction or deferred adjudication subject to section 552.108(a)(2). Accordingly, we find you have failed to demonstrate the applicability of section 552.108 of the Government Code, and the district may not withhold the information you have marked on that basis.

We note the submitted information includes information that is excepted from disclosure under section 552.102(a) of the Government Code.<sup>2</sup> Section 552.102(a) excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). The Texas Supreme Court recently held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex. & The Dallas Morning News, Ltd.*, No. 08-0172, 2010 WL 4910163 (Tex. Dec. 3, 2010) (Dec. 20, 2010, motions for reconsideration and rehearing pending). Having carefully reviewed the information at issue, we have marked the information that the district must withhold under section 552.102(a) of the Government Code.

---

<sup>2</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions.

Section 552.130 of the Government Code exempts from disclosure “information [that] relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state.” Gov’t Code § 552.130(a). Accordingly, the district must withhold the Texas driver’s license number we have marked under section 552.130 of the Government Code.

Section 552.137 provides, “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act],” unless the owner of the e-mail address has affirmatively consented to its release or the e-mail address is specifically excluded by subsection (c). Gov’t Code § 552.137(a)-(c). Upon review, we find the e-mail address we have marked is not the type excluded by section 552.137(c) and must be withheld under section 552.137 of the Government Code, unless the owner has consented to its release.

In summary, the district must withhold the information we have marked under section 552.102(a) of the Government Code, the driver’s license number we have marked under section 552.130 of the Government Code, and the e-mail address we have marked under section 552.137 of the Government Code, unless the owner has consented to its release.<sup>3</sup> The remaining information must be released.<sup>4</sup>

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

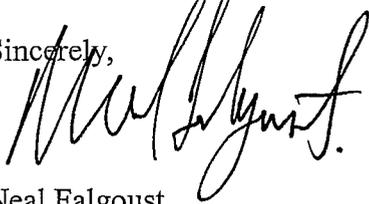
---

<sup>3</sup>We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver’s license numbers under section 552.130 of the Government Code and an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general opinion.

<sup>4</sup>We note the information being released contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office. See Gov’t Code § 552.147(b). We also note the information being released in this instance includes the requestor’s license plate number, which he has a right of access to under section 552.023 of the Government Code. See Gov’t Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person’s agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Therefore, if the district receives another request for this information from a different requestor, the district must again seek a ruling from this office.

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 black ink, appearing to read "Neal Falgoust". The signature is written in a cursive, flowing style.

Neal Falgoust  
Assistant Attorney General  
Open Records Division

---

NF/dls

Ref: ID# 406788

Enc. Submitted documents

c: Requestor  
(w/o enclosures)