



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 31, 2011

Mr. Matthew C. G. Boyle  
Boyle & Lowry, L.L.P.  
4201 Wingren, Suite 108  
Irving, Texas 75062-2763

OR2011-01590

Dear Mr. Boyle:

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# 407526.

The City of Colleyville (the "city"), which you represent, received two similar requests for information relating to the arrest of a named individual. You state the city will release some of the requested information. You claim that some of the requested information is excepted from disclosure under sections 552.108, 552.1175, and 552.130 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a) 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: (1) 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 must reasonably explain how and why release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You raise section 552.108(a)(1) for the information in Exhibit A. We note the information at issue includes a statutory warning and a notice of suspension. Because copies of these documents, which we have marked, have been provided to the arrestee, we find that their release will not interfere with the detection, investigation, or prosecution of crime. *See Gov't Code*

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<sup>1</sup>Although you raise section 552.101 in conjunction with sections 552.108 and 552.130 of the Government Code, we note section 552.101 does not encompass other exceptions in the Act. We also note the city did not raise section 552.1175 of the Government Code as an exception to disclosure within ten business days of the date the city received the request. *See Gov't Code* §§ 552.301(b), .302. However, because section 552.1175 is a mandatory exception that can provide a compelling reason to withhold information from disclosure, we will consider your claim under section 552.1175, notwithstanding the city's violation of section 552.301(b) in raising that exception. *See id.* § 552.302.

§ 552.108(a)(1). Therefore, the city may not withhold the marked statutory warning and notice of suspension under section 552.108(a)(1). You state that the information at issue pertains to a criminal case that is pending investigation with the city's police department and prosecution with the Tarrant County District Attorney. Based upon your representation and our review, we conclude that release of the information in Exhibit A would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the information in Exhibit A, and it may be withheld on that basis.

Section 552.1175 of the Government Code applies to information pertaining to peace officers that the city does not hold in an employment context and provides in part:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure[.]

...

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a)(1), (b). Upon review, we determine the city must withhold the home address we have marked under section 552.1175 if the individual to whom the information pertains elects to restrict access to his information in accordance with section 552.1175(b). If the individual is no longer a licensed peace officer or no election is made, the city may not withhold the individual's information under section 552.1175 of the Government Code.

Section 552.130 of the Government Code 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). Upon review, we find portions of the submitted information constitute Texas motor vehicle record information. Thus, the city must withhold the Texas license plate number and driver's

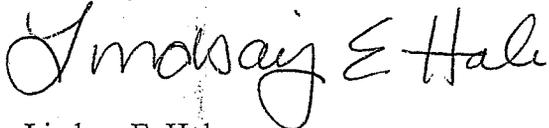
license number, class, and expiration year we have marked under section 552.130 of the Government Code.<sup>2</sup>

In summary: (1) with the exception of the statutory warning and notice of suspension, which we have marked, the city may withhold the information in Exhibit A based on section 552.108(a)(1) of the Government Code; (2) the city must withhold the home address we have marked under section 552.1175 if the individual to whom the information pertains elects to restrict access to his information in accordance with section 552.1175(b) of the Government Code; and (3) the city must withhold the Texas license plate number and driver's license number, class, and expiration year we have marked under section 552.130 of the Government Code.

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,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/em

Ref: ID# 407526

Enc. Submitted documents

c: Requestors  
(w/o enclosures)

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<sup>2</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 and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.