



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 9, 2011

Ms. Lisa Milasky King
Assistant District Attorney - Civil Section
Collin County
2100 Bloomdale Road, Suite 20004
McKinney, Texas 75071

OR2011-11483

Dear Ms. King:

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# 426338.

The Collin County Criminal District Attorney's Office (the "district attorney") received a request for the complete offense reports and "TDC summary" for case numbers 219-81078-88, 219-81079-88, 380-80986-97, 219-80684-05. You state the district attorney does not maintain a "TDC summary" for case numbers 219-81078-88, 219-81079-88, 380-80986-97, 219-80684-05.¹ You claim that the submitted information is excepted from disclosure under sections 552.103 and 552.130 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information is subject to section 552.022 of the Government Code, which provides:

¹In responding to a request for information under the Act, a governmental body is not required to disclose information that did not exist at the time the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990).

²Although, you raise sections 552.101 and 552.117 of the Government Code as exceptions to disclosure of the requested information, you have provided no arguments regarding the applicability of these sections. Since you have not submitted arguments concerning section 552.101 or section 552.117, we assume that you no longer urge these exceptions. *See Gov't Code* §§ 552.301(b), (e), .302.

(a) . . . [T]he following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). The submitted information consists of completed investigations, which fall within the purview of section 552.022(a)(1). Therefore, the district attorney must release the submitted information unless it is confidential under other law or excepted from disclosure under section 552.108 of the Government Code. Although you seek to withhold this information under section 552.103 of the Government Code, this section is a discretionary exception that a governmental body may waive. *See 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 No. 551 (1990) (statutory predecessor to section 552.103 serves only to protect governmental body's position in litigation and does not itself make information confidential); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). As such, section 552.103 is not “other law” that makes information expressly confidential for purposes of section 552.022. Thus, the district attorney may not withhold any of the submitted information under section 552.103 of the Government Code. However, section 552.130 of the Government Code is “other law” that makes information confidential for purposes of section 552.022. Accordingly, we will consider the applicability of section 552.130 of the Government Code to the submitted information.

Section 552.130 provides in relevant part:

(a) Information is excepted from the requirements of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;

(2) a motor vehicle title or registration issued by an agency of this state or another state or country; or

(3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.

Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130). Upon review, we find the district attorney must withhold the motor

vehicle record information we have marked under section 552.130 of the Government Code.³ As you raise no further exceptions to disclosure, the remaining information must be released.⁴

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, 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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 426338

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We 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 and Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

⁴We 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 under the Act. Gov't Code § 552.147(b).