



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 31, 2011

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P. O. Box 839966
San Antonio, Texas 78283-3966

OR2011-15929

Dear Mr. Weir:

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# 437191 (ORR# W003157).

The San Antonio Police Department (the "department") received a request for a specified offense report. You claim the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we must address the department's obligations under section 552.301 of the Government Code, which prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. Gov't Code § 552.301(b). You state the department received the request for information on September 2, 2011. Thus, the department's ten-business-day deadline to request a ruling from this office pursuant to section 552.301(b) was September 19, 2011. However, the envelope in which the department requested a ruling from this office is meter marked September 20, 2011. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail). Accordingly, the department failed to comply with the procedural requirements mandated by section 552.301(b).

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). Section 552.108 is a discretionary exception to disclosure that protects a governmental body's interests. *See* Open Records Decision Nos. 665 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions), 177 (1977) (statutory predecessor to section 552.108 subject to waiver). Thus, the department's claim under section 552.108 is not a compelling reason to overcome the presumption of openness. Therefore, the department may not withhold any of the submitted information under section 552.108. However, section 552.130 of the Government Code can provide a compelling reason to overcome this presumption.¹ Therefore, we will consider whether this section requires you to withhold the submitted information.

Section 552.130(a) of the Government Code provides the following:

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 amendments to Gov't Code § 552.130). The department must withhold the motor vehicle record information we

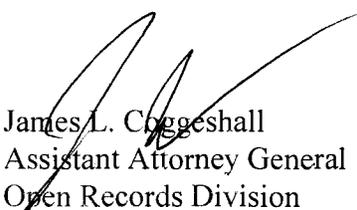
¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987); *see, e.g.*, Open Records Decision No. 470 at 2 (1987) (because release of confidential information could impair rights of third parties and because improper release constitutes a misdemeanor, attorney general will raise predecessor statute of section 552.101 on behalf of governmental bodies).

have marked under section 552.130 of the Government Code.² The department must release the remaining information to the requestor.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/ag

Ref: ID# 437191

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We 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 a Texas license plate number, under section 552.130 of the Government Code, without the necessity of requesting an attorney general opinion.