



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 15, 2012

Mr. Eloy Padilla
Assistant City Attorney
City of Del Rio
109 West Broadway Street
Del Rio, Texas 78840

OR2012-02400

Dear Mr. Padilla:

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# 447330.

The Del Rio Police Department (the "department") received a request for a copy of a police report related to a specified incident. You claim that the requested information is excepted from disclosure under all exceptions under the Act. We have considered the exceptions you claim and reviewed the submitted information.

We must address the department's obligations under the Act. Pursuant to section 552.301(e) of the Government Code, the governmental body is required to submit to this office within fifteen business days of receiving the request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See* Gov't Code § 552.301(e). You state the department received the request for information on December 12, 2011. You state the department was closed on December 26, 2011 and December 27, 2011. Thus, the department's fifteen-business-day deadline was January 4, 2012. As of the date of this letter, you have not submitted to this office comments explaining why the stated exceptions apply.

Consequently, we find the department failed to comply with the requirements of section 552.301.

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 information is public and must be released unless the governmental body overcomes this presumption by demonstrating a compelling reason to withhold the information. *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, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 630 (1994). A compelling reason generally exists when information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3, 325 at 2 (1982). Because the department failed to comply with the procedural requirements of the Act, the department has waived all of the Act's discretionary exceptions to disclosure. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions in general), 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions). We note portions of the information at issue are subject to section 552.130 of the Government Code, which can provide a compelling reason to withhold information. Accordingly, we will consider whether any of the information at issue is excepted from disclosure under section 552.130.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration, issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1),(2). Upon review, we find the department must withhold the motor vehicle record information we have marked. The remaining information must be released.¹

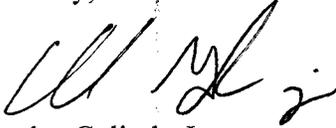
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

¹We note the information to be released contains a social security number. 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. *See* Gov't Code § 552.147(b).

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 'C Galindo Jr.', written in a cursive style.

Charles Galindo Jr.
Assistant Attorney General
Open Records Division

CG/som

Ref: ID# 447330

Enc. Submitted documents

c: Requestor
(w/o enclosures)