



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 18, 2012

Ms. Jennafer G. Tallant
For City of Carrollton
Denton, Navarro, Rocha & Bernal, P.C.
2517 North Main Avenue
San Antonio, Texas 78212

OR2012-11115

Dear Ms. Tallant:

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# 459361.

The City of Carrollton (the "city"), which you represent, received a request for information pertaining to a specified incident. You claim some of the submitted 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.

Section 552.108 of the Government Code provides, in pertinent part, the following:

(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]

...

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

...

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1), (b)(2). Subsection 552.108(a)(1) is mutually exclusive of subsection 552.108(b)(2). Subsection 552.108(a)(1) protects information, the release of which would interfere with a particular pending criminal investigation or prosecution. In contrast, subsection 552.108(b)(2) protects information that relates to a concluded criminal investigation or prosecution that did not result in a conviction or deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why the exception it claims is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state the submitted information pertains to a criminal investigation that did not result in a conviction or a deferred adjudication, and is, therefore, excepted from disclosure under subsection 552.108(b)(2). However, you also cite subsection 552.108(a)(1) and assert release of this information would interfere with the detection, investigation, or prosecution of crime. Because you have provided this office with contradictory representations, we find you have failed to demonstrate the applicability of section 552.108 to the submitted information. *See Gov't Code* § 552.301(e)(1)(A). Therefore, we conclude the city may not withhold any of the information you have marked under section 552.108 of the Government Code.

Section 552.130 of the Government Code provides, in part, that 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, is excepted from public release.¹ *See id.* § 552.130(a)(1)-(2). Upon review, we conclude the city must withhold the drivers' license numbers and license plate number we have marked under section 552.130 of the

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See Open Records Decision* Nos. 481 (1987), 480 (1987), 470 (1987).

Government Code.² As no exceptions to disclosure are raised for the remaining information, the city must release it.

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/dls

Ref: ID# 459361

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the Texas legislature amended section 552.130 of the Government Code effective September 1, 2011, to allow a governmental body to redact the information described in subsections 552.130(a)(1) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Further, 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 a Texas license plate number, under section 552.130(a)(2) of the Government Code, without the necessity of requesting an attorney general opinion.