



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 4, 2020

Ms. Sylvia McClellan
Assistant City Attorney
City of Dallas
1400 South Lamar, 6th Floor, 6W
Dallas, Texas 75215

OR2020-06774

Dear Ms. McClellan:

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# 822612 (ORR D000809-010820).

The Dallas Police Department (the "department") received a request for four specified police reports. You claim the requested information is excepted from disclosure under sections 552.108, and 552.130¹ of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note, and you acknowledge, the department failed to meet the statutory deadlines imposed by section 552.301 of the Government Code for requesting a ruling from this office. *See* Gov't Code § 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 there is 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). The need of a governmental body, other than the governmental body that failed to timely seek an open records decision, to withhold information under section 552.108 of the Government Code can provide a compelling reason sufficient to overcome the presumption of openness. *See* Open Records Decision No. 586 (1991). Because you inform us, and provide documentation showing, the Dallas County District Attorney's Office (the "district attorney's office") objects to the release of the information at issue, we

¹ Although the department does not raise sections 552.101 and 552.130 of the Government Code in its brief, we understand it to raise these exceptions based on its markings.

will consider whether the department may withhold the submitted information under section 552.108 of the Government Code on behalf of the district attorney's office. Additionally, you raise section 552.130 of the Government Code for some of the submitted information. Because this section can provide a compelling reason to overcome the presumption of openness, we will also address your argument under this section for the information at issue.

Section 552.108(a)(1) 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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state, and provide documentation showing, the district attorney's office asserts the information at issue relates to a pending criminal investigation. Based on the submitted representations, we conclude the release of the information at issue 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, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code on behalf of the district attorney's office.²

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, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, the department must withhold the motor vehicle record information it has marked information and the additional information we have marked under section 552.130 of the Government Code.

In summary, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code on behalf of the district attorney's office. The department must withhold the motor vehicle record information it has marked and the additional information we have marked in the remaining information under section 552.130 of the Government Code. The department must release the remaining information.³

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.

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

³We note the remaining information 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. *See* Gov't Code § 552.147(b).

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jesse Harvey', with a long horizontal stroke extending to the right.

Jesse Harvey
Assistant Attorney General
Open Records Division

JHI/rm

Ref: ID# 822612

Enc. Submitted documents

c: Requestor
(w/o enclosures)