



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 16, 2009

Sgt. Michael Munson
Custodian of Records
Webster Police Department
217 Pennsylvania Avenue
Webster, Texas 77598

OR2009-08297

Dear Sgt. Munson:

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# 346920.

The Webster Police Department (the "department") received a request for audio and video recordings of a specified traffic stop. You state that the department does not maintain any responsive video recordings.¹ We understand you to claim that portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code.² We have considered the exception we understand you to claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other

¹The Act does not require a governmental body to release information that did not exist at the time the request for information was received or create new information in response to a request. *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), 452 at 3 (1986), 362 at 2 (1983).

²Although your brief does not specifically raise section 552.101, we understand you to raise this exception based on the substance of your arguments.

statutes, including chapter 730 of the Transportation Code. Section 730.004 of the Transportation Code provides that:

Notwithstanding any other provisions of law to the contrary, including chapter 552, Government Code, except as provided by Sections 730.005-730.007, an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.

Transp. Code § 730.004. Section 730.003 provides that, for purposes of chapter 730:

(1) "Agency" includes any agency or political subdivision of this state, or an authorized agent or contractor of an agency of this state, that compiles or maintains motor vehicle records.

...

(4) "Motor vehicle record" means a record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle registration, motor vehicle title, or identification document issued by an agency of this state or a local agency authorized to issue an identification document. The term does not include:

(A) a record that pertains to a motor carrier; or

(B) an accident report prepared under Chapter 550 or 601.

Transp. Code § 730.003(1), (4). Section 730.004 applies only to an "agency" that compiles or maintains motor vehicle records. *See* Transp. Code § 730.003(1). You have not established that the department compiles or maintains motor vehicle records; therefore, section 730.004 does not apply to the department. Accordingly, the department may not withhold any part of the submitted information under section 552.101 of the Government Code in conjunction with section 730.004 of the Transportation Code. *See* Open Records Decision No. 478 at 2 (1987) (language of confidentiality statute controls scope of protection).

We note that section 552.130 of the Government Code excepts from public disclosure information relating to a motor vehicle operator's or driver's license or motor vehicle title or registration issued by an agency of the State of Texas.³ Gov't Code § 552.130(a)(1), (2).

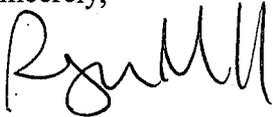
³The Office of the Attorney General will raise a mandatory exception, such as section 552.130, on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Thus, the department would ordinarily be required to withhold the submitted Texas motor vehicle information under section 552.130. However, section 552.130 protects personal privacy and, in this instance, the information at issue relates to the requestor. Under section 552.023 of the Government Code, a person has a special right of access to information related to herself that would otherwise be excepted from public disclosure under a privacy-based exception. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Accordingly, the department may not withhold the requestor's motor vehicle information under section 552.130, and must release the submitted information in its entirety.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 at (512) 475-2497.

Sincerely,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/rl

Ref: ID# 346920

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

⁴Because, in this instance, the requestor has a special right of access to her own section 552.130 information, the department must seek another decision from this office if it receives another request for the same information from a different requestor. *See* Gov't Code §§ 552.301, .302.