



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 1, 2010

Ms. Ylise Janssen
Senior School Law Attorney
Office of the General Counsel
Austin Independent School District
1111 West Sixth Street
Austin, Texas 78703

OR2010-04632

Dear Ms. Janssen:

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# 374688.

The Austin Independent School District (the "district") received a request for information related to case number 09-005454, pertaining to the requestor's son. You claim the submitted report is excepted from disclosure under section 552.103 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, we note some of the information you submitted for review is not responsive to the request for information because it was created after the instant request for information was received by the district. This ruling does not address the public availability of any information that is not responsive to the request, and the district is not required to release this information, which we have marked, in response to this request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. App.—San Antonio 1978, writ dism'd).

We note the responsive information is subject to section 552.022(a)(1) of the Government Code, which provides:

[T]he following categories of information are public information and not excepted from required disclosure under [the Act] unless they are expressly confidential under other law:

- (1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). The submitted report constitutes the district's police department's investigation of the incident at issue. You state, and provide a representation from a lieutenant with the district's police department stating, that this investigation resulted in an arrest and that a prosecution is pending. We therefore determine the submitted report consists of the district's police department's completed investigation of this matter and is subject to section 552.022(a)(1). Thus, the district may only withhold this information if it is excepted from disclosure under section 552.108 of the Government Code or expressly confidential under "other law." Although you assert this information is excepted under section 552.103 of the Government Code, this section is a discretionary exception to public disclosure that protects a governmental body's interests and may be waived. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 542 at 4 (1990) (statutory predecessor to section 552.103 may be waived). As such, section 552.103 is not "other law" that makes information confidential for purposes of section 552.022. Therefore, none of the responsive information may be withheld under section 552.103 of the Government Code. However, because the submitted report contains information subject to section 552.130 of the Government Code, which is "other law" for purposes of section 552.022, we will address the applicability of that exception.¹

The responsive information contains a Texas driver's license number. Section 552.130 excepts from disclosure information relating to a motor vehicle operator's license, driver's license or permit issued by a Texas agency. Gov't Code § 552.130(a)(1), (2). The district must withhold the Texas driver's license number we have marked in the responsive

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

information under section 552.130 of the Government Code.² The remaining responsive information must be released.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.

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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/cc

Ref: ID# 374688

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

²We note this office recently 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 driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

³The remaining information includes 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). The requestor has a right of access, however, to his son's social security number. *See generally id.* § 552.023(a) (person or person's authorized representative has a special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests).