



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 3, 2010

Mr. Jason M. Rammel  
Sheets & Crossfield, P.C.  
309 East Main Street  
Round Rock, Texas 78664-5246

OR2010-13411

Dear Mr. Rammel:

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# 392566.

The City of Hutto (the "city"), which you represent, received a request for the requestor's personnel file. You claim that the submitted information is excepted from disclosure under sections 552.108, 552.117, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have only submitted an incident report for our review. To the extent any additional information responsive to this request existed at the time the city received the request for information, we assume you have released it. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting that if a governmental body concludes no exceptions apply to the requested information, it must release information as soon as possible under the circumstances).

Section 552.108(a)(2) of the Government Code excepts "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]" Gov't Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction

or a deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). In this instance, the requestor seeks information in his city personnel file, rather than law enforcement records. We note the submitted incident report is maintained by the city as part of the employment process. By its terms, section 552.108 only applies to a law enforcement agency or prosecutor. Because the information at issue consists of personnel documents maintained by the city for employment purposes, we find you have failed to demonstrate the applicability of section 552.108(a)(2). Accordingly, the city may not withhold the submitted incident report on that basis.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address, home telephone number, social security number, and family member information of a current or former employee of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code. *See id.* § 552.117(a)(1). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See Open Records Decision No. 530 at 5 (1989)*. The city may only withhold information under section 552.117(a)(1) on behalf of a current or former official or employee who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. You state the employee whose information is at issue timely elected to keep his personal information confidential. Therefore, the city must withhold the information we have marked under section 552.117(a)(1) of the Government Code. The remaining information you have highlighted in green under section 552.117 does not constitute an employee's home address or telephone number, social security number, or family member information. Therefore, the city may not withhold any of the remaining information at issue under section 552.117(a)(1) of the Government Code.

Section 552.130 of the Government Code excepts from public disclosure information that relates to a Texas motor vehicle operator's or driver's license or permit or Texas motor vehicle title or registration. Gov't Code § 552.130(a)(1), (2). We note that section 552.130 protects personal privacy. In this instance, the city may not withhold the requestor's Texas driver's license number under section 552.130 of the Government Code. *See id.* § 552.023 (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); *Open Records Decision No. 481 at 4 (1987)*. However, the city must withhold the remaining

Texas driver's license numbers that do not belong to the requestor, which we have marked, under section 552.130 of the Government Code.<sup>1</sup>

In summary, the city must withhold the information we have marked under section 552.117(a)(1) of the Government Code. The city must withhold the Texas driver's license numbers that do not belong to the requestor, which we have marked, under section 552.130 of the Government Code. The remaining information must be released.

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](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,



Christina Alvarado  
Assistant Attorney General  
Open Records Division

CA/tp

Ref: ID# 392566

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

---

<sup>1</sup>We 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.