



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 14, 2010

Ms. Evelyn Njuguna
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2010-15662

Dear Ms. Njuguna:

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# 398796.

The Houston Police Department (the "department") received a request for a specified police report. You claim 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(a)(2) of the Government Code excepts from disclosure information concerning an investigation that has concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state "the investigation was concluded in a determination by [the department] to refer the complainant to file Class C charges" and the Houston Municipal Court indicates no charges have been filed. Although you state no charges have been filed, the shortest possible statute of limitations for assault is two years, which has not run. *See* Code Crim. Proc. art. 12.02 (indictment or information on misdemeanor may be presented within two years from date of commission of offense, and not afterward). Because charges can be filed at any time prior to the expiration of the statute of limitations, you have failed to demonstrate that this investigation had concluded in a final result other than conviction or deferred adjudication on the date the department received the request. Therefore, the department may not withhold this report under section 552.108(a)(2) of the Government Code.

We note the submitted documents contain confidential information.¹ Section 552.130 excepts from disclosure information related to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state.² See Gov't Code § 552.130(a)(1), (2). We have marked the Texas motor vehicle record information that must be withheld under section 552.130 of the Government Code. The remaining 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,



Neal Falgoust
Assistant Attorney General
Open Records Division

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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).

²We note this office has issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

³The information being released contains the requestor's driver's license number. The requestor, in this instance, has a special right of access to this information under section 552.023 of the Government Code. See Gov't Code § 552.023(a) ("a person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests."); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Therefore, should the department receive another request for this particular information from a different requestor, the department should again seek a decision from this office.

Ref: ID# 398796

Enc. Submitted documents

c: Requestor
(w/o enclosures)