



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 8, 2010

Ms. Teresa J. Brown  
Senior Open Records Assistant  
City of Plano Police Department  
P.O. Box 860358  
Plano, Texas 75086-0358

OR2010-18413

Dear Ms. Brown:

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# 402511 (ORR# STRJ101610).

The Plano Police Department (the "department") received a request for information related to a specified incident. You state the department has released some of the requested information to the requestor. You claim some of the requested 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.<sup>1</sup>

Initially, we note that the department has redacted portions of the submitted information. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. *See* Gov't Code § 552.301(a), 301(e)(1)(D). The department has redacted, in part, Texas driver's license numbers and a Texas license plate number. Redacting of Texas driver's license and license plate numbers is now permitted pursuant to the previous determination issued to all governmental bodies in Open Records Decision 684 (2009), which authorizes the

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

withholding of ten categories of information, including Texas driver's license and license plate numbers under section 552.130 of the Government Code. We note, however, that section 552.130 protects personal privacy, and the requestor is one of the individuals whose driver's license number is at issue. We also note the license plate number at issue belongs to the requestor. Therefore, the requestor has a right of access to her Texas driver's license and license plate numbers under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a) (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 that person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Information to which the requestor has a right of access under section 552.023 may not be withheld from her under section 552.130. Furthermore, you do not assert, nor does our review of our records indicate, that the department is authorized to withhold any of the remaining redacted information without first seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2000). We will, however, address sections 552.108 and 552.130 of the Government Code for the remaining redacted information, as we are able to discern the nature of this information.<sup>2</sup>

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that 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 that the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. You state the requested information relates to a closed investigation that did not result in a conviction or deferred adjudication. However, you also state "[t]he statute of limitations has not yet run on an offense that may arise out of the incident that is the subject of the request." Based on your conflicting representations and our review of the submitted documents, we are unable to determine that the case at issue concluded in a final result other than conviction or deferred adjudication. Therefore, we find that you have failed to demonstrate the applicability of section 552.108(a)(2) to the submitted information, and it may not be withheld on this basis.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's license or driver's license issued by a Texas agency. *Id.* § 552.130(a)(1). The department must withhold the information we have marked under section 552.130. The remaining information must be released.

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481, 480 (1987), 470 (1987).

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,



Tamara H. Holland  
Assistant Attorney General  
Open Records Division

THH/vb

Ref: ID# 402511

Enc. Submitted documents

c: Requestor  
(w/o enclosures)