



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 3, 2011

Mr. Randy A. Stoneroad
Deputy City Attorney
City of Temple
2 North Main Street, Suite 308
Temple, Texas 76501

OR2011-06026

Dear Mr. Stoneroad:

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# 416168.

The Temple Police Department (the "department") received a request for six categories of information related to case number 11000742. You state you have released some of the responsive information to the requestor. You claim that 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. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Section 552.108(a)(2) of the Government Code excepts from disclosure "[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[.]" *Id.* § 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 deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is

applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A). You state the submitted information concerns a criminal investigation that did not result in conviction or deferred adjudication. However, you further state the case “remains viable.” We note section 552.108(a)(2) is applicable only if the information at issue is related to a *concluded* criminal case that did not result in conviction or deferred adjudication. *Id.* § 552.108(a)(2). Upon review, we find you have failed to demonstrate the submitted information relates to a closed criminal investigation that did not result in conviction or deferred adjudication. Thus, we find you have not demonstrated the applicability of section 552.108(a)(2) to the submitted information. *See id.* § 552.301(e)(1)(A). Accordingly, the department may not withhold any of the submitted information under section 552.108(a)(2).

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from public release.¹ *Id.* § 552.130(a)(1), (2). Accordingly, the department must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information must be released.²

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

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 the information being released contains the requestor’s social security number and Texas driver’s license number. 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. Gov’t Code § 552.147(b). Additionally, we note Open Records Decision No. 684 (2009) authorizes a governmental body to redact a Texas driver’s license number under section 552.130 of the Government Code without the necessity of requesting an attorney general decision. The requestor has a special right of access, however, to her own social security number and Texas driver’s license number which would otherwise be confidential with regard to the general public. *See* Gov’t Code § 552.023(a). Accordingly, if the department receives another request for this information from an individual other than the requestor, the department is authorized to withhold the social security number under section 552.147 and the Texas driver’s license number under section 552.130 without the necessity of requesting an attorney general decision.

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,

A handwritten signature in black ink, appearing to read 'Vanessa Burgess', with a long horizontal flourish extending to the right.

Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/em

Ref: ID# 416168

Enc. Submitted documents

c: Requestor
(w/o enclosures)