



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 20, 2012

Ms. Jessica D. Richard
Assistant City Attorney
City of New Braunfels
P.O. Box 311747
New Braunfels, Texas 78131

OR2012-09402

Dear Ms. Richard:

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# 460940.

The City of New Braunfels (the "city") received a request for case number 100050195. You claim some of 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 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 concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A). You state the information you have marked relates to a closed case that did not result in conviction or deferred adjudication. Based on this representation and our review, we find section 552.108(a)(2) is generally applicable to the marked information.

We note, however, you have marked the entire narrative portion of the submitted report. Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to

be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). See Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). This information includes, but is not limited to, a sufficient portion of the narrative to encompass a detailed description of an offense. Accordingly, with the exception of basic information, which must include a sufficient portion of the narrative to encompass a detailed description of the offense, the city may withhold the marked information under section 552.108(a)(2).

You state the city will redact the driver's license numbers you have marked under section 730.004 of the Transportation Code and a ruling this office issued to the City of San Antonio in Open Records Letter No. 2008-12423 (2008), in which we found section 730.004 applies only to an agency that compiles or maintains motor vehicle records. We note the city is not authorized to redact any information under this basis. See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure). However, a governmental body is authorized to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *Id.* § 552.130(d), (e). Thus, a governmental body may only redact information subject to subsections 552.130(a)(1) and (a)(3) in accordance with section 552.130. Section 552.130(a)(1) provides that information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country is excepted from public release. *Id.* § 552.130(a)(1). We note section 552.130 protects personal privacy. Thus, the requestor has a right of access to his driver's license number under section 552.023 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). Therefore, the city may not withhold the requestor's driver's license number from him under section 552.130. However, the city must withhold the remaining driver's license numbers you have marked under section 552.130.

In summary, except for basic information, which must include a sufficient portion of the narratives to encompass a detailed description of the offense, the city may withhold the information you have marked under section 552.108(a)(2) of the Government Code. Except for the requestor's driver's license number, the city must withhold the driver's license numbers you 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, 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 460940

Enc. Submitted documents

c: Requestor
(w/o enclosures)