



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 7, 2012

Mr. David V. Overcash
For City of Anna
Wolfe, Tidwell & McCoy, LLP
2591 Dallas Parkway, Suite 205
Frisco, Texas 75034

OR2012-12375

Dear Mr. Overcash:

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# 461233 (Anna File No. C03029PIR20120515-01).

The City of Anna (the "city"), which you represent, received a request for two specified police reports and related drug and alcohol test results. You state you have released a copy of the Texas Peace Officer's Crash Report Form CR-3. *See* Transp. Code § 550.065(c)(4) (governmental body must release accident report form to person who provides two of the following three items of information: (1) date of the accident, (2) name of any person involved in the accident; and (3) specific location of the accident). You claim portions of the submitted information are excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note police report number 12-000047 was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2012-02870 (2012). As we have no indication the law, facts, or circumstances on which the prior ruling was based have changed, the city may rely on Open Records Letter No. 2012-02870 as a previous determination, and withhold or release the information in police report

number 12-00047 in accordance with it. *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 prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure.)

Next, we note you have marked an Affidavit of Person Who Withdrew Blood as not responsive to the request for information. Upon review of the information request, however, we find the affidavit is responsive to the request. *See* Open Records Decision No. 561 at 8-9 (1990) (governmental body must make good-faith effort to relate request to information that is within its possession or control). As you raise no exceptions to disclosure of this information, it must be released.

Section 552.108(a)(1) 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] release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state report number 12-000199 relates to an active criminal investigation. Based on your representation and our review, we conclude the release of the information you have marked within this report would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

The city seeks to withhold some of the remaining information, which you have marked, under section 552.130 of the Government Code. Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license or driver’s license, title, or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release. Gov’t Code § 552.130(a)(1), (2). A portion of the information you have marked under section 552.130 consists of the motor vehicle record information of a vehicle belonging to the requestor’s clients. We note section 552.130 protects personal privacy. Therefore, as the authorized representative of the individuals at issue, the requestor has a special right of access to the motor vehicle information belonging to his clients, which we have marked for release. *See id.* § 552.023; Open Records Decision No. 481 at 4 (1987) (governmental body may not deny access to person to whom information relates or person’s authorized representative on grounds that information is considered confidential by privacy

principles). In addition, a portion of the information you have marked does not consist of motor vehicle information for the purposes of section 552.130. Therefore, except for the information we have marked for release, the city must withhold the information you have marked under section 552.130 of the Government Code.¹

In summary, the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code. Except for the information we have marked for release, the city must withhold the information 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,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/ag

¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. However, on September 1, 2011, the Texas legislature amended section 552.130 to allow a governmental body 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. See 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). See *id.* § 552.130(d), (e). Thus, the statutory amendments to section 552.130 of the Government Code supercede Open Records Decision No. 684 on September 1, 2011. Therefore, a governmental body may only redact information subject to subsections 552.130(a)(1) and (a)(3) in accordance with section 552.130, not Open Records Decision No. 684.

Ref: ID# 461233

Enc. Submitted documents

**c: Requestor
(w/o enclosures)**