



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 17, 2012

Sergeant Michael Munson
Custodian of Records
Webster Police Department
217 Pennsylvania Avenue
Webster, Texas 77598

OR2012-14725

Dear Sergeant Munson:

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# 465560.

The Webster Police Department (the "department") received a request for a specified incident report. You claim 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.¹

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. *See* Gov't Code 552.108(a)(2). Section 552.108(b)(2) excepts "[a]n internal record or notation of a law enforcement agency that is maintained for internal use in matters relating to law enforcement or prosecution . . . if . . . the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]" *Id.* § 552.108(b)(2). 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 at issue. *See id.* §§ 552.302(e)(1)(A). You raise subsection 552.108(a)(2) and subsection 552.108(b)(2) for the submitted information. However, you have not provided any arguments explaining how subsection 552.108(a)(2) or subsection 552.108(b)(2) apply to the submitted information. Accordingly, we find you have failed to demonstrate how the submitted information relates to an investigation that did

¹We note the submitted information relates to an incident at a child care facility regulated under chapter 42 of the Human Resources Code. *See* Fam. Code § 261.201(h) (section 261.201 of Family Code does not apply to investigation of child abuse or neglect in facility regulated under Human Resources Code chapter 42).

not result in conviction or deferred adjudication. Therefore, you may not withhold any of the submitted information under subsection 552.108(a)(2) or subsection 552.108(b)(2) of the Government Code.

We note some of the submitted information is subject to section 552.130 of the Government Code.² Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's license or driver's license or a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country. *See id.* § 552.130(a)(1)-(2). Upon review, we find the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. As no further exceptions to disclosure have been raised, the remaining information must be released to this requestor.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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

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²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

³We note the information to be released contains information pertaining to the requestor's minor child that may be confidential with respect to the general public under common-law privacy. As the child's authorized representative, the requestor has a right to her child's private information pursuant to section 552.023 of the Government Code. *See Gov't Code* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual or authorized representative asks governmental body to provide information concerning that individual). Thus, if the city receives another request for this particular information from a different requestor, then the department should again seek a decision from this office.

Ref: ID# 465560

Enc. Submitted documents

c: Requestor
(w/o enclosures)