



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 5, 2013

Mr. Laurence E. Boyd
Danbury City Attorney
P.O. Box 269
Angleton, Texas 77516-0269

OR2013-15515

Dear Mr. Boyd:

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# 498456.

The Danbury Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. You state you have released some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.115, 552.1175, 552.130, 552.137, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See Gov't Code* § 552.304 (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 information concerning an investigation that did not result in conviction or deferred adjudication. *Id.* § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate

¹We note the department did not raise section 552.115 of the Government Code as an exception to disclosure within ten business days of the date the department received the request. *See Gov't Code* §§ 552.301(b), .302. However, because section 552.115 is a mandatory exception that can provide a compelling reason to withhold information from disclosure, we will consider the applicability of this exception to the submitted information, notwithstanding the department's violation of section 552.301(b) in raising this exception. *See id.* § 552.302. Additionally, although you raise section 552.117 of the Government Code for some of the submitted information, we note section 552.1175 of the Government Code is the proper exception to raise in this instance because the department does not hold the information at issue in an employment capacity.

the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information at issue pertains to a closed criminal investigation by the department that did not result in conviction or deferred adjudication. Based on this representation and our review, we agree section 552.108(a)(2) is applicable to the information you have marked. Thus, the department may withhold the information you have marked under section 552.108(a)(2) of the Government Code.²

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *See Act of May 26, 2013, 83rd Leg., R.S., H.B. 1632, § 3* (to be codified as an amendment to section 552.1175). Section 552.1175 applies, in part, to “peace officers as defined by Article 2.12, Code of Criminal Procedure.” Gov’t Code § 552.1175(a)(1). However, because section 552.1175 protects personal privacy, the requestor has a right of access to her spouse’s personal information. *See id.* § 552.023(a) (person or person’s authorized representative has special right of access to information relating to person that is protected from public disclosure by laws intended to protect person’s privacy interests). As such, the department may not withhold the information you have marked under section 552.1175 from this requestor.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country. *Id.* § 552.130(a)(1). Upon review, we agree the department must withhold the information you have marked under section 552.130 of the Government Code.

In summary, the department may withhold the information you have marked under section 552.108(a)(2) of the Government Code. The department must withhold the information you have marked under section 552.130 of the Government Code. The department must release the remaining information.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.

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of portions of this information.

³We note some of the information being released in this instance is confidential with respect to the general public. *See Gov’t Code § 552.023(a)*. Therefore, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Paige Lay".

Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

Ref: ID# 498456

Enc. Submitted documents

cc: Requestor
(w/o enclosures)