



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 14, 2013

Chief Gregory L. Grigg
Deer Park Police Department
2911 Center Street
Deer Park, Texas 77536-4942

OR2013-19880

Dear Chief Grigg:

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# 505770.

The Deer Park Police Department (the "department") received two requests from the same requestor for a specified offense report. You claim the submitted information is 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.

Section 552.108 of the Government Code provides in relevant part the following:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

- (1) release of the information would interfere with the detection, investigation, or prosecution of crime;
- (2) 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;

Gov't Code § 552.108(a)(1)-(2). Subsection 552.108(a)(1) is mutually exclusive of subsection 552.108(a)(2). Subsection 552.108(a)(1) protects information that pertains to a specific pending criminal investigation or prosecution. In contrast, subsection 552.108(a)(2) protects information that relates to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication. A governmental body claiming section 552.108(a)(1) 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 do not inform us the information at issue pertains to an ongoing criminal investigation or prosecution, nor have you explained how its release would interfere in some way with the detection, investigation, or prosecution of crime; therefore, you have not met your burden under subsection 552.108(a)(1). A governmental body claiming subsection 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation or prosecution that concluded in a final result other than conviction or deferred adjudication. You do not inform us the information at issue pertains to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication. Thus, you have also not met your burden under subsection 552.108(a)(2). Accordingly, the department may not withhold any of the information at issue under subsection 552.108(a)(1) or subsection 552.108(a)(2) of the Government Code.

You seek to withhold portions of the submitted information under section 552.130 of the Government Code. Section 552.130 provides information relating to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state or another state or country is excepted from public release. *See Gov't Code § 552.130(a)(1)-(2)*. We note section 552.130 protects personal privacy. In this instance, the requestor is the individual whose motor vehicle record information is at issue. Thus, the requestor has a right of access to his private information that would otherwise be excepted from public disclosure pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) (person's authorized representative has special right of access to information that is excepted from public disclosure under laws intended to protect that person's privacy interest); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Accordingly, none of the motor vehicle record information at issue may be withheld under section 552.130 of the Government Code. As no other exceptions to disclosure have been raised, the department must release the submitted information to the requestor.¹

¹We note the information being released includes information to which the requestor has a right of access. *See Gov't Code § 552.023(a)*; ORD 481 at 4. Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) 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, if the department receives another request for this same information from a person who does not have such a right of access, section 552.130(c) authorizes the department to redact the requestor's motor vehicle record information.

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.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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

Ref: ID# 505770

Enc. Submitted documents

cc: Requestor
(w/o enclosures)