



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 9, 2014

Sgt. Alex Arnold
Northlake Police Department
1400 FM 407
Northlake, Texas 76247

OR2014-00610

Dear Sgt. Arnold:

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# 510576.

The Northlake Police Department (the "department") received a request for information pertaining to a specified incident involving the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 730.004 of the Transportation Code, which provides, "[n]otwithstanding any other provision of law to the contrary, including chapter 552, Government Code, except as provided by Sections 730.005-730.007, an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record." Transp. Code § 730.004. Section 730.004 applies only to an "agency" that compiles or maintains motor vehicle records. *See id.* § 730.003(1). You have not established the department compiles or maintains motor vehicle records; therefore, section 730.004 does not apply to the department, and the department may not withhold any of the submitted information on this basis.

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion

of personal privacy.” Gov’t Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Accordingly, section 552.102(a) applies only to a public employee’s birth date maintained by the employer in an employment context. In this instance, the birth dates at issue are not held by the department in an employment context. Therefore, we conclude the department may not withhold the birth dates in the submitted information under section 552.102(a) of the Government Code.

You claim portions of the submitted information are subject to section 552.130 of the Government Code. Section 552.130 provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by an agency of this state or another state or country is excepted from public release. Gov’t Code § 552.130(a)(1)-(2). We note that because section 552.130 protects personal privacy, the requestor has a right of access to his own motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(b) (governmental body may not deny access to person to whom information relates or person’s agent on grounds that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, with the exception of the requestor’s motor vehicle record information, we find the department must withhold the audible and discernible driver’s license and license plate information from the submitted video recording under section 552.130 of the Government Code.

Section 552.147(a) of the Government Code provides the social security number of a living person is excepted from required public disclosure under the Act. Gov’t Code § 552.147(a). Upon review, we find you have not established the remaining information contains social security numbers of living persons. Therefore, the department may not withhold any of the remaining information under section 552.147 of the Government Code.

In summary, with the exception of the requestor’s motor vehicle record information, we find the department must withhold the audible and discernible driver’s license and license plate information from the submitted video recording under section 552.130 of the Government Code. The department must release the remaining information.¹

¹As previously noted, the information being released includes the requestor’s driver’s license and motor vehicle registration information, to which the requestor has a right of access under section 552.023 of the Government Code. *See* Gov’t Code § 552.023(a); ORD 481 at 4. We note 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. 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 different requestor, section 552.130(c) of the Government Code authorizes the department to withhold the driver’s license and motor vehicle registration information without the necessity of requesting an attorney general decision.

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,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/akg

Ref: ID# 510576

Enc. Submitted documents

c: Requestor
(w/o enclosures)