



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 30, 2014

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2014-01860

Dear Mr. Weir:

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# 513185 (COSA File No. W020449).

The City of San Antonio (the "city") received a request for a specified offense 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.

We note the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2013-21829 (2013). In that ruling, we concluded the city must (1) withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy; (2) withhold the information we marked under section 552.130 of the Government Code; (3) withhold the information we marked under section 552.136 of the Government Code; and (4) release the remaining information. We further determined the requestor had a right of access to his own driver's license information and his own social security number. *See generally* Gov't Code § 552.023.

You seek to withhold under section 552.108 of the Government Code the information we previously determined had to be released. Section 552.007 of the Government Code provides that if a governmental body releases information to any member of the public, it

may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential under law. *Id.* § 552.007; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Section 552.108 of the Government Code is a discretionary exception to disclosure intended to protect a governmental body's interests and may be waived. *See* Open Records Decisions Nos. 665 at n.5 (2000) (discretionary exceptions in general), 177 (1977) (statutory predecessor to section 552.108 subject to waiver). As such, it neither prohibits public release of information nor makes information confidential under law. Therefore, the city may not withhold any of the submitted information under section 552.108 of the Government Code

As to the information to which the previous requestor did not have a right of access, we have no indication the law, facts, and circumstances on which the prior ruling was based have changed. Thus, the city must continue to rely on Open Records Letter No. 2013-21829 as a previous determination and withhold or release the information to which the previous requestor did not have a right of access in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, 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). However, the current request involves a different requestor with no special right of access to the information at issue. Thus, we find the circumstances have changed, and the city may not rely on Open Records Letter No. 2013-21829 as a previous determination in this instance with respect to the information to which the previous requestor had a right of access. *See* ORD 673. Accordingly, we address section 552.130 of the Government Code for the information not subject to the previous ruling.¹

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country. *See* Gov't Code § 552.130(a)(1). The city must withhold the information we have marked under section 552.130 of the Government Code.

In summary, the city must continue to rely on Open Records Letter No. 2013-21829 as a previous determination and must withhold or release the information to which the previous requestor did not have a right of access in accordance with that ruling. The city must

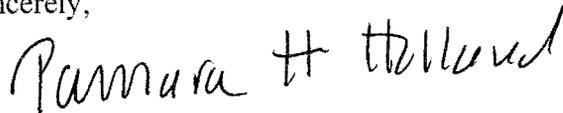
¹The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

withhold the information we have marked under section 552.130 of the Government Code. The city must release the remaining information at issue.²

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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/ac

Ref: ID# 513185

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the information being released contains a social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).