



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 8, 2009

Mr. Brett Colston  
Assistant Chief of Police  
Waxahachie Police Department  
216 North College  
Waxahachie, Texas 75165

OR2009-04650

Dear Mr. Colston:

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# 339582.

The Waxahachie Police Department (the "department") received a request for information pertaining to a specified incident. You claim that the requested information is excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You specifically raise sections 552.108(a)(2) and 552.108(b)(2) of the Government Code for the information at issue, which provide as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

...

(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;

...

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

...

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(2), (b)(2). Sections 552.108(a)(2) and 552.108(b)(2) protect information that relates to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication. *Id.* A governmental body claiming section 552.108(a)(2) or section 552.108(b)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *Id.* In this instance, however, you state that the submitted information relates to a case that is classified "as an open and active investigation." Thus, we conclude that you have failed to demonstrate that the submitted information relates to a concluded investigation or prosecution that did not result in conviction or deferred adjudication. Accordingly, the submitted information may not be withheld under section 552.108(a)(2) or section 552.108(b)(2) of the Government Code.

You assert that some of the submitted information is subject to section 552.130 of the Government Code. Section 552.130 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] a motor vehicle title or registration issued by an agency of this state[.]" *Id.* § 552.130. We note that section 552.130 does not apply to out-of-state motor vehicle record information. Accordingly, we have marked the Texas driver's license number that is generally subject to section 552.130.

We note, however, that the requestor is the representative of an insurance company and, thus, may be the insurance provider of the individual whose driver's license is marked. As such, this requestor may have a right of access to the marked Texas driver's license number under section 552.023 of the Government Code. Section 552.023 provides a person or a person's authorized representative a special right of access to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect the person's privacy interests. *Id.* § 552.023. In this instance, it is not clear that the requesting insurance company is the authorized representative of the individual at issue. Therefore, we are forced to rule conditionally. If the requesting insurance company is not the individual's authorized representative, then it does not possess a right of access under section 552.023, and the marked Texas driver's license number must be withheld under section 552.130 of the Government Code. However, if the requesting insurance company is the individual's authorized representative, then the marked Texas driver's license number must be released to the insurance company representative pursuant to section 552.023 of the Government Code.

You also assert that the submitted information contains social security numbers. Section 552.147(b) of the Government Code authorizes a government body to redact a living person's social security number from public release without the necessity of requesting a

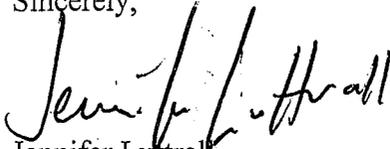
decision from this office under the Act. *Id.* § 552.147. Upon review, however, we find that the submitted information does not contain any social security numbers. Thus, no information may be withheld under section 552.147 of the Government Code.

In summary, the Texas driver's license number we have marked must generally be withheld under section 552.130 of the Government Code. However, if the requesting insurance company is the authorized representative of the individual whose driver's license number is marked, it must be released to the insurance company representative pursuant to section 552.023 of the Government Code. The remaining information must be released.

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](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 at (512) 475-2497.

Sincerely,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/eeg

Ref: ID# 339582

Enc. Submitted documents

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c: Requestor  
(w/o enclosures)