



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 18, 2009

Ms. Linda M. Champion
Assistant City Attorney
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR2009-11556

Dear Ms. Champion:

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# 352633.

The City of Victoria (the "city") received a request for information related to a specified incident. You state the city will release some of the requested information. You claim that the portions of the submitted information are privileged under rule 192.5 of the Texas Rules of Civil Procedure.¹ We have considered your argument and reviewed the submitted information.

We note the submitted information is subject to section 552.022(a)(1) of the Government Code. Section 552.022(a)(1) provides for the required public disclosure of "a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108." Gov't Code § 552.022(a)(1). In this instance, the submitted information consists of a police report and the prosecution charge report, which are completed reports made of, for, or by the city. Accordingly, the submitted information must be released under section 552.022(a)(1) of the Government Code, unless it is excepted from disclosure under section 552.108 of the Government Code or expressly confidential under other law. The Texas Supreme Court has held that "[t]he Texas Rules of Civil Procedure are 'other law' within the meaning of section 552.022." *In re City of Georgetown*, 53 S.W.3d 328 (Tex. 2001). However, the Texas Rules of Civil Procedure apply only to

¹You contend that the submitted prosecution charge reports are excepted from disclosure pursuant to section 552.101 in conjunction with the "attorney work product privilege." We therefore understand you to claim this information is privileged pursuant to rule 192.5 of the Texas Rules of Civil Procedure. However, we note that this office has concluded section 552.101 does not encompass discovery privileges. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990).

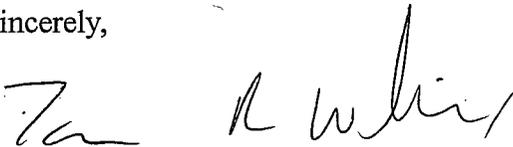
“actions of a civil nature.” TEX. R. CIV. P. 2. Accordingly, the attorney work product privilege found in rule 192.5 of the Texas Rules of Civil Procedure does not apply to any of the information at issue, which relates to a criminal case. Therefore, the city may not withhold the submitted information under rule 192.5 of the Texas Rules of Civil Procedure. However, we note that some of the submitted information is subject to section 552.130 of the Government Code.² Since section 552.130 is other law for purposes of 552.022(a)(1), we will consider this exception.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator’s license or driver’s license issued by a Texas agency is excepted from public release. Gov’t Code § 552.130(a)(1). Accordingly, the Texas driver’s license information we have marked must be withheld under section 552.130 of the Government Code. As you raise no further exceptions, the remaining information must be released.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.

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, 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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

³We note that the requestor has a special right of access to some of the information being released in this instance. Because such information may be confidential with respect to the general public, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.

Ref: ID# 352633

Enc. Submitted documents

c: Requestor
(w/o enclosures)