



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 3, 2011

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

OR2011-00053

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# 403097 (Request #166).

The Deer Park Police Department (the "department") received a request for several categories of information pertaining to a specified incident and specified Deer Park City Jail policies. You state the department is releasing most of the responsive information. You state you have redacted social security numbers from the submitted information pursuant to section 552.147 of the Government Code.¹ You claim some of the remaining requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, you state the requestor has agreed to the redaction of personal cellular phone numbers of peace officers from the submitted information. Accordingly, personal cellular phone numbers of peace officers are not responsive to the instant request. Additionally, the submitted information includes documents that were created after the date the request was received. This information, which we have marked, is also not responsive to the request. This decision does not address the public availability of the non-responsive information, and that information need not be released.

¹Section 552.147(b) 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).

Next, you state you redacted certain Texas motor vehicle record information under section 552.130 of the Government Code and personal e-mail addresses under section 552.137 of the Government Code pursuant to the previous determination issued by this office in Open Records Decision No. 684 (2009).² See Gov't Code § 552.301(a); Open Records Decision No. 673 (2001). Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state. See Gov't Code § 552.130(a)(1)-(2). However, in this instance, the department has marked the driver's license number of a deceased individual. We note the purpose of section 552.130 is to protect the privacy interests of individuals. Because the right of privacy lapses at death, Texas motor vehicle record information that pertains to a deceased individual may not be withheld under section 552.130. See *Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); see also Attorney General Opinions JM-229 (1984); H-917 (1976); Open Records Decision No. 272 at 1 (1981). Accordingly, the department may not withhold the deceased individual's Texas driver's license number, which we have marked for release, under section 552.130. However, the department must withhold the remaining information you have marked under section 552.130 of the Government Code.

We note a portion of the responsive information is subject to section 552.118 of the Government Code.³ Section 552.118 provides as follows:

Information is excepted from the requirements of Section 552.021 if it is:

(1) information on or derived from an official prescription form filed with the director of the [Texas Department of Public Safety ("DPS")] under [s]ection 481.075, Health and Safety Code;

or

(2) other information collected under [s]ection 481.075 of that code.

²This office issued Open Records Decision No. 684, a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license and license plate numbers under section 552.130 of the Government Code and e-mail addresses of members of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Gov't Code § 552.118. You indicate, and the information at issue reflects, that some of the responsive information was derived from an official prescription form filed with the director of DPS or collected under section 481.075 of the Health and Safety Code. *See* Health & Safety Code § 481.075 (providing for the collection of information by DPS from prescriptions of certain controlled substances). Based on your representations and our review, we find the responsive information we have marked must be withheld under section 552.118 of the Government Code. However, you have failed to demonstrate any of the remaining information you seek to withhold was filed with the director of DPS or collected under section 481.075 of the Health and Safety Code. Therefore, no portion of the remaining responsive information may be withheld on this basis.⁴

We also note some of the remaining information is subject to section 552.137 of the Government Code. Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov't Code § 552.137(a)-(c). The e-mail addresses we have marked in the information at issue are not specifically excluded by section 552.137(c). As such, the e-mail addresses we have marked must be withheld under section 552.137, unless the owners of the addresses have affirmatively consented to their release. *See id.* § 552.137(b).

In summary, the department must withhold the information we have marked under section 552.118 as well as the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners of the addresses have affirmatively consented to their release. The remaining responsive 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, 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

⁴We acknowledge the department raises section 552.101 of the Government Code in conjunction with section 481.076 of the Health and Safety Code. While it appears section 481.076 only applies to certain prescription information maintained by DPS, we need not decide whether this section applies to information maintained by a governmental body other than DPS as the protection of section 552.118 is co-extensive with that afforded by section 481.076. *See* Health & Safety Code § 481.076(i) (information submitted to DPS under section 481.075 is confidential).

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Paige Lay". The signature is written in a cursive style with a large, looping "L" at the end.

Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 403097

Enc. Submitted documents

cc: Requestor
(w/o enclosures)