



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 29, 2012

Mr. Tuan Nguyen
HPD Staff Attorney
Houston Police Department
1200 Travis Street
Houston, Texas 77002-6000

OR2012-03167

Dear Mr. Nguyen:

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# 446865 (OR No. 11-6575).

The Houston Police Department (the “department”) received a request for a specified incident report. You state you have made some of the requested information available to the requestor. You claim that the submitted 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.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a criminal investigation that is inactive pending additional leads. You also inform us the investigation may be reactivated once additional leads are developed. We note, however, the submitted information pertains to a felony theft

that occurred on June 13, 2006. You state the department received this request for information on December 9, 2011. The statute of limitations for this offense is five years. *See* Crim. Proc. Code art. 12.01(4)(A) (indictment for felony theft may be presented within five years from date of commission of the offense, and not afterward). More than five years have elapsed since the events giving rise to the investigation, and you have not informed this office any criminal charges were filed within the limitations period. Furthermore, you have not otherwise explained how release of the submitted information would interfere with the detection, investigation, or prosecution of crime. Thus, the submitted information may not be withheld under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license, title, or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release.¹ Gov't Code § 552.130(a)(1), (2). We note the requestor in this instance is the insurance provider for a company that owns the vehicle at issue in the submitted information and may be the insurance provider for an individual whose driver's license number is at issue. As such, this requestor, if acting as the company's and the individual's authorized representative, has a right of access to his insured's motor vehicle record information. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). In this instance, it is not clear that this requestor is acting as the company's and the individual's authorized representative. Therefore, we must rule conditionally. To the extent the requestor has a right of access under section 552.023 to the motor vehicle record information at issue, the department must release this information to the requestor. To the extent the requestor does not have a right of access under section 552.023, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. As you raise no further exceptions to disclosure, 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, 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

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

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, appearing to read 'Sarah Casterline', with a large, stylized flourish at the end.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/ag

Ref: ID# 446865

Enc. Submitted documents

c: Requestor
(w/o enclosures)