



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 16, 2013

Ms. Lucinda J. Garcia  
Counsel for the City of Orange Grove  
Wood, Boykin & Wolter, P.C.  
615 North Upper Broadway, Suite 1100  
Corpus Christi, Texas 78401-0748

OR2013-06158

Dear Ms. Garcia:

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# 484703.

The City of Orange Grove (the "city"), which you represent, received a request for information regarding a specified incident. You state you have released some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit written comments stating why information should or should not be released).

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See id.* § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information relates to a criminal investigation where the suspect was charged with two separate offenses. You state one of the offenses resulted in deferred adjudication, but the other offense concluded in a result other than a conviction or deferred adjudication. We understand you to assert the

information relating to the two offenses is so intertwined that it cannot be easily separated and that release of information relating to the offense that resulted in deferred adjudication would necessarily reveal information about the offense that did not result in conviction or deferred adjudication. Based on your representations and our review, we agree the information cannot be separated. Accordingly, we conclude that section 552.108(a)(2) is applicable to the information at issue.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (summarizing types of information considered to be basic information). We note you seek to withhold the entire narrative portion of the submitted report under section 552.108. However, the remaining portions of the report do not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released as basic information. *See* ORD 127. Accordingly, we determine the city must release a sufficient portion of the narrative to encompass a detailed description of the offense to satisfy the required release of basic information pursuant to *Houston Chronicle*. Thus, with the exception of the basic information, the city may withhold the information you have marked under section 552.108(a)(2) of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator’s or driver’s license issued by an agency of this state or another state or country. Gov’t Code § 552.130(a)(1). We note you have marked the requestor’s driver’s license number, to which she has a right of access pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) (person or person’s authorized representative has special right of access to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect person’s privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Accordingly, the city may not withhold this information, which we have marked for release, from this requestor under section 552.130 of the Government Code. With the exception of the information we have marked for release, the city must withhold the information you have marked, and the additional information we have marked, under section 552.130 of the Government Code.

In summary, with the exception of basic information, the city may withhold the information you have marked under section 552.108(a)(2) of the Government Code. With the exception of the information we have marked for release, the city must withhold the information you have marked and the information we have marked under section 552.130 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, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristi L. Wilkins". The signature is fluid and cursive, written over a white background.

Kristi L. Wilkins  
Assistant Attorney General  
Open Records Division

KLW/bhf

Ref: ID# 484703

Enc. Submitted documents

c: Requestor  
(w/o enclosures)