



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 20, 2014

Ms. Debbie Thomas
City Secretary
City of Alvarado
104 West College
Alvarado, Texas 76009

OR2014-03098

Dear Ms. Thomas:

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# 514721.

The Alvarado Police Department (the "department") received a request for a specified incident report. You state some information has been released to the requestor. You claim 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)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state the submitted information relates to an investigation in which charges against one suspect were suspended. You do not assert the investigation has concluded. Based on your representation and our review of the submitted information, we are unable to determine that the case at issue concluded in a final result other than conviction or deferred adjudication. Therefore, we find you have failed to demonstrate the applicability of section 552.108(a)(2) to the submitted information, and the department may not withhold

it on that basis. *See id.* § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

Some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses information protected by other statutes, including section 1703.306 of the Occupations Code, which provides the following:

(a) A polygraph examiner, trainee, or employee of a polygraph examiner, or a person for whom a polygraph examination is conducted or an employee of the person, may not disclose information acquired from a polygraph examination to another person other than:

- (1) the examinee or any other person specifically designated in writing by the examinee;
- (2) the person that requested the examination;
- (3) a member, or the member’s agent, of a governmental agency that licenses a polygraph examiner or supervises or controls a polygraph examiner’s activities;
- (4) another polygraph examiner in private consultation; or
- (5) any other person required by due process of law.

(b) The [Texas Department of Licensing and Regulation] or any other governmental agency that acquires information from a polygraph examination under this section shall maintain the confidentiality of the information.

(c) A polygraph examiner to whom information acquired from a polygraph examination is disclosed under Subsection (a)(4) may not disclose the information except as provided by this section.

Occ. Code § 1703.306. The submitted information contains polygraph information that is confidential under section 1703.306, and the requestor does not appear to have a right of access to the information under that section. Accordingly, the department must withhold this

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).*

information, which we have marked, under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130. Upon review, we find the department must withhold the motor vehicle record information, which we have marked, under section 552.130 of the Government Code.²

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code. The department must also withhold the information we have marked under section 552.130 of the Government Code. The department must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Britni Fabian
Assistant Attorney General
Open Records Division

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²Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. See Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). See *id.* § 552.130(d), (e).

Ref: ID# 514721

Enc. Submitted documents

c: Requestor
(w/o enclosures)