



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 24, 2014

Mr. David V. Overcash
Wolfe, Tidwell, & McCoy, L.L.P.
2591 Dallas Parkway, Suite 205
Frisco, Texas 75034

OR2014-19231

Dear Mr. Overcash:

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# 540956 (City's File No. C03029PIR20140805-01).

The City of Anna (the "city"), which you represent, received a request for information regarding a specified incident. You state the city has released some of the requested information. 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.

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* 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. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested).

You state, and provide an affidavit from a city police officer in support, the submitted report relates to a concluded investigation that did not result in conviction or deferred adjudication. Based on these representations and our review, we conclude the city may withhold the information you have marked under section 552.108(a)(2) of the Government Code.

You state the city will redact information pursuant to section 552.130 of the Government Code. Section 552.130 excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state or another state or country. *See id.* § 552.130(a)(1)-(2). We note,

however, the requestor in this instance represents the insurance provider for one of the individuals listed in the submitted information. As such, the requestor, if acting as the individual's authorized representative, has a right of access to the insured's motor vehicle record information. *See generally id.* § 552.023(a) (“[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests”); 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 the requestor is acting as the individual's authorized representative. Therefore, we must rule conditionally. To the extent the requestor is acting as the insured's authorized representative, the city must release this information, which you have marked, to the requestor. To the extent the requestor is not acting as the insured's authorized representative, the city must withhold the motor vehicle record information you have marked under section 552.130 of the Government Code.

In summary, the city may withhold the information you have marked under section 552.108(a)(2) of the Government Code. If the requestor is not acting as the authorized representative of the individual whose information is at issue, the city must withhold the information you have marked under section 552.130 of the Government Code. The city 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 540956

Enc. Submitted documents

c: Requestor
(w/o enclosures)