



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 17, 2020

Ms. Debra A. Smith
Custodian of Police Records
Jersey Village Police Department
16401 Lakeview Drive
Jersey Village, Texas 77040-1999

OR2020-20569

Dear Ms. Smith:

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# 840191 (PD PIR 76).

The Jersey Village Police Department (the "department") received two requests from the same requestor for information related to a specified vehicle accident. You claim the submitted information is excepted from disclosure under section 552.130 of the Government Code. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

Initially, we address the requestor's contention the department previously released the information at issue to the requestor and, thus, the department may not now withhold this information. The Act does not permit the selective disclosure of information. *See id.* §§ 552.007(b), .021; Open Records Decision No. 463 at 1-2 (1987). If information has been voluntarily released to any member of the public, then that exact same information may not subsequently be withheld from another member of the public, unless public disclosure of the information is expressly prohibited by law or the information is confidential under law. *See* Gov't Code § 552.007(a); Open Records Decision Nos. 518 at 3 (1989), 490 at 2 (1988); *see also* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). However, section 552.007 does not prohibit an agency from withholding similar types of information that are not the exact information that has been previously released. The requestor states the department released

a Texas Peace Officer's Crash Report Form CR-3 (the "accident report form") to him pertaining to the vehicle accident at issue that contained the motor vehicle record information the department seeks to withhold.¹ However, the submitted information consists of information other than the previously released accident report. Accordingly, we find section 552.007 of the Government Code is inapplicable to the submitted information.

The requestor also notes he may have a right of access to the information at issue under section 730.007(a) of the Transportation Code. *See* Gov't Code § 552.130(b); Transp. Code § 730.007(a) (personal information obtained in connection with motor vehicle record may be disclosed under certain circumstances). We note that chapter 730 is applicable to an "agency . . . that compiles or maintains motor vehicle records." Transp. Code § 730.003(1). The department is not an agency as defined by section 730.003(1). Therefore, chapter 730 does not apply to the department. Accordingly, we conclude the requestor does not have a right of access to this information pursuant to chapter 730 of the Transportation Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). The requestor notes he has a right of access to his client's motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* §§ 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles), Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). However, we find the submitted video recordings contain information subject to section 552.130 which does not belong to the requestor's client. Additionally, you state the department does not have the technological capability to redact the motor vehicle record information from the submitted video recordings. Accordingly, the department must withhold the submitted video recordings in their entireties under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983). However, the remaining information does not contain motor vehicle record information. Thus, the department may not withhold any portion of the remaining information 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

¹ We understand the department released the accident report form to the requestor pursuant to section 550.065(c)(4) of the Transportation Code, which requires the release of accident reports to any person directly concerned in the accident or having a proper interest therein.

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Deborah Southerland
Assistant Attorney General
Open Records Division

DS/be

Ref: ID# 840191

Enc. Submitted documents

c: Requestor
(w/o enclosures)