



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 20, 2009

Ms. Candice M. De La Garza  
Assistant City Attorney  
City of Houston  
P.O. Box 1562  
Houston, Texas 77251-1562

OR2009-00767

Dear Ms. De La Garza:

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# 336538.

The Houston Police Department (the "department") received a request for information involving the requestor and a named individual. You state the department will release some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions 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 that Exhibit 3 relates to the inactive criminal investigation of an offense for which the statute of limitations has not run, and that the investigation "may be reactivated once additional leads are developed." Based on your representations and our review of the information at issue, we conclude that the release of this information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of*

*Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14<sup>th</sup> Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, section 552.108(a)(1) is applicable to Exhibit 3.

Section 552.108(a)(2) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code §552.108(a)(2). You state that Exhibits 2 and 4 relate to criminal investigations that did not result in convictions or deferred adjudications. Based on your representation and our review of the information at issue, we conclude that section 552.108(a)(2) is applicable to Exhibits 2 and 4.

We note, however, that basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov’t Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). With the exception of basic information, the department may withhold Exhibit 3 under section 552.108(a)(1) of the Government Code and Exhibits 2 and 4 under section 552.108(a)(2) of the Government Code.

You also assert that portions of the remaining information are excepted under section 552.130, which provides that a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov’t Code § 552.130(a)(1), (2). The department must withhold the Texas motor vehicle record information you have marked in Exhibit 5 under section 552.130 of the Government Code.

Finally, you assert that portions of the remaining information are excepted from disclosure under section 552.147. Section 552.147 provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147(a). The department may withhold the social security number you have marked in Exhibit 5 under section 552.147 of the Government Code.<sup>1</sup>

In summary, with the exception of basic information, the department may withhold Exhibit 3 under section 552.108(a)(1) of the Government Code and Exhibits 2 and 4 under section 552.108(a)(2) of the Government Code. The department must withhold the Texas motor vehicle record information you have marked in Exhibit 5 under section 552.130 of the Government Code. The department may withhold the social security number you have

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<sup>1</sup>We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

marked in Exhibit 5 under section 552.147 of the Government Code. The remaining submitted information must be released to the requestor.

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 at (512) 475-2497.

Sincerely,



Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

ALS/jb

Ref: ID# 336538

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)