



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 10, 2009

Ms. Patricia Merkich
Records Supervisor
Edinburg Police Department
100 East Freddy Gonzalez
Edinburg, Texas 78539

OR2009-03131

Dear Ms. Merkich:

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# 337172.

The Edinburg Police Department (the "department") received a request for a specified police report. You claim that the submitted report 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 of the Government Code provides, in pertinent part, as follows:

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution; [or]

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(b)(1)-(2). Section 552.108(b)(1) may be applicable to internal records of a law enforcement agency, provided the law enforcement agency reasonably explains how and why release of the information at issue would interfere with law enforcement or prosecution. See *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (section 552.108(b)(1) exception intended to protect information which, if released, would permit private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine law enforcement efforts). Section 552.108(b)(2) is applicable only if the internal records in question relate to a concluded case that did not result in a conviction or a deferred adjudication. You generally state that the submitted incident report is excepted under “552.108b Law Enforcement Exception,” but you do not provide any explanation as to how that exception applies to the submitted information. Upon review of your claim and the information at issue, we find that you have failed to reasonably explain how release of the submitted information would interfere with law enforcement or prosecution or how the information relates to a case that did not result in a conviction or deferred adjudication. Thus, the department may not withhold the submitted information under section 552.108(b) of the Government Code.

We note that the submitted information contains a Texas driver's license number that is excepted from disclosure under section 552.130 of the Government Code.¹ Section 552.130 provides that information relating to a motor vehicle operator's license or driver's license issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1). Thus, the department must withhold the Texas driver's license number we have marked under section 552.130 of the Government Code. The remaining submitted information must be released to the requestor.²

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,

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²The information being released includes the requestor's Texas driver's license number. The requestor has a right of access to her own Texas driver's license information under section 552.023 of the Government Code. See Gov't Code § 552.023(a); 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). However, if the department receives another request for this particular information from a different requestor, the department should again seek a decision from this office.

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,



Laura E. Ream
Assistant Attorney General
Open Records Division

LER/jb

Ref: ID# 337172

Enc: Submitted documents

cc: Requestor
(w/o enclosures)