



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 4, 2011

Ms. Luz E. Sandoval-Walker
Assistant City Attorney
El Paso City Prosecutor's Office
810 East Overland Avenue
El Paso, Texas 79901

OR2011-04521

Dear Ms. Sandoval-Walker:

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# 417895 (011-054-002).

The El Paso Police Department (the "department") received a request for information related to case number 10-320124. You state that some responsive information has been released to the requestor. You claim that 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)(1) 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). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You represent that the submitted information relates to a pending criminal case, and that release of the information at issue would interfere with the investigation, detection, and prosecution of crime. Based upon these representations, we find that the release of the information at issue 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 [14th Dist.] 1975) (court delineates

law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*, and includes a detailed description of the offense. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note the information you have identified as having been released to the requestor does not contain sufficient information to satisfy the requirement that a "detailed description of the offense" be released as basic information. *See* ORD 127. Accordingly, we determine the department must release a sufficient portion of the narrative portion from the submitted report to encompass a detailed description of the offense to satisfy the required release of basic information pursuant to *Houston Chronicle*. The department may withhold the remaining information you seek to withhold under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130(a)(1), (2). Thus, section 552.130 is applicable to the information you have marked and the license plate number we have marked. We note, however, that section 552.130 protects personal privacy. The requestor in this case may have a right of access to this information under section 552.023 of the Government Code. *See id.* § 552.023(a), (b) (individual has special right of access to information that relates to herself and is protected by laws intended to protect her privacy interests, and governmental body may not deny access on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Accordingly, if the requestor has an ownership interest in the vehicle at issue, the department may not withhold the marked motor vehicle record information under section 552.130 of the Government Code. If the requestor does not have an ownership interest in the vehicle, the department must withhold the marked information under section 552.130 of the Government Code.

In summary, with the exception of basic information, which includes a detailed description of the offense and must be released, the department may withhold the information you seek to withhold under section 552.108(a)(1) of the Government Code. If the requestor has an ownership interest in the vehicle at issue, the department may not withhold the marked motor vehicle record information under section 552.130 of the Government Code, but must release it to the requestor. If the requestor does not have an ownership interest in the vehicle, the

department must withhold the marked information under section 552.130 of the Government Code.¹

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, 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, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 417895

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹Because the requestor may have a special right of access to some of the information at issue in this instance, the department must again seek a ruling from this office if it receives another request for this same information from a different requestor.