



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 22, 2013

Mr. Matthew B. Cross
Assistant City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2013-06523

Dear Mr. Cross:

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# 489078.

The El Paso Police Department (the "department") received a request for information pertaining to case number 13-049210. You state the department will release some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. You have also provided a letter from the Office of the District Attorney, 34th Judicial District (the "district attorney's office") who claims the information at issue is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the claimed exceptions 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.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The district attorney's office objects to disclosure of the information at issue because its release would interfere with a pending criminal case. Based upon this representation and our review, we find

section 552.108(a)(1) applies to the information at issue. *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). Accordingly, the department may withhold the information at issue under section 552.108(a)(1) of the Government Code.¹

We note you have marked the requestor's driver's license information and social security number for redaction. Section 552.130(c) authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the motor vehicle record information described in subsections 552.130(a)(1) and (a)(3). *See Gov't Code* § 552.130(c); *see also id.* § 552.130(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.130(c) to attorney general, and governmental body withholding information pursuant to section 552.130(c) must provide certain notice to requestor). 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. *See id.* § 552.147(b). However, section 552.023 of the Government Code provides the requestor a special right of access beyond that of the general public, to information concerning herself that is protected from public disclosure by laws intended to protect her privacy interests. *See generally id.* § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Sections 552.130 and 552.147 protect personal privacy. Therefore, the requestor has a right of access to her own driver's license information and social security number under section 552.023 of the Government Code. Consequently, the department may not withhold from the requestor her own driver's license information under section 552.130 of the Government Code or her social security number under section 552.147 of the Government Code. The department may, however, withhold the other social security number you have marked for redaction under section 552.147 of the Government Code.

In summary, the department may withhold the information at issue under section 552.108(a)(1) of the Government Code. The department may withhold the social security number that does not belong to the requestor under section 552.147 of the Government Code. The remaining information at issue must be released.²

¹As our ruling is dispositive for this information, we need not address the remaining arguments against its disclosure, except to note basic information held to be public in *Houston Chronicle* generally is not excepted from public disclosure under section 552.103 of the Government Code. *See* Open Records Decision No. 597 (1991)..

²Because the requestor has a special right of access to information being released, we note that if the department receives another request for this information, the department may withhold the requestor's driver's information and social security number pursuant to sections 552.130(c) and 552.147(b) of the Government Code, respectively, without the necessity of requesting a decision from this office.

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 489078

Enc. Submitted documents

c: Requestor
(w/o enclosures)