



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 18, 2015

Mr. Ricardo Gonzalez  
Lieutenant  
City of Laredo  
City of Laredo Police Department  
4712 Maher Avenue  
Laredo, Texas 78041

OR2015-05187

Dear Mr. Gonzalez:

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# 557198 (Ref. No. W004475-011215).

The Laredo Police Department (the "department") received a request for all records pertaining to case number 13-036856. You state the department has released some of the requested information, including basic information. *See* Gov't Code § 552.108(c) (basic information about an arrest, arrested person, or crime cannot be withheld under section 552.108); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we must address the department's procedural obligations under the Act. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request for information. *See* Gov't Code § 552.301(b). The requestor states, and provides documentation showing, he sent a request for information to the department via e-mail on October 21, 2014. The Act requires that a request for public information sent by electronic mail be submitted to the officer for public information or that person's designee. *Id.* § 552.301(c). Upon review of the communication at issue, we determine the request for information was not e-mailed by the requestor to the department's public information officer or the officer's designee. *See id.* (stating that a written request includes a request in writing

that is sent to the officer for public information, or the person designated by that officer, by e-mail or facsimile). Thus, we find the requestor's e-mail of October 21, 2014 was not a valid request for purposes of the Act, and the department did not violate the procedural requirements of section 552.301 of the Government Code by not responding to the e-mail. *See generally id.* § 552.301 (enumerating the responsibilities a governmental body incurs upon receipt of a written request for information that it wishes to withhold). However, because you have requested a decision on the submitted information and otherwise treated the request as having been properly submitted, we will consider the department's arguments against disclosure for 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]" *Id.* § 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, 710 (Tex. 1977). You state the submitted information relates to a pending criminal investigation or prosecution. We note, however, the information at issue includes a DIC-24 Statutory Warning, a DIC-25 Notice of Suspension, and a citation. The department provided copies of these forms to the arrestee. You have not explained how releasing this information, which has already been seen by the arrestee, would interfere with the detection, investigation, or prosecution of crime. *See Gov't Code* § 552.108(a)(1). Thus, the department may not withhold the DIC-24 form, DIC-25 form, or the citation under section 552.108(a)(1).

However, we conclude the release of the remaining 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, 186-87 (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). Thus, the remaining information may be withheld under section 552.108(a)(1).

We note the DIC-24 form, the DIC-25 form, and the citation contain information that may be subject to sections 552.1175 and 552.130 of the Government Code.<sup>1</sup> Section 552.1175 provides, in part:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure[.]

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

(b) Information that relates to the home address, home telephone number, emergency contact information, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a)(1), (b). Some of the information at issue, which we have marked, relates to an officer of the department but the information is not held by the department in an employment capacity. Accordingly, if the officer at issue elects to restrict access to his marked information in accordance with section 552.1175(b), then the department must withhold the marked information under section 552.1175 of the Government Code. Conversely, if the officer at issue does not elect to restrict access to his information in accordance with section 552.1175(b), then the marked information may not be withheld under section 552.1175.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state or another state or country. *See id.* § 552.130(a)(1)-(2). Accordingly, the department must withhold the information we have marked in the DIC-24 form, DIC-25 form, and the citation under section 552.130 of the Government Code.

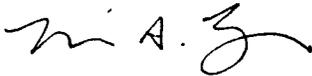
In summary, with the exception of the DIC-24 form, DIC-25 form, and the citation, which must be released, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. In releasing the DIC-24 form, DIC-25 form, and the citation, the department must withhold the information we have marked under section 552.1175 of the Government Code, if the officer at issue elects to restrict access to his marked information in accordance with section 552.1175(b) of the Government Code, and the motor vehicle record information we have marked under section 552.130 of the Government Code.

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.texasattorneygeneral.gov/open/>

[ori\\_ruling\\_info.shtml](#), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "N. A. Ybarra". The signature is fluid and cursive, with the first name "N." and last name "Ybarra" clearly distinguishable.

Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/cbz

Ref: ID# 557198

Enc. Submitted documents

c: Requestor  
(w/o enclosures)