



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 1, 2015

Mr. Jose Hernandez  
Records Supervisor  
Edinburg Police Department  
1702 South Closner Boulevard  
Edinburg, Texas 78539

OR2015-13186

Dear Mr. Hernandez:

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# 569768 (Ref. No. 74532).

The Edinburg Police Department (the "department") received a request for the requestor's criminal history and a specified arrest report. You claim 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) 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 claiming section 552.108(a)(1) 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 state the submitted information pertains to a case that is currently pending prosecution with the Hidalgo County District Attorney's Office. Based on this representation, we conclude the release of the information you have marked 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). Accordingly, the department may withhold the information you have marked under section 552.108(a)(1).<sup>1</sup>

Some of the remaining information may be subject to section 552.1175 of the Government Code.<sup>2</sup> Section 552.1175 protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *See* Gov't Code § 552.1175. Section 552.1175 applies, in part, to “peace officers as defined by Article 2.12, Code of Criminal Procedure[.]” *Id.* § 552.1175(a)(1). Section 552.1175 also encompasses a personal cellular telephone number, unless the cellular telephone service is paid for by a governmental body. Thus, to the extent the information we have marked relates to a peace officer who elects to restrict access to the information in accordance with section 552.1175(b), the department must withhold this information under section 552.1175 of the Government Code; however, if the telephone number we have marked is a cellular telephone number, the department may only withhold the marked cellular telephone number if the cellular telephone service is not paid for by a governmental body. Conversely, if the individual whose information is at issue is not a currently licensed peace officer or does not elect to restrict access to the information in accordance with section 552.1175(b), the department may not withhold the marked information under section 552.1175.

In summary, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. If the information we have marked relates to a peace officer who elects to restrict access to the information in accordance with section 552.1175(b) of the Government Code, and the cellular telephone service is not paid for by a governmental body, the department must withhold this information under section 552.1175 of the Government Code. The remaining information must be released.

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/>

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<sup>1</sup>As our ruling is dispositive of this information, we need not address your remaining argument against disclosure.

<sup>2</sup>The 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).

[orl\\_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 "Mili Gosar", with a long horizontal flourish extending to the right.

Mili Gosar  
Assistant Attorney General  
Open Records Division

MG/akg

Ref: ID# 569768

Enc. Submitted documents

c: Requestor  
(w/o enclosures)