



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 7, 1997

Ms. Elaine S. Hengen  
Assistant City Attorney  
The City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79901-1196

OR97-2464

Dear Ms. Hengen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 110483.

The El Paso Police Department (the "department") received a request for case numbers 96-199201 and 96-205179. You have released some of the requested information to the requestor. You assert that the remaining requested information is excepted from disclosure by 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, the "law enforcement exception," provides in relevant part as follows:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or] (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication. . . .

You state that case number 96-199201 "is currently a pending juvenile adjudication case with the El Paso County Juvenile Court and Juvenile Probation Department." As the requested information relates to a pending criminal prosecution, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.3d 177 (Tex. Civ. App.--Houston [14<sup>th</sup> dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). We note that "basic information about an arrested person, an arrest, or a crime" is not excepted from

required public disclosure. Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report. *See generally Houston Chronicle Publ'g Co.*, 531 S.W.2d at 187; Open Records Decision No. 127 (1976). Thus, except for basic information, case number 96-199201 is excepted from disclosure under section 552.108(a)(1).

As for case number 96-205179, you seek to withhold Exhibit D under section 552.108(a)(1) and (a)(2). You inform us that the department has discontinued its investigation and that the case "was marked as closed." Furthermore, you explain that no prosecution resulted from the investigation. Because the information in Exhibit D deals with an investigation that did not result in a conviction or deferred adjudication, we conclude that you may withhold the information contained in Exhibit D under section 552.108(a)(2). Although section 552.108 authorizes you to withhold the information from public disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

For case number 96-205179, you also seek to withhold a witness' driver's license number under section 552.130. The Seventy-fifth Legislature added section 552.130 to the Open Records Act which governs the release and use of information obtained from motor vehicle records. Section 552.130 provides in relevant part as follows:

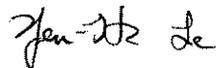
(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state[.]

*See* Act of May 29, 1997, S.B. 1069, § 4, 75<sup>th</sup> Leg., R.S. (to be codified at Gov't Code § 552.130). After reviewing your arguments, we conclude that you must withhold the driver's license number pursuant to section 552.130.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/rho

Ref: ID# 110483

Enclosures: Submitted documents

cc: Mr. Brad Haby  
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(w/o enclosures)