



December 2, 1999

Lieutenant Arturo Valdez
Central Records Division
City of McAllen Police Department
1501 Pecan Blvd.
McAllen, Texas 78501

OR99-3463

Dear Lieutenant Valdez:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 129942.

The McAllen Police Department (the "department") received a request for offense report number 99-015274. You contend that the requested information is excepted from public disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted documents.

Section 552.108 of the Government Code states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure "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 an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why section 552.108 is applicable. *See* Gov't Code §§ 552.108, .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You explain that the requested information relates to a case investigation that is ongoing. However, notations from the department's Public Information Request Form show that the case has concluded and is closed. Because you have provided this office with contradictory information, we conclude that you have not sufficiently shown the applicability of either subsection 552.108(a)(1) or 552.108(b)(1). Thus, you may not withhold the information under subsection 552.108(a)(1) or 552.108(b)(1).¹

¹Section 552.108(a)(2) excepts from public disclosure information relating to cases that concluded in a result other than conviction or deferred adjudication. Because you have not raised this exception as required by section 552.301 of the Government Code, you may not withhold the information under section 552.108(a)(2).

However, we note that the report contains information protected from disclosure by sections 552.101 and 552.130 of the Government Code. The social security number in the report may be confidential if it was obtained or is maintained by the department pursuant to any provision of law, enacted on or after October 1, 1990. 42 U.S.C. § 405(c)(2)(C)(vii); *see* Open Records Decision No. 622 (1994). Section 552.130 excepts information that relates 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. Thus, the department must withhold the driver's license number and license plate number under 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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,



Yen-Ha Le
Open Records Division
Office of the Attorney General

Ref.: ID# 12 9942

Encl. Submitted documents

cc: Ms. Guadalupe Flores
803 S.21st Street, Apt. B
McAllen, Texas 78501
(w/o enclosures)