



December 7, 2000

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

OR2000-4620

Dear Ms. Hengen:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 141931.

The City of El Paso Police Department (the "city") received a request for the complete police report pertaining to a specified case number. You state that the city has released a portion of the requested information. You claim that the rest of that information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted.

Section 552.108 of the Government Code, the "law enforcement exception," provides in relevant part that "[i]nformation 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). A governmental body claiming an exception to disclosure under section 552.108 must reasonably explain, if the responsive information does not do so on its face, how and why section 552.108 is applicable. *See Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986). In this instance, you inform us that the requested information pertains to a pending criminal investigation. Based on your representations and our review of the information in question, we find that the release of that information would interfere with the detection, investigation, or prosecution of crime. *See Gov't Code § 552.108(a)(1); Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th 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, however, that section 552.108 does not except from public disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). The city must release the kind of information that is considered to be basic front-page offense and arrest report information, including a detailed description of the offense, even if that information does not actually appear on the front page of the report. *See Houston Chronicle*, 531 S.W.2d at 186-87; Open Records Decision No. 127 at 3-4 (1976) (summarizing the types of information deemed public by *Houston Chronicle*). The city may withhold the rest of the responsive information under section 552.108(a)(1).

As the information that is subject to disclosure under section 552.108(c) pertains to a stolen vehicle, you also inquire about the release of motor vehicle record information under section 552.130 of the Government Code. Section 552.130 provides as follows:

(a) Information is excepted from [required public disclosure] if the information relates to:

- (1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state;
- (2) a motor vehicle title or registration issued by an agency of this state; or
- (3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730 of the Transportation Code.

Gov’t Code § 552.130. You indicate that the request for the information in question here was made on behalf of an insurance company. You state that the company claims to be entitled to obtain vehicle identification and Texas license plate numbers on the basis of a verbal representation that the owner of the pertinent vehicle is the company’s insured. You contend that in order to obtain information that is within the ambit of section 552.130, the requestor must provide the city with documentation demonstrating that the requestor is the owner of the vehicle involved or an authorized agent of the vehicle owner.

The bill that added section 552.130 to chapter 552 of the Government Code also enacted chapter 730 of the Transportation Code. *See Act of May 29, 1997, 75th Leg., R.S., ch. 1187, § 1, 1997 Tex. Gen. Laws 4575.* The purpose of the legislation was to bring Texas into compliance with the federal Driver’s Privacy Protection Act and to protect individual privacy interests by restricting the use of driver’s license and motor vehicle information. *See Senate Comm. on State Affairs, Bill Analysis, S.B. 1069, 75th Leg., R.S. (1997); see also Transp. Code § 730.002* (purpose of Motor Vehicle Records Disclosure Act is to protect individual’s

personal privacy by prohibiting disclosure and use of personal information in motor vehicle records). The same legislation that enacted section 552.130 also added subsection (c) to section 552.222 of the Government Code. *See* Act of May 29, 1997, 75th Leg., R.S., ch. 1187, § 5, 1997 Tex. Gen. Laws 4575, 4580. Section 552.222(c) provides as follows:

If the information requested relates to a motor vehicle record, the officer for public information or the officer's agent may require the requestor to provide additional identifying information sufficient for the officer or the officer's agent to determine whether the requestor is eligible to receive the information under Chapter 730, Transportation Code. In this subsection "motor vehicle record" has the meaning assigned that term by Section 730.003, Transportation Code.

Gov't Code § 552.222(c). Thus, for the purpose of ensuring that information relating to a motor vehicle record is not released except in accordance with section 552.130, the city has authority under section 552.222(c) to require appropriate verification that the requestor is an eligible recipient of the information under chapter 730 of the Transportation Code. *See also* Gov't Code § 552.023; Transp. Code §§ 730.005, .006, .007, .008.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839.

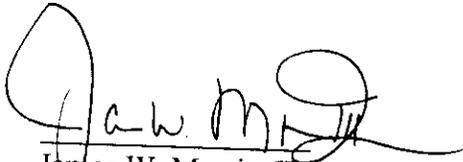
The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/er

Ref: ID# 141931

Encl: Submitted documents

cc: Ms. Irma Saucedo
State Farm Insurance Co.
7450 Remcon Circle
El Paso, Texas 79912
(w/o enclosures)