



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 15, 2009

Ms. Marie Feutz
City Secretary
City of Leon Valley
6400 El Verde Road
Leon Valley, Texas 78238

OR2009-00665

Dear Ms. Feutz:

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# 332303.

The Leon Valley Police Department (the "department") received a request for two specific police reports. You claim that 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.

You state that incident report number 200808032 is excepted from disclosure under section 552.108(a)(1) of the Government Code. 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state report number 200808032 relates to a pending prosecution. You also state, and have provided documentation showing, that the Bexar County Criminal District Attorney's Office objects to the release of report number 200808032 because its release would interfere with the pending prosecution. Based on your representations and our review of the information at issue, we conclude that the

release of this 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 (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).

However, section 552.108 of the Government Code does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the department may withhold report number 200808032 under section 552.108(a)(1).

You state portions of report number 200805744 are excepted from disclosure under section 552.130 of the Government Code. Section 552.130 excepts from disclosure 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.” Gov't Code § 552.130. We note because section 552.130 protects personal privacy, the requestor, who is listed in the report, has a right of access to her own Texas motor vehicle information. *See id.* § 552.023(a) (privacy theories not implicated when individual requests information concerning himself); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). It also appears that the requestor may be the authorized representative of the two individuals, who are her family members, whose information is contained in the submitted report. If so, this requestor has a right of access to these individuals’ Texas motor vehicle record information under section 552.023. *Id.* § 552.023. We have marked information that is generally confidential under section 552.130. If the requestor is the authorized representative of her family members, their information may not be withheld under section 552.130. If the requestor is not the authorized representative, their information must be withheld under section 552.130. The remaining marked information must be withheld under section 552.130.

In summary, with the exception of basic information, the department may withhold report number 200808032 under section 552.108(a)(1) of the Government Code. If the requestor is not the authorized representative for her family members, their marked information must be withheld, along with the additional marked information, under section 552.130 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Schulz', with a long horizontal flourish extending to the right.

Chris Schulz
Assistant Attorney General
Open Records Division

CS/cc

Ref: ID# 332303

Enc. Submitted documents

cc: Requestor
(w/o enclosures)