



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 19, 2010

Ms. Dahlia Salinas
Records Interim Supervisor
Edinburg Police Department
1702 South Closner Boulevard
Edinburg, Texas 78540

OR2010-02523

Dear Ms. Salinas:

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# 371016:

The Edinburg Police Department (the "department") received a request for information pertaining to a specified police report involving the requestor. You state you will release some information to the requestor. You claim the remaining requested information is excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 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.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You have marked the information that the department seeks to withhold under section 552.108. You state that the marked information pertains to an open criminal investigation. Based on your representation and our review, we conclude that section 552.108(a)(1) is generally applicable to the marked information. *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. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

We note that section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*, and includes a detailed description of the offense. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note you have marked the entire narrative portion of the submitted report as information you seek to withhold under section 552.108. However, the remaining portions of the report do not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released as basic information. *See* ORD 127. Accordingly, with the exception of basic information, which must include a detailed description of the offense, the department may withhold the information you have marked pursuant to section 552.108(a)(1) of the Government Code.

You claim that some of the remaining submitted information is excepted from disclosure by sections 552.130 and 552.147 of the Government Code. Section 552.130 provides that information relating to a motor vehicle operator’s or driver’s license issued by a Texas agency is excepted from public release. Gov’t Code § 552.130(a)(1). Section 552.147 provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147(a). We note, however, that sections 552.130 and 552.147 protect personal privacy. In this instance, the requestor is the individual whose Texas driver’s license number and social security number are at issue. Thus, the requestor has a right of access to his Texas driver’s license number and social security number under section 552.023 of the Government Code, and this information may not be withheld from him in this instance. *See id.* § 552.023(a) (“a person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”); Open Records No. 481 at 4 (1987) (privacy theories not implicated when individual or authorized representative asks governmental body to provide information concerning that individual). Accordingly, the department may not withhold any of the information you have marked in the remaining information under section 552.130 or section 552.147 of the Government Code.

In summary, with the exception of basic information, including a detailed description of the offense, the department may withhold the marked information under section 552.108(a)(1) of the Government Code. The remaining information must be released.¹

¹We note that this requestor has a special right of access to some of the information being released that would otherwise be confidential with regard to the general public. *See* Gov’t Code § 552.023(a). Therefore, if the department receives another request for this information from a person who does not have a special right of access to this information, the department should resubmit this same information and request another decision.

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, toll free, at (888) 672-6787.

Sincerely,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/rl

Ref: ID# 371016

Enc. Submitted documents

c: Requestor
(w/o enclosures)