



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 5, 2010

Ms. Yvette Aguilar  
Assistant City Attorney  
Legal Department  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2010-04721

Dear Ms. Aguilar:

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# 374958.

The Corpus Christi Police Department (the "department") received two requests from the same requestor for the police report no. 0912270026 involving three specified offenses. You claim that the submitted information is excepted from disclosure under sections 552.108, 552.117, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) 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 claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information relates to a pending criminal case. Based on your representation and our review, we conclude that the 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.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). Accordingly, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

You have redacted the personal information of a peace officer under section 552.117(a)(2) in accordance with the previous determination issued by this office in Open Records Decision No. 670 (2001).<sup>1</sup> We note, however, that the protections of section 552.117 of the Government Code only apply to information that the governmental body holds in its capacity as an employer. *See* Gov't Code § 552.117 (providing that employees of governmental entities may protect certain personal information in the hands of their employer). In this instance, the named officer's personal information is contained in an offense report in which he is listed as the victim. Thus, the peace officer's personal information is not information that the department holds in its capacity as an employer. Therefore, this information may not be withheld pursuant to Open Records Decision No. 670.

However, the officer's personal information may be excepted under section 552.1175 of the Government Code, which provides in pertinent part:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure[.]

...

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a)(1), (b). Thus, if the officer elects to restrict access to his personal information in accordance with section 552.1175(b), then the department must withhold this

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<sup>1</sup>*See* Open Records Decision No. 670 at 6 (2001) (authorizing all governmental bodies that are subject to the Act to withhold home addresses and telephone numbers, personal cellular telephone numbers, personal pager numbers, social security numbers, and family member information of peace officers without the necessity of requesting attorney general decision under section 552.117(a)(2); *see also* Gov't Code § 552.301(a); Open Records Decision No. 673 (2001) (delineating circumstances under which attorney general decision constitutes previous determination under section 552.301).

information under section 552.1175. To the extent the officer at issue does not elect to keep his personal information confidential, it may not be withheld on this basis.

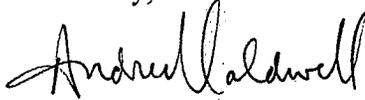
Section 552.130 of the Government Code excepts from public disclosure information that relates to a Texas motor vehicle operator's or driver's license or permit or Texas motor vehicle title or registration. Gov't Code § 552.130(a)(1), (2). Accordingly, the department must withhold the Texas motor vehicle record information you have marked under section 552.130 of the Government Code.<sup>2</sup>

In summary, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. If the peace officer at issue elects to restrict access to his personal information in accordance with section 552.1175(b), then the department must withhold this information under section 552.1175 of the Government Code. The department must withhold the Texas motor vehicle record information you have marked 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](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,



Andrea L. Caldwell  
Assistant Attorney General  
Open Records Division

ALC/eeg

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<sup>2</sup>We note you have redacted a Texas driver's license number and Texas license plate number that does not belong to the requestor under section 552.130 of the Government Code pursuant to the previous determination issued to all governmental bodies in Open Records Decision No. 684 (2009). See Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

Ref: ID# 374958

Enc. Submitted documents

c: Requestor  
(w/o enclosures)