



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 10, 2010

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

OR2010-12103

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# 389893.

The Corpus Christi Police Department (the "department") received three requests for report number 1005230133 and one request for another report pertaining to a specified June 15, 2010 incident. You indicate the department will redact portions of the requested information pursuant to section 552.147 of the Government Code and Open Records Decision No. 684 (2009).<sup>1</sup> You provide documentation reflecting the department has released the unsubmitted portion of the report pertaining to the specified incident. You claim the marked portions of the submitted information are excepted from disclosure under sections 552.108 and 552.1175 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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 claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* § 552.301(e)(1)(A); *see also Ex*

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<sup>1</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

*parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted reports are active criminal cases pending investigation or prosecution, and that release of the information you marked at this time would interfere with these cases. However, in your brief to this office regarding the June 16, 2010 request for information, you raise section 552.108(a)(1) for some information that you do not claim is excepted in your brief to this office regarding the June 9, 2010 request. In failing to assert section 552.108 for this information in your brief for the June 9, 2010 request, we find you waived your claim under section 552.108 for this information with respect to the June 16, 2010 request. *See generally* Gov't Code § 552.007 (prohibiting selective disclosure of information). Accordingly, this information, which we have marked, may not be withheld. Based on your representations and our review, however, we determine release of the remaining information you marked 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). Thus, with the exception of the information we marked for release, we conclude the department may withhold the information you marked under section 552.108(a)(1) of the Government Code.

Section 552.1175 is applicable to information relating to a peace officer, as defined by article 2.12 of the Code of Criminal Procedure. *See* Gov't Code § 552.1175(a)(1). This section provides in part:

(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.

*Id.* § 552.1175(b). You state the offender in one of the submitted reports is a licensed peace officer. You claim the marked home address, home telephone number, and family member information are excepted under section 552.1175. We agree that, to the extent this individual properly elects to restrict access to the personal information you marked in accordance with section 552.1175, the department generally must withhold this information under section 552.1175. In such case, we note that section 552.1175 protects personal privacy and one of the requestors is the officer whose information is at issue. Therefore, pursuant to section 552.023 of the Government Code, this requestor has a right of access to private information concerning himself, and his personal information may not be withheld from him

under section 552.1175. *See id.* § 552.023 (person has special right of access to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). However, if this officer does not elect to restrict access to this information, it must be released to each of the requestors.

In summary, with the exception of the information we marked for release, the department may withhold the information you marked under section 552.108(a)(1) of the Government Code. The department must withhold the information you marked under section 552.1175 of the Government Code from the two requestors whose information is not at issue if the peace officer elects to restrict access to the information. 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,



Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/eeg

Ref: ID# 389893

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)