



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 5, 2011

Mr. Robert Almonte  
Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza, 9<sup>th</sup> Floor  
El Paso, Texas 79901

OR2011-09508

Dear Mr. Almonte:

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# 422643.

The El Paso Police Department (the "department") received a request for the Internal Affairs Division disciplinary cards for six named officers, portions of the narrative of a specified application, and case numbers 10-340001 and 10-276176. You state you have released some information to the requestor. You claim that portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code. You have also submitted a letter from the Office of the District Attorney, 34th Judicial District (the "district attorney"), in which the district attorney claims some of the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note the department redacted the portions of the submitted information it seeks to withhold. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the information is subject to a previous determination issued by this office or section 552.024(c) or section 552.147(b) of the Government Code. *See* Gov't Code § 552.301(a), (e)(1)(D). Some of the redacted information consists of a social security number, which you are authorized to redact under section 552.147(b) of the Government Code.<sup>1</sup> However, you do not assert,

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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. *See* Gov't Code § 552.147(b).

nor does our review of the records indicate, that you have been authorized to withhold any of the remaining redacted information without seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2000). As such, the information must be submitted in a manner that enables this office to determine whether the information comes within the scope of an exception to disclosure. In this instance, we can discern the nature of the redacted information; thus, being deprived of that information does not inhibit our ability to make a ruling. However, in the future, the department must not redact requested information that it submits to this office in seeking an open records ruling, unless the information is the subject of a previous determination under section 552.301 of the Government Code. *See Gov't Code* §§ 552.301(e)(1)(D), .302. Failure to comply with section 552.301 may result in the information being presumed public under section 552.302 of the Government Code. *See id.* § 552.302.

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[.]” *Id.* §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, and provide documentation from the district attorney stating, that report numbers 10-340001 and 10-276176 relate to pending criminal prosecutions. Based on these representations and our review of the information at issue, we conclude that 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) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable report numbers 10-340001 and 10-276176.

We note that basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-87. The department must release basic information, even if the information does not literally appear on the front page of an offense or arrest report. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of basic information, the department may withhold report numbers 10-340001 and 10-276176 under section 552.108(a)(1) of the Government Code.<sup>2</sup>

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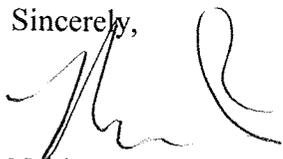
<sup>2</sup>As our ruling is dispositive, we need not address the district attorney's remaining argument against disclosure, except to note that basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103 of the Government Code. Open Records Decision No. 597 (1991). We also note although basic information includes an arrestee's social security number, the department is authorized to withhold this information under section 552.147(b) of the Government Code. Gov't Code § 552.147(b).

As no further exceptions to disclosure have been raised, 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,



Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/bs

Ref: ID# 422643

Enc. Submitted documents

c: Requestor  
(w/o enclosures)