



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 11, 2012

Mr. Jose Hernandez
Records Supervisor
Edinburg Police Department
1702 South Closner Boulevard
Edinburg, Texas 78539

OR2012-12535A

Dear Mr. Hernandez:

This ruling examines Open Records Letter No. 2012-12535 (2012) and whether certain information is subject to required public disclosure under chapter 552 of the Government Code.

The Edinburg Police Department (the "department") received a request for records regarding a named person. In the original request for a decision in this matter, this office concluded the department must withhold the information under section 552.101 of the Government Code in conjunction with common-law privacy because the information consists of a compilation of the person's criminal history. We note neither the department nor the requestor informed this office of the requestor's representation of the named person until after this office issued the ruling. Thus, in the interest of due process, we will correct the previously issued ruling. Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on August 9, 2012.

The department released four reports and asserts section 552.108(a)(1) of the Government Code excepts police report number 11-22891 from public disclosure. Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Generally, a governmental body claiming section 552.108 must reasonably explain how and why release of the requested information would interfere with law enforcement. *See Gov't Code §§ 552.108(a)(1), .301(e)(1)(a); see also Ex parte Pruitt, 551 S.W.2d 706 (Tex. 1977).* The department states the information relates to a pending criminal investigation and prosecution. Based upon this representation, we conclude release of the 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, the department has demonstrated the applicability of section 552.108(a)(1) to the information.

However, 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). Basic information refers to the information held to be public in *Houston Chronicle Publ'g Co.*, 531 S.W.2d at 187, and includes a detailed description of the offense. Although the department has marked all of the narrative as excepted under section 552.108(a)(1), the department must release a portion of the narrative that constitutes a detailed description of the offense as basic information. See Open Records Decision No. 127 (1976). Thus, with the exception of basic information, the department may withhold police report number 11-22891 from disclosure based on section 552.108(a)(1). Open Records Letter No. 2012-12535 is overruled to the extent it conflicts with this ruling.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/dls

Ref: ID# 470616

Enc: Submitted documents

c: Requestor
(w/o enclosures)