



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 22, 2012

Ms. Janet I. Monteros
Assistant County Attorney
El Paso County
500 East San Antonio, Room 503
El Paso, Texas 79901

OR2012-16840

Dear Ms. Monteros:

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# 468604 (County Attorney PIA No. 12-333).

The El Paso County Sheriff's Office (the "sheriff's office") received a request for six categories of information pertaining to a named officer, a named individual, specified audio and video recording devices, and a specified intoxilyzer machine. You inform us the sheriff's office has released some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note a portion of the submitted information, which we have marked, is not responsive to the request because it was created after the date the request was received. This decision does not address the public availability of the non-responsive information and that information need not be released in response to the present request.

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.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See Open Records Decision No. 474 at 4-5 (1987)*. You provide a letter from the Office of the District Attorney for the 34th Judicial District asserting the responsive information pertains to a pending criminal prosecution. Based on this representation and our review, we conclude release of the responsive information you have marked under section 552.108 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 per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the sheriff's office may withhold this information under section 552.108(a)(1) of the Government Code.¹

You raise section 552.130 of the Government Code for portions of the remaining information. This section provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency of this state or another state or country is excepted from public release. *See Gov't Code* § 552.130(a)(1)-(2). Upon review, we agree the driver's license and motor vehicle record information you have marked must be withheld under section 552.130 of the Government Code.

In summary, the sheriff's office may withhold the responsive information you have marked under section 552.108(a)(1) of the Government Code. The sheriff's office must withhold the driver's license and motor vehicle record information you have marked under section 552.130 of the Government Code. The sheriff's office must release the remaining responsive information.

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.

¹As our ruling for this information is dispositive, we need not address the remaining arguments against its release under section 552.103 of the Government Code, except to note that the basic information held to be public in *Houston Chronicle* is generally not excepted from disclosure under section 552.103. *See Open Records Decision No. 597 (1991)*. Furthermore, we need not address your remaining argument against its release under section 552.130 of the Government Code except to note that basic information does not include information protected by section 552.130.

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 468604

Enc. Submitted documents

c: Requestor
(w/o enclosures)