



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 10, 2012

Mr. Leonard V. Schneider
Counsel for the City of Huntsville
Liles Parker, P.L.L.C.
521 North Sam Houston Parkway East, Suite 120
Houston, Texas 77060

OR2012-19851

Dear Mr. Schneider:

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# 477478 (Huntsville PD Open Records No. 12-021)

The Huntsville Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. You state you have released some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You claim portions of the submitted information are excepted from disclosure under section 552.108(a)(1) of the Government Code, which 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 incident report number 12036499 pertains to an active criminal investigation and possible prosecution. Based on your representation, we conclude the release of the information you have indicated would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publishing 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, we agree the department may withhold the information you have indicated within incident report number 12036499 and the submitted DVDs under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle title or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(2). You state the motor vehicle record information you have marked is subject to section 552.130. However, we note section 552.130 protects personal privacy. In this instance, it is not clear whether the information at issue belongs to the requestor. As such, the requestor may have a right of access to this marked information, and we must rule conditionally. *See id.* § 552.023(b) (governmental body may not deny access to person to whom information relates on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). To the extent the requestor has a right of access under section 552.023 to the information you have marked, the department must release this information to the requestor. To the extent the requestor does not have a right of access under section 552.023, the department must withhold the information you have marked under section 552.130.

In summary, the department may withhold the information you have indicated within incident report number 12036499 and the submitted DVDs under section 552.108(a)(1) of the Government Code. To the extent the requestor does not have a right of access under section 552.023 of the Government Code, the department must withhold the 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, 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/tch

Ref: ID# 477478

Enc. Submitted documents

cc: Requestor
(w/o enclosures)