



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 18, 2013

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

OR2013-01132

Dear Mr. Hernandez:

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# 476696 (Reference No. 43919).

The Edinburg Police Department (the "department") received a request for information related to a specified case number. You claim some of the requested information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code.¹ 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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You have marked the information the department seeks to withhold under section 552.108(a)(1). You state the marked information is related to a pending criminal prosecution. Based on your representation and our review of the information, we conclude release of the marked information would interfere with the detection, investigation, or prosecution of a crime.

¹Although you do not raise section 552.130, we understand you to raise this exception based on your markings

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 present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, section 552.108(a)(1) of the Government Code applies to the marked information.

We note, 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). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. Basic information includes, among other things, a detailed description of the offense. *See id* at 179-90, 185-87; *see also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note you wish to withhold the entire narrative portion of the submitted report under section 552.108. However, the remaining information in the report does not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released as basic information. *See* ORD 127. Therefore, with the exception of a detailed description of the offense, which must be released, the department may withhold the marked information 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 operator’s or driver’s license or permit or a motor vehicle title or registration issued by an agency of this state or another state or country. *See* Gov’t Code § 552.130(a)(1)-(2). We conclude the department must generally withhold the motor vehicle information you have marked and the additional motor vehicle information we have marked under section 552.130 of the Government Code.

We note, however, the requestor in this instance represents the insurance provider for one of the individuals listed in the submitted information. As such, the requestor, if acting as the individual’s authorized representative, has a right of access to her insured’s motor vehicle record information. *See id.* § 552.023(a) (person or person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and 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 or individual’s authorized representative asks governmental body to provide information concerning that individual). Thus, if the requestor has a right of access under section 552.023 to the insured’s motor vehicle record information, the department must release the insured’s information we have marked to the requestor. To the extent the requestor does not have a right of access under section 552.023, the department must withhold the marked motor vehicle record information under section 552.130 of the Government Code.

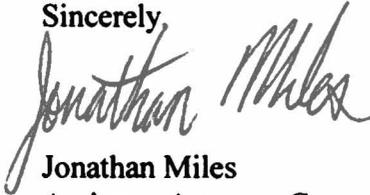
In summary, with the exception of a detailed description of the offense, the department may withhold the marked information under section 552.108(a)(1) of the Government Code. To the extent the requestor does not have a right of access under section 552.023, the department

must withhold the marked motor vehicle record information under section 552.130 of the Government Code. The remaining information must be released.²

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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/bhf

Ref: ID# 476696

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As discussed above, the requestor may have a right of access to some of the information being released in this instance. See Gov't Code § 552.023. Because such information would be confidential with respect to the general public, if the department receives another request for this information from an individual other than this requestor, the department must again seek a decision from this office.