



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 23, 2013

Mr. David H. Guerra  
Counsel for the City of Mission  
King, Guerra, Davis & Garcia, P.C.  
P.O. Box 1025  
Mission, Texas 78573

OR2013-08622

Dear Mr. Guerra:

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# 488160.

The City of Mission (the "city"), which you represent, received a request for information pertaining to the requestor. You claim 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.

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(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 the information you have marked in report numbers 2013-00005660, 2007-00006950, and 2005-00008917 relates to pending criminal investigations. Based on your representation, we conclude the release of the information you have marked in report number 2013-00005660 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). Therefore, section 552.108(a)(1) is generally applicable to the information you have marked in report number 2013-00005660.

Although you also claim the information you have marked in report numbers 2007-00006950 and 2005-00008917 relates to pending criminal investigations, we note report number 2007-00006950 pertains to a misdemeanor assault and report number 2005-00008917 pertains to a misdemeanor terroristic threat. The statute of limitations for the types of offenses described in these reports is two years from the date of the offense. *See* Crim. Proc. Code art. 12.02 (indictment for Class A or Class B misdemeanor may be presented within two years from date of offense); Penal Code § 22.01 (assault offense under section 22.01(a) is a Class A misdemeanor), .07( terroristic threat a Class B misdemeanor). More than two years have elapsed since the events giving rise to the investigations in report numbers 2007-00006950 and 2005-00008917, and you have not informed this office of any criminal charges filed in the limitations period. Thus, we find you have failed to demonstrate the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the city may not withhold the information you have marked in report numbers 2007-00006950 and 2005-00008917 under section 552.108(a)(1) of the Government Code.

We note, however, section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." *Id.* § 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 179-80, 185-87; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information does not include motor vehicle record information encompassed by section 552.130 of the Government Code. *See* ORD 127. We note you wish to withhold the entire narrative portion of report number 2013-00005660 under section 552.108. However, the remaining information in this report does not contain information sufficient to satisfy the requirement that a "detailed description of the offense" be released as basic information. *See id.* Therefore, with the exception of a detailed description of the offense, the city may withhold the information you have marked in report number 2013-00005660 under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, title, or registration issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(1)-(2). Upon review, we find the information contains a motor vehicle record information, which we have marked. We note section 552.130 protects personal privacy. In this instance, it is not clear whether some of 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(a) ("A person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests."); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, to the extent the requestor has a right of access under section 552.023 to the marked information, 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 we have marked under section 552.130.

In summary, with the exception of a detailed description of the offense, the city may withhold the information you have marked in report number 2013-00005660 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 city must withhold the information we have marked under section 552.130 of the Government Code. The city must release the remaining information.<sup>1</sup>

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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/bhf

Ref: ID# 488160

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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<sup>1</sup>We note the requestor has a special right of access under section 552.023 of the Government Code to some of the information being released. *See* Gov't Code § 552.023. If the city receives another request for this information from a different requestor, it must again seek a ruling from this office.