



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 5, 2013

Mr. John R. Batoon  
Assistant City Attorney  
City of El Paso  
P.O. Box 1890  
El Paso, Texas 79950-1890

OR2013-19272

Dear Mr. Batoon:

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# 504649.

The El Paso Police Department (the "department") received a request for a specified report. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

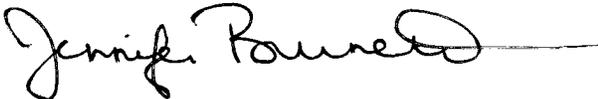
Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime [if] release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108 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 submitted report relates to a pending criminal investigation. However, we note the submitted report pertains to a misdemeanor assault that occurred in 2000. *See* Penal Code § 22.01(b) (offense under subsection 22.01(a)(1) is Class A misdemeanor). The statute of limitations for a misdemeanor is two years from the date of the offense. *See* Crim. Proc. Code art. 12.02. More than two years have elapsed since the events giving rise to the investigation in the submitted report. You have not informed this office any criminal charges were filed within the limitations periods for any of these offenses. Thus, we find you have not demonstrated release of the submitted report would interfere with the detection, investigation, or prosecution of crime. Therefore, the department may not withhold the submitted report under section 552.108(a)(1) of the Government Code.

We note some of the submitted information is subject to section 552.130 of the Government Code.<sup>1</sup> Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's license or driver's license or a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country. *See* Gov't Code § 552.130(a)(1)-(2). Section 552.130 protects privacy interests. We have marked information that is subject to section 552.130. However, we note the requestor may be the individual whose motor vehicle record information we have marked. Thus, the requestor may have a right of access to this motor vehicle record information. *See id.* § 552.023(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"). Accordingly, if the requestor is the individual whose motor vehicle record information we have marked, then he has a right of access to this motor vehicle record information pursuant to section 552.023, and this information may not be withheld from him under section 552.130. If the requestor is not the individual whose motor vehicle record information we have marked, then the department must withhold this marked motor vehicle record information under section 552.130. In either instance, the department must release the remaining 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/tch

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 504649

Enc. Submitted documents

c: Requestor  
(w/o enclosures)