



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 1, 2014

Ms. Evelyn Kimeu
Staff Attorney
City of Houston Police Department
1200 Travis
Houston, Texas 77002-6000

OR2014-07307

Dear Ms. Kimeu:

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# 521354 (Houston OR No. 14-1009).

The Houston Police Department (the "department") received a request for all information and records pertaining to two specified incidents. You state you will release some information to the requestor. You claim the remaining requested 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 of the Government Code provides, in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

(2) it is information that the deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1)-(2). Generally, sections 552.108(a)(1) and 552.108(a)(2) are mutually exclusive. Section 552.108(a)(1) protects information the release of which would interfere with a particular pending criminal investigation or prosecution. In contrast, section 552.108(a)(2) protects information that relates to a concluded criminal investigation or prosecution that did not result in a conviction or deferred adjudication. 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 raise section 552.108(a)(1) and state the submitted information pertains to a closed criminal investigation that did not result in a conviction or deferred adjudication. Because you have provided this office with contradictory representations, we find you have failed to demonstrate the applicability of section 552.108 to the submitted information. *See Gov't Code § 552.301(e)(1)(A)* (governmental body must provide comments explaining why claimed exceptions to disclosure apply). Therefore, we conclude the department may not withhold the submitted information under section 552.108 of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country.¹ Gov't Code § 552.130(a). Accordingly, the department must withhold the information we have marked under section 552.130 of the Government Code.

In summary, the department must withhold the information we have marked in the submitted 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.

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

²We note the information being released contains the requestor's driver's license number to which the requestor has a right of access under section 552.023 of the Government Code. *See Gov't Code § 552.023(a); ORD 481* (privacy theories not implicated when individual requests information concerning himself). Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See Gov't Code § 552.130(c).* Therefore, if the department receives another request for this information from an individual who would not have such a right of access, the department is authorized to withhold the requestor's driver's license number without requesting a decision from this office.

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, 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,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/tch

Ref: ID# 521354

Enc. Submitted documents

c: Requestor
(w/o enclosures)