



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 5, 2014

Mr. Daniel Ortiz  
Assistant City Attorney  
Office of the City Attorney  
City of El Paso  
P.O. Box 1890  
El Paso, Texas 79950-1890

OR2014-07493

Dear Mr. Ortiz:

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# 521693 (El Paso Case No. 14-1026-4089).

The El Paso Police Department (the "department") received a request for all information pertaining to a specified incident report. You state you have released some of the information. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information contains a court-filed document subject to section 552.022 of the Government Code. Section 552.022(a)(17) provides for the required public disclosure of "information that is also contained in a public court record," unless it is "made confidential under [the Act] or other law[.]" See Gov't Code § 552.022(a)(17). The submitted information includes a search warrant signed by a magistrate that is subject to section 552.022(a)(17) and must be released unless it is confidential under the Act or other law. Although you assert this information is excepted from disclosure under section 552.108 of the Government Code, this section is discretionary and does not make information

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<sup>1</sup>Although you also raise section 552.101 in conjunction with common-law privacy and constitutional privacy for the submitted information, you provide no arguments explaining how these doctrines are applicable to the information at issue. Therefore, we assume you no longer assert these doctrines. See Gov't Code §§ 552.301, .302.

confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (governmental body may waive statutory predecessor to section 552.108). Therefore, the department may not withhold the information subject to section 552.022(a)(17) under section 552.108. As you raise no further exceptions against the disclosure of this information, which we have marked, it must be released. However, we will address your argument under section 552.108 for the remaining information that is not subject to section 552.022.

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 release of the remaining information will interfere with an ongoing criminal investigation. We note, however, the information at issue includes a DIC-24 Statutory Warning and a DIC-25 Notice of Suspension. The department provided copies of these forms to the arrestee. You have not explained how releasing this information, which has already been seen by the arrestee, would interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Accordingly, the DIC-24 and DIC-25 forms may not be withheld under section 552.108. However, we conclude release of the remaining information will 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). Accordingly, section 552.108(a)(1) is applicable to the remaining information.

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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information made public by *Houston Chronicle*). Thus, with the exception of basic information and the DIC-24 and DIC-25 forms, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.<sup>2</sup>

We note the DIC-24 and DIC-25 forms include information subject to section 552.130 of the Government Code. Section 552.130 provides information relating to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country and information relating to a motor vehicle title or registration issued by an agency

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<sup>2</sup>We note that the submitted information contains a social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

of this state or another state or country are excepted from public release.<sup>3</sup> Gov't Code § 552.130(a)(1), (2). Thus, the department must withhold the information we have marked under section 552.130 in the DIC-24 and DIC-25 forms.

In summary, the court-filed document must be released pursuant to section 552.022(a)(17) of the Government Code. Except for the DIC-24 and DIC-25 forms and basic information, the department may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code. Finally, pursuant to section 552.130, the department must withhold the information we marked on the DIC-24 and DIC-25 forms.

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,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/bhf

Ref: ID# 521693

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).