



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 24, 2014

Mr. James Kopp  
Assistant City Attorney  
Office of the City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2014-16991

Dear Mr. Kopp:

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# 537052 (COSA File No. W029591).

The City of San Antonio (the "city") received a request for all information pertaining to a named individual during a specified time period. 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.

Initially, we note the information we have marked is not responsive to the instant request because it does not pertain to the named individual. This ruling does not address the public availability of non-responsive information, and the city is not required to release non-responsive information in response to this request.

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.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the responsive information pertains to cases that are still open. Based upon this representation, we conclude section 552.108(a)(1) is applicable to some of the information at issue and release 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). Accordingly, the city may withhold report numbers 13101579, 13208628, 13212919, 13213164, and 13248237 under section 552.108(a)(1) of the Government Code.

However, we note the remaining reports pertain to misdemeanors that occurred in 2009, 2011, and 2012. The statute of limitations for these misdemeanors is two years from the date of the offense. *See* Crim. Proc. Code arts. 12.02(a) (indictment or information on Class A or Class B misdemeanor may be presented within two years from date of commission of offense, and not afterward), 12.02(b) (indictment or information on Class C misdemeanor may be presented within two years from date of commission of offense, and not afterward); *see also* Penal Code §§ 22.01(b)-(c) (assault under section 22.01 of the Penal Code is Class A, B, or C misdemeanor, or felony), 28.03(b)(1)-(3) (criminal mischief is a Class A misdemeanor if the pecuniary loss is \$500 or more, but less than \$1,500; a Class B misdemeanor if the pecuniary loss is \$50 or more, but less than \$500; and a Class C misdemeanor if the amount of pecuniary loss is less than \$50), 28.04(b) (reckless damage or destruction is Class C misdemeanor), 30.04(d) (burglary of vehicle is Class A misdemeanor or felony). We note more than two years have elapsed since the events giving rise to the remaining reports, and you have not informed this office any criminal charges were filed within the limitations period. Further, you have not otherwise demonstrated how release of the remaining reports would interfere with the detection, investigation, or prosecution of a crime. Therefore, the city may not withhold any of the remaining reports under section 552.108 of the Government Code.

Section 552.108 does not except from disclosure basic information about a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*, 531 S.W.2d at 186–87. *See* Open Records Decision No. 127 (1976) (summarizing types of information considered basic information). Thus, with the exception of basic information, the city may withhold report numbers 13101579, 13208628, 13212919, 13213164, and 13248237 under section 552.108(a)(1) of the Government Code.

We note portions of the remaining information are subject to section 552.130 of the Government Code.<sup>1</sup> Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130. Upon review, we find the city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

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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. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, with the exception of basic information, the city may withhold report numbers 13101579, 13208628, 13212919, 13213164, and 13248237 under section 552.108(a)(1) of the Government Code. 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>2</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.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,



Britni Fabian  
Assistant Attorney General  
Open Records Division

BF/bhf

Ref: ID# 537052

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note the information being released includes the requestor's driver's license information, to which the requestor has a right of access. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). We also note the information to be released contains social security numbers. 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 an attorney general decision under the Act. *See id.* § 552.147(b).