



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 10, 2014

Ms. M. Ann Montgomery-Moran
Assistant County and District Attorney
Ellis County
109 South Jackson Street
Waxahachie, Texas 75165

OR2014-18221

Dear Ms. Montgomery-Moran:

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# 539079.

The Bardwell Police Department (the "department") received a request for a specified incident report. You claim some of the submitted information is excepted from disclosure under sections 552.108, 552.1175, 552.130 and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

You marked portions of the submitted information under section 552.108 of the Government Code. Section 552.108(a)(1) 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 information you marked relates to a pending criminal investigation and release of the information would interfere with that investigation. *See Houston Chronicle Publ'g Co.*

¹Although not raised in your briefing, we understand you to raise section 552.1175 of the Government Code based on your markings.

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). Based on these representations and our review, we conclude the department may withhold the information you marked under section 552.108(a)(1) of the Government Code.²

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175. Section 552.1175 applies, in part, to “peace officers as defined by Article 2.12, Code of Criminal Procedure[.]” *Id.* § 552.1175(a)(1). Some of the remaining information pertains to a retired peace officer not employed by the department. We are unable to determine whether the individual at issue is a currently licensed peace officer. Thus, to the extent the information you and we marked pertains to a currently licensed peace officer and the officer elects to restrict access to his information in accordance with section 552.1175(b), the department must withhold the information you and we marked under section 552.1175. To the extent the individual whose information you and we marked is no longer a licensed peace officer or no election is made, the department may not withhold this information under section 552.1175.

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country. *See id.* § 552.130(a)(1). The department must withhold the driver's license information you marked under section 552.130 of the Government Code.

In summary, the department may withhold the information you marked under section 552.108(a)(1) of the Government Code. To the extent the information you and we marked pertains to a currently licensed peace officer and the officer elects to restrict access to his information in accordance with section 552.1175(b), the department must withhold the information you and we marked under section 552.1175. The department must withhold the driver's license information you marked under section 552.130 of the Government Code. The remaining information must be released.

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.

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/dls

Ref: ID# 539079

Enc. Submitted documents

c: Requestor
(w/o enclosures)