



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 1, 2009

Ms. Teresa J. Brown
Senior Open Records Assistant
Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2009-04205

Dear Ms. Brown:

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# 338698.

The Plano Police Department (the "department") received a request for (1) a copy of a particular parking citation, (2) affidavits and criminal complaints filed in connection with the citation, (3) offense and incident reports pertaining to the citation, (4) reports filed by a particular City of Plano Handicap Parking Patrol ("CHPP") volunteer pertaining to the citation, (5) reports filed by the Citizens Assisting Plano Police ("CAPP") or CHPP program pertaining to the citation, (6) department dispatch reports and records pertaining to the citation, (7) witness lists, contact information, and statements pertaining to the citation, (8) photographs, videos, or diagrams concerning the citation, (9) materials used in the training provided to citizens in connection with CHPP, CAPP, and the Citizen's Police Academy programs related to the issuance of citations by citizens for handicap parking violations, and (10) documents relating to the qualifications, credentials, performance, training, and classes completed by the named volunteer in connection with his participation in any City of Plano or Plano Police Department Citizen program. You state you have released the copy of the issued citation to the requestor. You state the department does not have information responsive to categories 2-7. The Act does not require a governmental body to disclose information that did not exist at the time the request was received or to create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.— San Antonio 1978, writ dism'd); Open Records Decision

Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983). 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 of the Government Code provides in relevant part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) 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 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). For example, section 552.108(a)(1) excepts from disclosure information that pertains to a specific pending criminal investigation or prosecution because release of such information would interfere the 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), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

You state the submitted information relates to a parking citation pending in the municipal court. You assert the submitted information is “background information on a witness in this pending criminal investigation and prosecution.” Based on your representation and our review, we find release of the submitted information 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), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). We therefore conclude the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Emily Sitton
Assistant Attorney General
Open Records Division

EBS/eeg

Ref: ID# 338698

Enc. Submitted documents

c: Requestor
(w/o enclosures)