



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 28, 2009

Ms. Natasha Brooks
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702-1152

OR2009-12140

Dear Ms. Brooks:

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# 358111.

The Midland Police Department (the "department") received a request for information pertaining to a specified incident. You state that you have released some of the requested information. You claim that 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(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 the submitted information relates to a pending criminal investigation. Generally, the release of information pertaining to an open case is presumed to interfere with the criminal investigation. *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). However, the submitted information contains a Statutory Warning and a 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 Statutory Warning and Notice of Suspension may not be withheld under section 552.108. Because the remaining submitted information has not been previously released, we conclude release of this information would interfere with the detection, investigation, or prosecution of crime. Thus, we find section 552.108(a)(1) is generally 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." *Id.* § 552.108(c). Section 552.108(c) refers to the basic "front-page" information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-187; see also Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of the Statutory Warning, Notice of Suspension, and basic information, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.¹

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,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

¹We note that the information being released contains confidential 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 individual asks governmental body to provide him with information concerning himself). Therefore, if the department receives another request for this same information from a different requestor, then the department should again seek a decision from this office.

Ref: ID# 358111

Enc. Submitted documents

cc: Requestor
(w/o enclosures)