



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 31, 2009

Ms. Samantha Friedman
Assistant City Attorney for the City of Bastrop
Law Offices of JC Brown
1411 West Avenue, Suite 100
Austin, Texas 78701

OR2009-18474

Dear Ms. Friedman:

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# 370830.

The Bastrop Police Department (the "department"), which you represent, received a request for information pertaining to a specified accident. You state some of the responsive information has been released. 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 prosecution. 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. Department 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 includes 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.

Next, we note the Statutory Warning and Notice of Suspension contain information subject to section 552.130 of the Government Code.¹ Section 552.130 excepts from disclosure information that relates to a driver's license issued by an agency of this state. *See* Gov't Code § 552.130(a)(1). Upon review, we conclude the department must withhold the Texas driver's license information, which we have marked, in the Statutory Warning and Notice of Suspension pursuant to section 552.130 of the Government Code.²

In summary, with the exception of the Statutory Warning, Notice of Suspension, and basic information, the submitted information may be withheld under section 552.108(a)(1) of the Government Code. The department must withhold the marked Texas driver's license information in the Statutory Warning and Notice of Suspension under section 552.130 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.

¹The Office of the Attorney General will raise a mandatory exception like section 552.130 of the Government Code on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number and a copy of a Texas driver's license under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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, toll free at (888) 672-6787.

Sincerely,

Handwritten signature of Tamara H. Holland in cursive script.

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/sdk

Ref: ID# 370830

Enc. Submitted documents

c: Requestor
(w/o enclosures)