



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 24, 2010

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

ATTORNEY GENERAL OF TEXAS

OR2010-12858

Dear Mr. Weir:

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# 391480 (COSA File No. 2010-5960).

The San Antonio Police Department (the "department") received two requests from the same requestor for the incident report, without photographs, and all transcripts, audio recordings, or other records regarding 9-1-1 calls pertaining to case number 00415961. You claim the submitted incident report and audio recordings are 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).

We note the submitted information includes a statutory warning and a notice of suspension. Because copies of these documents have been provided to the arrestee, we find their release will not interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the department may not withhold the statutory warning and

notice of suspension, which we have marked, under section 552.108(a)(1) of the Government Code.

You state the submitted information pertains to a pending criminal investigation. Based on your representations and our review, we determine release of the remaining 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).

Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code. We note you have the discretion to release all or part of this information that is not otherwise confidential by law. Gov't Code § 552.007.

We note the statutory warning and notice of suspension contain the arrestee's Texas driver's license number. Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit issued by a Texas agency is excepted from public release.¹ *Id.* § 552.130(a)(1). Therefore, the department must withhold the driver's license number we have marked in the statutory warning and notice of suspension under section 552.130 of the Government Code.² As you have not claimed any other exceptions to disclosure, the remaining information in the statutory warning and notice of suspension must be released.

In summary, with the exception of basic information, the marked statutory warning, and the marked notice of suspension, all of which must be released, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. In releasing the statutory warning and notice of suspension, the department must withhold the marked driver's license number under section 552.130 of the Government Code.

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

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

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, toll free, at (888) 672-6787.

Sincerely,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 391480

Enc. Submitted documents

c: Requestor
(w/o enclosures)