



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 30, 2010

Mr. Christopher Gregg
Gregg & Gregg, P.C.
For City of Webster
16055 Space Center Boulevard, Suite 150
Houston, Texas 77062

OR2010-19529

Dear Mr. Gregg:

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# 407697.

The Webster Police Department (the "department"), which you represent, received a request for the full report for case number 10-02635. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ 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 pertains to a pending criminal investigation and prosecution. Based on your representations and our review, we conclude that section 552.108(a)(1) is generally applicable to the

¹Although you cite to section 552.008 of the Government Code, the statutory language you quote and the substance of your arguments indicate you are asserting a claim under section 552.108 of the Government Code.

submitted information. See *Houston Chronicle Publ'g Co. 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).

However, we note the submitted information includes a copy of a citation. Because the department provided the citation to the individual cited, the release of this information will not interfere with the detection, investigation, or prosecution of crime and it may not be withheld under section 552.108(a)(1). See Gov't Code § 552.108(a)(1).

Although the citation is not excepted under section 552.108, it contains a Texas identification number that is subject to section 552.130 of the Government Code.² Section 552.130 excepts from disclosure information that relates to a personal identification document issued by an agency of this state. See *id.* § 552.130(a)(3). However, the requestor may be the authorized representative of the individual whose Texas identification number is at issue. Because section 552.130 protects privacy interests, the person to whom such information relates, or her authorized representative, has a right of access to such information under section 552.023 of the Government Code. Section 552.023(a) provides “[a] person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests.” *Id.* § 552.023(a). Thus, if the requestor is acting as the individual’s authorized representative, the department may not withhold the marked Texas identification number under section 552.130. To the extent the requestor does not have a right of access to the marked Texas identification number, the department must withhold that information under section 552.130 of the Government Code.

Finally, 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 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, because the submitted citation was provided to the individual cited, the department may not withhold it under section 552.108(a)(1) of the Government Code. Thus, the department must withhold the Texas identification number we marked under section 552.130 of the Government Code if the requestor does not represent the owner of the identification number and release the remaining information in the citation. Finally, except

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

for basic information, the department may withhold the remaining 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, toll free at (888) 672-6787.

Sincerely,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/vb

Ref: ID# 407697

Enc. Submitted documents

c: Requestor
(w/o enclosures)