



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 27, 2011

Mr. David M. Douglas
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-1088

OR2011-05776

Dear Mr. Douglas:

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# 420566.

The Austin Police Department (the "department") received a request for information pertaining to a specified incident. You state the department does not have any information responsive to the portion of the request.¹ 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.²

Section 552.108(a)(1) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime [if]

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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 case. Based on this representation, we find that release of the 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) (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).

We note, however, the information at issue includes a DIC-24 statutory warning and a DIC-25 notice of suspension. The arrestee was provided copies of these forms. 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 DIC-24 and DIC-25 forms may not be withheld under section 552.108.

Additionally, 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 DIC-24 and DIC-25 forms and basic information, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.

Finally, we note the statutory warning and notice of suspension contain a Texas driver’s license number. Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state.³ *See* Gov’t Code § 552.130(a)(1). The department must withhold the Texas driver’s license number we have marked under section 552.130.⁴

In summary, except for the marked Texas driver’s license number, which the department must withhold under section 552.130 of the Government Code, the statutory warning and notice of suspension must be released. The department may withhold the remaining

³The Office of the Attorney General will raise a mandatory exception such as section 552.130 on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

⁴Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver’s license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

submitted information under section 552.108(a)(1) of the Government Code, except for the basic information that must be released under section 552.108(c).

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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 420566

Enc. Submitted documents

cc: Requestor
(w/o enclosures)