



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 25, 2011

Ms. Tiffany Bull
Assistant City Attorney
Arlington Police Department
P.O. Box 1065 Mail Stop 04-0200
Arlington, Texas 76004-1065

OR2011-10659

Dear Ms. Bull:

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# 429109 (Request No. W004389-062011).

The City of Arlington (the "city") received a request for information relating to a specified arrest. You claim the requested information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim and reviewed the information you submitted.

We note one of the submitted documents falls within the scope of section 552.022 of the Government Code. Section 552.022(a)(17) provides for required public disclosure of "information that is also contained in a public court record," unless the information is expressly confidential under other law. Gov't Code § 552.022(a)(17). Thus, the court document we have marked is subject to section 552.022(a)(17). You seek to withhold the court document under section 552.108 of the Government Code, which is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). As such, section 552.108 is not other law that makes information expressly confidential for purposes of section 552.022(a)(17). Therefore, the marked court document may not be withheld under section 552.108 of the Government Code and must be released pursuant to section 552.022(a)(17) of the Government Code.

¹Although you also initially raised section 552.101 of the Government Code, you have submitted no arguments in support of the applicability of that exception. Accordingly, this decision does not address section 552.101. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must submit written comments stating why claimed exception applies to information at issue).

Next, we address your claim under section 552.108 for the remaining information at issue. 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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the remaining information is related to a pending investigation by the city’s police department. Based on your representation, we conclude section 552.108(a)(1) is generally applicable to the remaining 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 present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We note the remaining information includes a statutory warning and a notice of suspension, which we have marked. Because copies of those documents are provided to the person who is the subject of the warning and the notice, we find release of the statutory warning and the notice of suspension will not interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Therefore, the statutory warning and the notice of suspension may not be withheld under section 552.108.

We also note 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. The city must release basic offense and arrest information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Except for basic information, the statutory warning, and the notice of suspension, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.

Lastly, we note the statutory warning and the notice of suspension contain a 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 or another state or country.² *See* Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov’t Code § 552.130). The city must withhold the driver’s license number we have marked under section 552.130 of the Government Code.³

²This office will raise section 552.130 on behalf of a governmental body, as this section is a mandatory exception to disclosure. *See* Gov’t Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

³We note Open Records Decision No. 684 (2009) is a previous determination issued by this office authorizing all governmental bodies 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.

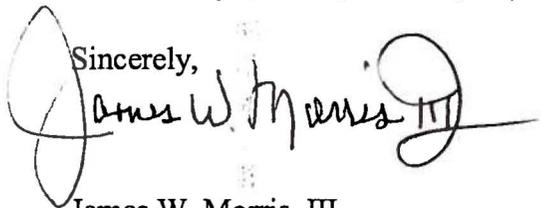
The remaining information in the statutory warning and notice of suspension must be released.

In summary, the city (1) must release the marked court document pursuant to section 552.022(a)(17) of the Government Code; (2) may withhold the rest of the submitted information under section 552.108(a)(1) of the Government Code, except for the marked statutory warning and notice of suspension and the basic information that must be released under section 552.108(c); (3) must withhold the marked driver's license number under section 552.130 of the Government Code; and (4) must release the remaining information in the statutory warning and notice of suspension.⁴

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,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 429109

Enc: Submitted information

c: Requestor
(w/o enclosures)

⁴We note basic information under section 552.108(c) includes an arrested person's social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.