



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 17, 2011

Mr. Peter Scott
Assistant City Attorney
City of Wichita Falls
P.O. Box 1431
Wichita Falls, Texas 76307

OR2011-11916

Dear Mr. Scott:

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# 431606 (City ID# 292).

The Wichita Falls Police Department (the "department") received a request for a complete copy of case number 10-050076. 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.

Initially, we note the information at issue contains documents that have been filed with a court. A document that has been filed with a court is expressly public under section 552.022 of the Government Code and may not be withheld unless it is confidential under other law. *See Gov't Code § 552.022(a)(17)*. Although you assert this information is excepted from disclosure under section 552.108 of the Government Code, this section is a discretionary exception to disclosure that protects a governmental body's interests. *See Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 (1977) (governmental body may waive statutory predecessor to section 552.108)*. Therefore, section 552.108 does not constitute other law for purposes of section 552.022(a)(17). Accordingly, the department may not withhold the information we have marked under section 552.108. However, because section 552.130 of the Government Code is "other law"

for purposes of section 552.022(a)(17), we will consider the applicability of this exception to these court-filed documents.¹

Section 552.130 of the Government Code provides that information relating to a motor vehicle title or registration issued by an agency of this state or another state or country is excepted from public release. 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(a)(2)). Therefore, the department must withhold the information we have marked under section 552.130 in the court-filed documents.²

We now address section 552.108 of the Government Code for the information that is not subject to section 552.022 of the Government Code. Section 552.108(a) 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). Generally, a governmental body claiming section 552.108 must reasonably explain how and why 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 information at issue relates to a pending criminal investigation. Further, you state the Wichita County District Attorney’s Office objects to the release of the information at issue, because release of the information would interfere with its criminal investigation. Based upon these representations, we conclude the release of the information at issue 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 section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 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 department must release basic information, 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 department may withhold the remaining information under section 552.108(a)(1) 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. *See 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 license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

In summary, the department must withhold the information we have marked in the court-filed documents under section 552.130 of the Government Code and release the remaining information in the marked court-filed documents pursuant to section 552.022(a)(17) of the Government Code. Except for basic information, the department may withhold the remaining submitted information under section 552.108 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/agn

Ref: ID# 431606

Enc. Submitted documents

c: Requestor
(w/o enclosures)