



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 1, 2011

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

OR2011-12726

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# 428723 (City ID# 249).

The Wichita Falls Police Department (the "department") received a request for information pertaining to a specified incident. You claim that 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 some of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2011-008344 (2011). In this ruling, we concluded that the marked magistrate's warning must be released pursuant to section 552.022(a)(17) of the Government Code, and with the exception of basic information, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code. We have no indication the law, facts, and circumstances on which Open Records Letter No. 2011-08344 was based have changed. Accordingly, with regard to the requested information that is identical to the information previously requested and ruled upon by this office in this prior ruling, we conclude the department may continue to rely on Open Records Letter No. 2011-08344 as a previous determination and withhold or release the identical information in accordance with this ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first type of previous determination exists

where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the requested information is not encompassed by the previous ruling, we will address the submitted arguments.

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(a)(1) 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, and provide a representation from the chief of police stating, that case number 11-010885 is an open criminal investigation. Based on these representations and our review, we conclude that the 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) (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). Accordingly, section 552.108(a)(1) is applicable to the remaining information.

We note the submitted information includes a statutory warning, which we have marked. Because a copy of the document is provided to the person who is the subject of the warning, we find release of the statutory warning will not interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). We therefore conclude the statutory warning may not be withheld under section 552.108 and must be released.<sup>1</sup>

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 department 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

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<sup>1</sup>We note the statutory warning contains the requestor’s Texas driver’s license number, which the department would be required to withhold from the general public under section 552.130 of the Government Code. Because section 552.130 protects personal privacy, the requestor has a right to his own Texas driver’s license number under section 552.023 of the Government Code. *See* Gov’t Code § 552.023(a); Open Records Decision No. 481 at 4 (1987). We also 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 without the necessity of requesting an attorney general decision, including a Texas driver’s license number under section 552.130. Thus, should the department receive another request for this same information from a different requestor, the department is authorized to withhold the present requestor’s Texas driver’s license number under section 552.130 without requesting another decision.

information and the statutory warning, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.

In summary, the department may continue to rely on Open Records Letter No. 2011-08344 as a previous determination and withhold or release the identical information in accordance with that ruling. Except for basic information and the statutory warning, the department may withhold the submitted 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](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,



Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/em

Ref: ID# 428723

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)