



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 6, 2011

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

OR2011-12847

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# 429105 (APD Reference No. 4445-062311).

The Arlington Police Department (the "department") received a request for a specified arrest report. 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.

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 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 submitted report relates to a pending criminal case of the department. We note the information in question pertains to an incident of alleged criminal mischief, criminal trespass, and public intoxication. Pursuant to section 28.03 of the Penal Code, criminal mischief is either a felony or a misdemeanor, depending on the value of the property involved and other statutorily specified circumstances. *See* Penal Code § 28.03(b)(1)-(7). Pursuant to section 49.02 of the Penal Code, criminal trespass is a misdemeanor. *See id.* § 30.05(d). Public intoxication is also a misdemeanor. *See id.* § 49.02(c). Under

article 12.01 of the Code of Criminal Procedure, the statute of limitations for prosecution of a felony case of criminal mischief is three years from the date of the commission of the offense. *See* Crim. Proc. Code art. 12.01(7). Under article 12.02 of the Code of Criminal Procedure, an indictment, information, or complaint in a misdemeanor case of criminal mischief “may be presented within two years from the date of the commission of the offense, and not afterward.” *Id.* art. 12.02(a)-(b). In this instance, the offenses allegedly occurred on July 7, 2007. You state the department received the instant request for information on June 23, 2011. You do not indicate any prosecution of the alleged offenses was pending on the date of the department’s receipt of the request. Thus, based on your representations and our review of the information at issue, we find that prosecution of the alleged offenses is barred by the statute of limitations. Accordingly, we conclude you have not demonstrated the release of the submitted information would interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1); *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). Therefore, the department may not withhold any of the submitted information under section 552.108(a)(1).

We note the submitted information contains driver’s license numbers. Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license or driver’s license issued by an agency of this state or another state or country is excepted from public release.¹ 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 department must withhold the driver’s license numbers we marked under section 552.130.² As no other exceptions are raised, the remaining information must be released.

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

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 driver’s license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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,

A handwritten signature in black ink, appearing to read 'Ana Carolina Vieira', with a stylized flourish at the end.

Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/agn

Ref: ID# 429105

Enc. Submitted documents

c: Requestor
(w/o enclosures)