



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 24, 2012

Ms. Cary Grace
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2012-01120

Dear Ms. Grace:

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# 443759.

The Austin Police Department (the "department") received a request relating to (1) information pertaining to a specified incident involving the citation, arrest, transport, and criminal trespass order issued to a named individual, (2) all information pertaining to the department's policies and procedures in effect on October 29, 2011, regarding arrest for criminal trespass, arrest on public property, and arrest of non-violent protestor, and (3) the department's policies and procedures in effect on October 29, 2011, regarding video and audio recording by department police officers, including internal and external vehicle-mounted cameras. You claim some of the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.

Initially, we note you have submitted information pertaining to the requested incident. You state you have submitted a representative sample of information; however, no portion of the submitted representative sample pertains to the requested departmental policies and procedures. Thus, we find the submitted information is not representative of all the information sought in the request for information. Please be advised this ruling applies to

only the types of information you have submitted for our review. Therefore, this ruling does not authorize the withholding of any other requested records to the extent those records contain substantially different types of information than that submitted to this office. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of section 552.301, information at issue is presumed public). To the extent any information responsive to the request for departmental policies and procedures existed on the date the department received the information, we assume you have released it. If you have not released any such information, you must do so at this time. *See id.* §§ 552.301-.302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release information as soon as possible).

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 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 provided documentation reflecting, the submitted information pertains to a pending criminal prosecution in county court. Based on this representation and our review, we determine release of this 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. 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).

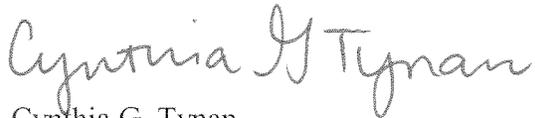
However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the submitted information may be withheld 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, 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,

A handwritten signature in cursive script that reads "Cynthia G. Tynan".

Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/em

Ref: ID# 443759

Enc. Submitted documents

c: Requestor
(w/o enclosures)