



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 8, 2012

Mr. B. Chase Griffith
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2012-03490

Dear Mr. Griffith:

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# 451939 (ORR# 10-4973).

The McKinney Police Department (the “department”), which you represent, received a request for information related to a specified motor vehicle accident. You state some responsive information has been released to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 of the Government Code excepts from public 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(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).

We note the submitted information includes a DIC-24 statutory warning form and a DIC-25 notice of suspension form. Because copies of these documents have been provided to the arrestee, we find that their release will not interfere with the detection, investigation, or

prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the department may not withhold these documents under section 552.108(a)(1).

You state the remaining information relates to an open and pending criminal case. Based upon your representation 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). Thus, section 552.108(a)(1) is applicable to the remaining information.

However, basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-8; *see also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of the statutory warning, notice of suspension, and basic information, the department may withhold the submitted information under section 552.108(a)(1).

We note that the statutory warning and the notice of suspension both contain information that is subject to section 552.130 of the Government Code.¹ Section 552.130 provides that information relating to a motor vehicle operator's license or driver's license issued by an agency of this state, another state, or country is excepted from public release. Gov't Code § 552.130(a)(1). Upon review, we find the department must withhold the driver's license number we have marked in the statutory warning and the notice of suspension under section 552.130 of the Government Code.

In summary, with the exception of the statutory warning, notice of suspension, and basic information, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. Basic offense and arrest information must be released under section 552.108(c) of the Government Code. In releasing the statutory warning and the notice of suspension, the department must withhold the driver's license number we have marked under section 552.130 of the Government Code. As our ruling is dispositive, we do not address your remaining claim.

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.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 451939

Enc. Submitted documents

c: Requestor
(w/o enclosures)