



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 3, 2012

Ms. Teresa J. Brown  
Senior Open Records Assistant  
Plano Police Department  
P.O. Box 860358  
Plano, Texas 75086-0358

OR2012-06474

Dear Ms. Brown:

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# 453662 (#CORL022812).

The Plano Police Department (the "department") received a request for information related to a named police officer, including his employment history; number of tickets written; number of court appearances and their outcome; commendations; disciplinary charges; and medical records. 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 information you submitted.

We first note that although you state some of the submitted information consists of representative samples, we find the submitted records are not representative of all of the information to which the requestor seeks access, including the number of tickets the officer has written and the number of his court appearances and their outcome. Please be advised this open records letter ruling is applicable only to the types of information you have submitted for our review. Thus, this ruling does not authorize the withholding of any other requested records to the extent those records contain substantially different types of information than the records you submitted to this office. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of Gov't Code § 552.301, information at issue is presumed to be public). We therefore assume the department has released any other types of records that are responsive to the present request,

to the extent such records existed when the department received the request. If not, then the department must release any such records immediately.<sup>1</sup> *See id.* §§ 552.221, .301, .302; Open Records Decision No. 664 (2000).

Next, we address your arguments under section 552.108 of the Government Code for the submitted information. Section 552.108(a)(1) 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 claim section 552.108(a)(1) for the personnel records related to the named police officer submitted as Exhibits B and C. You indicate the officer to whom Exhibits B and C pertain is a witness in a pending criminal case. You state the information in Exhibits B and C could be used at trial to undermine the officer’s credibility, competency to testify, and qualifications as an expert witness. Based on your representations and our review, we conclude the department may withhold Exhibits B and C under section 552.108(a)(1) of the Government Code.<sup>2</sup>

You also seek to withhold the information submitted as Exhibit D under section 552.108(a)(1). You explain the information is related to a pending criminal case in which the named police officer is identified as the arresting officer. You inform us the Collin County District Attorney’s Office has advised the department that release of Exhibit D would interfere with the prosecution of the case and has asked that section 552.108(a)(1) be asserted on behalf of the district attorney’s office. Based on your representations and our review, we conclude section 552.108(a)(1) also is generally applicable to the information in Exhibit D. *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 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 offense and arrest information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The department must release

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<sup>1</sup>We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup>As we are able to make this determination, we need not address the department’s claim under section 552.101 of the Government Code.

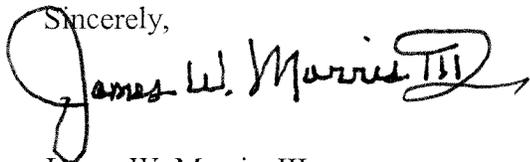
basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. The department may withhold the remaining information in Exhibit D under section 552.108(a)(1) of the Government Code.

In summary, the department (1) may withhold Exhibits B and C in their entirety under section 552.108(a)(1) of the Government Code and (2) also may withhold Exhibit D under section 552.108(a)(1), except for basic information under section 552.108(c), which must be released.<sup>3</sup>

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,

A handwritten signature in black ink that reads "James W. Morris, III". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/em

Ref: ID# 453662

Enc: Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>We note basic information includes an arrested person's social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.